Tab 1	**CS/SB 228** by **FT, Rodriguez (CO-INTRODUCERS) Burgess, Hutson, Gruters, Hooper, Rodrigues, Polsky, Jones**; (Compare to CS/H 00101) Resiliency Energy Environment Florida Programs

475236	A	S	L	UNFAV	RC, Brandes	Delete L.212 - 303:	03/02 09:48 AM

Tab 2	**SB 536** by **Diaz**; (Compare to CS/CS/H 00337) Administrative Procedures

734958	D	S		FAV	AP, Diaz	Delete everything after	02/28 09:12 PM
290252	AA	S		RCS	RC, Diaz	Delete L.458 - 466.	03/02 10:51 AM

Tab 3	**SB 538** by **Hooper**; (Similar to CS/H 00255) Private Instructional Personnel Providing Applied Behavior Analysis Services

822046	A	S		RCS	RC, Hooper	Delete L.23:	03/02 10:56 AM

Tab 4	**CS/SB 718** by **HP, Bradley**; (Similar to CS/H 00469) Provision of Health Care

736208	A	S		RCS	RC, Bradley	Delete L.319:	03/01 10:24 PM

Tab 5	**CS/SB 804** by **HP, Albritton**; (Similar to CS/CS/H 01239) Modernization of Nursing Home Facility Staffing

308330	D	S		RCS	RC, Albritton	Delete everything after	03/01 10:50 PM
~~615290~~	AA	S		WD	RC, Gibson	Delete L.70 - 230:	03/01 10:50 PM
612826	AA	S		RCS	RC, Albritton	Delete L.137:	03/01 10:50 PM
627240	A	S		OO	RC, Gibson	Delete L.119 - 313:	03/01 10:50 PM

Tab 6	**SB 944** by **Baxley**; (Similar to CS/H 01227) Online Marketplace Transparency

~~569968~~	A	S		WD	RC, Baxley	Delete L.42 - 202:	03/01 11:01 PM
380838	AA	S		OO	RC, Brandes	Delete L.48 - 55.	03/01 11:01 PM
543416	AA	S		OO	RC, Brandes	Delete L.133 - 138.	03/01 11:01 PM
942640	AA	S		OO	RC, Brandes	btw L.161 - 162:	03/01 11:01 PM
920832	A	S		RCS	RC, Baxley	Delete L.42 - 202:	03/01 11:01 PM
136974	AA	S	L	UNFAV	RC, Brandes	Delete L.133 - 138.	03/01 11:01 PM
200492	AA	S	L	UNFAV	RC, Brandes	Delete L.162 - 164:	03/01 11:01 PM

Tab 7	**CS/SB 990** by **TR, Diaz**; (Similar to H 00867) Towing Vehicles

Tab 8	**CS/CS/SB 1024** by **CA, RI, Bradley**; (Compare to CS/CS/1ST ENG/H 00741) Renewable Energy Generation

384970	A	S		RS	RC, Bradley	Delete L.44 - 126:	03/02 11:07 AM
655702	SA	S		RCS	RC, Bradley	Delete L.44 - 126:	03/02 11:07 AM

Tab 9	**CS/SB 1060** by **ED, Hutson**; (Similar to CS/H 00461) Florida Bright Futures Scholarship Program Student Service Requirements

Tab 10	**CS/CS/SB 1374** by **AP, HP, Rodriguez**; (Similar to CS/H 00931) Clinical Laboratory Testing

Tab 11	**CS/SJR 1412** by **EE, Brodeur**; (Similar to H 01127) Revisions or Amendments of the State Constitution by Citizen Initiative

Tab 12	**CS/SB 1710** by **CF, Bradley (CO-INTRODUCERS) Brandes, Brodeur**; (Similar to CS/CS/CS/H 01349) Guardianship

208562	SD	S		FAV	AP, Bradley	Delete everything after	02/28 09:16 PM

Tab 13	**CS/SB 1796** by **JU, Gruters (CO-INTRODUCERS) Rodriguez, Hooper, Diaz**; (Similar to CS/CS/H 01395) Dissolution of Marriage

144186	SA	S	L	FAV	AP, Gruters	Delete L.316 - 625:	02/28 09:27 PM

Tab 14	**CS/HB 7** by **EEC, Avila**; (Similar to S 00148) Individual Freedom

Tab 15	**CS/HM 43** by **RUC, Fabricio (CO-INTRODUCERS) Aloupis, Bartleman, Borrero, Botana, Busatta Cabrera, Byrd, Fernandez-Barquin, Garrison, Gregory, Perez, Rizo, Roach, Yarborough**; Atrocities and Genocide in Cuba

Tab 16	**CS/HB 1467** by **APC, Garrison (CO-INTRODUCERS) Fine, Latvala, Plakon, Sirois**; (Similar to CS/S 01300) K-12 Education

745288	A	S	FAV	RC, Gruters	Delete L.43 - 290:	03/02 11:27 AM
801336	A	S	UNFAV	RC, Farmer	Delete L.96:	03/02 11:27 AM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Passidomo, Chair
Senator Garcia, Vice Chair

MEETING DATE: Tuesday, March 1, 2022
TIME: 1:30—6:00 p.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	**CS/SB 228** Finance and Tax / Rodriguez (Compare CS/H 101)	Resiliency Energy Environment Florida Programs; Providing that a property owner may apply to a Resiliency Energy Environment Florida (REEF) program for funding to finance a qualifying improvement and may enter into an assessment financing agreement with a local government; authorizing a local government to enter into an agreement with a program administrator to administer a REEF program on the local government's behalf; specifying underwriting, financing estimate, disclosure, and confirmation requirements for program administrators relating to residential real property, etc. CA 11/03/2021 Favorable FT 01/13/2022 Fav/CS RC 03/01/2022 Favorable	Favorable Yeas 15 Nays 1
2	**SB 536** Diaz (Compare CS/CS/H 337)	Administrative Procedures; Applying certain provisions applicable to all rules other than emergency rules to repromulgated rules; requiring an agency to provide notice of a regulatory alternative to the Administrative Procedures Committee within a certain timeframe; requiring an agency to provide a copy of any proposal for a lower cost regulatory alternative to the committee within a certain timeframe; requiring agency review of rules and repromulgation of rules that do not require substantive changes within a specified timeframe; requiring an agency to identify and describe each rule it plans to develop, adopt, or repeal during the forthcoming year in the agency's annual regulatory plan, etc. JU 01/24/2022 Favorable AP 02/28/2022 Fav/1 Amendment RC 03/01/2022 Fav/CS	Fav/CS Yeas 17 Nays 0
3	**SB 538** Hooper (Similar CS/H 255)	Private Instructional Personnel Providing Applied Behavior Analysis Services; Revising the definition of the term "private instructional personnel" to include certain registered behavior technicians, etc. ED 11/30/2021 Favorable HP 01/13/2022 Favorable RC 03/01/2022 Fav/CS	Fav/CS Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 718** Health Policy / Bradley (Similar CS/H 469)	Provision of Health Care; Authorizing unlicensed persons to assist patients with other specified tasks; specifying staffing requirements for advanced life support ambulances during interfacility transfers; authorizing unlicensed persons to assist patients with other specified tasks; revising the list of medications that a registered nurse may delegate the administration of to a certified nursing assistant or home health aide, etc. HP 01/19/2022 Temporarily Postponed HP 01/26/2022 Fav/CS AP 02/24/2022 Favorable RC 03/01/2022 Fav/CS	Fav/CS Yeas 17 Nays 0
5	**CS/SB 804** Health Policy / Albritton (Similar CS/CS/H 1239)	Modernization of Nursing Home Facility Staffing; Specifying functions that do not constitute direct care staffing hours for purposes of required nursing home staffing ratios; revising nursing home staffing requirements; providing that eating assistance to residents provided by certain direct care staff counts toward certain minimum direct care staffing requirements; providing that an unsatisfied or undischarged adverse final judgment in connection with a nursing home facility becomes the responsibility and liability of a new owner if ownership of the facility is transferred, etc. HP 02/10/2022 Fav/CS RC 02/23/2022 Temporarily Postponed RC 03/01/2022 Fav/CS	Fav/CS Yeas 12 Nays 4
6	**SB 944** Baxley (Similar CS/H 1227)	Online Marketplace Transparency; Requiring online marketplaces to require high-volume third-party sellers using their service to provide certain information to the online marketplace within a specified timeframe; requiring the online marketplace to suspend certain sellers who do not provide such a certification or updated information; requiring online marketplaces to disclose certain information in a specified manner; preempting the regulation of the verification and disclosure of such information to the Department of Legal Affairs, etc. CM 01/18/2022 Favorable CA 01/25/2022 Favorable RC 02/10/2022 Temporarily Postponed RC 03/01/2022 Fav/CS	Fav/CS Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**CS/SB 990** Transportation / Diaz (Similar H 867)	Towing Vehicles; Prohibiting investigating agencies from releasing motor vehicles towed to an agency's storage facility until certain proof of payment is presented to the agency; specifying that investigating agencies that do not obtain proof of payment must pay certain charges within a specified timeframe; revising the timeframe required for sending notices of lien; prohibiting towing companies from releasing vehicles owned by rental car companies, which are towed under certain circumstances, to the person who rented the vehicle unless the rental car company appoints the person as its agent, etc. CA 01/18/2022 Favorable TR 02/02/2022 Fav/CS RC 03/01/2022 Favorable	Favorable Yeas 17 Nays 0
8	**CS/CS/SB 1024** Community Affairs / Regulated Industries / Bradley (Compare CS/CS/H 741)	Renewable Energy Generation; Authorizing certain entities to prohibit the installation of solar collectors under certain circumstances; revising and providing legislative findings relating to the redesign of net metering to avoid cross-subsidization of electric service costs between classes of ratepayers; requiring the Public Service Commission to propose new net metering rules that comply with specified criteria by a certain date; authorizing certain customers who own or lease renewable generation before a specified date to remain under the existing net metering rules for a specified time, etc. RI 01/11/2022 Fav/CS CA 02/08/2022 Fav/CS RC 03/01/2022 Fav/CS	Fav/CS Yeas 12 Nays 4
9	**CS/SB 1060** Education / Hutson (Similar CS/H 461)	Florida Bright Futures Scholarship Program Student Service Requirements; Providing that students may satisfy eligibility requirements for a Florida Academic Scholars, Florida Medallion Scholars, Florida Gold Seal Vocational Scholars, or a Florida Gold Seal CAPE Scholars award, respectively, by performing a specified number of hours of paid work; authorizing, instead of requiring, such students to identify a specified interest or develop a plan for their service requirements under the program, etc. ED 02/08/2022 Fav/CS AP 02/28/2022 Favorable RC 03/01/2022 Favorable	Favorable Yeas 16 Nays 0
10	**CS/CS/SB 1374** Appropriations / Health Policy / Rodriguez (Similar CS/H 931)	Clinical Laboratory Testing; Exempting registered nurses from clinical laboratory personnel licensure requirements under certain circumstances, etc. HP 02/02/2022 Fav/CS AP 02/21/2022 Fav/CS RC 03/01/2022 Favorable	Favorable Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**CS/SJR 1412** Ethics and Elections / Brodeur (Similar HJR 1127)	Revisions or Amendments of the State Constitution by Citizen Initiative; Proposing an amendment to the State Constitution to limit revisions or amendments of the State Constitution by citizen initiative to matters relating to procedural subjects or to the structure of the government or of the State Constitution, etc. EE 02/08/2022 Fav/CS RC 03/01/2022 Temporarily Postponed	Temporarily Postponed
12	**CS/SB 1710** Children, Families, and Elder Affairs / Bradley (Similar CS/CS/CS/H 1349, Compare CS/CS/H 1351)	Guardianship; Requiring the Florida Clerks of Court Operations Corporation and clerks of court to establish a statewide database of guardianship information for certain purposes; requiring the database to be interoperable with certain data systems; requiring the Office of Public and Professional Guardians to share certain information; requiring the Office of Public and Professional Guardians to publish professional guardian registration profiles on its website, etc. CF 01/25/2022 Fav/CS AP 02/28/2022 Fav/1 Amendment RC 03/01/2022 Fav/CS	Fav/CS Yeas 16 Nays 0
13	**CS/SB 1796** Judiciary / Gruters (Similar CS/CS/H 1395)	Dissolution of Marriage; Requiring the court to make certain written findings in its awards of alimony; removing the court's ability to consider adultery of either spouse in determining the amount of an alimony award; revising factors that the court must consider in determining the proper type and amount of alimony; revising a provision authorizing the modification of rehabilitative alimony upon completion of the rehabilitative plan to include a certain condition; requiring the court to consider specified factors when determining an alimony award involving the existence of a supportive relationship between the obligee and another person, etc. JU 01/24/2022 Fav/CS AP 02/28/2022 Fav/1 Amendment RC 03/01/2022 Fav/CS	Fav/CS Yeas 10 Nays 5

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	**CS/HB 7, 2nd Eng.** Education and Employment Committee / Avila (Similar S 148, Compare H 57, S 242)	Individual Freedom; Provides that subjecting individuals to specified concepts under certain circumstances constitutes discrimination based on race, color, sex, or national origin; revising requirements for required instruction on the history of African Americans; requiring the department to prepare and offer certain standards and curriculum; authorizing the department to seek input from a specified organization for certain purposes; prohibits instructional materials reviewers from recommending instructional materials that contain any matter that contradicts certain principles; requires DOE to review school district professional development systems for compliance with certain provisions of law. RC 03/01/2022 Favorable	Favorable Yeas 12 Nays 5
15	**CS/HM 43** Rules Committee / Fabricio	Atrocities and Genocide in Cuba; Urges President & Congress to take action to address atrocities & genocide in Cuba. RC 03/01/2022 Favorable	Favorable Yeas 16 Nays 0
16	**CS/HB 1467, 1st Eng.** Appropriations Committee / Garrison (Similar CS/S 1300, Compare H 1409)	K-12 Education; Establishing term limits for school board members; deleting a requirement that district school boards maintain a specified list on their websites; requiring certain meetings relating to instructional materials to be noticed and open to the public; revising requirements for the department relating to the development of training programs for the selection of materials used in schools and library media centers; revising district school board requirements for the selection and adoption of certain materials, etc. RC 02/23/2022 Temporarily Postponed RC 03/01/2022 Fav/1 Amendment	Fav/1 Amendment (Yeas 12 Nays 5
	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:	CS/SB 228
INTRODUCER:	Finance and Tax Committee; and Senator Rodriguez and others
SUBJECT:	Resiliency Energy Environment Florida Programs
DATE:	February 25, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	**Favorable**
2.	Gross	Babin	FT	**Fav/CS**
3.	Hackett	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 228 substantially amends the Property Assessed Clean Energy program, which allows property owners to make qualifying improvements to real property and finance the cost through annual non-ad valorem tax assessments. Qualifying improvements are those that enhance energy efficiency, renewable energy, and wind resistance. The bill names the program the Resiliency Energy Environment Florida program and enhances protections for consumers entering into PACE contracts. The bill further allows governmental leased property to qualify for the program.

The bill does not affect state or local revenues.

The bill takes effect July 1, 2022.

II. Present Situation:

PACE in Florida

In 2010, local governments[1] were authorized to offer financing to property owners who enhance their property's energy efficiency or wind resistance by making qualifying improvements. The loan is repaid through annual non-ad valorem property tax assessments. Although Florida's law

[1] Section 163.08, F.S. "Local government" means a county, municipality, a dependent special district as defined in s. 189.012, F.S., or a separate legal entity created pursuant to s. 163.01(7), F.S.

does not use the terms "PACE" or "Property Accessed Clean Energy," it is generally understood that s. 163.08, F.S., is Florida's PACE program.[2]

Through a PACE program, a property owner may apply to a local government for funding to enhance energy conservation and efficiency improvements, such as energy-efficient HVAC systems, replacement of windows, electric vehicle charging equipment, and efficient lighting equipment; renewable energy improvements utilizing hydrogen, solar, geothermal, and wind energy; and wind resistance improvements such as wind-resistant shingles, gable-end bracing, storm shutters, and opening protections.[3]

PACE programs in Florida are formed by local governments and operate typically in partnership with several localities pursuant to an interlocal agreement. Additionally, PACE programs in Florida can be operated by a third-party PACE administrator, which is either a for-profit or not-for-profit entity acting on behalf of the local government.[4] However, it is the local government that enters into a financing agreement directly with the property owner.[5]

At least 30 days before entering into the financing agreement, the property owner must provide notice to any mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment. The law provides that an acceleration clause for "payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement … is not enforceable." However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to pay for the qualifying improvement.[6]

Qualifying Improvements

The types of projects PACE financing may fund are referred to as "qualifying improvements." A local government may only offer PACE financing for projects included in the statutory definition of qualifying improvements. As provided in current law, qualifying improvements include the following:

- Energy conservation and efficiency improvements,[7] including, but not limited to:
  - Air sealing;
  - Installation of insulation;
  - Installation of energy efficient HVAC systems;
  - Building modifications which increase the use of daylight;
  - Replacement of windows;
  - Installation of energy controls or energy recovery systems;
  - Installation of electric vehicle charging equipment; and
  - Installation of efficient lighting equipment.

[2] *See generally* Erin Deady, *Property Assessed Clean Energy: Is There Finally a Clear Path to Success?* Florida Bar Journal Vol. 90, No. 6, June 2016, pg. 114, available at https://www.floridabar.org/the-florida-bar-journal/property-assessed-clean-energy-is-there-finally-a-clear-path-to-success/ (last accessed Dec. 07, 2021).
[3] Section 163.08(2)(b), F.S.
[4] Section 163.08(6), F.S.
[5] Section 163.08(8), F.S.
[6] Section 163.08(13), F.S.
[7] Section 163.08(2)(b)1., F.S.

- Renewable energy improvements,[8] which means installation of any system in which the electrical, mechanical, or thermal energy is produced from a method utilizing hydrogen, solar energy, geothermal energy, bioenergy, or wind energy.
- Wind resistance improvements,[9] to include:
  - Improving the strength of the roof deck attachment;
  - Creating a secondary water barrier to prevent water intrusion;
  - Installing wind-resistant shingles;
  - Installing gable-end bracing;
  - Reinforcing roof-to-wall connections;
  - Installing storm shutters; and
  - Installing opening protections.

Wind resistance improvements applied to buildings under new construction do not qualify for PACE financing.[10]

Florida PACE Consumer Protections

Current law provides that, before entering into a financing agreement, the local government must reasonably determine that:

- All property taxes and other assessments are current and have been paid for the preceding 3 years;
- There are no involuntary liens including construction liens;
- There are no notices of default or other evidence of property-based debt delinquency recorded and not released in the preceding 3 years; and
- The property owner is current on all mortgage debt on the property.[11]

Further, any work requiring a license to make a qualifying improvement must be performed by a properly certified or registered contractor.[12] The total amount of PACE assessments for any property may not exceed 20 percent of the property's market value, unless an energy audit determines that the savings from the qualifying improvement equals or exceeds the repayment amount of the non-ad valorem assessment.[13]

Consumer Protections for Residential PACE Financing Generally

Concerns have arisen about issues consumers may face regarding residential PACE financing. Because the PACE financing is structured as a tax assessment instead of a loan, PACE programs historically have not been required to provide homeowners with the same disclosures about the financing costs that traditional lenders must provide.

[8] Section 163.08(2)(b)2., F.S.
[9] Section 163.08(2)(b)3., F.S.
[10] Section 163.08(10), F.S.
[11] Section 163.08(9), F.S.
[12] Section 163.08(11), F.S.
[13] Section 163.08(12), F.S.

Additionally, the tax liens for PACE financing take priority over other lien-holders, including the property's mortgage holder.[14] Such priority has influenced Fannie Mae and Freddie Mac to refuse the purchase of loans with existing PACE-based tax assessments,[15] and properties encumbered with PACE obligations are not eligible for Federal Housing Administration insured financing.[16] However, priority lien position protects local governments, who are authorized to take on debt for the financing they provide.[17] Advocates also state that the priority lien position enables local governments to offer competitive interest rates, ranging from approximately 6 to 9 percent.[18]

Consumer Financial Protection Bureau Steps

In 2018, the United States Congress directed the Consumer Financial Protection Bureau (CFPB) to promulgate regulations regarding PACE financing.[19] The CFPB has issued advance notices of proposed rulemaking in order to apply the Truth in Lending Act's ability-to-repay requirements, currently in place for residential mortgage loans, to PACE financing.[20]

The existing federal ability-to-repay requirements prohibit creditors from making a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan according to its terms, and all applicable taxes, insurance, and assessments.[21] In making such a determination, the creditor must verify and consider specific factors including the consumer's income, assets, and existing debt obligations.[22] The Truth in Lending Act's stated purpose is "to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive, or abusive."[23]

The CFPB's regulations on residential PACE financing are still in development and have not been finalized at this time.

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[14] Debra Gruszecki, INLAND: Realtors Offer Word of Warning About Solar Financing Program," Jan. 19, 2015, The Press-Enterprise, available at https://www.pe.com/2015/01/19/inland-realtors-offer-word-of-warning-about-solar-financing-program/ (last accessed Dec. 07, 2021).
[15] *Statement of the Federal Housing Finance Agency on Certain Super-Priority Liens,* Federal Housing Finance Agency, Dec. 22, 2014, available at https://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-the-Federal-Housing-Finance-Agency-on-Certain-Super-Priority-Liens.aspx (last visited Dec. 07, 2021).
[16] *ML 2017-18: Property Assessed Clean Energy (PACE)*, Dec. 07, 2017, U.S. Department of Housing and Urban Development, available at https://www.hud.gov/sites/dfiles/OCHCO/documents/17-18ml.pdf (last accessed Dec. 07, 2021).
[17] Section 163.08(7), F.S.
[18] *AboutPACE,* Florida PACE Funding Agency, available at https://floridapace.gov/about-pace/ (last visited Dec. 07, 2021).
[19] Section 307, Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law No 115-174 (May 24, 2018).
[20] Advance Notice of Proposed Rulemaking on Residential Property Assessed Clean Energy Financing, Docket No. CFPB-2019-0011, available at https://files.consumerfinance.gov/f/documents/cfpb_anpr_residential-property-assessed-clean-energy-financing.pdf (last accessed Dec. 07, 2021).
[21] *Id*., citing TILA section 129C(a), 15 U.S.C. 1639c(a).
[22] *Id*.
[23] 7 TILA section 129B(a)(2), 15 U.S.C. 1639b(a)(2).

California's Consumer Protection Measures

California, one of the three states currently offering residential PACE financing,[24] has taken measures to protect consumers independent of federal regulation. In 2016, California's law changed to require PACE programs to provide mortgage-level disclosures and to conduct live recorded calls with homeowners to confirm financing terms and obligations.[25]

In 2017, California legislation required that PACE program administrators be licensed by the California Department of Financial Protection and Innovation, provided oversight for contractors and third party solicitors, and authorized the same department to bring enforcement actions against PACE administrators and contractors. The law also required that a PACE administrator thoroughly determine the property owner's ability to repay the loan before approving a financing contract.[26] In 2021, California took further action specifically to protect senior citizens being solicited at home, criminalizing transactions that are part of a pattern in violation of specific PACE consumer protections.[27]

III. Effect of Proposed Changes:

The bill substantially amends Florida's Property Assessed Clean Energy (PACE) program in s. 163.08, F.S. It names the program the Resiliency Energy Environment Florida (REEF) program, defines key terms, expands the types of qualifying improvements, imposes new consumer protections, extends participation in the program to lessees of government property, and enacts new REEF contractor oversight and accountability provisions.

Definitions

The bill defines the following terms:

- "Assessment financing agreement" means the financing agreement under a REEF program between a local government and a property owner for the acquisition or installation of qualifying improvements.
- "Government-leased property" means real property owned by a local government which has become subject to taxation due to lease of the property to a nongovernmental lessee.
- "Non-ad valorem assessment" or "assessment" means the same as defined in s. 197.3632(1), F.S., to mean only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.
- "Nongovernmental lessee" means a person or an entity, other than a local government, which is the lessee of government-leased property.
- "Nonresidential real property" means any property not defined as residential real property and which will be or has been improved by a qualifying improvement. This term includes,

[24] California, Florida, and Missouri are the only three states offering PACE financing on residential property. See, Sijia Qiu and Jocelyn Durkay, *PACE Financing*, National Conference of State Legislatures, Jan. 26, 2016, available at https://www.ncsl.org/research/energy/pace-financing.aspx (last visited Dec. 07, 2021).
[25] James Reed, "Consumer Protections for PACE Now Written into State Law," Orange County Register, October 7, 2016, available at https://www.ocregister.com/2016/10/07/consumer-protections-for-pace-now-written-into-state-law/ (last visited Dec. 07, 2021).
[26] Assembly Bill 1284 (Dababneh, Chap 475, Stats. 2017) – California Financing Law: Property Assessed Clean Energy program: program administrators.
[27] Assembly Bill 790 (Quirk-Silva, Chap 589, Stats. 2021) – Consumer Legal Remedies Act.

but is not limited to, multifamily residential property composed of five or more dwelling units, and office, commercial, industrial, agricultural, or government-leased property.
- "Program administrator" means an entity, including, but not limited to, a for-profit or-not-for-profit entity, with which a local government contracts to administer a REEF program.
- "Residential real property" means a residential property composed of four or fewer dwelling units which is or will be improved by a qualifying improvement.
- "Resiliency Energy Environment Florida (REEF) program" means a program established by a local government, alone or in partnership with other local governments or a program administrator, to finance qualifying improvements on commercial real property or residential real property.

Consumer Protection Measures

To account for recent consumer protection concerns regarding PACE financing, the bill provides regulations to mitigate these concerns and ensure consumers are well-informed of their obligations before entering into a REEF financing agreement.

Specifically, the bill provides that, before entering into a residential REEF financing agreement, a REEF administrator must reasonably determine that the property owner has the ability to pay the annual REEF assessment. This determination should be based on observations that:
- All property taxes and other assessments are current and have not been delinquent for more than 30 days for the preceding 3 years.
- There are no involuntary liens greater than $1,000, including construction liens.
- There are no notices of default or other evidence of property-based debt delinquency recorded and not released in the preceding 3 years.
- The property owner has recorded all other PACE assessments on the property.
- The property owner is current on all mortgage debt on the property.
- The property, if residential real property, is not subject to an existing home equity conversion mortgage or reverse mortgage product, or is not currently a residential property gifted for free to a homeowner by a nonprofit entity. However, the agreement may not be invalidated solely on the basis that the homeowner failed to disclose that the property was a gift.
- The property owner is not currently in bankruptcy.
- The total estimated annual payment amount for all assessment financing agreements funded under the REEF program does not exceed 10 percent of the property owner's annual household income. Such income should be confirmed by a reputable third party and may not be confirmed solely by the property owner.

Before entering into a residential REEF financing agreement, the REEF administrator must provide a financing estimate and disclosure to the property owner that includes:
- The total amount estimated to be funded, including program fees and capitalized interest;
- The estimated annual REEF assessment;
- The term of the REEF assessment;
- The interest charged and estimated annual percentage rate;
- A description of the qualifying improvement;
- A disclosure that if the property owner sells or refinances the property, the property owner may be required to pay off the full amount owed under each REEF financing agreement;

- A disclosure that the REEF assessment will be collected alongside other property taxes, and will result in a lien on the property a lien on the property during the term of the agreement; and
- A disclosure that failure to pay the REEF assessment may result in penalties and fees, along with the issuance of a tax certificate that could result in the property owner losing the real property.

The program administrator must also conduct a recorded telephone call with the property owner to confirm the following:

- That the property owner has access to the contract and financing estimates and disclosures;
- The qualifying improvement that is being financed;
- The total estimated annual costs, including fees;
- The total estimated average monthly equivalent amount required to pay such annual costs;
- The estimated date the property owner's first tax payment including the REEF assessment will be due;
- The term of the REEF financing agreement;
- That payments will cause the owner's annual tax bill to increase, that payments will be made through additional annual assessments, and that such payments will be made either directly to the county tax collector's office or through the owner's mortgage escrow account;
- That the owner has disclosed whether the property has received or is seeking additional REEF assessments and has disclosed all other REEF assessments or special taxes about to be placed on the property;
- That the property will be subject to a lien during the term of the REEF financing agreement which may require the contract to be paid in full before selling or refinancing the property;
- That any potential utility or insurance savings are not guaranteed and will not reduce the REEF or total assessment amount; and
- That the program administrator does not provide tax advice and that the owner should seek professional tax advice with questions regarding tax credits, deductibility, or other impacts of the qualifying improvement or REEF financing agreement.

A property owner may cancel the REEF financing agreement within three business days after signing the contract, without financial penalty.

The term of a REEF financing agreement may not exceed the lesser of:

- Thirty years; or
- The greater of the weighted average useful life of all the qualifying improvement being financed or the useful life of the qualifying improvement to which the greatest portion of funds is disbursed.

Additionally, a program administrator may not offer a REEF financing agreement on any residential real property that includes a negative amortization schedule, a balloon payment, or prepayment fees other than nominal administrative costs. Capitalized interest included in the original balance of an agreement is not considered negative amortization.

REEF Contractor Oversight

The bill provides that for residential real property, a program administrator may not enroll a contractor unless the administrator makes a reasonable effort to review the contractor's professional standing. This includes reviewing the appropriate licensure, permits, and registrations required for its business operations. Additionally, the administrator must obtain the contractor's written agreement that the contractor will act in accordance with all applicable laws to include advertising and marketing laws and regulations.

Further, the bill requires a program administrator to maintain a process to enroll new contractors that includes reasonable review of each contractor's relevant work or project history, financial and reputational background, criminal background, and status on Better Business Bureau or other online platform tracking contractor reviews.

Program administrators may pay or reimburse contractors for any expense allowable under state law including, but not limited to, marketing, training, and promotions.

Before disbursing funds to a contractor for a qualifying improvement on residential real property, a program administrator must confirm that the applicable work or service has been completed. This is accomplished through either written or telephonic certification with the property owner, or through a third-party site inspection.

A program administrator may not disclose to a contractor or third party solicitor the maximum financing amount for which a residential real property owner is eligible.

A contractor should not present a higher price for a qualifying improvement on residential real property financed by a REEF financing agreement than the contractor would otherwise present were the improvement not financed by REEF.

A program administrator may not provide a contractor with any payment, fee, or kickback in exchange for referring business relating to a specific assessment financing agreement on residential real property.

A program administrator must develop and implement policies and procedures for responding, tracking, and resolving questions and complaints. It must also have a process for monitoring contractors with regard to performance and compliance with program policies, and implement policies for suspending, terminating, and reinstating contractors based on violations of program policies or unscrupulous behavior. Further, a program administrator must submit an annual report to a dependent special district or separate legal entity[28] created pursuant to an interlocal agreement showing the number of property owner complaints and into what category the complaints fall.

The bill imposes certain marketing and communications guidelines for program administrators and contractors to follow. Under these provisions, program administrators and contractors may not suggest that REEF financing is a government assistance program, that qualifying

[28] See s. 163.01(7), F.S.

improvements are free or that REEF is a free program, or that utilizing REEF financing does not require the homeowner to repay the financial obligation. A program administrator or contractor may not make representations as to the tax deductibility of a REEF financing agreement on residential real property. They may only encourage a property owner to seek the advice of a tax professional.

Protections applying specifically to residential real property do not apply if the program administrator determines that the residential real property is owned by a business entity that owns more than four such properties, and the business entity's owners do not reside on the property.

Government Leased Property

The bill allows REEF financing to be utilized on government-leased property. REEF financing agreements must be executed by either the local government and the lessee or if only by the lessee, the local government must provide written consent to the program administrator.

The financing agreement must state that the lessee is the only party obligated to pay the assessment. A delinquent assessment will not become a lien on the real property but will constitute a debt and is recoverable by legal action or tax executions that lien other property of the lessee's that may be located in any county in Florida. In addition, the occupational license or corporate charter of the lessee will be revoked.[29]

The assessment financing agreement's term may not exceed the lesser of:
- Thirty years;
- The remaining term of the lease on the government leased property; or
- The greater of the weighted average useful life of all qualifying improvements or the useful life of the qualifying improvement to which the greatest portion of funds are disbursed.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state tax shared with them. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Article VII, s. 18 of the Florida Constitution. Therefore, the provisions of Article VII, section 18 of the Florida Constitution do not apply.

[29] Section 196.199(8), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Article VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill does not affect state or local revenue.

B. Private Sector Impact:

Property owners who live within a jurisdiction that offers REEF financing will see the benefit of increased consumer protections.

C. Government Sector Impact:

REEF programs are designed to be budget-neutral for local governments. As such, no government sector impact is expected for this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.08 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 Finance and Tax on January 13, 2022:
The CS:

- Clarifies the term lengths of REEF loans for both residential real property and government-leased property.
- Allows the use of third parties to determine the fair market value of real property for the purpose of establishing REEF loan limits.
- Authorizes a program administrator to pay or reimburse contractors for certain expenses, such as marketing, training, and promotions.
- Removes the definition of "contractor."
- Prohibits the invalidation of an agreement or obligation solely on the basis that the property owner failed to disclose that they have been gifted the home for free.
- Removes the requirement that program administrators use plain language when conducting a telephone call with the residential property owner before a notice to proceed is issued.
- Removes a program administrator's option to rely on a criminal background check conducted by the Construction Industry Licensing Board.
- Excludes capitalized interest from constituting negative amortization when it is included in the original balance of an agreement.
- Expressly states that the provision requiring a program administrator to determine if residential property is subject to an existing home equity conversion mortgage or reverse mortgage does not apply to nonresidential real property.
- The amendment makes additional technical and clarifying changes.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/02/2022	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 212 - 303

and insert:

records of the county where the property is located.

(9) Before entering into an assessment ~~a~~ financing agreement, the local government, or the program administrator acting on its behalf, shall reasonably determine that all of the following conditions are met:

(a) All property taxes and any other assessments levied on the same bill as property taxes are current ~~paid~~ and have not



been delinquent for more than 30 days for the preceding 3 years or the property owner's period of ownership, whichever is less.~~;~~

(b) ~~that~~ There are no involuntary liens greater than $1,000, including, but not limited to, construction liens on the property.~~;~~

(c) ~~that~~ No notices of default or other evidence of property-based debt delinquency have been recorded and not released during the preceding 3 years or the property owner's period of ownership, whichever is less.~~;~~

(d) The local government or program administrator has asked the property owner whether any other assessments under this section have been recorded or have been funded and not yet recorded on the property. The failure of a property owner to disclose information set forth in this paragraph does not invalidate an assessment financing agreement or any obligation thereunder, even if the total financed amount of the qualifying improvements exceeds the amount that would otherwise be authorized under paragraph (12)(a).

(e) ~~and that~~ The property owner is current on all mortgage debt on the property.

(f) The residential property is not subject to an existing home equity conversion mortgage or reverse mortgage product. This paragraph does not apply to nonresidential real properties.

(g) The property is not currently a residential property gifted to a homeowner for free by a nonprofit entity as may be disclosed by the property owner. The failure of a property owner to disclose information set forth in this paragraph does not invalidate an assessment financing agreement or any obligation thereunder. This paragraph does not apply to nonresidential real


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properties.

(h) The property owner obtained the approval of any applicable lender, creditor, assignee, or servicer of any previously recorded mortgage or other lien on the property.

(10) Before final funding may be provided, a qualifying improvement must ~~shall~~ be affixed or planned to be affixed to a nonresidential real property or residential real ~~building or facility that is part of the~~ property and constitutes ~~shall constitute~~ an improvement to that property ~~the building or facility or a fixture attached to the building or facility~~. An assessment financing agreement may ~~between a local government and a qualifying property owner may not~~ cover qualifying ~~wind-resistance~~ improvements on nonresidential real property under new construction or residential real property ~~in buildings or facilities~~ under new construction ~~or construction for which a certificate of occupancy or similar evidence of substantial completion of new construction or improvement has not been issued~~.

(12)(a) Without the consent of the holders or loan servicers of any mortgage encumbering or otherwise secured by the property, the total amount of any non-ad valorem assessment for a property under this section may not exceed 20 percent of the fair market ~~just~~ value of the real property ~~as determined by the county property appraiser~~. The combined mortgage-related debt and total amount of any non-ad valorem assessments funded under this section for residential real property may not exceed 100 percent of the fair market value of the residential real property. However, the failure of a property owner to disclose information set forth in paragraph (9)(d) does not invalidate an


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assessment financing agreement or any obligation thereunder, even if the total financed amount of the qualifying improvements exceeds the amount that would otherwise be authorized under this paragraph. For purposes of this paragraph, fair market value may be determined using reputable third parties.

(b) Notwithstanding paragraph (a), a non-ad valorem assessment for a qualifying improvement defined in subparagraph (2)(h)1. ~~(2)(b)1.~~ or subparagraph (2)(h)2. which ~~(2)(b)2. that~~ is supported by an energy audit is not subject to the limits in this subsection if the audit demonstrates that the annual energy savings from the qualified improvement equals or exceeds the annual repayment amount of the non-ad valorem assessment.

(13) At least 30 days before entering into an assessment ~~a~~ financing agreement, the property owner shall provide to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property a notice of the owner's intent to enter into an assessment ~~a~~ financing agreement together with the maximum principal amount to be financed and the maximum annual assessment necessary to repay that amount. A verified copy or other proof of such notice shall be provided to the local government. ~~A provision in any agreement between a mortgagee or other lienholder and a property owner, or otherwise now or hereafter binding upon a property owner, which allows for acceleration of payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement as provided for in this section is not enforceable.~~ This subsection does not limit the authority

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

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And the title is amended as follows:

Delete line 38

and insert:

property; providing and revising construction; providing applicability;

By the Committee on Finance and Tax; and Senators Rodriguez, Burgess, Hutson, Gruters, and Hooper

A bill to be entitled

An act relating to Resiliency Energy Environment Florida programs; amending s. 163.08, F.S.; defining terms; providing that a property owner may apply to a Resiliency Energy Environment Florida (REEF) program for funding to finance a qualifying improvement and may enter into an assessment financing agreement with a local government; providing that REEF program costs may be collected as non-ad valorem assessments; authorizing a local government to enter into an agreement with a program administrator to administer a REEF program on the local government's behalf; revising and specifying public recording requirements for assessment financing agreements and notices of lien; revising requirements that apply to local governments or program administrators in determining eligibility for assessment financing; revising requirements for qualifying improvements; revising the calculation of non-ad valorem assessment limits; providing construction; specifying underwriting, financing estimate, disclosure, and confirmation requirements for program administrators relating to residential real property; authorizing a residential real property owner, under certain circumstances and within a certain timeframe, to cancel an assessment financing agreement without financial penalty; specifying limitations on assessment financing agreement terms for residential real property; prohibiting certain financing terms for residential

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real property; specifying requirements for, and certain prohibited acts by, program administrators relating to assessment financing agreements and contractors for qualifying improvements to residential real property; specifying additional annual reporting requirements for program administrators; specifying requirements for, and limitations on, assessment financing agreements relating to government-leased property; providing construction and applicability; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Present subsection (16) of section 163.08, Florida Statutes, is redesignated as subsection (33), a new subsection (16) and subsections (17) through (32) are added to that section, and subsections (1), (2), (4), (6) through (10), (12), (13), and (14) of that section are amended, to read:

163.08 Supplemental authority for improvements to real property.—

(1)(a) In chapter 2008-227, Laws of Florida, the Legislature amended the energy goal of the state comprehensive plan to provide, in part, that the state shall reduce its energy requirements through enhanced conservation and efficiency measures in all end-use sectors and reduce atmospheric carbon dioxide by promoting an increased use of renewable energy resources. That act also declared it the public policy of the state to play a leading role in developing and instituting

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energy management programs that promote energy conservation, energy security, and the reduction of greenhouse gases. In addition to establishing policies to promote the use of renewable energy, the Legislature provided for a schedule of increases in energy performance of buildings subject to the Florida Energy Efficiency Code for Building Construction. In chapter 2008-191, Laws of Florida, the Legislature adopted new energy conservation and greenhouse gas reduction comprehensive planning requirements for local governments. In the 2008 general election, the voters of this state approved a constitutional amendment authorizing the Legislature, by general law, to prohibit consideration of any change or improvement made for the purpose of improving a property's resistance to wind damage or the installation of a renewable energy source device in the determination of the assessed value of residential real property.

(b) The Legislature finds that all energy-consuming-improved properties that are not using energy conservation strategies contribute to the burden affecting all improved property resulting from fossil fuel energy production. Improved property that has been retrofitted with energy-related qualifying improvements receives the special benefit of alleviating the property's burden from energy consumption. All improved properties not protected from wind damage by wind resistance qualifying improvements contribute to the burden affecting all improved property resulting from potential wind damage. Improved property that has been retrofitted with wind resistance qualifying improvements receives the special benefit of reducing the property's burden from potential wind damage.

Further, the installation and operation of qualifying improvements not only benefit the affected properties for which the improvements are made, but also assist in fulfilling the goals of the state's energy and hurricane mitigation policies.

(c) In order to make qualifying improvements more affordable and assist property owners who wish to undertake such improvements, the Legislature finds that there is a compelling state interest in enabling property owners to voluntarily finance such improvements with local government assistance.

(d)~~(c)~~ The Legislature determines that the actions authorized under this section, including, but not limited to, the financing of qualifying improvements through the execution of assessment financing agreements and the related imposition of voluntary assessments, are reasonable and necessary to serve and achieve a compelling state interest and are necessary for the prosperity and welfare of the state and its property owners and inhabitants.

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

(a) "Assessment financing agreement" means the financing agreement, under a REEF program, between a local government and a property owner for the acquisition or installation of qualifying improvements.

(b) "Government-leased property" means real property owned by a local government which has become subject to taxation due to lease of the property to a nongovernmental lessee.

(c)~~(a)~~ "Local government" means a county, a municipality, a dependent special district as defined in s. 189.012, or a separate legal entity created pursuant to s. 163.01(7).

(d) "Non-ad valorem assessment" or "assessment" has the

same meaning as the term "non-ad valorem assessment" as defined in s. 197.3632(1).

(e) "Nongovernmental lessee" means a person or an entity, other than a local government, which is the lessee of government-leased property.

(f) "Nonresidential real property" means any property not defined as residential real property and which will be or has been improved by a qualifying improvement. The term includes, but is not limited to, the following:

1. Multifamily residential property composed of five or more dwelling units.

2. Office property.

3. Commercial real property.

4. Industrial property.

5. Agricultural property.

6. Government-leased property.

(g) "Program administrator" means an entity, including, but not limited to, a for-profit or not-for-profit entity, with which a local government may contract to administer a REEF program.

(h) ~~(b)~~ "Qualifying improvement" includes any:

1. Energy conservation and efficiency improvement, which is a measure to reduce consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; building modifications to increase the use of daylight; replacement of windows; installation of energy controls or energy recovery

systems; installation of electric vehicle charging equipment; and installation of efficient lighting equipment.

2. Renewable energy improvement, which is the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses one or more of the following fuels or energy sources: hydrogen, solar energy, geothermal energy, bioenergy, and wind energy.

3. Wind resistance improvement, which includes, but is not limited to:

a. Improving the strength of the roof deck attachment;

b. Creating a secondary water barrier to prevent water intrusion;

c. Installing wind-resistant shingles;

d. Installing gable-end bracing;

e. Reinforcing roof-to-wall connections;

f. Installing storm shutters; or

g. Installing opening protections.

(i) "Residential real property" means a residential real property composed of four or fewer dwelling units which has been or will be improved by a qualifying improvement.

(j) "Resiliency Energy Environment Florida (REEF) program" means a program established by a local government, alone or in partnership with other local governments or a program administrator, to finance qualifying improvements on nonresidential real property or residential real property.

(4) Subject to local government ordinance or resolution, a property owner may apply to the REEF program ~~local government~~ for funding to finance a qualifying improvement and enter into an assessment ~~a~~ financing agreement with the local government.

Costs incurred by the REEF program ~~local government~~ for such purpose may be collected as a non-ad valorem assessment. A non-ad valorem assessment shall be collected pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a), shall not be subject to discount for early payment. However, the notice and adoption requirements of s. 197.3632(4) do not apply if this section is used and complied with, and the intent resolution, publication of notice, and mailed notices to the property appraiser, tax collector, and Department of Revenue required by s. 197.3632(3)(a) may be provided on or before August 15 in conjunction with any non-ad valorem assessment authorized by this section, if the property appraiser, tax collector, and local government agree.

(6) A local government may enter into an agreement with a program administrator to administer a REEF program on behalf of the local government ~~A qualifying improvement program may be administered by a for-profit entity or a not-for-profit organization on behalf of and at the discretion of the local government~~.

(7) A local government may incur debt for the purpose of providing financing for qualifying ~~such~~ improvements, which debt is payable from revenues received from the improved property~~,~~ or from any other available revenue source authorized under this section or by other law.

(8) A local government may enter into an assessment ~~a~~ financing agreement to finance or refinance a qualifying improvement only with the record owner of the affected property. Any assessment financing agreement entered into pursuant to this section or a summary memorandum of such agreement shall be

submitted for recording ~~recorded~~ in the public records of the county within which the property is located by the ~~sponsoring unit of~~ local government within 5 days after execution of the agreement. The recorded agreement shall provide constructive notice that the assessment to be levied on the property constitutes a lien of equal dignity to county taxes and assessments from the date of recordation. A notice of lien for the full amount of the financing may be recorded in the public records of the county where the property is located. Such lien shall not be enforceable in a manner that results in the acceleration of the remaining nondelinquent unpaid balance under the assessment financing agreement.

(9) Before entering into an assessment ~~a~~ financing agreement, the local government, or the program administrator acting on its behalf, shall reasonably determine that all of the following conditions are met:

(a) All property taxes and any other assessments levied on the same bill as property taxes are current ~~paid~~ and have not been delinquent for more than 30 days for the preceding 3 years or the property owner's period of ownership, whichever is less.~~;~~

(b) ~~that~~ There are no involuntary liens greater than $1,000, including, but not limited to, construction liens on the property.~~;~~

(c) ~~that~~ No notices of default or other evidence of property-based debt delinquency have been recorded and not released during the preceding 3 years or the property owner's period of ownership, whichever is less.~~;~~

(d) The local government or program administrator has asked the property owner whether any other assessments under this

section have been recorded or have been funded and not yet recorded on the property. The failure of a property owner to disclose information set forth in this paragraph does not invalidate an assessment financing agreement or any obligation thereunder, even if the total financed amount of the qualifying improvements exceeds the amount that would otherwise be authorized under paragraph (12)(a).

(e) ~~and that~~ The property owner is current on all mortgage debt on the property.

(f) The residential property is not subject to an existing home equity conversion mortgage or reverse mortgage product. This paragraph does not apply to nonresidential real properties.

(g) The property is not currently a residential property gifted to a homeowner for free by a nonprofit entity as may be disclosed by the property owner. The failure of a property owner to disclose information set forth in this paragraph does not invalidate an assessment financing agreement or any obligation thereunder. This paragraph does not apply to nonresidential real properties.

(10) Before final funding may be provided, a qualifying improvement must ~~shall~~ be affixed or planned to be affixed to a nonresidential real property or residential real ~~building or facility that is part of the~~ property and constitutes ~~shall constitute~~ an improvement to that property ~~the building or facility or a fixture attached to the building or facility~~. An assessment financing agreement may ~~between a local government and a qualifying property owner may not~~ cover qualifying ~~wind resistance~~ improvements on nonresidential real property under new construction or residential real property ~~in buildings or~~

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~~facilities~~ under new construction ~~or construction for which a certificate of occupancy or similar evidence of substantial completion of new construction or improvement has not been issued~~.

(12)(a) Without the consent of the holders or loan servicers of any mortgage encumbering or otherwise secured by the property, the total amount of any non-ad valorem assessment for a property under this section may not exceed 20 percent of the fair market ~~just~~ value of the real property ~~as determined by the county property appraiser~~. The combined mortgage-related debt and total amount of any non-ad valorem assessments funded under this section for residential real property may not exceed 100 percent of the fair market value of the residential real property. However, the failure of a property owner to disclose information set forth in paragraph (9)(d) does not invalidate an assessment financing agreement or any obligation thereunder, even if the total financed amount of the qualifying improvements exceeds the amount that would otherwise be authorized under this paragraph. For purposes of this paragraph, fair market value may be determined using reputable third parties.

(b) Notwithstanding paragraph (a), a non-ad valorem assessment for a qualifying improvement defined in subparagraph (2)(h)1. ~~(2)(b)1.~~ or subparagraph (2)(h)2. which ~~(2)(b)2. that~~ is supported by an energy audit is not subject to the limits in this subsection if the audit demonstrates that the annual energy savings from the qualified improvement equals or exceeds the annual repayment amount of the non-ad valorem assessment.

(13) At least 30 days before entering into an assessment ~~a~~ financing agreement, the property owner shall provide to the

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holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property a notice of the owner's intent to enter into an assessment ~~a~~ financing agreement together with the maximum principal amount to be financed and the maximum annual assessment necessary to repay that amount. A verified copy or other proof of such notice shall be provided to the local government. A provision in any agreement between a mortgagee or other lienholder and a property owner, or otherwise now or hereafter binding upon a property owner, which allows for acceleration of payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into an assessment ~~a~~ financing agreement as provided for in this section is not enforceable. This subsection does not limit the authority of the holder or loan servicer to increase the required monthly escrow by an amount necessary to ~~annually~~ pay the annual ~~qualifying improvement~~ assessment.

(14) At or before the time a seller ~~purchaser~~ executes a contract for the sale ~~and purchase~~ of any property for which a non-ad valorem assessment has been levied under this section and has an unpaid balance due, the seller must ~~shall~~ give the prospective purchaser a written disclosure statement in the following form, which shall be set forth in the contract or in a separate writing:

QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE ENERGY, OR WIND RESISTANCE.—The property being purchased is located within the jurisdiction of a local government that has placed an assessment on the property pursuant to s. 163.08, Florida Statutes.

The assessment is for a qualifying improvement to the property relating to energy efficiency, renewable energy, or wind resistance, and is not based on the value of property. You are encouraged to contact the county property appraiser's office to learn more about this and other assessments that may be provided by law.

(16) Before final approval of an assessment financing agreement for a qualifying improvement on a residential real property, a program administrator shall reasonably determine that the property owner has the ability to pay the estimated annual assessment. To do so, the program administrator shall, at a minimum, use the underwriting requirements in subsection (9), confirm that the property owner is not in bankruptcy, and determine that the total estimated annual payment amount for all assessment financing agreements funded under this section on the property does not exceed 10 percent of the property owner's annual household income. Income may be confirmed using information gathered from reputable third parties that provide reasonably reliable evidence of the property owner's household income. Income may not be confirmed solely by a property owner's statement. The failure of a property owner to disclose information set forth in paragraph (9)(d) does not invalidate an assessment financing agreement or any obligation thereunder, even if the total estimated annual payment amount exceeds the amount that would otherwise be authorized under this subsection.

(17) Prior to or contemporaneously with a property owner signing an assessment financing agreement on a residential real

property, the program administrator shall provide a financing estimate and disclosure to the residential real property owner which includes all of the following:

(a) The total amount estimated to be funded, including the cost of the qualifying improvements, program fees, and capitalized interest, if any.

(b) The estimated annual assessment.

(c) The term of the assessment.

(d) The interest charged and estimated annual percentage rate.

(e) A description of the qualifying improvement.

(f) A disclosure that if the property owner sells or refinances the property, the property owner, as a condition of the sale or the refinance, may be required by a mortgage lender to pay off the full amount owed under each assessment financing agreement.

(g) A disclosure that the assessment will be collected along with the property owner's property taxes and will result in a lien on the property from the date the assessment financing agreement is recorded.

(h) A disclosure that failure to pay the assessment may result in penalties and fees, along with the issuance of a tax certificate that could result in the property owner losing the real property.

(18) Before a notice to proceed is issued on residential real property, the program administrator shall conduct with the residential real property owner or an authorized representative an oral, recorded telephone call. The program administrator shall ask the residential real property owner if he or she would

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like to communicate primarily in a language other than English. A program administrator may not leave a voicemail to the residential real property owner to satisfy this requirement. A program administrator, as part of such telephone call, shall confirm all of the following with the residential real property owner:

(a) That at least one residential real property owner has access to a copy of the assessment financing agreement and financing estimates and disclosures.

(b) The qualifying improvements being financed.

(c) The total estimated annual costs that the residential real property owner will have to pay under the assessment financing agreement, including applicable fees.

(d) The total estimated average monthly equivalent amount of funds the residential real property owner would have to save in order to pay the annual costs of the assessment, including applicable fees.

(e) The estimated date the residential real property owner's first property tax payment that includes the assessment will be due.

(f) The term of the assessment financing agreement.

(g) That payments for the assessment financing agreement will cause the residential real property owner's annual property tax bill to increase, and that payments will be made through an additional annual assessment on the property and either will be paid directly to the county tax collector's office as part of the total annual secured property tax bill or may be paid through the residential real property owner's mortgage escrow account.

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(h) That the residential real property owner has disclosed whether the property has received, or the owner is seeking, additional assessments funded under this section and that the owner has disclosed all other assessments funded under this section which are or are about to be placed on the property.

(i) That the property will be subject to a lien during the term of the assessment financing agreement and that the obligations under the agreement may be required to be paid in full before the residential real property owner sells or refinances the property.

(j) That any potential utility or insurance savings are not guaranteed and will not reduce the assessment or total assessment amount.

(k) That the program administrator does not provide tax advice, and the residential real property owner should seek professional tax advice if he or she has questions regarding tax credits, tax deductibility, or other tax impacts of the qualifying improvement or the assessment financing agreement.

(19) A residential real property owner may cancel an assessment financing agreement within 3 business days after signing the assessment financing agreement without any financial penalty from the program administrator for doing so.

(20) The term of an assessment financing agreement on residential real property may not exceed the lesser of:

(a) Thirty years; or

(b) The greater of either the weighted average estimated useful life of all qualifying improvements being financed or the estimated useful life of the qualifying improvements to which the greatest portion of funds is disbursed.

(21) An assessment financing agreement authorized under this section on residential real property may not include any of the following financing terms:

(a) A negative amortization schedule. Capitalized interest included in the original balance of the assessment financing agreement does not constitute negative amortization.

(b) A balloon payment.

(c) Prepayment fees, other than nominal administrative costs.

(22) For residential real property, a program administrator:

(a) May not enroll a contractor who contracts with residential real property owners to install qualifying improvements unless:

1. The program administrator makes a reasonable effort to review that the contractor maintains in good standing an appropriate license from the state, if applicable, as well as any other permit, license, or registration required for engaging in business in the jurisdiction in which he or she operates and that the contractor maintains all state-required bond and insurance coverage; and

2. The program administrator obtains the contractor's written agreement that the contractor will act in accordance with all applicable laws, including applicable advertising and marketing laws and regulations.

(b) Shall maintain a process to enroll new contractors which includes reasonable review of the following for each contractor:

1. Relevant work or project history.

2. Financial and reputational background checks.

3. A criminal background check.

4. Status on the Better Business Bureau online platform or another online platform that tracks contractor reviews.

(c) A program administrator may pay or reimburse contractors for any expense allowable under applicable state law and not otherwise prohibited under this section, including, but not limited to, marketing, training, and promotions.

(23)(a) Before disbursing funds to a contractor for a qualifying improvement on residential real property, a program administrator must first confirm that the applicable work or service has been completed through any of the following:

1. A written certification from the property owner;

2. A recorded telephone call with the property owner;

3. A review of geotagged and time-stamped photographs;

4. A review of a final permit; or

5. A site inspection through third-party means.

(b) A program administrator may not disclose to a contractor or to a third party engaged in soliciting an assessment financing agreement the maximum financing amount for which a residential real property owner is eligible.

(24) A program administrator shall comply with the following marketing and communications guidelines when communicating with residential real property owners:

(a) A program administrator may not represent:

1. That the REEF program or assessment financing is a government assistance program;

2. That qualifying improvements are free or that assessment financing is a free program; or

3. That the financing of a qualifying improvement using the REEF program does not require the property owner to repay the financial obligation.

(b) A program administrator may not make any representation as to the tax deductibility of an assessment authorized under this section. A program administrator may encourage a property owner to seek the advice of a tax professional regarding tax matters related to assessments.

(25) A contractor should not present a higher price for a qualifying improvement on residential real property financed by an assessment financing agreement than the contractor would otherwise reasonably present if the qualifying improvement was not being financed through an assessment financing agreement.

(26) A program administrator shall use appropriate methodologies or technologies to identify and verify the identity of the residential real property owner who executes an assessment financing agreement.

(27) A program administrator may not provide a contractor with any payment, fee, or kickback in exchange for referring assessment financing business relating to a specific assessment financing agreement on residential real property.

(28) A program administrator shall develop and implement policies and procedures for responding to, tracking, and helping to resolve questions and property owner complaints as soon as reasonably practicable.

(29) A program administrator shall maintain a process for monitoring enrolled contractors that contract with residential real property owners to install qualifying improvements with regard to performance and compliance with program policies and

shall implement policies for suspending and terminating enrolled contractors based on violations of program policies or unscrupulous behavior. A program administrator shall maintain a policy for determining the conditions on which a contractor may be reinstated to the program.

(30) A program administrator shall provide, at a reasonable time following the end of the prior calendar year, an annual report to the dependent special district as defined in s. 189.012 or a separate legal entity created pursuant to s. 163.01(7) which it has contracted with to administer a REEF program and shall include information and data related to the following:

(a) The total number of property owner complaints received which are associated with project funding in the report year.

(b) Of the total number of property owner complaints received associated with project funding in the report year:

1. The number and percentage of complaints that relate to the assessment financing.

2. The number and percentage of complaints that relate to a contractor or the workmanship of a contractor and are not related to assessment financing.

3. The number and percentage of complaints that relate to both a contractor and the assessment financing.

4. The number and percentage of complaints identified in subparagraphs 1., 2., and 3. which were resolved and the number and percentage of property owner complaints that were not resolved.

(c) The percentage of property owner complaints in subparagraphs (b)1., 2., and 3. expressed as a total of all

projects funded in the report year.

(31) Notwithstanding any provision of this section to the contrary, the following applies to government-leased property:

(a) The assessment financing agreement must be executed by either:

1. The local government and the nongovernmental lessee; or

2. Solely by the nongovernmental lessee but with the written consent of the local government. Evidence of such consent must be provided to the program administrator or REEF program.

(b) The assessment financing agreement must provide that the nongovernmental lessee is the only party obligated to pay the assessment.

(c) A delinquent assessment must be enforced in the manner provided in ss. 196.199(8) and 197.432(10).

(d) The recorded assessment financing agreement, or a summary memorandum of such recorded agreement, must provide constructive notice that the assessment to be levied on the property is subject to enforcement in the manner provided in ss. 196.199(8) and 197.432(10).

(e) For purposes of subsections (9) and (13) only, references to the property owner are deemed to refer to the nongovernmental lessee and references to the period of ownership are deemed to refer to the period that the nongovernmental lessee has been leasing the property from the local government.

(f) The term of the assessment financing agreement on government-leased property may not exceed the lesser of:

1. Thirty years;

2. The remaining term of the lease on the government-leased

property; or

3. The greater of either the weighted average estimated useful life of all qualifying improvements being financed or the estimated useful life of the qualifying improvements to which the greatest portion of funds is disbursed.

(32)(a) Subsections (16) through (30) do not apply to residential real property if the program administrator reasonably determines that:

1. The residential real property is owned by a business entity that owns more than four residential real properties; and

2. The business entity's managing member, partner, or beneficial owner does not reside in the residential real property.

(b) Subsections (16) through (30) apply to a program administrator only when administering a REEF program for qualifying improvements on residential real property. Subsections (16) through (30) do not apply with respect to a local government, to residential property owned by a local government, or to nonresidential real property.

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

The Florida Senate

APPEARANCE RECORD

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

March 1, 2022
Meeting Date

Rules
Committee

228
Bill Number or Topic

475236
Amendment Barcode (if applicable)

Name Anthony DiMarco

Phone 224-2245

Address 1001 Thomasville Rd
Street

Email adimarco@floridabankers.com

Tallahassee FL 32303
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 Bankers Assoc.

☐ 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

Deliver both copies of this form to
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3/1/2022
Meeting Date

Rules
Committee

CS/SB 228
Bill Number or Topic

475236
Amendment Barcode (if applicable)

Name Brad Burleson

Phone 8505770444

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Email brad@ballardpartners.com

Tallahassee FL 32301
City *State* *Zip*

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Renew Financial

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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March 1, 2022
Meeting Date

Rules
Committee

228
Bill Number or Topic

475236
Amendment Barcode (if applicable)

Name Eddie Metzger (Ygrene) Phone 850 545 8291

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Ft Myers FL 33901
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/1/2022
Meeting Date

Rules
Committee

228
Bill Number or Topic

Amendment Barcode (if applicable)

Name Zayne Smith – AARP

Phone (850) 228-4243

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Tallahssee 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:
AARP

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/1/2022	228
Meeting Date	Bill Number or Topic
Rules	
Committee	Amendment Barcode (if applicable)

Name Karen Woodall Phone

Address 579 E. Call St. Email fcfep@yahoo.com
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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 Center for Fiscal & Economic Policy

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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March 1, 2022
Meeting Date

Rules
Committee

228
Bill Number or Topic

Amendment Barcode (if applicable)

Name Anthony DiMarco

Phone 224-2265

Address 1001 Thomasville Rd
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Tallahassee FL 32303
City State Zip

Email adimarco@floridabankers.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☒ I am a registered lobbyist, representing: Florida Bankers Assoc.

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/1/2022
Meeting Date

Rules
Committee

CS/SB 228
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brad Burleson

Phone 8505770444

Address 201 East Park Avenue
Street

Email brad@ballardpartners.com

Tallahassee FL 32301
City *State* *Zip*

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

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Renew Financial

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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:	CS/SB 536
INTRODUCER:	Rules Committee and Senator Diaz
SUBJECT:	Administrative Procedures
DATE:	March 2, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	**Favorable**
2.	Davis	Sadberry	AP	**Fav/1 amendment**
3.	Ponder	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 536 amends the Administrative Procedures Act (APA). The APA contains a uniform set of procedures that agencies must follow when exercising rulemaking authority delegated by the Legislature. This bill amends the APA rulemaking process and enhances the regulatory plan requirements. In part, the bill:

- Defines the term "technical change" and requires technical changes be documented in the history of the rule.
- Specifies the economic impacts and compliance costs an agency must consider in creating a statement of estimated regulatory costs (SERC). Each agency is required to have a website where each of its SERCs may be viewed in its entirety.
- Requires an agency, in all notices of rulemaking that include material incorporated by reference, to submit the incorporated material in the prescribed electronic format to the Department of State with the full text available for free public access through an electronic hyperlink.
- Requires the annual regulatory plan to identify and describe each rule that the agency expects to develop, adopt, or repeal for the 12-month period beginning October 1, and requires agencies to review all of their current rules for consistency with the powers and duties granted by law by a date certain and every 10 years thereafter, and requires certain information be included in the annual regulatory plan.
- Requires an agency to deliver a written explanation upon request by designated person for failing to comply with specified annual regulatory plan requirements.
- Specifies that an adverse impact on small business exists if certain specific criteria are met.

Specifies that a lower cost regulatory alternative may be submitted after a notice of proposed rule *or* a notice of change.
- Requires a notice of rule development and a notice of proposed rule to include certain information.
- Requires the Joint Administrative Procedures Committee to review all existing rules and authorizes it to file an objection in certain instances.

The bill may have a negative fiscal impact on state government. However, the impact is indeterminate and not expected to impact agencies until a late date. See Section V, Fiscal Impact Statement.

II. Present Situation:

The Administrative Procedures Act - Overview

The Administrative Procedure Act, which is commonly referred to as the "APA," is contained in ch. 120, F.S. The first version of the APA was adopted in 1961 in an attempt to produce a comprehensive and uniform administrative process, or framework, to govern executive branch agency actions. The "modern version" of the APA was adopted in 1974 and is amended almost every year. In addition to creating a standardized process for agencies to enact rules and issue orders, the APA also provides citizens the opportunity to be involved and challenge agency decisions.[1]

The Florida Constitution vests in the Legislature the sole authority to create laws.[2] However, the Legislature may delegate to agencies in the executive branch the quasi-legislative ability, or authority, to create rules and not be in violation of the separation of powers doctrine. Almost 100 years ago, in 1930, the Florida Supreme Court noted

> The Legislature is in session only during limited periods, and statutes cannot always anticipate and provide for complicated and contingent conditions in governmental affairs; therefore functions that are quasi legislative in their nature are with appropriate limitations conferred by statute upon administrative officers to effectuate the statutory purpose.[3]

The Legislature establishes the regulatory program to be implemented and the agencies supply the details. Even though rules are created by executive agencies, it is the legislative branch that maintains ownership over the product that is eventually adopted and promulgated.[4] When the Legislature enacts statutes granting power to the executive branch, the statutes "must clearly announce adequate standards to guide…in the execution of the powers delegated."[5]

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[1] Joint Administrative Procedures Committee, *A Primer on Florida's Administrative Procedure Act*, 1 (2020), https://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf.
[2] FLA. CONST. art. III, s. 1.
[3] *Florida Motor Lines, Inc., v. Railroad Commissioners*, 129 So. 876, 881 (Fla. 1930), and note 1, *supra*.
[4] Joint Administrative Procedures Committee, The Florida Legislature, *An Overview of Chapter 120 Rulemaking*, (Jan. 28, 2021) (on file with the Senate Committee on Judiciary).
[5] *Bush v. Schiavo*, 885 So. 2d 321, 332 (Fla. 2004) quoting *Lewis v. Bank of Pasco County*, 346 So. 2d 53, 55-56 (Fla 1976).

The First District Court of Appeal noted in *Gopman v. Department of Education*,[6] that the APA "presumptively governs the exercise of all authority statutorily vested in the executive branch of state government." Accordingly, the APA is the "mechanism used by state agencies to adopt rules."[7]

A detailed description of the present situation for each section of the bill is included in the "Effect of Proposed Changes" section of this bill analysis.

III. Effect of Proposed Changes:

Rulemaking

Present Situation

Delegation of Authority

The Legislature, as the sole branch of government having the inherent power to create laws,[8] may delegate to agencies in the executive branch the quasi-legislative ability, or authority, to create rules.[9] As the Florida Supreme Court has noted

> Rulemaking is a derivative of lawmaking. An agency is empowered to adopt rules if two requirements are satisfied. First, there must be a statutory grant of rulemaking authority, and second, there must be a specific law to be implemented.[10]

The Administrative Procedure Act (APA)[11] sets forth the uniform set of procedures agencies must follow when exercising delegated rulemaking authority.

Rules

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.[12]

Rulemaking Authority

Rulemaking authority is delegated by the Legislature through statute and authorizes agencies to "adopt, develop, establish, or otherwise create"[13] rules. Usually, the Legislature delegates rulemaking authority to a given agency because an agency has "expertise in a particular area for which they are charged with oversight."[14] Agencies do not have the discretion in and of

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[6] *Gopman v. Dep't of Educ.,* 908 So. 2d 1118, 1120 (Fla. 1st DCA 2005).
[7] *See supra* note 4.
[8] FLA. CONST. art. III, s. 1; *see also* FLA. CONST. art. II, s. 3.
[9] *See Whiley v. Scott*, 79 So. 3d 702, 710 (Fla. 2011),
[10] *Id*.
[11] Chapter 120, F.S.
[12] Section 120.52(16), F.S.
[13] Section 120.52(17), F.S.
[14] *Whiley v. Scott*, 79 So. 3d 702, 711 (Fla. 2011).

themselves to engage in rulemaking.[15] To adopt a rule, an agency must have a general grant of authority to implement a specific law by rulemaking.[16] The grant of rulemaking authority itself need not be detailed. The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[17]

Rulemaking Process – Filing a Notice of Rule Development

An agency begins the formal rulemaking process[18] by filing a notice of rule development of proposed rules in the Florida Administrative Register (FAR) indicating the subject area to be addressed by the rule development and including a short, plain explanation of the purpose and effect of the proposed rule.[19] The notice may include the preliminary text of the proposed rule, but it is not necessary. Such notice is required for all rulemaking, except for rule repeals.

Rulemaking Process – Filing a Notice of Proposed Rule

Next, an agency must file, upon approval of the agency head, a notice of proposed rule.[20] The notice of proposed rule is published by the Department of State (DOS) in the FAR[21] and must contain the full text of the proposed rule or amendment and a summary thereof.[22] Before 2012, the FAR was published weekly, resulting in a period of at least seven days between the publication of a notice of rule development and a notice of proposed rule.[23] In 2012, the Legislature passed HB 541 (2012) that changed the FAR from a weekly publication to a publication that is continuously revised and, as a result, eliminated the seven-day period between the two notices.[24]

Agency Hearing

After publication of a notice of proposed rule, an agency must hold a hearing on the proposed rule if a person requests a hearing within 21 days.[25] If, after the hearing is held or after the time for requesting a hearing has expired, the agency does not change the rule, other than a technical change, the agency must file a notice stating no changes have been made to the rule with the Joint Administrative Procedures Committee (JAPC) at least seven days before filing the rule for adoption.[26] However, if a hearing is requested, the agency may, based upon the comments received at the hearing, publish a notice of change.[27]

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[15] Section 120.54(1)(a), F.S.
[16] Sections 120.52(8) and 120.536(1), F.S.
[17] *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Bd. of Trustees of the Internal Improvement Trust Fund v. Day Cruise Assoc., Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).
[18] Alternatively, a person regulated by an agency or having a substantial interest in an agency rule may petition the agency to adopt, amend, or repeal a rule. Section 120.54(7)(a), F.S.
[19] Section 120.54(2)(a), F.S.
[20] Section 120.54(3), F.S.
[21] Section 120.55(1)(b), F.S.
[22] Section 120.54(3)(a)1., F.S.
[23] Chapter 2012-63, Laws of Fla.
[24] *Id.*
[25] Section 120.54(3)(c), F.S.
[26] Section 120.54(3)(d)1., F.S.
[27] *Id.*

Petition Alternative

As an alternative to the agency initiated process delineated above, a person regulated by the agency or having a substantial interest in an agency rule may petition the agency to adopt, amend, or repeal a rule.[28] The petitioner must specify the proposed rule and action requested.[29] The agency can either initiate rulemaking or decline to do so; however, if the agency chooses the latter, it must issue a written statement of the reasons for the denial.[30]

Rule Adoption

Once an agency has completed the steps of rulemaking, the agency may file for rule adoption with the DOS and the rule becomes effective 20 days later, unless a different date is indicated in the rule.[31] Most adopted rules are published in the Florida Administrative Code (FAC).[32]

Challenging a Rule for Invalid Delegation of Authority

The validity of a rule or a proposed rule may be challenged at the Division of Administrative Hearings (DOAH)[33] as an invalid delegation of legislative authority.[34] An invalid delegation of legislative authority is an action that goes beyond the powers, functions, and duties delegated by the Legislature.[35] A rule or proposed rule is an invalid delegation of legislative authority if any of the following applies:

- The agency has materially failed to follow the rulemaking procedures or requirements in the APA.
- The agency has exceeded its grant of rulemaking authority.
- The rule enlarges, modifies, or contravenes the specific provisions of the law implemented.
- The rule is vague, fails to establish adequate standards for agency decisions, or vests the agency with unbridled discretion.
- The rule is arbitrary or capricious.
- The rule imposes regulatory costs on the regulated person, county, or municipality that could have been reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.[36]

Hearing Before an Administrative Law Judge

An administrative law judge (ALJ) at the DOAH hears the rule challenge in a de novo proceeding and, within 30 days after the hearing, makes a determination on the rule's validity

[28] Section 120.54(7)(a), F.S.
[29] *Id.*
[30] *Id.*
[31] Section 120.54(3)(e)6., F.S.
[32] Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or a state university rules relating to internal personnel or business and finance are not published in the Florida Administrative Code (FAC). Forms are not published in the FAC. Section 120.55(1)(a), F.S. Emergency rules are also not published in the FAC.
[33] Division of Administrative Hearings (DOAH) is an agency in the executive branch, administratively housed under the Department of Management Services (DMS) but not subject to its control. The DOAH employs administrative law judges who serve as neutral arbiters presiding over disputes arising under the Administrative Procedures Act (APA). Section 120.65, F.S.
[34] Section 120.56(1), F.S.
[35] Section 120.52(8), F.S.
[36] Section 120.52(8)(a)-(f), F.S.

based upon a preponderance of the evidence standard. The petitioner and the agency whose rule is challenged are adverse parties.[37] The ALJ's decision constitutes final agency action, which means an agency may not alter the decision after its issuance,[38] but an agency may appeal the decision to the District Court of Appeal where the agency maintains its headquarters.[39]

Effect of Proposed Changes (Section 2)

The bill requires a notice of proposed rule to be filed within 12 months after a notice of rule development. If a notice of proposed rule is not filed within 12 months after the notice of rule development, the agency must withdraw the rule and give notice of the withdrawal in the next issue of the FAR.

The bill further requires that a proposed rule be withdrawn if, *after issuing a notice of proposed rule*, the agency fails to adopt it within the prescribed timeframes in the APA. Once an agency has exceeded the timeframe to adopt the rule, the bill requires the JAPC to notify the agency of the failure. If the agency has not withdrawn the rule within 30 days following the notice, the JAPC must notify the DOS that the date for adoption of the rule has expired. The DOS must then publish a notice of withdrawal of the proposed rule.

The bill requires a notice of rule development and a notice of proposed rule to include the proposed rule number.

The bill provides that if any of the required information for a notice, other than substantive changes to the rule text, is omitted or incorrect, then the agency must publish a notice of correction. A notice of correction does not affect rule adoption filing timeframes. The bill further provides that technical changes are not required to be published as a notice of correction.

The bill also requires an agency to file a copy of a petition to initiate rulemaking with the JAPC.

Small Business Impact in Rulemaking

Present Situation

Each agency, before the adoption, amendment, or repeal of a rule, must consider the impact of the rule on small businesses.[40] If the agency determines that the proposed action will affect small businesses, the agency must send written notice to the rules ombudsman[41] in the Executive Office of the Governor at least 28 days before the intended action.[42] The agency must adopt the

[37] Section 120.56(1)(e), F.S.
[38] *Id.*
[39] Section 120.68(2)(a), F.S.
[40] Section 120.54(3)(b)2., F.S.
[41] The Governor must appoint a rules ombudsman in the Executive Office of the Governor for purposes of considering the impact of agency rules on the state citizens and businesses. The rules ombudsman must carry out the duties related to rule adoption procedures with respect to small businesses; review agency rules that adversely or disproportionately impact businesses, particularly those relating to small and minority businesses; and make recommendations on any existing or proposed rules to alleviate unnecessary or disproportionate adverse effects to business. Each agency must cooperate fully with the rules ombudsman in identifying such rules and take the necessary steps to waive, modify, or otherwise minimize the adverse effects of any such rules. Section 288.7015, F.S.
[42] Section 120.54(3)(b)2.b.(I), F.S.

regulatory alternatives offered by the rules ombudsman if it finds the alternatives are feasible and consistent with the stated objectives of the proposed rule and would reduce the impact on small businesses.[43]

If the agency does not adopt the alternatives offered, before rule adoption or amendment, the agency must file a detailed written statement with the JAPC explaining the reasons for failure to adopt such alternatives.[44]

Effect of Proposed Changes (Section 2)

The bill requires an adverse impact on small business to be found if:
- An owner, officer, operator, or manager of a small business must complete any education, training, or testing to comply with the proposed rule in the first year;
- An owner, officer, operator, or manager of a small business is likely to expend 10 hours or purchase professional advice to understand and comply with the rule in the first year;
- Taxes or fees assessed on transactions are likely to increase by $500 or more in the aggregate in one year because of the rule;
- Prices charged for goods and services are restricted or are likely to increase because of the rule;
- Specially trained, licensed, or tested employees will be required;
- Operating costs are expected to increase by at least $1,000 annually; or
- Capital expenditures in excess of $1,000 are necessary to comply with the rule.

If the rules ombudsman of the Executive Office of the Governor provides a regulatory alternative to the agency to lessen the impact of the rule on small businesses, the bill requires the agency to provide the regulatory alternative to the JAPC at least 21 days before filing the rule for adoption.

Incorporation by Reference

Present Situation

The APA allows an agency to incorporate material external to the text of the rule by reference.[45] The material to be incorporated must exist on the date the rule is adopted.[46] If after the rule has been adopted the agency wishes to alter the material incorporated by reference, the rule itself must be amended for the change to be effective.[47] However, an agency rule that incorporates another rule by reference automatically incorporates subsequent amendments to the referenced rule.[48] A rule cannot be amended by reference only.[49] An agency may not incorporate a rule by reference unless:
- The material has been submitted in the prescribed electronic format to the DOS and the full text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the FAC; or

[43] Section 120.54(3)(b)2.b.(II), F.S.
[44] Section 120.54(3)(b)2.b.(III), F.S.
[45] Section 120.54(1)(i)1., F.S.; *see also* r. 1-1.013, F.A.C.
[46] Section 120.54(1)(i)1., F.S.
[47] *Id.*
[48] Section 120.54(1)(i)2., F.S.
[49] Section 120.54(1)(i)4., F.S.

- The agency has determined that posting the material publicly on the Internet would constitute a violation of federal copyright law, in which case a statement stating such, along with the address of locations at the DOS and the agency at which the material is available for public inspection and examination, must be included in the notice.[50]

The DOS has adopted a rule governing the requirements for materials incorporated by reference through an adopted rule.[51] The rule requires each agency incorporating material by reference in an administrative rule to certify that the materials incorporated have been filed with the DOS electronically or, if the agency claims the posting of the material would constitute a violation of federal copyright law, the location where the public may view the material.[52]

Effect of Proposed Changes (Section 2)

Beginning July 1, 2022, the bill requires an agency, in all notices of rulemaking, repromulgated rules, or rule modifications which include material incorporated by reference, to submit the incorporated material in the prescribed electronic format to the DOS with the full text available for free public access through an electronic hyperlink. Alternatively, if an agency determines that posting the incorporated material on the Internet would constitute a violation of federal copyright law, the agency must include in the notice a statement to that effect, along with the addresses of locations at the DOS and the agency at which the material is available for public inspection and examination.

The bill requires the DOS to prescribe by rule that material incorporated by reference included in a notice of proposed rule and a notice of change be formatted in such a way that additions to the text appear underlined and deletions appear as text stricken through

Statement of Estimated Regulatory Cost

Present Situation

A statement of estimated regulatory cost (SERC) is an agency estimate of the potential impact of a proposed rule on the public, particularly the potential costs to the public of complying with the rule as well as to the agency and other governmental entities to implement the rule.[53] Agencies are encouraged to prepare a SERC before adopting, amending, or repealing any rule.[54] However, a SERC is required if the proposed rule will have an adverse impact on small businesses or increase regulatory costs by more than $200,000 in the aggregate in this state within one year after implementation of the rule.[55] If the agency revises a rule before adoption and the revision increases the regulatory costs of the rule, the agency must revise the SERC to reflect that alteration.[56]

A SERC must include:

[50] Section 120.54(1)(i)3., F.S.
[51] Rule 1-1.013, F.A.C.
[52] Rule 1-1.013(5)(d), F.A.C.
[53] Section 120.541(2), F.S.
[54] Section 120.54(3)(b)1., F.S.
[55] *Id.*
[56] Section 120.541(1)(c), F.S.

- A good faith estimate of the number of people and entities affected by the proposed rule;
- A good faith estimate of the cost to the agency and other governmental entities to implement the proposed rule;
- A good faith estimate of transactional costs likely to be incurred by people, entities, and governmental agencies for compliance; and
- An analysis of the proposed rule's impact on small businesses, small counties, and small municipalities.[57]

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of $1 million within the first five years after implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness, productivity, or innovation; or
- Regulatory costs, including any transactional costs.[58]

If the economic analysis results in an adverse impact or regulatory costs in excess of $1 million within five years after implementation of the rule, then the rule must be ratified by the Legislature in order to take effect.[59]

An agency's failure to prepare an SERC can be raised in a proceeding at the DOAH to invalidate a rule as an invalid exercise of delegated legislative authority, if it is raised within one year after the effective date of the rule and is raised by a person whose substantial interests are affected by the regulatory costs of the rule.[60]

Effect of Proposed Changes (Section 3)

The bill requires each agency to have a website where each of its SERCs may be viewed in their entirety. The DOS must include on the FAR website the agency website addresses where the SERCs can be viewed. An agency must provide in its notice of proposed rule the agency website address where the SERC can be viewed. If an agency revises a SERC, it must provide a notice that a revision has been made and include an agency website address where the revision can be viewed for publication on the FAR website.

The bill clarifies the elements an agency must consider in a SERC when evaluating the economic impacts of the rule. Specifically, the bill requires agency estimates of economic, market, and small business impacts likely to result from compliance with the proposed rule to consider elements such as:

- Increased or decreased consumer prices or value of goods and services;
- Increased costs due to obtaining substitute or alternative products or services;
- The value of time expended by business owners and other business personnel to comply with the proposed rule;
- Capital costs incurred to comply with the proposed rule; and
- Other impacts suggested by the rules ombudsman or interested persons.

[57] Section 120.541(2)(b)-(e), F.S.
[58] Section 120.541(2)(a), F.S.
[59] Section 120.541(3), F.S.
[60] Section 120.541(1)(f), F.S.

In addition, the bill replaces the term "transactional costs" with "compliance costs," requires agencies to consider all direct and indirect costs of compliance, and provides 18 specific types of compliance costs as examples for agencies to consider in their evaluation, including:

- Filing fees;
- Costs of obtaining a license;
- Costs to obtain, install, and maintain equipment necessary for compliance;
- Costs related to accounting, financial, and information management processes, as well as other administrative processes;
- Labor costs;
- Costs of education, training, and testing necessary for compliance; and
- Allocation of administrative and other overhead costs.

The bill allows agencies to survey individuals, businesses, business organizations, counties, and municipalities to collect data helpful to estimate and analyze the costs and impacts of the proposed rule. Each notice of proposed rule must also contain a summary of the SERC describing the regulatory impact of the proposed rule in readable language

Lower Cost Regulatory Alternative

Present Situation

A person substantially affected by a proposed rule may, within 21 days after the publication of a notice of adoption, amendment, or repeal of a rule, submit a lower cost regulatory alternative (LCRA).[61] The LCRA must be a written proposal, made in good faith, which substantially accomplishes the objectives of the law being implemented.[62] A LCRA may recommend that a rule not be adopted at all, if it explains how the "lower costs and objectives of the law will be achieved by not adopting any rule."[63] If a LCRA is submitted to an agency, the agency must prepare an SERC if one has not been previously prepared, or revise its prior SERC, and either adopt the LCRA or provide a statement to explain the reasons for rejecting the LCRA.[64] Additionally, if a LCRA is submitted, the 90-day period for filing a rule is extended an additional 21 days.[65] At least 21 days before filing a rule for adoption, an agency that is required to revise an SERC in response to a LCRA must provide the SERC to the person who submitted the LCRA and to the JAPC and must provide notice on the agency's website that it is available to the public.[66]

Just as in the case of an agency's failure to prepare a SERC, an agency's failure to respond to a LCRA may be raised in a proceeding at the DOAH to invalidate a rule as an invalid delegation of legislative authority if it is raised within one year after the effective date of the rule and is raised by a person whose substantial interests are affected by the regulatory costs of the rule.[67]

[61] Section 120.541(1)(a), F.S.
[62] *Id.*
[63] *Id.*
[64] *Id.*
[65] *Id.*
[66] Section 120.541(1)(d), F.S.
[67] Section 120.541(1)(f), F.S.

Effect of Proposed Changes (Section 3)

The bill specifies that a LCRA may be submitted after a notice of proposed rule or a notice of change. If submitted after the latter, the LCRA is deemed to have been made in good faith only if the person reasonably believes, and the proposal states the reasons for believing, that the proposed rule as *changed by the notice of change* increases the regulatory costs or creates an adverse impact on small business.

The bill allows an agency receiving a LCRA to have the choice of modifying the proposed rule to reduce regulatory costs in addition to either adopting the LCRA or stating its reasons for rejecting it in favor of the proposed rule. If the rule is modified, the agency must revise its SERC, if one has been prepared. If the agency rejects the LCRA or modifies the proposed rule, the agency must state its reasons for rejecting the LCRA in favor of the proposed or modified rule. When a SERC is revised because a change to a proposed rule increases the projected regulatory costs or the agency modified the rule in response to a LCRA, a summary of the revised SERC must be included in subsequent published rulemaking notices. Under the bill, the revised SERC must be provided to the rules ombudsman, the party that submitted the LCRA, and the JAPC, and must be published in the same manner as the original SERC.

The bill requires an agency to provide a copy of a LCRA to the JAPC at least 21 days before filing the rule for adoption.

Joint Administrative Procedures Committee

Present Situation

Background

The JAPC is a standing committee of the Legislature established by joint rule and created to maintain a continuous review of administrative rules, the statutory authority upon which those rules are based, and the administrative rulemaking process.[68] Specifically, the JAPC may examine existing rules and must examine each proposed rule to determine whether:

- The rule is an invalid exercise of delegated legislative authority.
- The statutory authority for the rule has been repealed.
- The rule reiterates or paraphrases statutory material.
- The rule is in proper form.
- The notice given prior to adoption was sufficient.
- The rule is consistent with expressed legislative intent.
- The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law that the rule implements.
- The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.
- The rule could be made less complex or more easily comprehensible to the general public.
- The rule's statement of estimated regulatory cost complies with the requirements of the APA and whether the rule does not impose regulatory costs on the regulated person, county, or municipality that could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

[68] Fla. Leg. J. Rule 4.6; *see also* s. 120.545, F.S.

- The rule will require additional appropriations.[69]

Upon examining a rule, JAPC may object to the rule.[70] If JAPC notifies an agency that a rule objection is under consideration, the agency may postpone rule adoption to allow for review.[71] If the issue cannot be resolved at the staff level, JAPC prepares a recommendation for formal objection to be presented to the committee in a public forum.[72] The agency is advised of the recommended objection and is invited before the committee to argue that the rule is authorized.[73] If the committee concludes that there is no authority for the rule, it votes an objection.[74] If the agency refuses to amend or repeal the rule, JAPC's objection is referenced in a footnote to the rule in the Florida Administrative Code.[75]

Effect of Proposed Changes (Section 4)

The bill removes the permissive authority of the JAPC to examine existing rules and makes such examination mandatory to align with the JAPC's mandate to examine proposed rules. The bill also authorizes JAPC to file an objection for the failure of an agency to repeal or amend an existing rule that JAPC identifies as being inconsistent with the powers and duties granted by its enabling statute or having no enabling statute

Florida Administrative Code and the Florida Administrative Register

Present Situation

The FAC is an electronic compilation of all rules adopted by each agency and maintained by the DOS.[76] The DOS retains the copyright over the FAC.[77]

Each rule in the FAC must cite the grant of rulemaking authority and the specific law implemented.[78] Rules applicable to only one school district, community college district, or county or state university rules relating to internal personnel or business and finance are not required to be included in the FAC.[79] The DOS is required to publish the following information at the beginning of each section of the code concerning an agency:

- The address and telephone number of the executive offices of the agency.
- The manner by which the agency indexes its rules.
- A listing of all rules of that agency excluded from publication in the FAC and a statement as to where those rules may be inspected.[80]

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[69] Section 120.545(1), F.S.
[70] Section 120.545(2), F.S.
[71] Joint Administrative Procedures Committee, *A Primer on Florida's Administrative Procedure Act* (2020), *available at* https://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf (last visited February 23, 2022); *See also* s. 120.545, F.S.
[72] *Id*.
[73] *Id*.
[74] *Id*.
[75] *Id*.
[76] Section 120.55(1)(a)1., F.S.
[77] *Id*.
[78] *Id*.
[79] Section 120.55(1)(a)2., F.S.
[80] Section 120.55(1)(a)3., F.S.

The DOS is required to adopt rules allowing adopted rules and materials incorporated by reference to be filed in electronic form.[81] Further, the DOS is required to prescribe by rule the style and form required for rules, notices, and other materials submitted for filing in the FAC.[82] The DOS requires that rules being amended to be coded by underlining new text and by striking through deleted text.[83]

The FAR is an electronic publication also maintained by the DOS. The FAR serves as the official publication and must contain:

- All notices required by s. 120.54(2) and (3)(a), showing the text of all rules proposed for consideration.
- All notices of public meetings, hearings, and workshops conducted in accordance with s. 120.525, including a statement of the manner in which a copy of the agenda may be obtained.
- A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules.
- Notice of petitions for declaratory statements or administrative determinations.
- A summary of each objection to any rule filed by the JAPC.
- A list of rules filed for adoption in the previous 7 days.
- A list of all rules filed for adoption pending legislative ratification under s. 120.541(3). A rule shall be removed from the list once notice of ratification or withdrawal of the rule is received.
- Any other material required or authorized by law or deemed useful by the DOS.

The DOS may contract with a publishing firm for a printed publication of the FAR and make copies available on an annual subscription basis.

Effect of Proposed Changes (Section 5)

The bill requires the FAC to include complete indexes to any material incorporated by reference and publish a listing of all forms and material incorporated by reference adopted by rule which are used by the agency. Material incorporated by reference in any part of an adopted rule after December 31, 2022, is required to be filed in accordance with s. 120.54(1)(i)3.a. or b.[84] The bill also requires the history note appended to each rule include the date of any technical changes to the rule and provides such change does not affect the rule's effective date. A technical change made after the adoption of a rule must be published as a notice of correction.

[81] Section 120.55(1)(a)5., F.S.
[82] Section 120.55(1)(c), F.S.
[83] Rule 1-1.010(5)(a), F.A.C. *referencing* r. 1-1.011(3)(c), F.A.C.
[84] Section 120.54(1)(i)3, F.S., provides: In rules adopted after December 31, 2010, material may not be incorporated by reference unless: a. The material has been submitted in the prescribed electronic format to the Department of State and the full text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the Florida Administrative Code; or b. The agency has determined that posting the material on the Internet for purposes of public examination and inspection would constitute a violation of federal copyright law, in which case a statement to that effect, along with the address of locations at the Department of State and the agency at which the material is available for public inspection and examination, must be included in the notice required by subparagraph (3)(a)1.

The bill requires the FAR be published once daily, by no later than 8 a.m. If, after publication, a rule is corrected and replaced, the FAR must indicate the rule has been republished and indicate the DOS has corrected it.

Annual Regulatory Review

Present Situation

Annually, each agency must prepare a regulatory plan that includes a list of each law enacted during the previous 12 months, which creates or modifies the duties or authority of the agency, and state whether the agency must adopt rules to implement the newly adopted laws.[85] The plan must also include a list of each additional law not otherwise listed that the agency expects to implement by rulemaking before the following July 1, except emergency rules.[86] The plan must include a certification by the agency head or, if the agency head is a collegial body, the presiding officer, and the individual acting as principal legal advisor to the agency verifying the persons have reviewed the plan, verifying the agency regularly reviews all of its rules, and identifying the period during which all rules have most recently been reviewed to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented.[87] By October 1 of each year, the plan must be published on the agency's website or on another state website established for publication of administrative law records with a hyperlink to the plan.[88] The agency must also deliver a copy of the certification to the JAPC and publish a notice in the FAR identifying the date of publication of the agency's regulatory plan.[89]

Effect of Proposed Changes (Section 6)

The bill replaces the requirement that the annual regulatory plan include a listing of each law it expects to implement with rulemaking with the requirement that the plan identify and describe each rule, by rule number or proposed rule number, that the agency expects to develop, adopt, or repeal for the 12-month period beginning October 1 and ending September 30.

The bill requires the annual regulatory plan to include a schedule for the agency to review its rules for consistency with the powers and duties granted by the enabling statutes. An agency must review all of its rules existing before July 1, 2022, by July 1, 2027. All rules adopted on or after July 1, 2022, and all existing rules reviewed initially by July 1, 2027, must be reviewed every 10 years after their respective dates of adoption or review. The bill requires the schedule to be updated annually to ensure that all rules are reviewed accordingly.

Further, the bill requires the annual regulatory plan to include an index and summary of rules reviewed during the previous year that must be listed by number and title. The index must indicate:

- The rules reviewed that are consistent with the powers and duties granted by the enabling statutes.

[85] Section 120.74(1)(a), F.S.
[86] Section 120.74(1)(b), F.S.
[87] Section 120.74(1)(d), F.S.
[88] Section 120.74(2)(a)1., F.S.
[89] Sections 120.74(2)(a)2. and 120.74(2)(a)3., F.S.

- The rules reviewed that require amendments to remove portions that are inconsistent with the enabling statute. A summary of the required amendments and a schedule for the rulemaking must be provided.
- The rules reviewed that will be repealed because there is no enabling statute. A schedule for the repeal of the rules must be provided.
- A list of all statutes and laws that grant duplicative, redundant, or unused rulemaking authority, and a recommendation of what statutes or laws should be repealed. The agency must also provide this list to the Division of Law Revision.

The bill requires the annual regulatory plan to contain a declaration that the agency head and the general counsel understand that regulatory accountability is necessary to ensure public confidence in the integrity of state government and to that end, that the agency is diligently working toward reducing the number of regulatory requirements consistent with the agency's rulemaking authority and the laws implemented. The bill requires the declaration to contain the total number of rules adopted and repealed during the previous 12 months, as well as declare that all actions in the prior annual regulatory plan have been completed or are on a schedule to be completed and that all materials incorporated by reference in the rules reviewed are available in the required manner.

The bill further requires an agency to deliver a written explanation upon written demand from JAPC or the chair of any other legislative committee for failing to comply with the annual regulatory requirements. The written explanation must include the reasons for noncompliance and must be submitted to JAPC, the President of the Senate, the Speaker of the House of Representatives, and the chair of any legislative committee requesting the explanation

Remaining Sections

Section 1 defines the term "technical change" to mean a change limited to correcting grammatical, typographical, and similar errors not affecting the substance of the rule.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate, negative fiscal impact on state government. The bill requires each agency to review its rules, and includes additional requirements for SERCs. Agencies may be required to spend funds to implement the requirements of the bill. Whether these new requirements could be absorbed within each agency's existing resources is not known. The bill requires agencies to complete an initial rule review for all existing rules by July 1, 2027, and every 10 years thereafter. It also requires agencies to review rules adopted on or after July 1, 2022, every 10 years after their respective dates of adoption. Agencies should have sufficient time to request additional resources through the Legislative Budget Request process should it be determined additional resources will be required to implement the provisions of the bill. The Department of State may have additional costs associated with publishing the specified material in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 120.52, 120.54, 120.541, 120.545, 120.55, and 120.74.

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 March 1, 2022:
The committee substitute:

- Removes the provisions addressing emergency rules, including:
  - The requirement that emergency rules be published in the Florida Administrative Code.
  - The provision that prohibits an agency from making changes to emergency rules by superseding the rule.
  - The authorization to agencies to make technical changes to an emergency rule during a specified timeframe.
- Removes the repromulgation process and replaces it with additional requirements for the annual regulatory plan.
- Removes a provision that would have required automatic repeal of a rule if it was not repromulgated and instead authorizes JAPC to file an objection if JAPC identifies a rule as inconsistent with the powers and duties granted by law.
- Provides that the annual regulatory plan must now include an agency review of all of its current rules for consistency with the powers and duties granted by law before July 1, 2027, and requires rules to be reviewed every 10 years thereafter.
- Requires an agency to deliver a written explanation upon request by designated persons for failing to comply with the annual regulatory plan requirements. Clarifies that a notice of proposed rule must be published at least seven days after the publication of the notice of rule development.
- Requires an agency to provide a copy of any offered regulatory alternative to JAPC at least 21 days before filing the rule for adoption

B. Amendments:

None.

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

290252

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2022	.	
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	.	
	.	

The Committee on Rules (Diaz) recommended the following:

Senate Amendment to Amendment (734958) (with directory and title amendments)

Delete lines 458 - 466.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
And the directory clause is amended as follows:
Delete lines 15 - 16
and insert:
to read:

290252

12 ================= T I T L E A M E N D M E N T ================
13 And the title is amended as follows:
14 Delete lines 1134 - 1141
15 and insert:
16 available on the agency’s website; requiring an agency

734958

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/28/2022	.	
	.	
	.	
	.	

The Committee on Appropriations (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (20), (21), and (22) of section 120.52, Florida Statutes, are redesignated as subsections (21), (22), and (23), respectively, and a new subsection (20) is added to that section, to read:

120.52 Definitions.—As used in this act:

(20) "Technical change" means a change limited to



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correcting grammatical, typographical, or similar errors not affecting the substance of the rule.

Section 2. Subsections (2) and (3) and paragraph (a) of subsection (7) of section 120.54, Florida Statutes, are amended, and paragraphs (e), (f), and (g) are added to subsection (4) of that section, to read:

120.54 Rulemaking.—

(2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.—

(a)1. Except when the intended action is the repeal of a rule, agencies shall provide notice of the development of proposed rules by publication of a notice of rule development in the Florida Administrative Register before providing notice of a proposed rule as required by paragraph (3)(a). The notice of rule development must ~~shall~~ indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the grant of rulemaking authority for the proposed rule and the law being implemented ~~specific legal authority for the proposed rule~~, and include the proposed rule number and the preliminary text of the proposed rule ~~rules~~, if available, or a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, when ~~if~~ available.

2. If a notice of a proposed rule is not filed within 12 months after the notice of rule development, the agency shall withdraw the rule and give notice of the withdrawal in the next available issue of the Florida Administrative Register.

(b) All rules should be drafted in readable language. The language is readable if:

1. It avoids the use of obscure words and unnecessarily



long or complicated constructions; and

2. It avoids the use of unnecessary technical or specialized language that is understood only by members of particular trades or professions.

(c) An agency may hold public workshops for purposes of rule development. If requested in writing by any affected person, an agency must hold public workshops, including workshops in various regions of the state or the agency's service area, for purposes of rule development ~~if requested in writing by any affected person~~, unless the agency head explains in writing why a workshop is unnecessary. The explanation is not final agency action subject to review pursuant to ss. 120.569 and 120.57. The failure to provide the explanation when required may be a material error in procedure pursuant to s. 120.56(1)(c). When a workshop or public hearing is held, the agency must ensure that the persons responsible for preparing the proposed rule are available to explain the agency's proposal and to respond to questions or comments regarding the rule being developed. The workshop may be facilitated or mediated by a neutral third person, or the agency may employ other types of dispute resolution alternatives for the workshop that are appropriate for rule development. Notice of a workshop for rule development must ~~workshop shall~~ be by publication in the Florida Administrative Register not fewer ~~less~~ than 14 days before ~~prior to~~ the date on which the workshop is scheduled to be held and must ~~shall~~ indicate the subject area that ~~which~~ will be addressed; the agency contact person; and the place, date, and time of the workshop.

(d)1. An agency may use negotiated rulemaking in developing


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and adopting rules. The agency should consider the use of negotiated rulemaking when complex rules are being drafted or strong opposition to the rules is anticipated. The agency should consider, but is not limited to considering, whether a balanced committee of interested persons who will negotiate in good faith can be assembled, whether the agency is willing to support the work of the negotiating committee, and whether the agency can use the group consensus as the basis for its proposed rule. Negotiated rulemaking uses a committee of designated representatives to draft a mutually acceptable proposed rule.

2. An agency that chooses to use the negotiated rulemaking process described in this paragraph shall publish in the Florida Administrative Register a notice of negotiated rulemaking that includes a listing of the representative groups that will be invited to participate in the negotiated rulemaking process. Any person who believes that his or her interest is not adequately represented may apply to participate within 30 days after publication of the notice. All meetings of the negotiating committee shall be noticed and open to the public pursuant to ~~the provisions of~~ this chapter. The negotiating committee shall be chaired by a neutral facilitator or mediator.

3. The agency's decision to use negotiated rulemaking, its selection of the representative groups, and approval or denial of an application to participate in the negotiated rulemaking process are not agency action. ~~Nothing in~~ This subparagraph is not intended to affect the rights of a substantially ~~an~~ affected person to challenge a proposed rule developed under this paragraph in accordance with s. 120.56(2).

(3) ADOPTION PROCEDURES.—



(a) *Notices.*—

1. Before ~~Prior to~~ the adoption, amendment, or repeal of any rule other than an emergency rule, an agency, upon approval of the agency head, shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; the proposed rule number and the full text of the proposed rule or amendment and a summary thereof; a reference to the grant of rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented or interpreted. The notice must include a summary of the agency's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in s. 120.541(2), which describes the regulatory impact of the proposed rule in readable language; an agency website address where the statement of estimated regulatory costs can be viewed in its entirety, if one has been prepared; a statement that any person who wishes to provide the agency with information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by s. 120.541(1), must do so in writing within 21 days after publication of the notice; and a statement as to whether, based on the statement of the estimated regulatory costs or other information expressly relied upon and described by the agency if no statement of regulatory costs is required, the proposed rule is expected to require legislative ratification pursuant to s. 120.541(3). The notice must state the procedure for requesting a public hearing on the proposed rule. Except when the intended action is the repeal of a rule,



the notice must include a reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared.

2. The notice shall be published in the Florida Administrative Register at least 7 days after the publication of the notice of rule development and at least ~~not less than~~ 28 days before ~~prior to~~ the intended action. The proposed rule, including all materials proposed to be incorporated by reference and the statement of estimated regulatory costs, if one has been prepared, must ~~shall~~ be available for inspection and copying by the public at the time of the publication of notice. After December 31, 2022, material proposed to be incorporated by reference in the notice required by this paragraph must be made available in the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

3. The notice shall be mailed to all persons named in the proposed rule and mailed or delivered electronically to all persons who, at least 14 days before publication of the notice ~~prior to such mailing~~, have made requests of the agency for advance notice of its proceedings. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed.

4. The adopting agency shall file with the committee, at least 21 days before ~~prior to~~ the proposed adoption date, a copy of each rule it proposes to adopt; a copy of any material incorporated by reference in the rule; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of any statement of estimated regulatory costs that has been prepared pursuant to s. 120.541; a statement of the


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extent to which the proposed rule relates to federal standards or rules on the same subject; and the notice required by subparagraph 1.

5. If any of the information, other than substantive changes to the rule text, which is required to be included in the notice required by subparagraph 1. is omitted or is incorrect, the agency must publish a notice of correction. A notice of correction does not affect the timeframes for filing the rule for adoption as set forth in paragraph (e). Technical changes are not required to be published as a notice of correction.

(b) *Special matters to be considered in rule adoption.*—

1. Statement of estimated regulatory costs.—Before the adoption, amendment, or repeal of any rule other than an emergency rule, an agency is encouraged to prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541. However, an agency must prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541, if:

a. The proposed rule will have an adverse impact on small business; or

b. The proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate in this state within 1 year after the implementation of the rule.

2. Small businesses, small counties, and small cities.—

a. For purposes of this subsection and s. 120.541(2), an adverse impact on small businesses, as defined in s. 288.703 or sub-subparagraph b., exists if, for any small business:

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(I) An owner, officer, operator, or manager must complete any education, training, or testing to comply with the rule in the first year or is likely to spend at least 10 hours or purchase professional advice to understand and comply with the rule in the first year;

(II) Taxes or fees assessed on transactions are likely to increase by $500 or more in the aggregate in 1 year because of the rule;

(III) Prices charged for goods and services are restricted or are likely to increase because of the rule;

(IV) Specially trained, licensed, or tested employees will be required because of the rule;

(V) Operating costs are expected to increase by at least $1,000 annually because of the rule; or

(VI) Capital expenditures in excess of $1,000 are necessary to comply with the rule.

b. Each agency, before the adoption, amendment, or repeal of a rule, shall consider the impact of the rule on small businesses as defined in ~~by~~ s. 288.703 and the impact of the rule on small counties or small cities as defined in ~~by~~ s. 120.52. Whenever practicable, an agency shall tier its rules to reduce disproportionate impacts on small businesses, small counties, or small cities to avoid regulating small businesses, small counties, or small cities that do not contribute significantly to the problem the rule is designed to address. An agency may define "small business" to include businesses employing more than 200 persons, may define "small county" to include those with populations of more than 75,000, and may define "small city" to include those with populations of more



than 10,000, if it finds that such a definition is necessary to adapt a rule to the needs and problems of small businesses, small counties, or small cities. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small businesses, small counties, and small cities, or any combination of these entities:

(I) Establishing less stringent compliance or reporting requirements in the rule.

(II) Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements.

(III) Consolidating or simplifying the rule's compliance or reporting requirements.

(IV) Establishing performance standards or best management practices to replace design or operational standards in the rule.

(V) Exempting small businesses, small counties, or small cities from any or all requirements of the rule.

c.(I) ~~b.(I)~~ If the agency determines that the proposed action will affect small businesses as defined by the agency as provided in sub-subparagraph b. ~~a.~~, the agency shall send written notice of the rule to the rules ombudsman in the Executive Office of the Governor at least 28 days before the intended action.

(II) Each agency shall adopt those regulatory alternatives offered by the rules ombudsman in the Executive Office of the Governor and provided to the agency no later than 21 days after the rules ombudsman's receipt of the written notice of the rule which it finds are feasible and consistent with the stated objectives of the proposed rule and which would reduce the


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impact on small businesses. When regulatory alternatives are offered by the rules ombudsman in the Executive Office of the Governor, the 90-day period for filing the rule in subparagraph (e)2. is extended for a period of 21 days. At least 21 days before filing the rule for adoption, the agency shall provide a copy of any regulatory alternative offered to the agency to the committee.

(III) If an agency does not adopt all alternatives offered pursuant to this sub-subparagraph, it shall, before rule adoption or amendment and pursuant to subparagraph (d)1., file a detailed written statement with the committee explaining the reasons for failure to adopt such alternatives. Within 3 working days after the filing of such notice, the agency shall send a copy of such notice to the rules ombudsman in the Executive Office of the Governor.

(c) *Hearings.*—

1. If the intended action concerns any rule other than one relating exclusively to procedure or practice, the agency shall, on the request of any affected person received within 21 days after the date of publication of the notice of intended agency action, give affected persons an opportunity to present evidence and argument on all issues under consideration. The agency may schedule a public hearing on the proposed rule and, if requested by any affected person, shall schedule a public hearing on the proposed rule. When a public hearing is held, the agency must ensure that staff are available to explain the agency's proposal and to respond to questions or comments regarding the proposed rule. If the agency head is a board or other collegial body created under s. 20.165(4) or s. 20.43(3)(g), and one or more



requested public hearings is scheduled, the board or other collegial body shall conduct at least one of the public hearings itself and may not delegate this responsibility without the consent of those persons requesting the public hearing. Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted to the agency between the date of publication of the notice and the end of the final public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.

2. Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that the person’s substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect the person’s interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under the provisions of ss. 120.569 and 120.57. The agency shall publish notice of convening a separate proceeding in the Florida Administrative Register. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed. All timelines in this section are tolled during any suspension of the rulemaking proceeding under this subparagraph, beginning on the date the notice of convening a separate proceeding is published and resuming on the day after the conclusion of the separate proceeding.


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(d) *Modification or withdrawal of proposed rules.*—

1. After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, if the proposed rule has not been changed from the proposed rule as previously filed with the committee, or contains only technical changes, the adopting agency shall file a notice to that effect with the committee at least 7 days before ~~prior to~~ filing the proposed rule for adoption. Any change, other than a technical change ~~that does not affect the substance of the rule~~, must be supported by the record of public hearings held on the proposed rule, must be in response to written material submitted to the agency within 21 days after the date of publication of the notice of intended agency action or submitted to the agency between the date of publication of the notice and the end of the final public hearing, or must be in response to a proposed objection by the committee. Any change, other than a technical change, to a statement of estimated regulatory costs requires a notice of change. In addition, ~~when~~ any change, other than a technical change, to the text of ~~is made in~~ a proposed rule or any material incorporated by reference requires~~, other than a technical change,~~ the adopting agency to ~~shall~~ provide a copy of a notice of change by certified mail or actual delivery to any person who requests it in writing no later than 21 days after the notice required in paragraph (a). The agency shall file the notice of change with the committee, along with the reasons for the change, and provide the notice of change to persons requesting it, at least 21 days before ~~prior to~~ filing the proposed rule for adoption. The notice of change shall be published in the Florida Administrative Register at least 21


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days before ~~prior to~~ filing the proposed rule for adoption. The notice of change must include a summary of any revision to a statement of estimated regulatory costs required by s. 120.541(1)(c). This subparagraph does not apply to emergency rules adopted pursuant to subsection (4). After December 31, 2022, material proposed to be incorporated by reference in the notice required by this paragraph must be made available in the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

2. After the notice required by paragraph (a) and before ~~prior to~~ adoption, the agency may withdraw the proposed rule in whole or in part.

3. After the notice required by paragraph (a), the agency shall withdraw the proposed rule if the agency has failed to adopt it within the prescribed timeframes in this chapter. The committee shall notify the agency that it has exceeded the timeframe to adopt the proposed rule. If, 30 days after notice by the committee, the agency has not given notice of the withdrawal of the rule, the committee shall notify the Department of State that the date for adoption of the rule has expired, and the Department of State shall publish a notice of withdrawal of the proposed rule.

4.~~3.~~ After adoption and before the rule becomes effective, a rule may be modified or withdrawn only in the following circumstances:

a. When the committee objects to the rule;

b. When a final order, which is not subject to further appeal, is entered in a rule challenge brought pursuant to s. 120.56 after the date of adoption but before the rule becomes



effective pursuant to subparagraph (e)6.;

c. If the rule requires ratification, when more than 90 days have passed since the rule was filed for adoption without the Legislature ratifying the rule, in which case the rule may be withdrawn but may not be modified; or

d. When the committee notifies the agency that an objection to the rule is being considered, in which case the rule may be modified to extend the effective date by not more than 60 days.

5.~~4.~~ The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published, shall notify those persons described in subparagraph (a)3. in accordance with the requirements of that subparagraph, and shall notify the Department of State if the rule is required to be filed with the Department of State.

6.~~5.~~ After a rule has become effective, it may be repealed or amended only through the rulemaking procedures specified in this chapter.

(e) *Filing for final adoption; effective date.*—

1. If the adopting agency is required to publish its rules in the Florida Administrative Code, the agency, upon approval of the agency head, shall file with the Department of State three certified copies of the rule it proposes to adopt; one copy of any material incorporated by reference in the rule, certified by the agency; a summary of the rule; a summary of any hearings held on the rule; and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other



material required by this subparagraph, in the office of the agency head, and such rules shall be open to the public.

2. A rule may not be filed for adoption less than 28 days or more than 90 days after the notice required by paragraph (a), until 21 days after the notice of change required by paragraph (d), until 14 days after the final public hearing, until 21 days after a statement of estimated regulatory costs required under s. 120.541 has been provided to all persons who submitted a lower cost regulatory alternative and made available to the public at a readily accessible page on the agency's website, or until the administrative law judge has rendered a decision under s. 120.56(2), whichever applies. When a required notice of change is published before ~~prior to~~ the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after the date of publication. If notice of a public hearing is published before ~~prior to~~ the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. The term "public hearing" includes any public meeting held by any agency at which the rule is considered. If a petition for an administrative determination under s. 120.56(2) is filed, the period during which a rule must be filed for adoption is extended to 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete.



3. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this paragraph have been complied with, that all statutory rulemaking requirements have been met, and that there is no administrative determination pending on the rule.

4. At the time a rule is filed, the committee shall certify whether the agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee. The Department of State shall reject any rule that is not filed within the prescribed time limits; that does not comply with all statutory rulemaking requirements and rules of the Department of State; upon which an agency has not responded in writing to all material and timely written inquiries or written comments; upon which an administrative determination is pending; or which does not include a statement of estimated regulatory costs, if required.

5. If a rule has not been adopted within the time limits imposed by this paragraph or has not been adopted in compliance with all statutory rulemaking requirements, the agency proposing the rule shall withdraw the proposed rule and give notice of its action in the next available issue of the Florida Administrative Register.

6. The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the notice required by subparagraph (a)1., on a date required by statute, or upon ratification by the Legislature pursuant to s. 120.541(3). Rules not required to be filed with the Department of State shall become effective when adopted by the agency head, on a later


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date specified by rule or statute, or upon ratification by the Legislature pursuant to s. 120.541(3). If the committee notifies an agency that an objection to a rule is being considered, the agency may postpone the adoption of the rule to accommodate review of the rule by the committee. When an agency postpones adoption of a rule to accommodate review by the committee, the 90-day period for filing the rule is tolled until the committee notifies the agency that it has completed its review of the rule.

For the purposes of this paragraph, the term "administrative determination" does not include subsequent judicial review.

(4) EMERGENCY RULES.—

(e) Emergency rules shall be published in the Florida Administrative Code.

(f) An agency may not supersede an emergency rule currently in effect.

(g) An agency may make technical changes to an emergency rule within the first 7 days after the rule is adopted and must publish a notice of the technical change in the Florida Administrative Register.

(7) PETITION TO INITIATE RULEMAKING.—

(a) Any person regulated by an agency or having substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by this chapter. The petition shall specify the proposed rule and action requested. The agency shall file a copy of the petition with the committee. Not later than 30 calendar days following the date of filing a petition, the



agency shall initiate rulemaking proceedings under this chapter, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

Section 3. Section 120.541, Florida Statutes, is amended to read:

120.541 Statement of estimated regulatory costs.—

(1)(a) Within 21 days after publication of the notice of a proposed rule or notice of change ~~required under s. 120.54(3)(a)~~, a substantially affected person may submit to an agency a good faith written proposal for a lower cost regulatory alternative to a proposed rule which substantially accomplishes the objectives of the law being implemented. The agency shall provide a copy of any proposal for a lower cost regulatory alternative to the committee at least 21 days before filing the rule for adoption. The proposal may include the alternative of not adopting any rule if the proposal explains how the lower costs and objectives of the law will be achieved by not adopting any rule. If submitted after a notice of change, a proposal for a lower cost regulatory alternative is deemed to be made in good faith only if the person reasonably believes, and the proposal states the person’s reasons for believing, that the proposed rule as changed by the notice of change increases the regulatory costs or creates an adverse impact on small businesses that was not created by the previous proposed rule. If such a proposal is submitted, the 90-day period for filing the rule is extended 21 days. Upon the submission of the lower cost regulatory alternative, the agency shall prepare a statement of estimated regulatory costs as provided in subsection (2), or shall revise its prior statement of estimated regulatory costs, and ~~either~~


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adopt the alternative proposal, reject the alternative proposal, or modify the proposed rule to reduce the regulatory costs. If the agency rejects the alternative proposal or modifies the proposed rule, the agency shall ~~or~~ provide a statement of the reasons for rejecting the alternative in favor of the proposed rule.

(b) If a proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate within 1 year after the implementation of the rule, the agency shall prepare a statement of estimated regulatory costs as required by s. 120.54(3)(b).

(c) The agency shall revise a statement of estimated regulatory costs if any change to the rule made under s. 120.54(3)(d) increases the regulatory costs of the rule or if the rule is modified in response to the submission of a lower cost regulatory alternative. A summary of the revised statement must be included with any subsequent notice published under s. 120.54(3).

(d) At least 21 days before filing the proposed rule for adoption, an agency that is required to revise a statement of estimated regulatory costs shall provide the statement to the person who submitted the lower cost regulatory alternative, to the rules ombudsman in the Executive Office of the Governor, and to the committee. The revised statement shall be published and made available in the same manner as the original statement of estimated regulatory costs ~~and shall provide notice on the agency's website that it is available to the public~~.

(e) Notwithstanding s. 120.56(1)(c), the failure of the


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agency to prepare and publish a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative as provided in this subsection is a material failure to follow the applicable rulemaking procedures or requirements set forth in this chapter.

(f) An agency's failure to prepare and publish a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative may not be raised in a proceeding challenging the validity of a rule pursuant to s. 120.52(8)(a) unless:

1. Raised in a petition filed no later than 1 year after the effective date of the rule; and

2. Raised by a person whose substantial interests are affected by the rule's regulatory costs.

(g) A rule that is challenged pursuant to s. 120.52(8)(f) may not be declared invalid unless:

1. The issue is raised in an administrative proceeding within 1 year after the effective date of the rule;

2. The challenge is to the agency's rejection of a lower cost regulatory alternative offered under paragraph (a) or s. 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

3. The substantial interests of the person challenging the rule are materially affected by the rejection.

(2) A statement of estimated regulatory costs must ~~shall~~ include:

(a) An economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector



investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule;

2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within 5 years after the implementation of the rule; or

3. Is likely to increase regulatory costs, including all ~~any transactional~~ costs and impacts estimated in the statement of estimated regulatory costs, in excess of $1 million in the aggregate within 5 years after the implementation of the rule.

(b) A good faith estimate of the number of individuals, small businesses, and other entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(c) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.

(d) A good faith estimate of the compliance ~~transactional~~ costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. ~~As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional~~



~~operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.~~

(e) An analysis of the impact on small businesses as defined in ~~by~~ s. 288.703~~,~~ and an analysis of the impact on small counties and small cities as defined in s. 120.52. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

(f) Any additional information that the agency determines may be useful.

(g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

(3) If the adverse impact or regulatory costs of the rule exceed any of the criteria established in paragraph (2)(a), the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days before ~~prior to~~ the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.

(4) Subsection (3) does not apply to the adoption of:

(a) Federal standards pursuant to s. 120.54(6).

(b) Triennial updates of and amendments to the Florida Building Code which are expressly authorized by s. 553.73.

(c) Triennial updates of and amendments to the Florida Fire Prevention Code which are expressly authorized by s. 633.202.

(d) Emergency rules adopted pursuant to s. 120.54(4).


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(5) For purposes of subsections (2) and (3), adverse impacts and regulatory costs likely to occur within 5 years after implementation of the rule include adverse impacts and regulatory costs estimated to occur within 5 years after the effective date of the rule. However, if any provision of the rule is not fully implemented upon the effective date of the rule, the adverse impacts and regulatory costs associated with such provision must be adjusted to include any additional adverse impacts and regulatory costs estimated to occur within 5 years after implementation of such provision.

(6)(a) In evaluating the impacts described in paragraphs (2)(a) and (e), an agency shall include good faith estimates of market impacts likely to result from compliance with the proposed rule, including:

1. Increased customer charges for goods or services.

2. Decreased market value of goods or services produced, provided, or sold.

3. Increased costs resulting from the purchase of substitute or alternative goods or services.

4. The reasonable value of time to be spent by owners, officers, operators, and managers to understand and comply with the proposed rule, including, but not limited to, time to be spent to complete required education, training, or testing.

5. Capital costs.

6. Any other impacts suggested by the rules ombudsman in the Executive Office of the Governor or interested persons.

(b) In estimating and analyzing the information required in paragraphs (2)(b)-(e), the agency may use surveys of individuals, businesses, business organizations, counties, and



municipalities to collect data helpful to estimate and analyze the costs and impacts.

(c) In estimating compliance costs under paragraph (2)(d), the agency shall consider, among other matters, all direct and indirect costs necessary to comply with the proposed rule that are readily ascertainable based upon standard business practices, including, but not limited to, costs related to:

1. Filing fees.

2. Expenses to obtain a license.

3. Necessary equipment.

4. Installation, utilities, and maintenance of necessary equipment.

5. Necessary operations and procedures.

6. Accounting, financial, information management, and other administrative processes.

7. Other processes.

8. Labor based on relevant rates of wages, salaries, and benefits.

9. Materials and supplies.

10. Capital expenditures, including financing costs.

11. Professional and technical services, including contracted services necessary to implement and maintain compliance.

12. Monitoring and reporting.

13. Qualifying and recurring education, training, and testing.

14. Travel.

15. Insurance and surety requirements.

16. A fair and reasonable allocation of administrative



costs and other overhead.

17. Reduced sales or other revenues.

18. Other items suggested by the rules ombudsman in the Executive Office of the Governor or any interested person, business organization, or business representative.

(7)(a) The Department of State shall include on the Florida Administrative Register website the agency website addresses where statements of estimated regulatory costs may be viewed in their entirety.

(b) An agency that prepares a statement of estimated regulatory costs must provide, as part of the notice required under s. 120.54(3)(a), the agency website address where the statement of estimated regulatory costs can be read in its entirety to the Department of State for publication in the Florida Administrative Register.

(c) If an agency revises its statement of estimated regulatory costs, the agency must provide notice that a revision has been made as provided in s. 120.54(3)(d). Such notice must include the agency website address where the revision can be viewed in its entirety.

Section 4. Subsections (1) and (2) of section 120.545, Florida Statutes, are amended to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each existing rule and proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2), and its accompanying material, and each emergency rule, ~~and may examine any existing rule,~~ for the purpose of determining whether:



(a) The rule is an invalid exercise of delegated legislative authority.

(b) The statutory authority for the rule has been repealed.

(c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given before ~~prior to~~ its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

(f) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(i) The rule could be made less complex or more easily comprehensible to the general public.

(j) The rule’s statement of estimated regulatory costs complies with the requirements of s. 120.541 and whether the rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the adoption of such rule, the agency is within its statutory authority, and the rule was adopted in



compliance with the requirements and limitations of s. 120.54(4).

(2) The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by subsection (1). The committee shall consult with legislative standing committees having jurisdiction over the subject areas. If the committee objects to a rule, the committee shall, within 5 days after the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee may file an objection for the failure of an agency to repeal or amend an existing rule which the committee identifies as being inconsistent with the powers and duties granted by its enabling statute or having no enabling statute. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

Section 5. Paragraphs (a), (b), and (c) of subsection (1) of section 120.55, Florida Statutes, are amended to read:

120.55 Publication.—

(1) The Department of State shall:

(a)1. Through a continuous revision and publication system, compile and publish electronically, on a website managed by the department, the "Florida Administrative Code." The Florida Administrative Code shall contain all rules adopted by each agency, citing the grant of rulemaking authority and the specific law implemented pursuant to which each rule was



adopted, all history notes as authorized in s. 120.545(7), complete indexes to all rules and any material incorporated by reference contained in the code, and any other material required or authorized by law or deemed useful by the department. The electronic code shall display each rule chapter currently in effect in browse mode and allow full text search of the code and each rule chapter. The department may contract with a publishing firm for a printed publication; however, the department shall retain responsibility for the code as provided in this section. The electronic publication shall be the official compilation of the administrative rules of this state. The Department of State shall retain the copyright over the Florida Administrative Code.

2. Not publish in the Florida Administrative Code rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or state university rules relating to internal personnel or business and finance ~~shall not be published in the Florida Administrative Code~~. Exclusion from publication in the Florida Administrative Code does ~~shall~~ not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, ~~the department shall~~ publish the address and telephone number of the executive offices of each agency, the manner by which the agency indexes its rules, a listing of all rules of that agency excluded from publication in the code, a listing of all forms and material incorporated by reference adopted by rule which are used by the agency, and a statement as to where those rules may be inspected.


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4. Not publish forms ~~shall not be published~~ in the Florida Administrative Code. However,~~; but~~ any form that ~~which~~ an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of the term "rule" as defined ~~provided~~ in s. 120.52 shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained. Each form created by an agency which is incorporated by reference in a rule notice of which is given under s. 120.54(3)(a) after December 31, 2007, must clearly display the number, title, and effective date of the form and the number of the rule in which the form is incorporated.

5. Require all materials incorporated by reference in any part of an adopted rule after December 31, 2022, ~~The department shall allow adopted rules and material incorporated by reference~~ to be filed in the manner prescribed by s. 120.54(1)(i)3.a. or b. ~~electronic form as prescribed by department rule.~~ When a rule is filed for adoption with incorporated material in electronic form, the department's publication of the Florida Administrative Code on its website must contain a hyperlink from the incorporating reference in the rule directly to that material. The department may not allow hyperlinks from rules in the Florida Administrative Code to any material other than that filed with and maintained by the department, but may allow hyperlinks to incorporated material maintained by the department from the adopting agency's website or other sites.


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6. Include the date of any technical changes to a rule in the history note of the rule in the Florida Administrative Code. A technical change does not affect the effective date of the rule. A technical change made after the adoption of a rule must be published as a notice of correction.

(b)1. Electronically publish on a website managed by the department a continuous revision and publication entitled the "Florida Administrative Register," which shall serve as the official publication. The Florida Administrative Register shall be published once daily by 8 a.m. If after publication, a rule is corrected and replaced, the Florida Administrative Register shall indicate:

a. That the Florida Administrative Register has been republished.

b. The rule that has been corrected by the Department of State.

2. The Florida Administrative Register ~~and~~ must contain:

a.~~1.~~ All notices required by s. 120.54(2) and (3)(a), showing the text of all rules proposed for consideration.

b.~~2.~~ All notices of public meetings, hearings, and workshops conducted in accordance with s. 120.525, including a statement of the manner in which a copy of the agenda may be obtained.

c.~~3.~~ A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules.

d.~~4.~~ Notice of petitions for declaratory statements or administrative determinations.

e.~~5.~~ A summary of each objection to any rule filed by the


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Administrative Procedures Committee.

f.~~6.~~ A list of rules filed for adoption in the previous 7 days.

g.~~7.~~ A list of all rules filed for adoption pending legislative ratification under s. 120.541(3). A rule shall be removed from the list once notice of ratification or withdrawal of the rule is received.

h.~~8.~~ Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for a printed publication of the Florida Administrative Register and make copies available on an annual subscription basis.

(c) Prescribe by rule the style and form required for rules, notices, and other materials submitted for filing, including a rule requiring documents created by an agency that are proposed to be incorporated by reference in notices published pursuant to s. 120.54(3)(a) and (d) to be coded in the same manner as notices published pursuant to s. 120.54(3)(a)1.

Section 6. Section 120.74, Florida Statutes, is amended to read:

120.74 Agency annual rulemaking and regulatory plans; reports.—

(1) REGULATORY PLAN.—By October 1 of each year, each agency shall prepare a regulatory plan.

(a) The plan must include a listing of each law enacted or amended during the previous 12 months which creates or modifies the duties or authority of the agency. If the Governor or the Attorney General provides a letter to the committee stating that



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a law affects all or most agencies, the agency may exclude the law from its plan. For each law listed by an agency under this paragraph, the plan must state:

1. Whether the agency must adopt rules to implement the law.

2. If rulemaking is necessary to implement the law:

a. Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register.

b. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a).

3. If rulemaking is not necessary to implement the law, a concise written explanation of the reasons why the law may be implemented without rulemaking.

(b) The plan must also identify and describe each rule, including each rule number or proposed rule number, that ~~include a listing of each law not otherwise listed pursuant to paragraph (a) which~~ the agency expects to develop, adopt, or repeal for the 12-month period beginning on October 1 and ending on September 30 ~~implement by rulemaking before the following July 1~~, excluding emergency rules ~~except emergency rulemaking~~. For each rule identified and described ~~law listed~~ under this paragraph, the plan must state whether the rulemaking is intended to simplify, clarify, increase efficiency, improve coordination with other agencies, reduce regulatory costs, or delete obsolete, unnecessary, or redundant rules.

(c) The plan must include any desired update to the prior year's regulatory plan or supplement published pursuant to subsection (7). If, in a prior year, a law was identified under



this paragraph or under subparagraph (a)1. as a law requiring rulemaking to implement but a notice of proposed rule has not been published:

1. The agency shall identify and again list such law, noting the applicable notice of rule development by citation to the Florida Administrative Register; or

2. If the agency has subsequently determined that rulemaking is not necessary to implement the law, the agency shall identify such law, reference the citation to the applicable notice of rule development in the Florida Administrative Register, and provide a concise written explanation of the reason why the law may be implemented without rulemaking.

(d)1. The plan must include a schedule for the agency to review its rules for consistency with the powers and duties granted by the enabling statutes in accordance with this paragraph. Each agency must review all of its rules existing before July 1, 2022, in accordance with this paragraph by July 1, 2027. All rules adopted on or after July 1, 2022, and all existing rules reviewed initially by July 1, 2027, shall be reviewed every 10 years after their respective dates of adoption or review. This schedule shall be updated on an annual basis to ensure that all rules are reviewed every 10 years after their respective dates of adoption or review.

2. The plan must include an index and summary of rules reviewed during the previous year listed by number and title. The index must indicate:

a. The rules reviewed pursuant to this paragraph that are consistent with the powers and duties granted by the enabling

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statutes.

b. The rules reviewed pursuant to this paragraph that require amendments to remove portions of the rule that are inconsistent with the powers and duties granted by the enabling statute. A summary of the required amendments and a schedule for such rulemaking shall be provided.

c. The rules reviewed pursuant to this paragraph that will be repealed in their entirety because there is no enabling statute. A schedule for the repeal of such rules shall be provided.

d. A list of all statutes and laws, or parts thereof, that grant duplicative, redundant, or unused rulemaking authority, as set out in s. 11.242(5)(j), and a recommendation as to what statutes, laws, or parts thereof, should be repealed. The agency must also provide the list to the Division of Law Revision.

(e) The plan must include a certification executed on behalf of the agency by both the agency head, or, if the agency head is a collegial body, the presiding officer; and the individual acting as principal legal advisor to the agency head. The certification must declare:

1. ~~Verify~~ That the persons executing the certification have reviewed the plan.

2. ~~Verify~~ That the agency regularly reviews all of its rules and identify the period during which all rules have most recently been reviewed to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented.

3. That the agency understands that regulatory accountability is necessary to ensure public confidence in the


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integrity of state government and, to that end, the agency is diligently working toward reducing the number of regulatory requirements consistent with the agency's rulemaking authority and the laws implemented.

4. The total number of rules adopted and repealed during the previous 12 months.

5. That all actions set forth in the prior annual regulatory plan have been completed or are on a schedule to be completed.

6. That all materials incorporated by reference in the rules reviewed are available in the manner prescribed by s. 120.54(1)(i)3.a. or b.

(2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

(a) By October 1 of each year, each agency shall:

1. Publish its regulatory plan on its website or on another state website established for publication of administrative law records. A clearly labeled hyperlink to the current plan must be included on the agency's primary website homepage.

2. Electronically deliver to the committee a copy of the certification required in paragraph (1)(e) ~~(1)(d)~~.

3. Publish in the Florida Administrative Register a notice identifying the date of publication of the agency's regulatory plan. The notice must include a hyperlink or website address providing direct access to the published plan.

(b) To satisfy the requirements of paragraph (a), a board established under s. 20.165(4), and any other board or commission receiving administrative support from the Department of Business and Professional Regulation, may coordinate with the Department of Business and Professional Regulation, and a board



established under s. 20.43(3)(g) may coordinate with the Department of Health, for inclusion of the board's or commission's plan and notice of publication in the coordinating department's plan and notice and for the delivery of the required documentation to the committee.

(c) A regulatory plan prepared under subsection (1) and any regulatory plan published under this chapter before July 1, 2014, shall be maintained at an active website for 10 years after the date of initial publication on the agency's website or another state website.

(3) DEPARTMENT REVIEW OF BOARD PLAN.—By October 15 of each year:

(a) For each board established under s. 20.165(4) and any other board or commission receiving administrative support from the Department of Business and Professional Regulation, the Department of Business and Professional Regulation shall file with the committee a certification that the department has reviewed each board's and commission's regulatory plan. A certification may relate to more than one board or commission.

(b) For each board established under s. 20.43(3)(g), the Department of Health shall file with the committee a certification that the department has reviewed the board's regulatory plan. A certification may relate to more than one board.

(4) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each year, each agency shall publish a notice of rule development under s. 120.54(2) for each law identified in the agency's regulatory plan pursuant to subparagraph (1)(a)1. for which rulemaking is necessary to implement but for which the agency



did not report the publication of a notice of rule development under subparagraph (1)(a)2.

(5) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for which implementing rulemaking is necessary as identified in the agency's plan pursuant to subparagraph (1)(a)1. or subparagraph (1)(c)1., the agency shall publish a notice of proposed rule pursuant to s. 120.54(3)(a) by April 1 of the year following the deadline for the regulatory plan. This deadline may be extended if the agency publishes a notice of extension in the Florida Administrative Register identifying each rulemaking proceeding for which an extension is being noticed by citation to the applicable notice of rule development as published in the Florida Administrative Register. The agency shall include a concise statement in the notice of extension identifying any issues that are causing the delay in rulemaking. An extension shall expire on October 1 after the April 1 deadline, provided that the regulatory plan due on October 1 may further extend the rulemaking proceeding by identification pursuant to subparagraph (1)(c)1. or conclude the rulemaking proceeding by identification pursuant to subparagraph (1)(c)2. A published regulatory plan may be corrected at any time to accomplish the purpose of extending or concluding an affected rulemaking proceeding and is deemed corrected as of the October 1 due date. Upon publication of a correction, the agency shall publish in the Florida Administrative Register a notice of the date of the correction identifying the affected rulemaking proceeding by applicable citation to the Florida Administrative Register.

(6) CERTIFICATIONS.—Each agency shall file a certification with the committee upon compliance with subsection (4) and upon



filing a notice under subsection (5) of either a deadline extension or a regulatory plan correction. A certification may relate to more than one notice or contemporaneous act. The date or dates of compliance shall be noted in each certification.

(7) SUPPLEMENTING THE REGULATORY PLAN.—After publication of the regulatory plan, the agency shall supplement the plan within 30 days after a bill becomes a law if the law is enacted before the next regular session of the Legislature and the law substantively modifies the agency's specifically delegated legal duties, unless the law affects all or most state agencies as identified by letter to the committee from the Governor or the Attorney General. The supplement must include the information required in paragraph (1)(a) and shall be published as required in subsection (2), but no certification or delivery to the committee is required. The agency shall publish in the Florida Administrative Register notice of publication of the supplement, and include a hyperlink on its website or web address for direct access to the published supplement. For each law reported in the supplement, if rulemaking is necessary to implement the law, the agency shall publish a notice of rule development by the later of the date provided in subsection (4) or 60 days after the bill becomes a law, and a notice of proposed rule shall be published by the later of the date provided in subsection (5) or 120 days after the bill becomes a law. The proposed rule deadline may be extended to the following October 1 by notice as provided in subsection (5). If such proposed rule has not been filed by October 1, a law included in a supplement shall also be included in the next annual plan pursuant to subsection (1).

(8) FAILURE TO COMPLY.—If an agency fails to comply with a


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requirement of subsection (1), paragraph (2)(a), or subsection (5), within 15 days after written demand from the committee or from the chair of any other legislative committee, the agency shall deliver a written explanation of the reasons for noncompliance to the committee, the President of the Senate, the Speaker of the House of Representatives, and the chair of any legislative committee requesting the explanation of the reasons for noncompliance.

(9) EDUCATIONAL UNITS.—This section does not apply to educational units.

Section 7. This act shall take effect July 1, 2022.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to administrative procedures; amending s. 120.52, F.S.; defining the term "technical change"; amending s. 120.54, F.S.; requiring a notice of rule development to include certain information; requiring a notice of withdrawal if a notice of proposed rule is not filed within a certain timeframe; requiring a notice of proposed rule to include certain information; requiring certain notices to be published within a specified timeframe; requiring that material proposed to be incorporated by reference be made available in a specified manner; authorizing electronic delivery of notices to persons who have



requested advance notice of agency rulemaking proceedings; requiring publication of a notice of correction in certain circumstances; providing that a notice of correction does not affect certain timeframes; revising the circumstances under which a proposed rule's adverse impact on small businesses is considered to exist; requiring an agency to provide notice of a regulatory alternative to the Administrative Procedures Committee before filing the rule for adoption; requiring an agency to publish a notice of convening a separate proceeding in certain circumstances; providing that rulemaking timelines are tolled during such separate proceedings; requiring a notice of change for certain changes to a statement of estimated regulatory costs; revising the requirements for the contents of a notice of change; requiring the committee to notify the Department of State that the date for an agency to adopt a rule has expired under certain circumstances; requiring the department to publish a notice of withdrawal under certain circumstances; requiring that certain information be available on the agency's website; requiring emergency rules to be published in the Florida Administrative Code; prohibiting agencies from making changes to emergency rules by superseding the rule; authorizing an agency to make technical changes to an emergency rule during a specified timeframe; requiring publication of a notice of the technical change in the Florida Administrative Register; requiring an agency


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to file a copy of a certain petition with the committee; amending s. 120.541, F.S.; requiring an agency to provide a copy of any proposal for a lower cost regulatory alternative to the committee within a certain timeframe; specifying the circumstances under which such a proposal is made in good faith; revising requirements for an agency's consideration of a lower cost regulatory alternative; providing for an agency's revision and publication of a revised statement of estimated regulatory costs in response to certain circumstances; requiring that a revised statement of lower cost regulatory alternative be submitted to the rules ombudsman in the Executive Office of the Governor and published in a specified manner; revising the information required in a statement of estimated regulatory cost; deleting the definition of the term "transactional costs"; revising the applicability of specified provisions; providing additional requirements for the calculation of estimated regulatory costs; requiring the department to include specified information on a website; requiring certain agencies to include certain information in a statement of estimated regulatory costs and on their websites; providing certain requirements for an agency that revises a statement of estimated regulatory costs; amending s. 120.545, F.S.; requiring the committee to examine existing rules; authorizing the committee to file an objection in certain instances; amending s. 120.55, F.S.; requiring the Florida Administrative


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Code to contain complete indexes to any material incorporated by reference contained in the code; requiring material incorporated by reference to be filed in a specified manner after a certain date; requiring the department to include the date of a technical change in the Florida Administrative Code; providing that a technical change does not affect the effective date of a rule; requiring a technical change made after rule adoption to be published as a notice of correction; requiring the Florida Administrative Register to be published once daily and indicate certain information; requiring specified rulemaking; amending s. 120.74, F.S.; requiring an agency's regulatory plan to identify and describe each rule the agency plans to develop, adopt, or repeal during a specified 12 month period; requiring such plan to include a schedule of rule review; providing indexes of certain information to be included in such plan; requiring such plan to include a list of certain statutes and laws or parts thereof; requiring the agency to provide such list to the Division of Law Revision; requiring a certification in such plan to make certain declarations; requiring an agency to deliver a written explanation upon request by designated persons for failing to comply with the regulatory plan requirements; providing an effective date.

By Senator Diaz

36-00345-22 2022536__

A bill to be entitled

An act relating to administrative procedures; amending s. 120.52, F.S.; defining terms; amending s. 120.54, F.S.; applying certain provisions applicable to all rules other than emergency rules to repromulgated rules; requiring a notice of rule development to include certain information; requiring a notice of withdrawal if a notice of proposed rule is not filed within a certain timeframe; requiring that certain persons be available at a workshop or public hearing to receive public input; requiring a notice of proposed rule to include certain information; requiring certain notices to be published within a specified timeframe; requiring that material proposed to be incorporated by reference be made available in a specified manner; authorizing electronic delivery of notices to persons who have requested advance notice of agency rulemaking proceedings; revising the circumstances under which a proposed rule's adverse impact on small businesses is considered to exist; requiring an agency to provide notice of a regulatory alternative to the Administrative Procedures Committee within a certain timeframe; requiring an agency to publish a notice of convening a separate proceeding in certain circumstances; providing that rulemaking timelines are tolled during such separate proceedings; requiring a notice of change for certain changes to a statement of estimated regulatory costs; revising the requirements for the contents of a notice of change;

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requiring the committee to notify the Department of State that the date for an agency to adopt a rule has expired under certain circumstances; requiring the department to publish a notice of withdrawal under certain circumstances; requiring that certain information be available on the agency's website; requiring emergency rules to be published in the Florida Administrative Code; prohibiting agencies from making changes to emergency rules by superseding the rule; authorizing an agency to make technical changes to an emergency rule during a specified timeframe; requiring an agency to file a copy of a certain petition with the committee; amending s. 120.541, F.S.; requiring an agency to provide a copy of any proposal for a lower cost regulatory alternative to the committee within a certain timeframe; specifying the circumstances under which such a proposal is made in good faith; revising requirements for an agency's consideration of a lower cost regulatory alternative; providing for an agency's revision and publication of a revised statement of estimated regulatory costs in response to certain circumstances; requiring that a revised statement of lower cost regulatory alternative be submitted to the rules ombudsman and published in a specified manner; revising the information required in a statement of estimated regulatory costs; deleting the definition of the term "transactional costs"; revising the applicability of specified provisions; providing additional requirements for the calculation

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

of estimated regulatory costs; requiring the department to include specified information on a website; requiring certain agencies to include certain information in a statement of estimated regulatory costs and on their websites; providing certain requirements for an agency that revises a statement of estimated regulatory costs; conforming a cross-reference; creating s. 120.5435, F.S.; providing legislative intent; requiring agency review of rules and repromulgation of rules that do not require substantive changes within a specified timeframe; providing that failure of an agency to meet certain deadlines applicable to a rule required to be repromulgated constitutes the repeal of the rule; requiring an agency to publish a notice of repromulgation in the Florida Administrative Register and file a rule for promulgation with the department within a specified timeframe; requiring an agency to file a notice of repromulgation with the committee within a specified timeframe; providing requirements for the notice of repromulgation; providing that a repromulgated rule is not subject to challenge as a proposed rule and that certain hearing requirements do not apply; requiring an agency to file a specified number of certified copies of a proposed repromulgated rule and any material incorporated by reference; providing that a repromulgated rule is adopted upon filing with the department and becomes effective after a specified time; requiring the department to update

certain information in the Florida Administrative Code; requiring the department to adopt rules by a certain date; amending s. 120.545, F.S.; requiring, rather than authorizing, the committee to examine existing rules; amending s. 120.55, F.S.; requiring the Florida Administrative Code to be published once daily and indicate certain information; requiring materials incorporated by reference to be filed in a specified manner; requiring the department to include the date of a technical change in the Florida Administrative Code; providing that a technical change does not affect the effective date of a rule; requiring specified rulemaking; amending s. 120.74, F.S.; requiring an agency to identify and describe each rule it plans to develop, adopt, or repeal during the forthcoming year in the agency's annual regulatory plan; requiring that an agency's annual regulatory plan identify any rules required to be repromulgated during the forthcoming year; requiring the agency to make certain declarations concerning the annual regulatory plan; amending ss. 120.80, 120.81, 420.9072, 420.9075, and 443.091, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (16) through (19) and (20) through (22) of section 120.52, Florida Statutes, are redesignated as subsections (17) through (20) and subsections

(22) through (24), respectively, and new subsections (16) and (21) are added to that section, to read:

120.52 Definitions.—As used in this act:

(16) "Repromulgation" means the publication and adoption of an existing rule following an agency's review of the rule for consistency with the powers and duties granted by its enabling statute.

(21) "Technical change" means a change limited to correcting grammatical, typographical, or similar errors not affecting the substance of the rule.

Section 2. Paragraph (i) of subsection (1), subsections (2) and (3), and paragraph (a) of subsection (7) of section 120.54, Florida Statutes, are amended, and paragraphs (e) and (f) are added to subsection (4) of that section, to read:

120.54 Rulemaking.—

(1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN EMERGENCY RULES.—

(i)1. A rule may incorporate material by reference but only as the material exists on the date the rule is adopted. For purposes of the rule, changes in the material are not effective unless the rule is amended to incorporate the changes.

2. An agency rule that incorporates by specific reference another rule of that agency automatically incorporates subsequent amendments to the referenced rule unless a contrary intent is clearly indicated in the referencing rule. A notice of amendments to a rule that has been incorporated by specific reference in other rules of that agency must explain the effect of those amendments on the referencing rules.

3. In rules adopted after December 31, 2010, and rules

repromulgated on or after July 1, 2022, material may not be incorporated by reference unless:

a. The material has been submitted in the prescribed electronic format to the Department of State and the full text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the Florida Administrative Code; or

b. The agency has determined that posting the material on the Internet for purposes of public examination and inspection would constitute a violation of federal copyright law, in which case a statement to that effect, along with the address of locations at the Department of State and the agency at which the material is available for public inspection and examination, must be included in the notice required by subparagraph (3)(a)1.

4. A rule may not be amended by reference only. Amendments must set out the amended rule in full in the same manner as required by the State Constitution for laws.

5. Notwithstanding any contrary provision in this section, when an adopted rule of the Department of Environmental Protection or a water management district is incorporated by reference in the other agency's rule to implement a provision of part IV of chapter 373, subsequent amendments to the rule are not effective as to the incorporating rule unless the agency incorporating by reference notifies the committee and the Department of State of its intent to adopt the subsequent amendment, publishes notice of such intent in the Florida Administrative Register, and files with the Department of State a copy of the amended rule incorporated by reference. Changes in the rule incorporated by reference are effective as to the other

agency 20 days after the date of the published notice and filing with the Department of State. The Department of State shall amend the history note of the incorporating rule to show the effective date of such change. Any substantially affected person may, within 14 days after the date of publication of the notice of intent in the Florida Administrative Register, file an objection to rulemaking with the agency. The objection shall specify the portions of the rule incorporated by reference to which the person objects and the reasons for the objection. The agency does ~~shall~~ not have the authority under this subparagraph to adopt those portions of the rule specified in such objection. The agency shall publish notice of the objection and of its action in response in the next available issue of the Florida Administrative Register.

6. The Department of State may adopt by rule requirements for incorporating materials pursuant to this paragraph.

(2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.—

(a)1. Except when the intended action is the repeal of a rule, agencies shall provide notice of the development of proposed rules by publication of a notice of rule development in the Florida Administrative Register before providing notice of a proposed rule as required by paragraph (3)(a). The notice of rule development must ~~shall~~ indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the grant of rulemaking authority for the proposed rule and the law being implemented ~~specific legal authority for the proposed rule~~, and include the proposed rule number and the preliminary text of the proposed rules, if available, or a statement of how

a person may promptly obtain, without cost, a copy of any preliminary draft, when ~~if~~ available.

2. If a notice of a proposed rule is not filed within 12 months after the notice of rule development, the agency must withdraw the rule and give notice of the withdrawal in the next available issue of the Florida Administrative Register.

(b) All rules must ~~should~~ be drafted in readable language. The language is readable if:

1. It avoids the use of obscure words and unnecessarily long or complicated constructions; and

2. It avoids the use of unnecessary technical or specialized language that is understood only by members of particular trades or professions.

(c) An agency may hold public workshops for purposes of rule development. If requested in writing by any affected person, an agency must hold public workshops, including workshops in various regions of the state or the agency's service area, for purposes of rule development ~~if requested in writing by any affected person~~, unless the agency head explains in writing why a workshop is unnecessary. The explanation is not final agency action subject to review pursuant to ss. 120.569 and 120.57. The failure to provide the explanation when required may be a material error in procedure pursuant to s. 120.56(1)(c). When a workshop or public hearing is held, the agency must ensure that the persons responsible for preparing the proposed rule are available to receive public input, to explain the agency's proposal, and to respond to questions or comments regarding the rule being developed. The workshop may be facilitated or mediated by a neutral third person, or the agency

may employ other types of dispute resolution alternatives for the workshop which ~~that~~ are appropriate for rule development. Notice of a workshop for rule development must ~~workshop shall~~ be by publication in the Florida Administrative Register not less than 14 days before ~~prior to~~ the date on which the workshop is scheduled to be held and must ~~shall~~ indicate the subject area that ~~which~~ will be addressed; the agency contact person; and the place, date, and time of the workshop.

(d)1. An agency may use negotiated rulemaking in developing and adopting rules. The agency should consider the use of negotiated rulemaking when complex rules are being drafted or strong opposition to the rules is anticipated. The agency should consider, but is not limited to considering, whether a balanced committee of interested persons who will negotiate in good faith can be assembled, whether the agency is willing to support the work of the negotiating committee, and whether the agency can use the group consensus as the basis for its proposed rule. Negotiated rulemaking uses a committee of designated representatives to draft a mutually acceptable proposed rule.

2. An agency that chooses to use the negotiated rulemaking process described in this paragraph shall publish in the Florida Administrative Register a notice of negotiated rulemaking which ~~that~~ includes a listing of the representative groups that will be invited to participate in the negotiated rulemaking process. Any person who believes that his or her interest is not adequately represented may apply to participate within 30 days after publication of the notice. All meetings of the negotiating committee shall be noticed and open to the public pursuant to ~~the provisions of~~ this chapter. The negotiating committee shall

be chaired by a neutral facilitator or mediator.

3. The agency's decision to use negotiated rulemaking, its selection of the representative groups, and approval or denial of an application to participate in the negotiated rulemaking process are not agency action. ~~Nothing in~~ This subparagraph is not intended to affect the rights of a substantially ~~an~~ affected person to challenge a proposed rule developed under this paragraph in accordance with s. 120.56(2).

(3) ADOPTION PROCEDURES.—

(a) *Notices.*—

1. Before ~~Prior to~~ the adoption, amendment, or repeal of any rule other than an emergency rule, an agency, upon approval of the agency head, shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; the rule number and full text of the proposed rule or amendment and a summary thereof; a reference to the grant of rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented or interpreted. The notice must include a concise summary of the agency's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in s. 120.541(2). The notice must describe the regulatory impact of the rule in readable language; an agency website address where the statement of estimated regulatory costs can be viewed in its entirety, if one has been prepared; a statement that any person who wishes to provide the agency with information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as

provided by s. 120.541(1), must do so in writing within 21 days after publication of the notice; and a statement as to whether, based on the statement of the estimated regulatory costs or other information expressly relied upon and described by the agency if no statement of regulatory costs is required, the proposed rule is expected to require legislative ratification pursuant to s. 120.541(3). The notice must state the procedure for requesting a public hearing on the proposed rule. Except when the intended action is the repeal of a rule, the notice must include a reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared.

2. The notice shall be published in the Florida Administrative Register at least 7 days after the publication of the notice of rule development and at least ~~not less than~~ 28 days before ~~prior to~~ the intended action. The proposed rule, including all materials proposed to be incorporated by reference and the statement of estimated regulatory costs, if one has been prepared, must ~~shall~~ be available for inspection and copying by the public at the time of the publication of notice. Material proposed to be incorporated by reference in the notice must be made available in the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

3. The notice shall be mailed to all persons named in the proposed rule and mailed or delivered electronically to all persons who, at least 14 days before publication of the notice ~~prior to such mailing~~, have made requests of the agency for advance notice of its proceedings. The agency shall also give such notice as is prescribed by rule to those particular classes

of persons to whom the intended action is directed.

4. The adopting agency shall file with the committee, at least 21 days before ~~prior to~~ the proposed adoption date, a copy of each rule it proposes to adopt; a copy of any material incorporated by reference in the rule; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of any statement of estimated regulatory costs that has been prepared pursuant to s. 120.541; a statement of the extent to which the proposed rule relates to federal standards or rules on the same subject; and the notice required by subparagraph 1.

(b) *Special matters to be considered in rule adoption.*—

1. Statement of estimated regulatory costs.—Before the adoption , amendment, or repeal of any rule other than an emergency rule, an agency is encouraged to prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541. However, an agency must prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541, if:

a. The proposed rule will have an adverse impact on small business; or

b. The proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate in this state within 1 year after the implementation of the rule.

2. Small businesses, small counties, and small cities.—

a. For purposes of this subsection and s. 120.541(2), an adverse impact on small businesses, as defined in s. 288.703 or sub-subparagraph b., exists if, for any small business:

(I) An owner, an officer, an operator, or a manager must complete any education, training, or testing to comply with the rule in the first year or is likely to spend at least 10 hours or to purchase professional advice to understand and comply with the rule in the first year;

(II) Taxes or fees assessed on transactions are likely to increase by $500 or more in the aggregate in 1 year;

(III) Prices charged for goods and services are restricted or are likely to increase because of the rule;

(IV) Specially trained, licensed, or tested employees will be required because of the rule;

(V) Operating costs are expected to increase by at least $1,000 annually because of the rule; or

(VI) Capital expenditures in excess of $1,000 are necessary to comply with the rule.

b. Each agency, before the adoption, amendment, or repeal of a rule, shall consider the impact of the rule on small businesses as defined in ~~by~~ s. 288.703 and the impact of the rule on small counties or small cities as defined in ~~by~~ s. 120.52. Whenever practicable, an agency shall tier its rules to reduce disproportionate impacts on small businesses, small counties, or small cities to avoid regulating small businesses, small counties, or small cities that do not contribute significantly to the problem the rule is designed to address. An agency may define "small business" to include businesses employing more than 200 persons, may define "small county" to include those with populations of more than 75,000, and may define "small city" to include those with populations of more than 10,000, if the agency ~~it~~ finds that such a definition is

necessary to adapt a rule to the needs and problems of small businesses, small counties, or small cities. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small businesses, small counties, and small cities, or any combination of these entities:

(I) Establishing less stringent compliance or reporting requirements in the rule.

(II) Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements.

(III) Consolidating or simplifying the rule's compliance or reporting requirements.

(IV) Establishing performance standards or best management practices to replace design or operational standards in the rule.

(V) Exempting small businesses, small counties, or small cities from any or all requirements of the rule.

c.(I)~~b.(I)~~ If the agency determines that the proposed action will affect small businesses as defined by the agency as provided in sub-subparagraph b. ~~a.~~, the agency must ~~shall~~ send written notice of the rule to the rules ombudsman in the Executive Office of the Governor at least 28 days before the intended action.

(II) Each agency shall adopt those regulatory alternatives offered by the rules ombudsman in the Executive Office of the Governor and provided to the agency no later than 21 days after the rules ombudsman's receipt of the written notice of the rule which it finds are feasible and consistent with the stated objectives of the proposed rule and which would reduce the impact on small businesses. When regulatory alternatives are

offered by the rules ombudsman in the Executive Office of the Governor, the 90-day period for filing the rule in subparagraph (e)2. is extended for a period of 21 days. The agency shall provide notice to the committee of any regulatory alternative offered to the agency pursuant to this sub-subparagraph at least 21 days before filing the rule for adoption.

(III) If an agency does not adopt all alternatives offered pursuant to this sub-subparagraph, it shall, before rule adoption or amendment and pursuant to subparagraph (d)1., file a detailed written statement with the committee explaining the reasons for failure to adopt such alternatives. Within 3 working days after the filing of such notice, the agency shall send a copy of such notice to the rules ombudsman in the Executive Office of the Governor.

(c) *Hearings.*—

1. If the intended action concerns any rule other than one relating exclusively to procedure or practice, the agency shall, on the request of any affected person received within 21 days after the date of publication of the notice of intended agency action, give affected persons an opportunity to present evidence and argument on all issues under consideration. The agency may schedule a public hearing on the proposed rule and, if requested by any affected person, shall schedule a public hearing on the proposed rule. When a public hearing is held, the agency must ensure that the persons responsible for preparing the proposed rule and the statement of estimated regulatory costs, if one has been prepared, ~~staff~~ are available to explain the agency's proposal and to respond to questions or comments regarding the proposed rule, the statement of estimated regulatory costs, if

one has been prepared, and the agency's decision whether to adopt a lower cost regulatory alternative submitted pursuant to s. 120.541(1)(a). If the agency head is a board or other collegial body created under s. 20.165(4) or s. 20.43(3)(g), and one or more requested public hearings is scheduled, the board or other collegial body shall conduct at least one of the public hearings itself and may not delegate this responsibility without the consent of those persons requesting the public hearing. Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted to the agency between the date of publication of the notice and the end of the final public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.

2. Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that the person's substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect the person's interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under ~~the provisions of~~ ss. 120.569 and 120.57. The agency shall publish notice of convening a separate proceeding in the Florida Administrative Register. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed. All timelines in this section are tolled during any suspension of the rulemaking

proceeding under this subparagraph, beginning on the date the notice of convening a separate proceeding is published and resuming on the day after the conclusion of the separate proceeding.

(d) *Modification or withdrawal of proposed rules.*—

1. After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, if the proposed rule text has not been changed from that of the proposed rule as previously filed with the committee, or contains only technical changes, the adopting agency shall file a notice to that effect with the committee at least 7 days before ~~prior to~~ filing the proposed rule for adoption. Any change, other than a technical change ~~that does not affect the substance of the rule~~, must be supported by the record of public hearings held on the proposed rule, must be in response to written material submitted to the agency within 21 days after the date of publication of the notice of intended agency action or submitted to the agency between the date of publication of the notice and the end of the final public hearing, or must be in response to a proposed objection by the committee. Any change, other than a technical change, to a statement of estimated regulatory costs requires a notice of change. In addition, ~~when~~ any change, other than a technical change, to the text of ~~is made in~~ a proposed rule or any material incorporated by reference requires~~, other than a technical change,~~ the adopting agency to ~~shall~~ provide a copy of a notice of change by certified mail or actual delivery to any person who requests it in writing no later than 21 days after the notice required in paragraph (a). The agency shall file the notice of change with

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

the committee, along with the reasons for the change, and provide the notice of change to persons requesting it, at least 21 days before ~~prior to~~ filing the proposed rule for adoption. The notice of change shall be published in the Florida Administrative Register at least 21 days before ~~prior to~~ filing the proposed rule for adoption. The notice of change must include a summary of any revision to a statement of estimated regulatory costs required by s. 120.541(1)(c). This subparagraph does not apply to emergency rules adopted pursuant to subsection (4). Material proposed to be incorporated by reference in the notice required by this subparagraph must be made available in the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

2. After the notice required by paragraph (a) and before ~~prior to~~ adoption, the agency may withdraw the proposed rule in whole or in part.

3. After the notice required by paragraph (a), the agency must withdraw the proposed rule if the agency has failed to adopt it within the prescribed timeframes in this chapter. The committee shall notify the agency that it has exceeded the timeframe to adopt the proposed rule. If, 30 days after notice by the committee, the agency has not given notice of the withdrawal of the rule, the committee must notify the Department of State that the date for adoption of the rule has expired, and the Department of State shall publish a notice of withdrawal of the proposed rule.

4.~~3.~~ After adoption and before the rule becomes effective, a rule may be modified or withdrawn only in the following circumstances:

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

a. When the committee objects to the rule;

b. When a final order, which is not subject to further appeal, is entered in a rule challenge brought pursuant to s. 120.56 after the date of adoption but before the rule becomes effective pursuant to subparagraph (e)6.;

c. If the rule requires ratification, when more than 90 days have passed since the rule was filed for adoption without the Legislature ratifying the rule, in which case the rule may be withdrawn but may not be modified; or

d. When the committee notifies the agency that an objection to the rule is being considered, in which case the rule may be modified to extend the effective date by not more than 60 days.

5.~~4.~~ The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published, shall notify those persons described in subparagraph (a)3. in accordance with the requirements of that subparagraph, and shall notify the Department of State if the rule is required to be filed with the Department of State.

6.~~5.~~ After a rule has become effective, it may be repealed or amended only through the rulemaking procedures specified in this chapter.

(e) *Filing for final adoption; effective date.*—

1. If the adopting agency is required to publish its rules in the Florida Administrative Code, the agency, upon approval of the agency head, must ~~shall~~ file with the Department of State three certified copies of the rule it proposes to adopt; one copy of any material incorporated by reference in the rule, certified by the agency; a summary of the rule; a summary of any

hearings held on the rule; and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required by this subparagraph, in the office of the agency head, and such rules shall be open to the public.

2. A rule may not be filed for adoption less than 28 days or more than 90 days after the notice required by paragraph (a), until 21 days after the notice of change required by paragraph (d), until 14 days after the final public hearing, until 21 days after a statement of estimated regulatory costs required under s. 120.541 has been provided to all persons who submitted a lower cost regulatory alternative and made available to the public at a readily accessible page on the agency's website, or until the administrative law judge has rendered a decision under s. 120.56(2), whichever applies. When a required notice of change is published before ~~prior to~~ the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after the date of publication. If notice of a public hearing is published before ~~prior to~~ the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. The term "public hearing" includes any public meeting held by any agency at which the rule is considered. If a petition for an administrative determination under s. 120.56(2) is filed, the

period during which a rule must be filed for adoption is extended to 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete.

3. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this paragraph have been complied with, that all statutory rulemaking requirements have been met, and that there is no administrative determination pending on the rule.

4. At the time a rule is filed, the committee shall certify whether the agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee. The Department of State shall reject any rule that is not filed within the prescribed time limits; that does not comply with all statutory rulemaking requirements and rules of the Department of State; upon which an agency has not responded in writing to all material and timely written inquiries or written comments; upon which an administrative determination is pending; or which does not include a statement of estimated regulatory costs, if required.

5. If a rule has not been adopted within the time limits imposed by this paragraph or has not been adopted in compliance with all statutory rulemaking requirements, the agency proposing the rule must ~~shall~~ withdraw the proposed rule and give notice of its action in the next available issue of the Florida Administrative Register.

6. The proposed rule shall be adopted upon ~~on~~ being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the notice required by

subparagraph (a)1., on a date required by statute, or upon ratification by the Legislature pursuant to s. 120.541(3). Rules not required to be filed with the Department of State shall become effective when adopted by the agency head, on a later date specified by rule or statute, or upon ratification by the Legislature pursuant to s. 120.541(3). If the committee notifies an agency that an objection to a rule is being considered, the agency may postpone the adoption of the rule to accommodate review of the rule by the committee. When an agency postpones adoption of a rule to accommodate review by the committee, the 90-day period for filing the rule is tolled until the committee notifies the agency that it has completed its review of the rule.

For the purposes of this paragraph, the term "administrative determination" does not include subsequent judicial review.

(4) EMERGENCY RULES.—

(e) Emergency rules shall be published in the Florida Administrative Code.

(f) An agency may not supersede an emergency rule currently in effect. Technical changes to an emergency rule may be made within the first 7 days after adoption of the rule.

(7) PETITION TO INITIATE RULEMAKING.—

(a) Any person regulated by an agency or having substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by this chapter. The petition shall specify the proposed rule and action requested. The agency shall file a copy of the petition with the committee. Not later than 30

calendar days following the date of filing a petition, the agency shall initiate rulemaking proceedings under this chapter, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

Section 3. Section 120.541, Florida Statutes, is amended to read:

120.541 Statement of estimated regulatory costs.—

(1)(a) Within 21 days after publication of the notice of a proposed rule or notice of change ~~required under s. 120.54(3)(a)~~, a substantially affected person may submit to an agency a good faith written proposal for a lower cost regulatory alternative to a proposed rule which substantially accomplishes the objectives of the law being implemented. The agency shall provide a copy of any proposal for a lower cost regulatory alternative to the committee at least 21 days before filing the rule for adoption. The proposal may include the alternative of not adopting any rule if the proposal explains how the lower costs and objectives of the law will be achieved by not adopting any rule. If submitted after a notice of change, a proposal for a lower cost regulatory alternative is deemed to be made in good faith only if the person reasonably believes, and the proposal states the person's reasons for believing, that the proposed rule as changed by the notice of change increases the regulatory costs or creates an adverse impact on small businesses which was not created by the previous proposed rule. If such a proposal is submitted, the 90-day period for filing the rule is extended 21 days. Upon the submission of the lower cost regulatory alternative, the agency shall prepare a statement of estimated regulatory costs as provided in subsection (2), or shall revise

its prior statement of estimated regulatory costs, and either adopt the alternative proposal, reject the alternative proposal, or modify the proposed rule to reduce the regulatory costs. If the agency rejects the alternative proposal or modifies the proposed rule, the agency must ~~or~~ provide a statement of the reasons for rejecting the alternative in favor of the proposed rule.

(b) If a proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate within 1 year after the implementation of the rule, the agency shall prepare a statement of estimated regulatory costs as required by s. 120.54(3)(b).

(c) The agency shall revise a statement of estimated regulatory costs if any change to the rule made under s. 120.54(3)(d) increases the regulatory costs of the rule or if the rule is modified in response to the submission of a lower cost regulatory alternative. A summary of the revised statement must be included with any subsequent notice published under s. 120.54(3).

(d) At least 21 days before filing the proposed rule for adoption, an agency that is required to revise a statement of estimated regulatory costs shall provide the statement to the person who submitted the lower cost regulatory alternative, to the rules ombudsman in the Executive Office of the Governor, and to the committee. The revised statement shall be published and made available in the same manner as the original statement of estimated regulatory costs ~~and shall provide notice on the agency's website that it is available to the public~~.

(e) Notwithstanding s. 120.56(1)(c), the failure of the agency to prepare and publish a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative as provided in this subsection is a material failure to follow the applicable rulemaking procedures or requirements set forth in this chapter.

(f) An agency's failure to prepare a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative may not be raised in a proceeding challenging the validity of a rule pursuant to s. 120.52(8)(a) unless:

1. Raised in a petition filed no later than 1 year after the effective date of the rule; and

2. Raised by a person whose substantial interests are affected by the rule's regulatory costs.

(g) A rule that is challenged pursuant to s. 120.52(8)(f) may not be declared invalid unless:

1. The issue is raised in an administrative proceeding within 1 year after the effective date of the rule;

2. The challenge is to the agency's rejection of a lower cost regulatory alternative offered under paragraph (a) or s. 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

3. The substantial interests of the person challenging the rule are materially affected by the rejection.

(2) A statement of estimated regulatory costs must ~~shall~~ include:

(a) An economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth,

private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule;

2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within 5 years after the implementation of the rule; or

3. Is likely to increase regulatory costs, including all ~~any transactional~~ costs and impacts estimated in the statement, in excess of $1 million in the aggregate within 5 years after the implementation of the rule.

(b) A good faith estimate of the number of individuals, small businesses, and other entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(c) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.

(d) A good faith estimate of the compliance ~~transactional~~ costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. ~~As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures~~

~~required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.~~

(e) An analysis of the impact on small businesses as defined by s. 288.703, and an analysis of the impact on small counties and small cities as defined in s. 120.52. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

(f) Any additional information that the agency determines may be useful.

(g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

(3) If the adverse impact or regulatory costs of the rule exceed any of the criteria established in paragraph (2)(a), the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days before ~~prior to~~ the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.

(4) Subsection (3) does not apply to the adoption of:

(a) Federal standards pursuant to s. 120.54(6).

(b) Triennial updates of and amendments to the Florida Building Code which are expressly authorized by s. 553.73.

(c) Triennial updates of and amendments to the Florida Fire Prevention Code which are expressly authorized by s. 633.202.

(d) Emergency rules adopted pursuant to s. 120.54(4).

(5) For purposes of subsections (2) and (3), adverse impacts and regulatory costs likely to occur within 5 years after implementation of the rule include adverse impacts and regulatory costs estimated to occur within 5 years after the effective date of the rule. However, if any provision of the rule is not fully implemented upon the effective date of the rule, the adverse impacts and regulatory costs associated with such provision must be adjusted to include any additional adverse impacts and regulatory costs estimated to occur within 5 years after implementation of such provision.

(6)(a) In evaluating the impacts described in paragraphs (2)(a) and (2)(e), an agency shall include good faith estimates of market impacts likely to result from compliance with the proposed rule, including:

1. Increased customer charges for goods or services.

2. Decreased market value of goods or services produced, provided, or sold.

3. Increased costs resulting from the purchase of substitute or alternative goods or services.

4. The reasonable value of time to be spent by owners, officers, operators, and managers to understand and comply with the proposed rule, including, but not limited to, time to be spent to complete required education, training, or testing.

5. Capital costs.

6. Any other impacts suggested by the rules ombudsman in the Executive Office of the Governor or interested persons.

(b) In estimating and analyzing the information required in paragraphs (2)(b)-(e), the agency may use surveys of

individuals, businesses, business organizations, counties, or municipalities to collect data useful to estimate and analyze the costs and impacts.

(c) In estimating compliance costs under paragraph (2)(d), the agency shall consider, among other matters, all direct and indirect costs necessary to comply with the proposed rule which are readily ascertainable based upon standard business practices, including, but not limited to, costs related to:

1. Filing fees.

2. Expenses to obtain a license.

3. Necessary equipment.

4. Installation, utilities, and maintenance of necessary equipment.

5. Necessary operations and procedures.

6. Accounting, financial, information management, and other administrative processes.

7. Other processes.

8. Labor based on relevant rates of wages, salaries, and benefits.

9. Materials and supplies.

10. Capital expenditures, including financing costs.

11. Professional and technical services, including contracted services necessary to achieve and maintain compliance.

12. Monitoring and reporting.

13. Qualifying and recurring education, training, and testing.

14. Travel.

15. Insurance and surety requirements.

16. A fair and reasonable allocation of administrative costs and other overhead.

17. Reduced sales or other revenues.

18. Other items suggested by the rules ombudsman in the Executive Office of the Governor or any interested person, business organization, or business representative.

(7)(a) The Department of State shall include on the Florida Administrative Register website the agency website addresses where statements of estimated regulatory costs can be viewed in their entirety.

(b) As part of the notice required under s. 120.54(3)(a), an agency that prepares a statement of estimated regulatory costs must provide to the Department of State for publication in the Florida Administrative Register the agency website address where the statement of estimated regulatory costs can be read in its entirety.

(c) If an agency revises its statement of estimated regulatory costs, the agency must provide notice that a revision has been made as provided in s. 120.54(3)(d). Such notice must include the agency website address where the revision can be viewed in its entirety.

Section 4. Section 120.5435, Florida Statutes, is created to read:

120.5435 Repromulgation of rules.—

(1) It is the intent of the Legislature that each agency periodically review its rules for consistency with the powers and duties granted by its enabling statutes.

(2) If an agency determines after review that substantive changes to update a rule are not required, the agency must

repromulgate the rule to reflect the date of the review. Each agency shall review its rules pursuant to this section either 5 years after July 1, 2022, if the rule was adopted before January 1, 2014, or 10 years after the rule was adopted, if the rule was adopted on or after January 1, 2014. Failure of an agency to adhere to the deadlines imposed in this section constitutes the repeal of any affected rule. In the event of such a failure, the committee shall notify the Department of State that the agency, by its failure to repromulgate the affected rule, has elected to repeal the rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Register. Upon publication of the notice, the rule shall be stricken from the files of the Department of State and the files of the agency.

(3) Before repromulgation of a rule, the agency must, upon approval by the agency head or his or her designee:

(a) Publish a notice of repromulgation in the Florida Administrative Register. A notice of repromulgation is not required to include the text of the rule being repromulgated.

(b) File the rule for repromulgation with the Department of State. A rule may not be filed for repromulgation fewer than 28 days, nor more than 90 days, after the date of publication of the notice required by paragraph (a).

(4) The agency shall file a notice of repromulgation with the committee at least 14 days before filing the rule for repromulgation. At the time the rule is filed for repromulgation, the committee shall certify whether the agency has responded in writing to all material and timely written

comments or written inquiries made on behalf of the committee.

(5) A repromulgated rule is not subject to challenge as a proposed rule pursuant to s. 120.56(2).

(6) The hearing requirements of s. 120.54 do not apply to repromulgation of a rule.

(7)(a) The agency, upon approval of the agency head or his or her designee, shall file with the Department of State three certified copies of the repromulgated rule it proposes to adopt and one certified copy of any material incorporated by reference in the rule.

(b) The repromulgated rule shall be adopted upon filing with the Department of State and becomes effective 20 days after the date it is filed.

(c) The Department of State shall update the history note of the rule in the Florida Administrative Code to reflect the effective date of the repromulgated rule.

(8) The Department of State shall adopt rules to implement this section by December 31, 2022.

Section 5. Subsection (1) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each existing rule and proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2), and its accompanying material, and each emergency rule, ~~and may examine any existing rule,~~ for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority.

(b) The statutory authority for the rule has been repealed.

(c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given before ~~prior to~~ its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

(f) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(i) The rule could be made less complex or more easily comprehensible to the general public.

(j) The rule's statement of estimated regulatory costs complies with the requirements of s. 120.541 and whether the rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the adoption of such rule, the agency is within its statutory authority, and the rule was adopted in compliance with the requirements and limitations of s. 120.54(4).

Section 6. Paragraphs (a) and (c) of subsection (1) of section 120.55, Florida Statutes, are amended to read:

120.55 Publication.—

(1) The Department of State shall:

(a)1. Through a continuous revision and publication system, compile and publish electronically, on a website managed by the department, the "Florida Administrative Code." The Florida Administrative Code shall contain all rules adopted by each agency, citing the grant of rulemaking authority and the specific law implemented pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(7), complete indexes to all rules contained in the code, and any other material required or authorized by law or deemed useful by the department. The electronic code shall display each rule chapter currently in effect in browse mode and allow full text search of the code and each rule chapter. The department may contract with a publishing firm for a printed publication; however, the department shall retain responsibility for the code as provided in this section. The electronic publication shall be the official compilation of the administrative rules of this state. The Florida Administrative Code shall be published once daily by 8 a.m. If, after publication, a rule is corrected and replaced, the Florida Administrative Code must indicate:

a. That the Florida Administrative Code has been republished.

b. The rule that has been corrected by the Department of State.

The Department of State shall retain the copyright over the

Florida Administrative Code.

2. Not publish in the Florida Administrative Code rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or state university rules relating to internal personnel or business and finance ~~shall not be published in the Florida Administrative Code~~. Exclusion from publication in the Florida Administrative Code does ~~shall~~ not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, ~~the department shall~~ publish the address and telephone number of the executive offices of each agency, the manner by which the agency indexes its rules, a listing of all rules of that agency excluded from publication in the code, and a statement as to where those rules may be inspected.

4. Not publish forms ~~shall not be published~~ in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52 shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained. Each form created by an agency which is incorporated by reference in a rule notice of which is given under s. 120.54(3)(a) after December 31, 2007, must clearly display the number, title, and effective date of

the form and the number of the rule in which the form is incorporated.

5. Require all materials incorporated by reference in any part of an adopted rule and in any part of a repromulgated rule ~~The department shall allow adopted rules and material incorporated by reference~~ to be filed in the manner prescribed by s. 120.54(1)(i)3.a. or s. 120.54(1)(i)3.b. ~~electronic form as prescribed by department rule.~~ When a rule is filed for adoption or repromulgation with incorporated material in electronic form, the department's publication of the Florida Administrative Code on its website must contain a hyperlink from the incorporating reference in the rule directly to that material. The department may not allow hyperlinks from rules in the Florida Administrative Code to any material other than that filed with and maintained by the department, but may allow hyperlinks to incorporated material maintained by the department from the adopting agency's website or other sites.

6. Include the date of any technical changes to a rule in the history note of the rule in the Florida Administrative Code. A technical change does not affect the effective date of the rule.

(c) Prescribe by rule the style and form required for rules, notices, and other materials submitted for filing, including a rule requiring documents created by an agency which are proposed to be incorporated by reference in notices published pursuant to s. 120.54(3)(a) and (d) to be coded in the same manner as notices published pursuant to s. 120.54(3)(a)1.

Section 7. Subsection (1) and paragraph (a) of subsection (2) of section 120.74, Florida Statutes, are amended to read:

120.74 Agency annual rulemaking and regulatory plans; reports.—

(1) REGULATORY PLAN.—By October 1 of each year, each agency shall prepare a regulatory plan.

(a) The plan must include a listing of each law enacted or amended during the previous 12 months which creates or modifies the duties or authority of the agency. If the Governor or the Attorney General provides a letter to the committee stating that a law affects all or most agencies, the agency may exclude the law from its plan. For each law listed by an agency under this paragraph, the plan must state:

1. Whether the agency must adopt rules to implement the law.

2. If rulemaking is necessary to implement the law:

a. Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register.

b. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a).

3. If rulemaking is not necessary to implement the law, a concise written explanation of the reasons why the law may be implemented without rulemaking.

(b) The plan must also identify and describe each rule, including each rule number or proposed rule number, ~~include a listing of each law not otherwise listed pursuant to paragraph (a)~~ which the agency expects to develop, adopt, or repeal for the 12-month period beginning on October 1 and ending on September 30 ~~implement by rulemaking before the following July 1~~, excluding emergency rules ~~except emergency rulemaking~~. For

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

each rule ~~law~~ listed under this paragraph, the plan must state whether the rulemaking is intended to simplify, clarify, increase efficiency, improve coordination with other agencies, reduce regulatory costs, or delete obsolete, unnecessary, or redundant rules.

(c) The plan must include any desired update to the prior year's regulatory plan or supplement published pursuant to subsection (7). If, in a prior year, a law was identified under this paragraph or under subparagraph (a)1. as a law requiring rulemaking to implement but a notice of proposed rule has not been published:

1. The agency shall identify and again list such law, noting the applicable notice of rule development by citation to the Florida Administrative Register; or

2. If the agency has subsequently determined that rulemaking is not necessary to implement the law, the agency shall identify such law, reference the citation to the applicable notice of rule development in the Florida Administrative Register, and provide a concise written explanation of the reason why the law may be implemented without rulemaking.

(d) The plan must identify any rules required to be repromulgated pursuant to s. 120.5435 for the 12-month period beginning on October 1 and ending on September 30.

(e)~~(d)~~ The plan must include a certification executed on behalf of the agency by both the agency head, or, if the agency head is a collegial body, the presiding officer; and the individual acting as principal legal advisor to the agency head. The certification must declare:

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

1. ~~Verify~~ That the persons executing the certification have reviewed the plan.

2. ~~Verify~~ That the agency regularly reviews all of its rules and identify the period during which all rules have most recently been reviewed to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented.

3. That the agency understands that regulatory accountability is necessary to ensure public confidence in the integrity of state government and, to that end, the agency is diligently working toward lowering the total number of rules adopted.

4. The total number of rules adopted and repealed during the previous 12 months.

(2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

(a) By October 1 of each year, each agency shall:

1. Publish its regulatory plan on its website or on another state website established for publication of administrative law records. A clearly labeled hyperlink to the current plan must be included on the agency's primary website homepage.

2. Electronically deliver to the committee a copy of the certification required in paragraph (1)(e) ~~(1)(d)~~.

3. Publish in the Florida Administrative Register a notice identifying the date of publication of the agency's regulatory plan. The notice must include a hyperlink or website address providing direct access to the published plan.

Section 8. Subsection (11) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, the enlistment, organization, administration, equipment, maintenance, training, and discipline of the militia, National Guard, organized militia, and unorganized militia, as provided by s. 2, Art. X of the State Constitution, are not rules as defined by this chapter.

Section 9. Paragraph (c) of subsection (1) of section 120.81, Florida Statutes, is amended to read:

120.81 Exceptions and special requirements; general areas.—

(1) EDUCATIONAL UNITS.—

(c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 1003.4282, s. 1008.22, or s. 1008.25, or any other statewide educational tests required by law, are not rules.

Section 10. Paragraph (a) of subsection (1) of section 420.9072, Florida Statutes, is amended to read:

420.9072 State Housing Initiatives Partnership Program.—The State Housing Initiatives Partnership Program is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment.

(1)(a) In addition to the legislative findings set forth in s. 420.6015, the Legislature finds that affordable housing is most effectively provided by combining available public and

private resources to conserve and improve existing housing and provide new housing for very-low-income households, low-income households, and moderate-income households. The Legislature intends to encourage partnerships in order to secure the benefits of cooperation by the public and private sectors and to reduce the cost of housing for the target group by effectively combining all available resources and cost-saving measures. The Legislature further intends that local governments achieve this combination of resources by encouraging active partnerships between government, lenders, builders and developers, real estate professionals, advocates for low-income persons, and community groups to produce affordable housing and provide related services. Extending the partnership concept to encompass cooperative efforts among small counties as defined in s. 120.52 ~~s. 120.52(19)~~, and among counties and municipalities is specifically encouraged. Local governments are also intended to establish an affordable housing advisory committee to recommend monetary and nonmonetary incentives for affordable housing as provided in s. 420.9076.

Section 11. Subsection (7) of section 420.9075, Florida Statutes, is amended to read:

420.9075 Local housing assistance plans; partnerships.—

(7) The moneys deposited in the local housing assistance trust fund shall be used to administer and implement the local housing assistance plan. The cost of administering the plan may not exceed 5 percent of the local housing distribution moneys and program income deposited into the trust fund. A county or an eligible municipality may not exceed the 5-percent limitation on administrative costs, unless its governing body finds, by

resolution, that 5 percent of the local housing distribution plus 5 percent of program income is insufficient to adequately pay the necessary costs of administering the local housing assistance plan. The cost of administering the program may not exceed 10 percent of the local housing distribution plus 5 percent of program income deposited into the trust fund, except that small counties, as defined in s. 120.52 ~~s. 120.52(19)~~, and eligible municipalities receiving a local housing distribution of up to $350,000 may use up to 10 percent of program income for administrative costs.

Section 12. Paragraph (d) of subsection (1) of section 443.091, Florida Statutes, is amended to read:

443.091 Benefit eligibility conditions.—

(1) An unemployed individual is eligible to receive benefits for any week only if the Department of Economic Opportunity finds that:

(d) She or he is able to work and is available for work. In order to assess eligibility for a claimed week of unemployment, the department shall develop criteria to determine a claimant's ability to work and availability for work. A claimant must be actively seeking work in order to be considered available for work. This means engaging in systematic and sustained efforts to find work, including contacting at least five prospective employers for each week of unemployment claimed. The department may require the claimant to provide proof of such efforts to the one-stop career center as part of reemployment services. A claimant's proof of work search efforts may not include the same prospective employer at the same location in 3 consecutive weeks, unless the employer has indicated since the time of the

initial contact that the employer is hiring. The department shall conduct random reviews of work search information provided by claimants. As an alternative to contacting at least five prospective employers for any week of unemployment claimed, a claimant may, for that same week, report in person to a one-stop career center to meet with a representative of the center and access reemployment services of the center. The center shall keep a record of the services or information provided to the claimant and shall provide the records to the department upon request by the department. However:

1. Notwithstanding any other provision of this paragraph or paragraphs (b) and (e), an otherwise eligible individual may not be denied benefits for any week because she or he is in training with the approval of the department, or by reason of s. 443.101(2) relating to failure to apply for, or refusal to accept, suitable work. Training may be approved by the department in accordance with criteria prescribed by rule. A claimant's eligibility during approved training is contingent upon satisfying eligibility conditions prescribed by rule.

2. Notwithstanding any other provision of this chapter, an otherwise eligible individual who is in training approved under s. 236(a)(1) of the Trade Act of 1974, as amended, may not be determined ineligible or disqualified for benefits due to enrollment in such training or because of leaving work that is not suitable employment to enter such training. As used in this subparagraph, the term "suitable employment" means work of a substantially equal or higher skill level than the worker's past adversely affected employment, as defined for purposes of the Trade Act of 1974, as amended, the wages for which are at least

80 percent of the worker's average weekly wage as determined for purposes of the Trade Act of 1974, as amended.

3. Notwithstanding any other provision of this section, an otherwise eligible individual may not be denied benefits for any week because she or he is before any state or federal court pursuant to a lawfully issued summons to appear for jury duty.

4. Union members who customarily obtain employment through a union hiring hall may satisfy the work search requirements of this paragraph by reporting daily to their union hall.

5. The work search requirements of this paragraph do not apply to persons who are unemployed as a result of a temporary layoff or who are claiming benefits under an approved short-time compensation plan as provided in s. 443.1116.

6. In small counties as defined in s. 120.52 ~~s. 120.52(19)~~, a claimant engaging in systematic and sustained efforts to find work must contact at least three prospective employers for each week of unemployment claimed.

7. The work search requirements of this paragraph do not apply to persons required to participate in reemployment services under paragraph (e).

Section 13. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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

3/1/2022
Meeting Date

SB 536
Bill Number or Topic

Rules
Committee

Amendment Barcode (if applicable)

Name Christian Camara

Phone 305.608 4300

Address PO Box 122
Street

Email

Tallahassee FL 32302
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:
Institute for Justice

☐ 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

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 538
INTRODUCER:	Rules Committee and Senator Hooper
SUBJECT:	Private Instructional Personnel Providing Applied Behavior Analysis Services
DATE:	March 2, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazesi	Bouck	ED	**Favorable**
2.	Smith	Brown	HP	**Favorable**
3.	Palazesi	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 538 expands the definition of "private instruction personnel," for purposes of allowing such personnel to provide services in public schools, to include a registered behavior technician who holds a nationally recognized paraprofessional certification in behavior analysis. The bill authorizes the registered behavior technician to practice in a public school under the supervision of a Board Certified Behavior Analyst or an individual licensed under ch. 490 or 491, F.S., and who is employed by an enrolled Medicaid provider ., for applied behavior analysis services, by assisting and supporting such an individual in the provision of those services.

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

II. Present Situation:

Applied Behavior Analysis Services

Behavior Analysis measures outcomes through data collection and the direct observation of behavior.[1] Applied Behavior Analysis (ABA) is the use of principled methods of behavior

[1] Florida Association for Behavior Analysis, *What is Behavior Analysis?*, https://www.fabaworld.org/what-is-behavior-analysis (last visited Jan. 10, 2022).

analysis to bring about meaningful changes in socially important behaviors.[2] ABA is best known for its success in treating individuals with autism spectrum disorder and other developmental disabilities.[3] Florida law defines ABA as "the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including but not limited to, the use of direct observation, measurement, and functional analysis of the relations between environment and behavior."[4]

ABA Service Providers and Certification

Florida's Agency for Persons with Disabilities (APD) is required to recognize a non-profit corporation for the certification of behavior analysts. The non-profit corporation is required to:[5]

- Adhere to the national standards of boards that determine professional credentials; and
- Have a mission to meet professional credentialing needs identified by behavior analysts, state governments, and consumers of behavior analysis services.

Further, the certification procedure recognized by the APD must undergo regular psychometric review and validation, pursuant to a job analysis survey of the profession and standards established by content experts in the field.[6] The APD recognizes the certification awarded by the Behavior Analyst Certification Board, Inc.,[7] which certifies the three provider types: Board Certified Behavior Analysts, Board Certified Assistant Behavior Analysts, and Registered Behavior Technicians.

The Behavior Analyst Certification Board's requirements for certification are outlined below:

- Board Certified Behavior Analyst (BCBAs):[8]
  - At least a master's degree in applied behavior analysis or a closely-related field;
  - Completion of 270 hours of graduate-level instruction in specified behavior analysis topics;
  - Completion of specified hours of supervised experiential training in ABA; and,
  - Passage of the BCBA examination.
- Board Certified Assistant Behavior Analyst (BCaBAs):[9]
  - At least a bachelor's degree;
  - Completion of 180 classroom hours of instruction in specified behavior analysis topics;
  - Completion of specified hours of supervised experiential training in ABA; and,

---

[2] Association of Professional Behavior Analysts, *Identifying Applied Behavior Analysis Interventions white paper, (2017), available at* https://cdn.ymaws.com/www.apbahome.net/resource/collection/1FDDBDD2-5CAF-4B2A-AB3F-DAE5E72111BF/APBAwhitepaperABAinterventions.pdf, at 16 (last visited Jan. 10, 2022).
[3] Behavior Analyst Certification Board, *Autism & Intellectual/Development Disabilities*, https://www.bacb.com/wp-content/uploads/2020/05/Behavioral-Treatment-of-Autism-and-Other-Developmental-Disabilities-Fact-Sheet_210108.pdf (last visited Jan. 10, 2022).
[4] Sections 627.6686(2)(a), F.S. and 641.31098(2)(a), F.S.
[5] Section 393.17(2), F.S.
[6] *Id.*
[7] Rule 65G-4.0011, F.A.C.
[8] Behavior Analyst Certification Board, *Board Certified Behavior Analyst Handbook*, https://www.bacb.com/wp-content/uploads/2021/09/BCBAHandbook_210915-2.pdf (last visited Jan. 10, 2022).
[9] Behavior Analyst Certification Board, *Board Certified Assistant Behavior Analyst Handbook*, https://www.bacb.com/wp-content/uploads/2021/09/BCaBAHandbook_210915-2.pdf (last visited Jan. 10, 2022).

- Passage of the BCaBA examination.

- Registered Behavior Technician (RBTs):[10]
  - At least a high school diploma;
  - Be at least 18 years old;
  - Completion of 40 hours of training in specified behavior analysis topics;
  - Completion of the RBT competency assessment; and
  - Passage of the RBT examination.

The RBT is a paraprofessional certified in behavior analysis. RBTs may assist in delivering ABA services under the direction and supervision of a BCBA or a BCaBA.[11]

Medicaid Coverage of ABA Services

Florida Medicaid has covered ABA services since 2012.[12] In 2017, the Agency for Health Care Administration (AHCA) adopted a provider reimbursement rule, setting a formal classification for ABA providers that closely follows the certification hierarchy of the BCBA. The rule established "lead analysts" as those professionals either holding a BCBA certification or professionals licensed by the state under chapters 490 or 491. The rule also recognizes other personnel who are permitted to provide ABA services, such as those holding BCaBA credentials and RBT credentials.[13]

To enroll as a behavior analysis provider in Florida's Medicaid Program, a provider must submit an enrollment application along with documentation of proof of certification, which is then evaluated and verified by AHCA.[14] Depending on the type of BCBA certification, a provider may apply as a sole proprietor or a sole proprietor enrolling as a member of a group.[15] An RBT may only apply as a sole proprietor enrolling as a member of a Medicaid-enrolled behavior analysis group and AHCA requires a behavior analysis group to have at least one lead analyst as a group member.[16]

Florida's Agency for Persons with Disabilities (APD) requires all providers of behavior analysis services in the Medicaid home and community based waiver program to be licensed to practice

[10]Behavior Analyst Certification Board, *Registered Behavior Technician Handbook*, https://www.bacb.com/wp-content/uploads/2021/09/RBTHandbook_210915-3.pdf (last visited Jan. 10, 2022).
[11] *Id.*
[12] *See* The Florida Bar Foundation, *Federal judge orders state of Florida to cover applied behavioral analysis therapy for autism*, (July 1, 2012), https://thefloridabarfoundation.org/federal-judge-orders-state-of-florida-to-cover-applied-behavioral-analysis-therapy-for-autism/ (last visited Feb. 21, 2022).
[13] Rule 59G-4.125, F.A.C.
[14] Agency for Health Care Administration, *Enrolling as a Florida Medicaid Behavior Analysis Provider* (April 25, 2019), at 9, *available at* https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/behavioral_health_coverage/bhfu/pdf/Enrolling_as_a_Florida_Medicaid_Behavior_Analysis_Provider.pdf.; A Medicaid Provider Enrollment Level 2 background screening is also required.
[15] *Id.* at 13.
[16] *Id.* at 12-21.

under chapters 490[17] or 491,[18] or be certified by a nonprofit corporation that adheres to the national standards of boards that determine professional credentials and whose mission is to meet professional credentialing needs identified by behavior analysts, state governments, and consumers of behavior analysis services.[19] The APD recognizes the certification for behavior analysts awarded by the BACB.[20]

ABA Services in Florida's Public Schools

In an educational setting, behavior analysis provides a scientific approach to designing, implementing, and evaluating instruction based on analyzing interactions between what the teacher does and student learning.[21]

Section 1003.572, F.S., was created in 2013,[22] to encourage cooperation and coordination of services for students with disabilities through public and private instructional collaboration. Private instructional personnel who are hired by or contracted by parents to collaborate with public instructional personnel must be permitted to observe the student in the educational setting, act as a team with instructional personnel in the educational setting, and provide services in the educational setting.[23] Private instructional personnel must undergo a background screening, and the student's public instructional personnel and principal must consent to the time and place.[24]

Section 1003.572, F.S., defines term "private instructional personnel" to include:[25]

- Individuals certified under s. 393.17, F.S., (a Board Certified Behavior Analyst) or individuals licensed under ch. 490, F.S.,[26] or ch. 491, F.S.,[27] for applied behavior analysis services.
- Speech-language pathologists licensed under s. 468.1185, F.S.
- Occupational therapists licensed under part III of ch. 468, F.S.
- Physical therapists licensed under ch. 486, F.S.
- Psychologists licensed under ch. 490, F.S.

[17] Chapter 490, "Psychological Services Act" regulates psychological services in the state of Florida, including but not limited to, the process and requirements to become a Florida Department of Health licensed psychologist, defining the scope of practice of psychology, and the continuing education requirements of a licensed psychologist.
[18] Chapter 491, regulates mental health counseling, clinical social work, and marriage and family therapy, including but not limited to the process and requirements to become a Florida Department of Health licensed marriage and family therapist, clinical social worker,
and mental health counselor.
[19] Section 393.17(2), F.S. and rule 65G-4.0011, F.A.C.
[20] Rule 65G-4.0011, F.A.C.
[21] Behavior Analyst Certification Board, *Behavior Analysis in Education*, https://www.bacb.com/wp-content/uploads/2020/05/Behavior-Analysis-in-Education-Fact-Sheet_210108.pdf (last visited Jan. 10, 2022).
[22] Section 5, ch. 2013-236, L.O.F.
[23] Section 1003.572(3), F.S.
[24] *Id.*
[25] Section 1003.572(1), F.S.
[26] Chapter 490, "Psychological Services Act" regulates psychological services in the state of Florida, including but not limited to, the process and requirements to become a Florida Department of Health licensed psychologist, defining the scope of practice of psychology, and the continuing education requirements of a licensed psychologist.
[27] Chapter 491, regulates mental health counseling, clinical social work, and marriage and family therapy, including but not limited to the process and requirements to become a Florida Department of Health licensed marriage and family therapist, clinical social worker, and mental health counselor.

- Clinical social workers licensed under ch. 491, F.S.

The statute does not expressly address other behavior analysis professionals, such as BCaBAs or RBTs.

III. Effect of Proposed Changes:

CS/SB 538 expands the definition of "private instruction personnel" for purposes of allowing such personnel to provide services in public schools. The definition is expanded to include a registered behavior technician who holds a nationally recognized paraprofessional certification in behavior analysis.

The bill adds an Registered Behavior Technician (RBT) who holds a nationally recognized paraprofessional certification in behavior analysis, who practices under the supervision of either certified behavior analysts or professionals licensed under chapter 490 or chapter 491, F.S., and who is employed by an enrolled Medicaid provider, to the list of private instructional personnel who must be allowed to provide ABA services in a K-12 public school.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.572 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 March 1, 2022:
The committee substitute requires that registered behavior technicians utilized for applied behavior services in the classroom be employed by an enrolled Medicaid provider.

B. Amendments:

None.

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

822046

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2022	.	
	.	
	.	
	.	

The Committee on Rules (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete line 23

and insert:

the provision of applied behavior analysis services. To provide services under this section, the registered behavior technician must be employed by an enrolled Medicaid provider.

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

And the title is amended as follows:

Delete line 6

822046

and insert:

registered behavior technicians; requiring a registered behavior technician to meet specified requirements to provide services; providing an

By Senator Hooper

16-00652A-22 2022538__

A bill to be entitled

An act relating to private instructional personnel providing applied behavior analysis services; amending s. 1003.572, F.S.; revising the definition of the term "private instructional personnel" to include certain registered behavior technicians; providing an effective date.

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

Section 1. Present paragraphs (b) through (f) of subsection (1) of section 1003.572, Florida Statutes, are redesignated as paragraphs (c) through (g), respectively, and a new paragraph (b) is added to that subsection, to read:

1003.572 Collaboration of public and private instructional personnel.—

(1) As used in this section, the term "private instructional personnel" means:

(b) Registered behavior technicians who have a nationally recognized paraprofessional certification in behavior analysis and who practice under the supervision of individuals described in paragraph (a) by assisting and supporting such individuals in the provision of applied behavior analysis services.

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

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 13, 2022

I respectfully request that **Senate Bill # 538**, relating to Private Instructional Personnel Providing Applied Behavior Analysis Services, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

This bill expands the definition of "private instruction personnel" to include a registered behavioral technician who holds a nationally recognized paraprofessional certification in behavior analysis. The purpose is to allow these services in public schools.



Senator Ed Hooper
Florida Senate, District 16

File signed original with committee office

The Florida Senate

APPEARANCE RECORD

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

3-1-22
Meeting Date

Rules
Committee

SB 538
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Steve Coleman
Florida Association for Behavior Analysis

Phone 904-635-7155

Address 618 Hillcrest St.
Street

Email steve_coleman@fabaworld.org

Tallahassee FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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538 / 955

3/1/22
Meeting Date

Rules
Committee

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Ungru

Phone 8509994100

Address 106 E College
Street

Email jungru@deanmead.com

Tall 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: Positive Behavior Supports

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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:	CS/CS/SB 718
INTRODUCER:	Rules Committee, Health Policy Committee and Senator Bradley
SUBJECT:	Provision of Health Care
DATE:	March 1, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.	Howard	Sadberry	AP	**Favorable**
3.	Looke	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 718 amends two sections of the Florida Statues, regarding authorization for unlicensed persons to assist patients or residents in the self-administration of medication in home health settings and in assisted living facilities (ALF), respectively, to allow an unlicensed person in a home health setting to assist a patient with the same kinds of self-administration of medication tasks that are allowed in an ALF. Additionally, the bill reorganizes several of the items currently listed under the self-administration of medication into a new category labeled as "other tasks" in both sections.

The bill also makes changes to several sections of the Florida Statutes regarding the treatment of prefilled insulin syringes or pens to allow unlicensed persons to bring such syringe or pen to a patient or resident from where it is stored in a home health setting or in an ALF, and to allow registered nurses to delegate the administration of insulin which is prefilled into such syringe or pen to a certified nursing assistant (CNA) or home health aide and to delegate other specified tasks to a CNA or home health aide in a local county detention facility.

The bill also amends several sections of the Florida Statutes relating to the transport of patients by Basic (BLS) and Advanced Life Support (ALS) services to require that permitted ALS ambulances be occupied by at least two specified medical personnel when conducting interfacility transfers of patients and to make conforming changes.

The bill will have no fiscal impact on state government.

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

II. Present Situation:

Home Health Agencies

A "home health agency" is an organization that provides home health services.[1] Home health services are health and medical services and supplies furnished to an individual in the individual's home or place of residence.[2]

Home health aides[3] and certified nursing assistants[4] (CNAs) are unlicensed health care workers employed by a home health agency to provide personal care[5] to patients and assist them with the following activities of daily living:

- Ambulation;
- Bathing;
- Dressing;
- Eating;
- Personal hygiene;
- Toileting;
- Physical transferring;
- Assistance with self-administered medication; and
- Administering medications.[6]

Assisting with the Self-Administration of Medication in a Home Health Setting

Section 400.488, F.S., allows an unlicensed person, defined as an individual not currently licensed to practice nursing or medicine who is employed by or under contract to a home health agency and who has received training with respect to assisting with the self-administration of medication as provided by the Agency for Health Care Administration (AHCA) rule,[7] to assist a patient with the self-administration of his or her medications. The assistance with self-medication by an unlicensed person may occur only upon a documented request by, and the

[1] Section 400.462(12), F.S.
[2] Section 400.462(15), F.S., home health services include the following: nursing care; physical, occupational, respiratory, or speech therapy; home health aide services; dietetics and nutrition practice and nutrition counseling; and medical supplies, restricted to drugs and biologics prescribed by a physician.
[3] Section 400.462(14), F.S., a home health aide is a person who is trained or qualified, as provided by rule, and who provides hands-on personal care, performs simple procedures as an extension of therapy or nursing services, assists in ambulation or exercises, assists in administering medications as permitted in rule and for which the person has received training established by the agency, or performs tasks delegated to him or her under ch. 464, F.S.
[4] Section 464.201(3), F.S., a CNA is a person who meets the qualifications of part II of ch. 464, F.S., and who is certified by the Board of Nursing as a certified nursing assistant.
[5] Section 400.462(23), F.S., defines "personal care" as assistance to a patient in the activities of daily living, such as dressing, bathing, eating, or personal hygiene, and assistance in physical transfer, ambulation, and in administering medications as permitted by rule.
[6] Rule 59A-8.002(3), F.A.C.
[7] Rule 59A-8.0095, F.A.C., requires CNAs and home health aides to receive 2 hours of training prior to assisting with the self-administration of medication.

written informed consent of, a patient or the patient's surrogate, guardian, or attorney in fact and includes:

- Taking the medication, in its previously dispensed, properly labeled container, from where it is stored and bringing it to the patient.
- In the presence of the patient, confirming that the medication is intended for that patient, orally advising the patient of the medication name and purpose, opening the container, removing a prescribed amount of medication from the container, and closing the container.
- Placing an oral dosage in the patient's hand or placing the dosage in another container and helping the patient by lifting the container to his or her mouth.
- Applying topical medications, including routine preventive skin care and applying and replacing bandages for minor cuts and abrasions as provided by the AHCA in rule.
- Returning the medication container to proper storage.
- For nebulizer treatments, assisting with setting up and cleaning the device in the presence of the patient, confirming that the medication is intended for that patient, orally advising the patient of the medication name and purpose, opening the container, removing the prescribed amount for a single treatment dose from a properly labeled container, and assisting the patient with placing the dose into the medicine receptacle or mouthpiece.
- Keeping a record of when a patient receives assistance with self-administration under this section.

The section specifies that assistance with the self-administration of medications does not include:

- Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.
- The preparation of syringes for injection or the administration of medications by any injectable route.
- Administration of medications through intermittent positive pressure breathing machines or a nebulizer.
- Administration of medications by way of a tube inserted in a cavity of the body.
- Administration of parenteral preparations.
- Irrigations or debriding agents used in the treatment of a skin condition.
- Rectal, urethral, or vaginal preparations.
- Medications ordered by the physician or health care professional with prescriptive authority to be given "as needed," unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and at the request of a competent patient.
- Medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

Assisted Living Facilities

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or

more adults who are not relatives of the owner or administrator.[8] A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.[9] Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.[10]

An ALF is required to provide care and services that are appropriate to the needs of the residents who are accepted for admission to the facility.[11] The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.[12] If, as determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.[13]

Assisting with the Self-Administration of Medication in an ALF

Section 429.256, F.S., establishes requirements for the assistance with the self-administration of medication. Residents who are capable of administering their own medications are encouraged to do so but an unlicensed person who is 18 years of age or older and has completed the required six hours of training may,[14] consistent with a dispensed prescription's label or the package directions of an over-the-counter medication, assist a resident whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. Assistance with self-medication by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a resident or the resident's surrogate, guardian, or attorney in fact.

The section specifies that the assistance with self-administration of medication includes:

- Taking the medication, in its previously dispensed, properly labeled container, including an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer, from where it is stored, and bringing it to the resident.
- In the presence of the resident, confirming that the medication is intended for that resident, orally advising the resident of the medication name and dosage, opening the container, removing a prescribed amount of medication from the container, and closing the container. The resident may sign a written waiver to opt out of being orally advised of the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of such medications, and must immediately be updated each time the resident's medications or dosages change.
- Placing an oral dosage in the resident's hand or placing the dosage in another container and helping the resident by lifting the container to his or her mouth.
- Applying topical medications.
- Returning the medication container to proper storage.

[8] Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.
[9] Section 429.02(18), F.S.
[10] Section 429.02(1), F.S.
[11] *See* Fla. Admin. Code R. 59A-36.007 (2019), for specific minimum standards.
[12] Section 429.26, F.S., and Fla. Admin. Code R. 59A-36.006 (2019).
[13] Section 429.28, F.S.
[14] *See* Fla. Admin. Code R. 59A-36.008(3)(a) (2019).

- Keeping a record of when a resident receives assistance with self-administration under this section.
- Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose of medication into the dispensing cup of the nebulizer.
- Using a glucometer to perform blood-glucose level checks.
- Assisting with putting on and taking off antiembolism stockings.
- Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.
- Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.
- Assisting with measuring vital signs.
- Assisting with colostomy bags.

The section also specifies that assistance with self-administration does not include:

- Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.
- The preparation of syringes for injection or the administration of medications by any injectable route.
- Administration of medications by way of a tube inserted in a cavity of the body.
- Administration of parenteral preparations.
- The use of irrigations or debriding agents used in the treatment of a skin condition.
- Assisting with rectal, urethral, or vaginal preparations.
- Assisting with medications ordered by the physician or health care professional with prescriptive authority to be given "as needed," unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and the resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication.
- Medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

Basic and Advanced Life Support Services

Part III of ch. 401, F.S., consisting of ss. 401.2101-401.465, F.S., provides for the regulation of emergency medical services by the Department of Health (DOH). The DOH website reflects that its Emergency Medical Services Section is responsible for the licensure and oversight of over 60,000 emergency medical technicians and paramedics, 270+ advanced and basic life support agencies, and over 4,500 EMS vehicles.[15] The DOH licenses three types of emergency medical services: air ambulance,[16] basic life support, and advanced life support services.

[15] Florida Department of Health, Emergency Medical Services System, *available at* http://www.floridahealth.gov/licensing-and-regulation/ems-system/index.html (last visited Jan. 12, 2022).
[16] Sections 401.23(3) and (4) and 401.251, F.S.

A basic life support service is an emergency medical service that uses *only* basic life support techniques.[17] In contrast, an advanced life support service is an emergency medical transport or non-transport service that uses advanced life support techniques.[18] Similarly, an emergency medical technician (EMT) is certified to perform basic life support,[19] but a paramedic is certified to perform basic and advanced life support.[20]

"Basic life support" is the assessment or treatment through the use of techniques described in the EMT-Basic National Standard Curriculum or the National EMS Education Standards of the U.S. Department of Transportation and approved by the DOH. The term includes the administration of oxygen and other techniques that have been approved by the DOH.[21] When transporting a person who is sick, injured, wounded, incapacitated, or helpless, each basic life support ambulance must be occupied by at least two persons:

- One patient attendant who is a certified emergency medical technician, certified paramedic, or licensed physician; and
- One ambulance driver who meets the requirements of s. 401.281, F.S.[22]

"Advanced life support" is the assessment or treatment through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards, pursuant to the DOH rules.[23]

When transporting a person who is sick, injured, wounded, incapacitated, or helpless, each advanced life support ambulance must be occupied by at least one certified paramedic or licensed physician and one certified emergency medical technician, certified paramedic, or licensed physician who also meets the requirements of s. 401.281, F.S., for drivers.[24] Interfacility transfers[25] under s. 401.252, F.S., are exempt from this requirement.

The person occupying the advanced life support ambulance with the highest medical certifications is in charge of patient care.[26]

Section 401.25, F.S., provides requirements for licensure as basic and advanced life support services. Every licensee must possess a valid permit for each vehicle in use.[27]

[17] Section 401.23(8), F.S.
[18] Section 401.23(2), F.S.
[19] Section 401.23(11), F.S.
[20] Section 401.23(17), F.S.
[21] Section 401.23(7), F.S.
[22] Section 401.25(7)(a), F.S.
[23] Section 401.23(1), F.S.
[24] Section 401.25(7)(b), F.S.
[25] Interfacility transfer is defined in s. 401.23, F.S., as the transportation by ambulance of a patient between two facilities licensed under chs. 393, 395, 400, or 429, F.S., pursuant to part III of ch. 401, F.S.
[26] *Id.*
[27] Section 401.26, F.S.

III. Effect of Proposed Changes:

Prefilled Insulin Pens and Syringes and Delegation of Certain Tasks

This bill amends ss. 400.488 and 429.256, F.S., respectively, to specify that assistance with the self-administration of medication in home health and ALF settings includes the unlicensed person, as defined in those sections, being able to take an insulin syringe that is prefilled with the proper dosage by a pharmacist or an insulin pen that is prefilled by the manufacturer from the place where those items are stored and bring it to the patient or resident.

Additionally, the bill amends s. 464.0156, F.S., to allow a registered nurse to delegate to a CNA or home health aide the administration of medication in an insulin syringe that has been prefilled with the proper dosage by a pharmacist or an insulin pen that is prefilled by the manufacturer and to delegate tasks as authorized in current law to a CNA or a home health aide in a local county detention facility as defined in s. 951.23(1), F.S.

Assistance with the Self-administration of Medication

The bill amends ss. 400.488 and 429.256, F.S., to reorganize several of the items currently listed under the assistance with the self-administration of medication into a new category labeled "other tasks." Specifically the bill moves:

- Using a glucometer to perform blood-glucose level checks.
- Assisting with putting on and taking off antiembolism stockings.
- Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.
- Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.
- Assisting with measuring vital signs.
- Assisting with colostomy bags.

Additionally, the bill amends s. 400.488, F.S., (allowing and specifying what is included in the assistance with self-administration of medications in a home health setting) to match what is allowed for the assistance with self-administration of medications in ALFs under s. 429.256, F.S. Specifically, the bill adds the following items to the list of activities that qualify as assistance with self-administration of medication in a home health setting:

- Assisting with transdermal patches.
- Using a glucometer to perform blood-glucose level checks.
- Assisting with putting on and taking off antiembolism stockings.
- Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.
- Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.
- Assisting with measuring vital signs.
- Assisting with colostomy bags.

The bill also revises how assistance may be given in using a nebulizer in a home health setting to match how such assistance is authorized in an ALF. Specifically, the bill removes the authorization to set up and clean the nebulizer and confirm that the medication is intended for the patient.

Interfacility Transfers of Patients

The bill amends s. 401.252, F.S., to require that a permitted ALS ambulance be occupied by at least two persons when conducting an interfacility transfer:

- One patient attendant who is a certified paramedic, a registered nurse who qualifies under the provisions specified in the section, or a licensed physician; and
- One other person who is a certified EMT, certified paramedic, a licensed physician, or an ambulance driver who meets the driver requirements of s. 401.281, F.S.

The bill specifies that the person occupying the vehicle who has the highest medical certification in this state is in charge of patient care during the transfer.

Other Provisions

The bill amends ss. 401.25 and 401.27, F.S., to make conforming changes.

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:

CS/SB 718 may have an indeterminate negative fiscal impact on ALS service providers that may be required to have a second person in the ambulance when performing an interfacility transfer.

The bill may have an indeterminate positive fiscal impact on home health service providers who are able to use unlicensed persons to provide additional services that are not currently authorized.

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: 400.488, 401.252, 464.0156, 401.25, 401.27, and 429.256.

IX. Additional Information:

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

CS/CS by Rules on March 1, 2022:
The CS adds a provision allowing a registered nurse to delegate specified tasks to certain CNAs and home health aides in a local county detention facility as defined in s. 951.23(1), F.S.

CS by Health Policy on January 26, 2022:
The CS reorganizes sections related to the assistance with self-administration of medication in ALFs and home health to add a new category entitled “other tasks.” The CS authorizes the same staff to perform these “other tasks” as may currently perform the assistance with self-administration of medication and moves tasks that are currently listed

under the assistance with self-administration of medication into the new category. Specifically the bill moves:

- Using a glucometer to perform blood-glucose level checks.
- Assisting with putting on and taking off antiembolism stockings.
- Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.
- Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.
- Assisting with measuring vital signs.
- Assisting with colostomy bags.

The CS also renumbers sections 3, 4, and 5 as sections 4, 5, and 6 and retitles the bill as "An act relating to the provision of health care."

B. Amendments:

None.

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

736208

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2022	.	
	.	
	.	
	.	

The Committee on Rules (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete line 319

and insert:

agency or in a local county detention facility as defined in s. 951.23(1), if the certified nursing assistant or home health aide

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

And the title is amended as follows:

Between lines 21 and 22

736208

insert:

authorizing registered nurses to delegate to certified nursing assistants and home health aides the administration of certain medications to patients in county detention facilities under certain circumstances;

By the Committee on Health Policy; and Senator Bradley

588-02345-22 2022718c1

A bill to be entitled

An act relating to the provision of health care; amending s. 400.488, F.S.; revising the definitions of the terms "informed consent" and "unlicensed person"; authorizing unlicensed persons to assist patients with other specified tasks; revising provisions relating to medications and devices with which unlicensed persons may assist patients in self-administration under certain circumstances; amending s. 401.252, F.S.; specifying staffing requirements for advanced life support ambulances during interfacility transfers; providing that the person occupying the ambulance who has the highest medical certification in this state is in charge of patient care during the transfer; amending s. 429.256, F.S.; revising the definitions of the terms "informed consent" and "unlicensed person"; authorizing unlicensed persons to assist patients with other specified tasks; revising provisions relating to medications and devices with which unlicensed persons may assist patients in self-administration under certain circumstances; amending s. 464.0156, F.S.; revising the list of medications that a registered nurse may delegate the administration of to a certified nursing assistant or home health aide; amending ss. 401.25 and 401.27, F.S.; conforming cross-references; providing an effective date.

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

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

588-02345-22 2022718c1

Section 1. Section 400.488, Florida Statutes, is amended to read:

400.488 Assistance with self-administration of medication and with other tasks.—

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

(a) "Informed consent" means advising the patient, or the patient's surrogate, guardian, or attorney in fact, that the patient may be receiving assistance with self-administration of medication or other tasks from an unlicensed person.

(b) "Unlicensed person" means an individual not currently licensed to practice nursing or medicine who is employed by or under contract to a home health agency and who has received training with respect to assisting with the self-administration of medication or other tasks as provided by agency rule.

(2) Patients who are capable of self-administering their own medications and performing other tasks without assistance shall be encouraged and allowed to do so. However, an unlicensed person may, consistent with a dispensed prescription's label or the package directions of an over-the-counter medication, assist a patient whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. An unlicensed person may also provide assistance with other tasks specified in subsection (6). Assistance with self-administration of medication or such other tasks ~~self-medication~~ by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a patient or the patient's surrogate, guardian, or attorney in fact. For purposes of this section, self-administered medications include both legend and over-the-

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

counter oral dosage forms, topical dosage forms, transdermal patches, and topical ophthalmic, otic, and nasal dosage forms, including solutions, suspensions, sprays, inhalers, and nebulizer treatments.

(3) Assistance with self-administration of medication includes:

(a) Taking the medication, in its previously dispensed, properly labeled container, from where it is stored and bringing it to the patient. For purposes of this paragraph, an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer are considered medications in previously dispensed, properly labeled containers.

(b) In the presence of the patient, confirming that the medication is intended for that patient, orally advising the patient of the medication name and purpose, opening the container, removing a prescribed amount of medication from the container, and closing the container.

(c) Placing an oral dosage in the patient's hand or placing the dosage in another container and helping the patient by lifting the container to his or her mouth.

(d) Applying topical medications~~, including routine preventive skin care and applying and replacing bandages for minor cuts and abrasions as provided by the agency in rule~~.

(e) Returning the medication container to proper storage.

(f) ~~For nebulizer treatments, assisting with setting up and cleaning the device in the presence of the patient, confirming that the medication is intended for that patient, orally advising the patient of the medication name and purpose, opening the container, removing the prescribed amount for a single treatment dose from a properly labeled container, and assisting the patient with placing the dose into the medicine receptacle or mouthpiece.~~

~~(g)~~ Keeping a record of when a patient receives assistance with self-administration under this section.

(g) Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solutions, and pouring the prescribed premeasured dose of medication into the dispensing cup of the nebulizer.

(4) Assistance with self-administration of medication does not include:

(a) Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.

(b) The preparation of syringes for injection or the administration of medications by any injectable route.

(c) ~~Administration of medications through intermittent positive pressure breathing machines or a nebulizer.~~

~~(d)~~ Administration of medications by way of a tube inserted in a cavity of the body.

(d)~~(c)~~ Administration of parenteral preparations.

(e)~~(f)~~ The use of irrigations or debriding agents used in the treatment of a skin condition.

(f)~~(g)~~ Assisting with rectal, urethral, or vaginal preparations.

(g)~~(h)~~ Assisting with medications ordered by the physician or health care professional with prescriptive authority to be

given "as needed," unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and at the request of a competent patient.

(h) ~~(i)~~ Assisting with medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

(5) Assistance with the self-administration of medication by an unlicensed person as described in this section does not constitute administration as defined in s. 465.003.

(6) Assistance with other tasks includes:

(a) Assisting with the use of a glucometer to perform blood-glucose level checks.

(b) Assisting with putting on and taking off antiembolism stockings.

(c) Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.

(d) Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.

(e) Assisting with measuring vital signs.

(f) Assisting with colostomy bags.

(7) ~~(6)~~ The agency may by rule establish procedures and interpret terms as necessary to administer this section.

Section 2. Section 401.252, Florida Statutes, is amended to read:

401.252 Interfacility transfer.—

(1) When conducting an interfacility transfer, a permitted advanced life support ambulance must be occupied by at least two

persons: one patient attendant who is a certified paramedic, a registered nurse authorized under subsection (2), or a licensed physician; and one person who is a certified emergency medical technician, a certified paramedic, a licensed physician, or an ambulance driver who meets the driver requirements of s. 401.281. The person occupying the ambulance who has the highest medical certification in this state is in charge of patient care during the interfacility transfer.

(2) A licensed basic or advanced life support ambulance service may conduct interfacility transfers in a permitted ambulance~~,~~ using a registered nurse in place of an emergency medical technician or paramedic~~,~~ if:

(a) The registered nurse holds a current certificate of successful course completion in advanced cardiac life support;

(b) The physician in charge has granted permission for such a transfer, has designated the level of service required for such transfer, and has deemed the patient to be in such a condition appropriate to this type of ambulance staffing; and

(c) The registered nurse operates within the scope of part I of chapter 464.

(3) ~~(2)~~ A licensed basic or advanced life support service may conduct interfacility transfers in a permitted ambulance if the patient's treating physician certifies that the transfer is medically appropriate and the physician provides reasonable transfer orders. An interfacility transfer must be conducted in a permitted ambulance if it is determined that the patient needs, or is likely to need, medical attention during transport. If the emergency medical technician or paramedic believes the level of patient care required during the transfer is beyond his

or her capability, the medical director, or his or her designee, must be contacted for clearance prior to conducting the transfer. If necessary, the medical director, or his or her designee, shall attempt to contact the treating physician for consultation to determine the appropriateness of the transfer.

(4)~~(3)~~ Infants younger ~~less~~ than 28 days old or ~~infants~~ weighing less than 5 kilograms~~,~~ who require critical care interfacility transport to a neonatal intensive care unit must~~,~~ ~~shall~~ be transported in a permitted advanced life support or basic life support transport ambulance, or in a permitted advanced life support or basic life support ambulance that is recognized by the department as meeting designated criteria for neonatal interfacility critical care transport.

Section 3. Section 429.256, Florida Statutes, is amended to read:

429.256 Assistance with self-administration of medication and with other tasks.—

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

(a) "Informed consent" means advising the resident, or the resident's surrogate, guardian, or attorney in fact, that an assisted living facility is not required to have a licensed nurse on staff, that the resident may be receiving assistance with self-administration of medication or other tasks from an unlicensed person, and that such assistance, if provided by an unlicensed person, will or will not be overseen by a licensed nurse.

(b) "Unlicensed person" means an individual not currently licensed to practice nursing or medicine who is employed by or under contract to an assisted living facility and who has

received training with respect to assisting with the self-administration of medication or other tasks in an assisted living facility as provided under s. 429.52 prior to providing such assistance as described in this section.

(2) Residents who are capable of self-administering their own medications and performing other tasks without assistance shall be encouraged and allowed to do so. However, an unlicensed person may, consistent with a dispensed prescription's label or the package directions of an over-the-counter medication, assist a resident whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. An unlicensed person may also provide assistance with other tasks specified in subsection (6). Assistance with self-administration of medication or such other tasks ~~self-medication~~ by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a resident or the resident's surrogate, guardian, or attorney in fact. For the purposes of this section, self-administered medications include both legend and over-the-counter oral dosage forms, topical dosage forms, transdermal patches, and topical ophthalmic, otic, and nasal dosage forms including solutions, suspensions, sprays, and inhalers.

(3) Assistance with self-administration of medication includes:

(a) Taking the medication, in its previously dispensed, properly labeled container, ~~including an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer,~~ from where it is stored~~,~~ and bringing it to the resident. For purposes of this

paragraph, an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer are considered medications in previously dispensed, properly labeled containers.

(b) In the presence of the resident, confirming that the medication is intended for that resident, orally advising the resident of the medication name and dosage, opening the container, removing a prescribed amount of medication from the container, and closing the container. The resident may sign a written waiver to opt out of being orally advised of the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of such medications, and must immediately be updated each time the resident's medications or dosages change.

(c) Placing an oral dosage in the resident's hand or placing the dosage in another container and helping the resident by lifting the container to his or her mouth.

(d) Applying topical medications.

(e) Returning the medication container to proper storage.

(f) Keeping a record of when a resident receives assistance with self-administration under this section.

(g) Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose of medication into the dispensing cup of the nebulizer.

~~(h) Using a glucometer to perform blood-glucose level checks.~~

~~(i) Assisting with putting on and taking off antiembolism stockings.~~

~~(j) Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.~~

~~(k) Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.~~

~~(l) Assisting with measuring vital signs.~~

~~(m) Assisting with colostomy bags.~~

(4) Assistance with self-administration of medication does not include:

(a) Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.

(b) The preparation of syringes for injection or the administration of medications by any injectable route.

(c) Administration of medications by way of a tube inserted in a cavity of the body.

(d) Administration of parenteral preparations.

(e) The use of irrigations or debriding agents used in the treatment of a skin condition.

(f) Assisting with rectal, urethral, or vaginal preparations.

(g) Assisting with medications ordered by the physician or health care professional with prescriptive authority to be given "as needed," unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and the resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication.

(h) Assisting with medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

(5) Assistance with the self-administration of medication by an unlicensed person as described in this section shall not be considered administration as defined in s. 465.003.

(6) Assistance with other tasks includes:

(a) Assisting with the use of a glucometer to perform blood-glucose level checks.

(b) Assisting with putting on and taking off antiembolism stockings.

(c) Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.

(d) Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.

(e) Assisting with measuring vital signs.

(f) Assisting with colostomy bags.

(7) ~~(6)~~ The agency may by rule establish facility procedures and interpret terms as necessary to implement this section.

Section 4. Subsection (2) of section 464.0156, Florida Statutes, is amended to read:

464.0156 Delegation of duties.—

(2) A registered nurse may delegate to a certified nursing assistant or a home health aide the administration of oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a patient of a home health agency, if the certified nursing assistant or home health aide

meets the requirements of s. 464.2035 or s. 400.489, respectively. A registered nurse may not delegate the administration of any controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s. 812, except for the administration of an insulin syringe that is prefilled with the proper dosage by a pharmacist or an insulin pen that is prefilled by the manufacturer.

Section 5. Subsection (7) of section 401.25, Florida Statutes, is amended to read:

401.25 Licensure as a basic life support or an advanced life support service.—

(7)(a) Each permitted basic life support ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons: one patient attendant who is a certified emergency medical technician, certified paramedic, or licensed physician; and one ambulance driver who meets the requirements of s. 401.281. This paragraph does not apply to interfacility transfers governed by s. 401.252 ~~s. 401.252(1)~~.

(b) Each permitted advanced life support ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons: one who is a certified paramedic or licensed physician; and one who is a certified emergency medical technician, certified paramedic, or licensed physician who also meets the requirements of s. 401.281 for drivers. The person with the highest medical certifications shall be in charge of patient care. This paragraph does not

apply to interfacility transfers governed by s. 401.252 ~~s. 401.252(1)~~.

Section 6. Subsection (1) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

(1) Each permitted ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons, one of whom must be a certified emergency medical technician, certified paramedic, or licensed physician and one of whom must be a driver who meets the requirements for ambulance drivers. This subsection does not apply to interfacility transfers governed by s. 401.252 ~~s. 401.252(1)~~.

Section 7. This act shall take effect July 1, 2022.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JENNIFER BRADLEY
5th District

COMMITTEES:
Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture, Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional Reapportionment, *Chair*

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

February 23, 2022

Senator Kathleen Passidomo, Chair
Committee on Rules
400 Senator Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Chair Passidomo:

I respectfully request that CS/SB 718 be placed on the agenda of the Rules Committee at your earliest convenience. The bill authorizes unlicensed persons (CNAs/HHAs) in home health setting to assist in the self-administration of medications which is currently authorized in assisted living facilities. It also specifies staffing requirements for advanced life support ambulances during inter-facility transfers.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

Jennifer Bradley

cc: John Phelps, Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:
❒ 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
❒ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

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

3/1/22
Meeting Date

Rules
Committee

718
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Ungru

Phone 850 999 4100

Address 106 E College
Street

Email Jungru@deanmead.com

Tall 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: Home Care Association of America

☐ 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

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

3/1/2022
Meeting Date

Rules
Committee

718
Bill Number or Topic

Amendment Barcode (if applicable)

Name Zayne Smith - AARP

Phone (850) 228-4243

Address 215 S. Monroe St.
Street

Email zsmith@aarp.org

Tallahssee 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:
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. 2020-2022JointRules.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:	CS/CS/SB 804
INTRODUCER:	Rules Committee, Health Policy Committee and Senator Albritton
SUBJECT:	Nursing Homes
DATE:	March 1, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.	Looke	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 804 makes several changes to Florida statutes related to nursing home staffing and changes of ownership.

Nursing Home Staffing

CS/CS/SB 804 amends multiple sections of the Florida Statutes to modify nursing home staffing requirements. The bill modifies the definition of "resident care plan" and defines the terms "direct care staff" and "facility assessment." The bill allows the currently required 3.6 hours of direct care to be met with direct care staff rather than requiring it be met by certified nursing assistant (CNA) and nurse staffing. The bill also reduces the requirement that a nursing home provide a minimum of 2.5 hours of CNA staffing per resident per day to 2.0 hours of staffing per resident per day.

The bill specifies that complying with the minimum requirements is not admissible as evidence of compliance with certain federal regulations. The bill also specifies that the required 3.6 weekly average of direct care staffing hours) includes hours provided by paid feeding assistants who have completed a feeding assistant training program, that feeding assistance provided by CNAs and nurses may count toward their respective required minimum hours, that staffing hours do not include time spent on certain administrative tasks, and that nursing assistants employed

under CNA training and personal care attendant programs[1] may count toward providing such hours of care. The bill requires nursing homes to document compliance with staffing standards and to maintain records for five years and report staffing in accordance with specified federal law.

Changes of Ownership and Other Provisions

CS/CS/SB 804 also revises provisions in s. 400.024, F.S., related to changes of ownership in nursing homes. The bill specifies that any adverse final judgment of a nursing home that is changing ownership becomes the responsibility and liability of the new owner if the Agency for Health Care Administration (AHCA) approves the change in ownership. Additionally, the bill requires a nursing home to provide written notice to any claimant[2] after the licensee or controlling interest files a change of ownership application within 14 days of filing the application allows such claimant 30 days after receipt of the notice to file an objection to the change of ownership. The AHCA must consider any objection when making its decision to approve or deny the change of ownership application.

Additionally, the bill specifies that annual financial reports filed by nursing homes with the AHCA may be discoverable and admissible in a civil or administrative action.

The bill provides that it is effective upon becoming law.

II. Present Situation:

Nursing Homes

Nursing homes in Florida are licensed under Part II of ch. 400, F.S., and provide 24 hour a day nursing care, case management, health monitoring, personal care, nutritional meals and special diets, physical, occupational, and speech therapy, social activities and respite care for those who are ill or physically infirm.[3] Currently there are 705 nursing homes licensed in Florida.[4] Of the 705 licensed nursing homes, 669 are certified to accept Medicare or Medicaid and consequently must follow federal Centers for Medicare & Medicaid Services (CMS) requirements for nursing homes.[5]

[1] These include CNAs in training and those who have preliminarily passed the certification exam; CNAs certified or registered in other states who have no findings of abuse, neglect, or exploitation; and personal care attendants. *See* s. 400.211(2), F.S.
[2] The bill defines a claimant as a resident, the resident's family, or the resident's personal representative who has notified the licensee or facility of a potential claim by notice of intent letter or who has initiated an action, claim, or arbitration proceeding against the licensee or facility.
[3] AHCA webpage, nursing homes, available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/Nursing_Homes.shtml (last visited Feb. 11, 2022).
[4] Florida Health Finder Report, available at https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx (last visited Feb. 11, 2022).
[5] *Id.*

Direct Care Staff

Federal law defines "direct care staff" as those individuals who, through interpersonal contact with nursing home residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. Direct care staff does not include individuals whose primary duty is maintaining the physical environment of the long-term care facility (for example, housekeeping).[6]

Direct care staff are the primary providers of paid, hands-on care for more than 13 million elderly and disabled Americans. They assist individuals with a broad range of support, including preparing meals, helping with medications, bathing, dressing, getting about (mobility), and getting to planned activities on a daily basis.[7]

Direct care staff fall into three main categories tracked by the U.S. Bureau of Labor Statistics: Nursing Assistants (usually known as Certified Nursing Assistants or CNAs), Home Health Aides, and Personal Care Aides:

- Nursing Assistants or Nursing Aides generally work in nursing homes, although some work in assisted living facilities, other community-based settings, or hospitals. They assist residents with activities of daily living (ADLs) such as eating, dressing, bathing, and toileting. They also perform clinical tasks such as range-of motion exercises and blood pressure readings.
- Home Health Aides provide essentially the same care and services as nursing assistants, but they assist people in their homes or in community settings under the supervision of a nurse or therapist. They may also perform light housekeeping tasks such as preparing food or changing linens.
- Personal Care Aides work in either private or group homes. They have many titles, including personal care attendant, home care worker, homemaker, and direct support professional. (The latter work with people with intellectual and developmental disabilities.) In addition to providing assistance with ADLs, these aides often help with housekeeping chores, meal preparation, and medication management. They also help individuals go to work and remain engaged in their communities. A growing number of these workers are employed and supervised directly by consumers.[8]

The federal government requires training only for nursing assistants and home health aides who work in Medicare-certified and Medicaid-certified nursing homes and home health agencies. Such training includes training on residents' rights; abuse, neglect, and exploitation; quality assurance; infection control; and compliance and ethics; and specifies that direct care staff must be trained in effective communications.[9]

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[6] 42 CFR s. 483.70(q)(1)

[7] Khatutsky, et al., *Understanding Direct Care Workers: a Snapshot of Two of America's Most Important Jobs, Certified Nursing Assistants and Home Health Aides*, (March 2011), *available at* https://aspe.hhs.gov/basic-report/understanding-direct-care-workers-snapshot-two-americas-most-important-jobs-certified-nursing-assistants-and-home-health-aides#intro (last visited on Feb. 4, 2022).

[8] Paraprofessional Healthcare Institute, *Who are Direct Care Workers?,* Feb. 2011, *available at:* https://phinational.org/wp-content/uploads/legacy/clearinghouse/NCDCW%20Fact%20Sheet-1.pdf (last visited on Feb. 4, 2022).

[9] 42 CFR s. 483.95

Federal Requirement for a Nursing Home Facility Assessment

Federal law in 42 CFR s. 483.70(e) requires that a nursing home conduct and document a facility-wide assessment to determine what resources are necessary to care for its residents competently during both day-to-day operations and emergencies. Facilities must review and update this assessment at least annually or whenever there is an actual or planned change that would require a substantial modification of any part of the assessment. The assessment must include:

- The facility's resident population, including, but not limited to:
  - Both the number of residents and the facility's resident capacity;
  - The care required by the resident population considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other pertinent facts that are present within that population;
  - The staff competencies that are necessary to provide the level and types of care needed for the resident population;
  - The physical environment, equipment, services, and other physical plant considerations that are necessary to care for this population; and
  - Any ethnic, cultural, or religious factors that may potentially affect the care provided by the facility, including, but not limited to, activities and food and nutrition services.
- The facility's resources, including but not limited to:
  - All buildings and/or other physical structures and vehicles;
  - Equipment (medical and non-medical);
  - Services provided, such as physical therapy, pharmacy, and specific rehabilitation therapies;
  - All personnel, including managers, staff (both employees and those who provide services under contract), and volunteers, as well as their education and/or training and any competencies related to resident care;
  - Contracts, memoranda of understanding, or other agreements with third parties to provide services or equipment to the facility during both normal operations and emergencies; and
  - Health information technology resources, such as systems for electronically managing patient records and electronically sharing information with other organizations.
- A facility-based and community-based risk assessment, utilizing an all-hazards approach.

Florida Nursing Home Staffing Standards

Section 400.23(3), F.S., requires the Agency for Health Care Administration to adopt rules providing minimum staffing requirements for nursing home facilities.[10] The requirements must include:

- A minimum weekly average of 3.6 hours of direct care per resident per day provided by a combination of certified nursing assistants and licensed nursing staff. A week is defined as Sunday through Saturday.
- A minimum of 2.5 hours of direct care per resident per day provided by certified nursing assistant staff. A facility may not staff at a ratio of less than one certified nursing assistant per 20 residents.

[10] These requirements apply to all nursing homes, s. 400.23(5), F.S., provides additional requirements specific to nursing homes that treat persons under the age of 21.

- A minimum of 1.0 hour of direct care per resident per day provided by licensed nursing staff. A facility may not staff at a ratio of less than one licensed nurse per 40 residents.
- Nursing assistants employed under s. 400.211(2), F.S.,[11] may be included in computing the staffing ratio for certified nursing assistants if their job responsibilities include only nursing-assistant-related duties.
- Each nursing home facility must document compliance with staffing standards and post daily the names of staff on duty for the benefit of facility residents and the public.
- Licensed nurses may be used to meet staffing requirements for CNAs if the licensed nurses are performing the duties of a CNA and the facility otherwise meets minimum staffing requirements for licensed nurses.
- Paid feeding assistants and non-nursing staff providing eating assistance to residents do not count toward compliance with minimum staffing standards.

Nursing Homes with Unsatisfied Judgments or Settlement Agreements

Section 400.024, F.S., establishes restrictions on nursing homes that have had an adverse final judgment against a licensee which arises from an award pursuant to s. 400.023, F.S.,[12] including an arbitration award, for a claim of negligence or a violation of residents' rights, in contract or tort, or from noncompliance with the terms of a settlement agreement as determined by a court or arbitration panel, which arises from a claim pursuant to s. 400.023, F.S.

Section 400.024, F.S., requires that the nursing home must pay the judgment creditor the entire amount of the judgment, award, or settlement and all accrued interest within 60 days after the date such judgment, award, or settlement becomes final and subject to execution unless otherwise mutually agreed to in writing by the parties. If the nursing home does not pay the judgment, then the statute establishes that such failure is additional grounds that may be used by the AHCA for revoking a license or for denying a renewal application or a related party change of ownership application. The section deems that the AHCA is notified of an unsatisfied judgment or settlement when a certified copy of the judgment and a certified copy of a valid judgment lien certificate, filed in accordance with ss. 55.202[13] and 55.203[14], F.S., are served to the AHCA by a process server or received by certified mail, return receipt requested.

Within 60 days after receiving such documents, the AHCA must notify the nursing home by certified mail, return receipt requested, that it is subject to disciplinary action unless, within 30 days after the date of mailing the notice, the nursing home:

- Shows proof that the unsatisfied judgment or settlement has been paid in the amount specified;
- Shows proof of the existence of a payment plan mutually agreed upon by the parties in writing;
- Furnishes the AHCA with a copy of a timely filed notice of appeal;
- Furnishes the AHCA with a copy of a court order staying execution of the final judgment; or

[11] *Supra* n. 1.
[12] Establishing requirements for civil lawsuits against nursing homes.
[13] Related to judgments, orders, and decrees; lien on personal property.
[14] Related to judgment lien certificates; content, filing, and indexing.

- Shows proof by submitting an order from a court or arbitration panel that is overseeing any action seeking indemnification from an insurance carrier or other party, that the licensee believes is required to pay the award.

If the AHCA is placed on notice and such proof is not provided by the nursing home, the AHCA must issue an emergency order pursuant to s. 120.60, F.S., declaring that the facility lacks financial ability to operate and a notice of intent to revoke or deny a license. Additionally, if the AHCA is put on notice and:

- The license is subject to renewal, the AHCA may deny the license renewal unless compliance with s. 400.024, F.S. is achieved; and
- A change of ownership application for the facility at issue is submitted by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, the AHCA must deny the change of ownership application unless compliance with s. 400.024, F.S. is achieved.

Nursing Home Financial Reports

Currently, nursing homes are required to submit financial data to the AHCA pursuant to s. 408.061(5)-(6), F.S. These provisions were added in 2021 by SB 2518 (ch. 2021-41, L.O.F.) and mirror provisions in current law that require other health care facilities to submit such data.[15] Prior to July 1, 2021, nursing homes were exempt from this reporting requirement.

A nursing home must report, within 120 days after the end of its fiscal year, its actual financial experience for that fiscal year, including expenditures, revenues, and statistical measures. Such data may be based on internal financial reports that are certified to be complete and accurate by the chief financial officer of the nursing home. This actual experience must include the fiscal year-end balance sheet, income statement, statement of cash flow, and statement of retained earnings and must be submitted to the AHCA in addition to the information filed in the uniform system of financial reporting. However, unlike other health care facilities, data submitted by nursing homes is not required to be audited.

III. Effect of Proposed Changes:

CS/CS/SB 804 amends ss. 400.021, 400.23 and 400.141, F.S., to modify nursing home staffing requirements. The bill amends the definition of "resident care plan" to specify that the plan must be comprehensive and person-centered and developed in accordance with 42 CFR s. 483.21(b) by an interdisciplinary team within seven days of completion of a comprehensive assessment. Additionally, the bill requires that the care plan be reviewed and revised after each comprehensive assessment upon admission, annually, after a significant change in the resident's status, and after a quarterly review. The care plan must include measurable objectives and timeframes to meet the resident's medical, nursing, mental, and psychosocial needs and preferences, and must describe the services to be furnished.

The bill also defines the terms:

[15] *See* s. 408.061(4), F.S.

- "Direct care staff" to mean persons who, through interpersonal contact with residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. The term does not include individuals whose primary duty is maintaining the physical environment of the facility, including, but not limited to, food preparation, laundry, and housekeeping. The term includes, but is not limited to, disciplines and professions that must be reported in accordance with 42 C.F.R. s. 483.70(q) in the categories of direct care services of:
  - Nursing;
  - Dietary;
  - Therapeutic; and
  - Mental Health.
- "Facility assessment" to mean a process to determine the staff competencies that are necessary to provide the level and types of care needed for the facility's resident population considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other pertinent factors that are present within that resident population. The definition also specifies that additional requirements for conducting a facility assessment must be performed in accordance with 42 CFR s. 483.70(e).

The bill makes the following changes regarding minimum staffing requirements for nursing homes:

- Requires each facility to determine its direct care staffing needs based on the facility assessment and the individual needs of a resident based on the resident's care plan.
- Reduces from 2.5 to 2.0 the number of hours of direct care that must be provided by a CNA per resident per day. Hours provided by nursing assistants who are employed under s. 400.211(2), F.S.,[16] still qualifies under the bill.
- Repeals the requirement that 3.6 hours of direct care per resident per day must be provided by a CNA or a licensed nurse and instead may be provided by any direct care staff.
- Allows hours of eating assistance provided by paid feeding assistants or direct care staff, other than CNAs and nurses, who have completed the feeding assistant training program established under s. 400.141(1)(v), F.S., to qualify towards fulfilling the 3.6 hour requirement detailed above, but not the hours required to be fulfilled by CNAs and nurses.
- Allows hours of eating assistance provided by CNAs and nurses to count towards their respective hourly requirements.
- Specifies that time spent on nursing administration, staff development, staffing coordination, and the administrative portion of the minimum data set and care plan coordination for Medicaid, does not qualify as direct care.
- Specifies that evidence that a facility complied with the minimum direct care staffing requirements is not admissible as evidence of compliance with the nursing services requirements under 42 CFR s. 483.35[17] or 42 CFR s. 483.70.[18]

The bill specifies that each nursing home must maintain records of staffing for five years and report staffing in accordance with 42 C.F.R. s. 483.70(q). The bill amends current posting

[16] *Id.*
[17] Relating to the provision of nursing services and establishing staff requirements for nursing homes.
[18] Relating to the administration of nursing homes.

requirements to require that a nursing home post only the names of CNAs and licensed nurses, rather than all staff, who are on duty for the benefit of facility residents and the public.

Change of Ownership

CS/CS/SB 804 amends s. 400.024, F.S., relating to nursing homes that fail to satisfy judgments against them in order to specify that, should a nursing home with an adverse final judgment against it for which payment is not yet due be allowed by the AHCA to change ownership, the adverse final judgement becomes the responsibility and liability of the new owner. Additionally, when a change of ownership application is filed for a facility that has an unsatisfied judgment by a person or entity identified as having a controlling interest in the licensee, or by a related party, the bill provides that:

- The licensee or transferor must provide written notice of the filing of the application to each pending claimant[19] or the claimant's attorney of record, if applicable, within 14 days after the date the application is filed with the AHCA. The written notice must be provided by certified mail, return receipt requested, or other method that provides verification of receipt.
- A claimant has 30 days after the date of receipt of the written notice to object to the application if the claimant has reason to believe that the approval of the application would facilitate a fraudulent transfer or allow the transferor to avoid financial responsibility for the claimant's pending claim.
- The AHCA must consider any objection brought under this provision of the bill in its decision to approve or deny an application for change of ownership under this part and part II of ch. 408, F.S.
- If a claim is pending in arbitration at the time that the application for change of ownership is filed, the claimant may file a petition to enjoin the transfer in circuit court.

Financial Filings

CS/CS/SB 804 also amends s. 400.0234, F.S., to specify that forms filed with the AHCA pursuant to s. 408.061(5)-(6), F.S., which requires a nursing home to report its actual financial experience for that fiscal year, may be discoverable and admissible in a civil action or an administrative action under part II of ch. 400, F.S., or part II of chapter 408, F.S.

The bill makes other conforming and cross-reference changes.

The bill provides that it is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[19] The bill defines a "claimant" as a resident or the resident's family or personal representative who has notified the licensee or facility of a potential claim by notice of intent letter or who has initiated an action, claim, or arbitration proceeding against the licensee or facility.

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:

SB 804 may have an indeterminate positive fiscal impact on nursing homes that are authorized to use staff other than CNAs to fulfill staffing requirements and due to the reduction of CNA hours that are required to be provided.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

CS/CS/SB 804 creates a new definition for "direct care staff" in section 2 of the bill and limits the application of this definition to s. 400.23(3), F.S. However, the bill uses the defined term when amending s. 400.141, F.S., in section 5 of the bill. The bill should be amended to apply the definitions to the instance where the defined term is used in section 5 of the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.021, 400.23, 400.0234, 400.024, and 400.141.

IX. Additional Information:

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

CS/CS by Rules on March 1, 2022:
The CS:

- Modifies the definition of "resident care plan" to require that the plan must be developed by an interdisciplinary team within seven days of completing a comprehensive assessment of the resident, must be revised at specified times, and that it must include measurable objectives and timeframes to meet specified needs of the resident.
- Modifies the definition of "direct care staff" to exclude staff providing direct care in the categories of physician, pharmacy, dental, and podiatry from counting as direct care staff.
- Removes a specification from the bill that the staffing requirements are minimum requirements.
- Allows time spent on feeding assistance by nurses and CNAs to count toward their respective required hours of direct care.
- Removes a specification from the bill that certain financial forms submitted to the AHCA are not confidential and exempt from public records requirements. It does not appear that such forms are exempt under current law.
- Reverts to current law, with technical changes, the requirement that a nursing home self-impose a moratorium on accepting new patients if the nursing home is not in compliance with minimum staffing standards.
- Removes current section 6 of the bill which creates the Nursing Home Sustainability Task Force.

CS by Health Policy on February 11, 2022:
The CS:

- Modifies the definition of "resident care plan" in s. 400.021, F.S., to tie it to federal requirements in 42 CFR s. 483.21(b);
- Eliminates definitions for "average monthly hours of direct care per resident per day" and "non-nursing direct care staff" and adds a definition for "facility assessment;"
- Requires each facility to determine its direct care staffing needs based on the facility assessment and the individual needs of each resident;
- Reduces required hours of direct care provided by CNAs from 2.5 to 2.0 per resident per day, but reverts to current law the requirement that such direct care be provided by CNAs;
- Requires staffing data to be maintained for five years, rather than 18 months as required by the underlying bill (by a reference to 42 CFR s. 483.35(g));
- Specifies that the bill's staffing requirements are minimum requirements and that compliance with the requirements is not admissible as evidence of compliance with specified federal requirements;
- Specifies that feeding assistance provided by CNAs does not count toward the 2.0 required hours of CNA direct care;

- Specifies that annual nursing home financial reports submitted to the AHCA are not exempt from public records requirements;
- Provides certain additional requirements for unpaid judgment or settlement agreements related changes of ownership of nursing homes;
- Allows the AHCA to impose a moratorium on a nursing home which has failed to comply with specified staffing requirements for 48 consecutive hours until such time as the nursing home is able to document compliance and strikes a $1,000 fine for such noncompliance; and
- Establishes a Nursing Home Sustainability Task Force.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2022	.	
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The Committee on Rules (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (18) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(18) "Resident care plan" means a written, comprehensive person-centered care plan developed in accordance with 42 C.F.R. s. 483.21(b) by an interdisciplinary team within 7 days after

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completion of a comprehensive assessment and with participation by the resident or the resident's designee. The resident care plan must be reviewed and revised after each comprehensive assessment, which may be a new admission assessment, an annual assessment, or an assessment after a significant change in status, and after a quarterly review assessment. A care plan includes measurable objectives and timeframes to meet the resident's medical, nursing, mental, and psychosocial needs and preferences, and must describe the services to be furnished~~, maintained, and reviewed not less than quarterly by a registered nurse, with participation from other facility staff and the resident or his or her designee or legal representative, which includes a comprehensive assessment of the needs of an individual resident; the type and frequency of services required to provide the necessary care for the resident~~ to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being~~; a listing of services provided within or outside the facility to meet those needs; and an explanation of service goals~~.

Section 2. Subsection (3) of section 400.23, Florida Statutes, is amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(3)(a)1. As used in this subsection, the term:

a. "Direct care staff" means persons who, through interpersonal contact with residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being, including, but not limited to,


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disciplines and professions that must be reported in accordance with 42 C.F.R. s. 483.70(q) in the categories of direct care services of nursing, dietary, therapeutic, and mental health. The term does not include a person whose primary duty is maintaining the physical environment of the facility, including, but not limited to, food preparation, laundry, and housekeeping.

b. "Facility assessment" means a process, performed in accordance with 42 C.F.R. s. 483.70(e), to determine the staff competencies necessary to provide the level and types of care needed for the facility's resident population, considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other factors pertinent to that resident population.

2. For purposes of this subsection, direct care staffing hours do not include time spent on nursing administration, activities program administration, staff development, staffing coordination, and the administrative portion of the minimum data set and care plan coordination for Medicaid.

(b)1. Each facility must determine its direct care staffing needs based on the facility assessment and the individual needs of a resident based on the resident's care plan. At a minimum, staffing ~~The agency shall adopt rules providing minimum staffing requirements for nursing home facilities. These~~ requirements must include the following~~,~~ for each facility:

a. A minimum weekly average of ~~certified nursing assistant and licensed nursing staffing combined of~~ 3.6 hours of ~~direct~~ care by direct care staff per resident per day. As used in this subparagraph ~~sub-subparagraph~~, a week is defined as Sunday through Saturday.



b. A minimum ~~certified nursing assistant staffing~~ of 2.0 ~~2.5~~ hours of direct care by a certified nursing assistant per resident per day. A facility may not staff below one certified nursing assistant per 20 residents.

c. A minimum ~~licensed nursing staffing~~ of 1.0 hour of direct care by a licensed nurse per resident per day. A facility may not staff below one licensed nurse per 40 residents.

2. Nursing assistants employed under s. 400.211(2) may be included in computing the hours of direct care provided by certified nursing assistants and may be included in computing the staffing ratio for certified nursing assistants if their job responsibilities include only nursing-assistant-related duties.

3. Each nursing home facility must document compliance with staffing standards as required under this paragraph and post daily the names of licensed nurses and certified nursing assistants ~~staff~~ on duty for the benefit of facility residents and the public. Facilities must maintain the records documenting compliance with minimum staffing standards for a period of 5 years and must report staffing in accordance with 42 C.F.R. s. 483.70(q).

4. The agency must ~~shall~~ recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants if the nursing home facility otherwise meets the minimum staffing requirements for licensed nurses and the licensed nurses are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted toward the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the



entire shift and not also be counted toward the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. The hours of a licensed nurse with dual job responsibilities may not be counted twice.

5. Evidence that a facility complied with the minimum direct care staffing requirements under subparagraph 1. is not admissible as evidence of compliance with the nursing services requirements under 42 C.F.R. s. 483.35 or 42 C.F.R. s. 483.70.

(c) ~~(b)~~ Paid feeding assistants and direct care ~~nonnursing~~ staff, other than certified nursing assistants and licensed nurses, who have successfully completed the feeding assistant training program under s. 400.141(1)(v) and who provide ~~providing~~ eating assistance to residents shall ~~not~~ count toward compliance with overall direct care minimum staffing hours but not the hours of direct care required for certified nursing assistants or licensed nurses. Time spent by certified nursing assistants or licensed nurses on providing eating assistance to residents shall count toward the hours of direct care required for certified nursing assistants or licensed nurses ~~standards~~.

(d) ~~(c)~~ Licensed practical nurses licensed under chapter 464 who provide ~~are providing~~ nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, certified nursing assistants, and other unlicensed personnel providing services in such facilities


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in accordance with rules adopted by the Board of Nursing.

(e) The agency may adopt rules to implement this subsection.

Section 3. Present subsection (2) of section 400.0234, Florida Statutes, is redesignated as subsection (3), and a new subsection (2) is added to that section, to read:

400.0234 Availability of facility records for investigation of resident's rights violations and defenses; penalty.—

(2) Information submitted pursuant to s. 408.061(5) and (6) is discoverable and admissible in a civil action or an administrative action under this part or part II of chapter 408.

Section 4. Subsection (4) of section 400.024, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

400.024 Failure to satisfy a judgment or settlement agreement; required notification to claimants.—

(4) ~~If,~~ After the agency is placed on notice pursuant to subsection (2), the following applies ~~and~~:

(a) If the license is subject to renewal, the agency may deny the license renewal unless compliance with this section is achieved.~~; and~~

(b) If a change of ownership application for the facility at issue is filed ~~submitted~~ by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, the agency shall deny the change of ownership application unless compliance with this section is achieved.

(c) If an adverse final judgment under subsection (1) is entered but payment is not yet due and a change of ownership



application for the facility at issue is submitted by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, the adverse final judgment becomes the responsibility and liability of the transferee if the agency approves the change of ownership application.

(5) If a change of ownership application for the facility at issue is filed by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, then:

(a) The licensee or transferor must provide written notice of the filing of the application to each pending claimant or the claimant's attorney of record, if applicable. The written notice must be provided within 14 days after the date the application is filed with the agency.

(b) The written notice must be provided by certified mail, return receipt requested, or other method that provides verification of receipt.

(c) A claimant has 30 days after the date of receipt of the written notice to object to the application if the claimant has reason to believe that the approval of the application would facilitate a fraudulent transfer or allow the transferor to avoid financial responsibility for the claimant's pending claim.

(d) The agency must consider any objection brought pursuant to this subsection in its decision to approve or deny an application for change of ownership under this part and part II of chapter 408.

(e) If a claim is pending in arbitration at the time that the application for change of ownership is filed, the claimant



may file a petition to enjoin the transfer in circuit court.

(f) As used in this subsection, the term "claimant" means a resident or the resident's family or personal representative who has notified the licensee or facility of a potential claim by written notice of intent or who has initiated an action, claim, or arbitration proceeding against the licensee or facility.

Section 5. Paragraphs (g), (n), and (r) of subsection (1) of section 400.141, Florida Statutes, are amended to read:

400.141 Administration and management of nursing home facilities.—

(1) Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(g) If the facility has a standard license, exceeds the minimum required hours of direct care provided by licensed nurses ~~nursing~~ and certified nursing assistants ~~assistant direct care~~ per resident per day, and is part of a continuing care facility licensed under chapter 651 or is a retirement community that offers other services pursuant to part III of this chapter or part I or part III of chapter 429 on a single campus, be allowed to share programming and staff. At the time of inspection, a continuing care facility or retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were met. Licensed nurses and certified nursing assistants who work in the facility may be used to provide services elsewhere on campus if the facility exceeds the minimum number of direct care hours required per resident per day and the total number of residents receiving direct care services from a licensed nurse or a certified nursing assistant does not cause the facility to



violate the staffing ratios required under s. 400.23(3)(b) ~~s. 400.23(3)(a)~~. Compliance with the minimum staffing ratios must be based on the total number of residents receiving direct care services, regardless of where they reside on campus. If the facility receives a conditional license, it may not share staff until the conditional license status ends. This paragraph does not restrict the agency's authority under federal or state law to require additional staff if a facility is cited for deficiencies in care which are caused by an insufficient number of certified nursing assistants or licensed nurses. The agency may adopt rules for the documentation necessary to determine compliance with this provision.

(n) Comply with state minimum-staffing requirements:

1. A facility that has failed to comply with state minimum-staffing requirements for 48 ~~2~~ consecutive hours ~~days~~ is prohibited from accepting new admissions until the facility has achieved the minimum-staffing requirements for 6 consecutive days. For the purposes of this subparagraph, any person who was a resident of the facility and was absent from the facility for the purpose of receiving medical care at a separate location or was on a leave of absence is not considered a new admission. Failure by the facility to impose such an admissions moratorium is subject to a $1,000 fine.

2. A facility that does not have a conditional license may be cited for failure to comply with the standards in s. 400.23(3)(b)1.b. and c. ~~s. 400.23(3)(a)1.b. and c.~~ only if it has failed to meet those standards for 48 ~~on 2~~ consecutive hours ~~days~~ or if it has failed to meet at least 97 percent of those standards on any one day.


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3. A facility that has a conditional license must be in compliance with the standards in s. 400.23(3)(b) ~~s. 400.23(3)(a)~~ at all times.

(r) Maintain in the medical record for each resident a daily chart of direct care ~~certified nursing assistant~~ services provided to the resident. The direct care staff ~~certified nursing assistant who is~~ caring for the resident must complete this record by the end of his or her shift. This record must indicate assistance with activities of daily living, assistance with eating, and assistance with drinking, and must record each offering of nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.

Section 6. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to nursing homes; amending s. 400.021, F.S.; revising the definition of the term "resident care plan"; amending s. 400.23, F.S.; defining the terms "direct care staff" and "facility assessment"; specifying functions that do not constitute direct care staffing hours for purposes of required nursing home staffing ratios; revising nursing home staffing requirements; requiring nursing home facilities to maintain staffing records for a specified time and



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report staffing information consistent with federal law; providing that evidence of compliance with state minimum staffing requirements is not admissible as evidence for compliance with specified provisions of federal law; providing that eating assistance to residents provided by certain direct care staff counts toward certain minimum direct care staffing requirements; authorizing the Agency for Health Care Administration to adopt rules; amending s. 400.0234, F.S.; providing that certain information submitted to the agency is discoverable and admissible in civil and administrative proceedings; amending s. 400.024, F.S.; providing that an unsatisfied or undischarged adverse final judgment in connection with a nursing home facility becomes the responsibility and liability of a new owner if ownership of the facility is transferred; requiring a licensee to provide written notice to any pending claimants or their attorneys of record within a specified timeframe after filing a change of ownership application with the agency; providing requirements for the notice; providing that claimants may object to the application within a specified timeframe under certain circumstances; requiring the agency to consider any such objections in its decision; providing for the filing of such objections in circuit court under certain circumstances; defining the term "claimant"; amending s. 400.141, F.S.; conforming cross-references and provisions to changes made by the act; revising provisions related to



facilities that fail to comply with minimum staffing requirements; providing an effective date.

615290

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2022	.	
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The Committee on Rules (Gibson) recommended the following:

Senate Amendment to Amendment (308330)

Delete lines 70 - 230
and insert:
b. A minimum ~~certified nursing assistant staffing~~ of 2.5 hours of direct care by a certified nursing assistant per resident per day. A facility may not staff below one certified nursing assistant per 20 residents.
c. A minimum ~~licensed nursing staffing~~ of 1.0 hour of direct care by a licensed nurse per resident per day. A facility may not staff below one licensed nurse per 40 residents.

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2. Nursing assistants employed under s. 400.211(2) may be included in computing the hours of direct care provided by certified nursing assistants and may be included in computing the staffing ratio for certified nursing assistants if their job responsibilities include only nursing-assistant-related duties.

3. Each nursing home facility must document compliance with staffing standards as required under this paragraph and post daily the names of licensed nurses and certified nursing assistants ~~staff~~ on duty for the benefit of facility residents and the public. Facilities must maintain the records documenting compliance with minimum staffing standards for a period of 5 years and must report staffing in accordance with 42 C.F.R. s. 483.70(q).

4. The agency must ~~shall~~ recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants if the nursing home facility otherwise meets the minimum staffing requirements for licensed nurses and the licensed nurses are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted toward the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and not also be counted toward the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for


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certified and licensed nursing staff. The hours of a licensed nurse with dual job responsibilities may not be counted twice.

5. Evidence that a facility complied with the minimum direct care staffing requirements under subparagraph 1. is not admissible as evidence of compliance with the nursing services requirements under 42 C.F.R. s. 483.35 or 42 C.F.R. s. 483.70.

(c) ~~(b)~~ Paid feeding assistants and direct care ~~nonnursing~~ staff, other than certified nursing assistants and licensed nurses, who have successfully completed the feeding assistant training program under s. 400.141(1)(v) and who provide ~~providing~~ eating assistance to residents shall ~~not~~ count toward compliance with overall direct care minimum staffing hours but not the hours of direct care required for certified nursing assistants or licensed nurses. Time spent by certified nursing assistants or licensed nurses on providing eating assistance to residents shall count toward the hours of direct care required for certified nursing assistants or licensed nurses ~~standards~~.

(d) ~~(c)~~ Licensed practical nurses licensed under chapter 464 who provide ~~are providing~~ nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

(e) The agency may adopt rules to implement this subsection.

Section 3. Present subsection (2) of section 400.0234, Florida Statutes, is redesignated as subsection (3), and a new subsection (2) is added to that section, to read:

400.0234 Availability of facility records for investigation

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of resident's rights violations and defenses; penalty.—

(2) Information submitted pursuant to s. 408.061(5) and (6) is discoverable and admissible in a civil action or an administrative action under this part or part II of chapter 408.

Section 4. Subsection (4) of section 400.024, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

400.024 Failure to satisfy a judgment or settlement agreement; required notification to claimants.—

(4) ~~If,~~ After the agency is placed on notice pursuant to subsection (2), the following applies ~~and~~:

(a) If the license is subject to renewal, the agency may deny the license renewal unless compliance with this section is achieved.~~; and~~

(b) If a change of ownership application for the facility at issue is filed ~~submitted~~ by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, the agency shall deny the change of ownership application unless compliance with this section is achieved.

(c) If an adverse final judgment under subsection (1) is entered but payment is not yet due and a change of ownership application for the facility at issue is submitted by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, the adverse final judgment becomes the responsibility and liability of the transferee if the agency approves the change of ownership application.

(5) If a change of ownership application for the facility

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at issue is filed by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, then:

(a) The licensee or transferor must provide written notice of the filing of the application to each pending claimant or the claimant's attorney of record, if applicable. The written notice must be provided within 14 days after the date the application is filed with the agency.

(b) The written notice must be provided by certified mail, return receipt requested, or other method that provides verification of receipt.

(c) A claimant has 30 days after the date of receipt of the written notice to object to the application if the claimant has reason to believe that the approval of the application would facilitate a fraudulent transfer or allow the transferor to avoid financial responsibility for the claimant's pending claim.

(d) The agency must consider any objection brought pursuant to this subsection in its decision to approve or deny an application for change of ownership under this part and part II of chapter 408.

(e) If a claim is pending in arbitration at the time that the application for change of ownership is filed, the claimant may file a petition to enjoin the transfer in circuit court.

(f) As used in this subsection, the term "claimant" means a resident or the resident's family or personal representative who has notified the licensee or facility of a potential claim by written notice of intent or who has initiated an action, claim, or arbitration proceeding against the licensee or facility.

Section 5. Paragraphs (g), (n), and (r) of subsection (1)

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of section 400.141, Florida Statutes, are amended to read:

400.141 Administration and management of nursing home facilities.—

(1) Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(g) If the facility has a standard license, exceeds the minimum required hours of direct care provided by licensed nurses ~~nursing~~ and certified nursing assistants ~~assistant direct care~~ per resident per day, and is part of a continuing care facility licensed under chapter 651 or is a retirement community that offers other services pursuant to part III of this chapter or part I or part III of chapter 429 on a single campus, be allowed to share programming and staff. At the time of inspection, a continuing care facility or retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were met. Licensed nurses and certified nursing assistants who work in the facility may be used to provide services elsewhere on campus if the facility exceeds the minimum number of direct care hours required per resident per day and the total number of residents receiving direct care services from a licensed nurse or a certified nursing assistant does not cause the facility to violate the staffing ratios required under s. 400.23(3)(b) ~~s. 400.23(3)(a)~~. Compliance with the minimum staffing ratios must be based on the total number of residents receiving direct care services, regardless of where they reside on campus. If the facility receives a conditional license, it may not share staff until the conditional license status ends. This paragraph does not restrict the agency’s authority under federal or state law

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to require additional staff if a facility is cited for deficiencies in care which are caused by an insufficient number of certified nursing assistants or licensed nurses. The agency may adopt rules for the documentation necessary to determine compliance with this provision.

(n) Comply with state minimum-staffing requirements:

1. The agency shall impose a moratorium on new admissions for a facility that has failed to comply with state minimum-staffing requirements for 48 ~~2~~ consecutive hours ~~days is prohibited from accepting new admissions~~ until the facility has

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2022	.	
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The Committee on Rules (Albritton) recommended the following:

Senate Amendment to Amendment (308330)

Delete line 137
and insert:
is discoverable and may be admissible in a civil action or an

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LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/01/2022	.	
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The Committee on Rules (Gibson) recommended the following:

Senate Amendment

Delete lines 119 - 313
and insert:
b. A minimum ~~certified nursing assistant staffing~~ of 2.5 hours of direct care by a certified nursing assistant per resident per day. A facility may not staff below a ratio of one certified nursing assistant per 20 residents.
c. A minimum ~~licensed nursing staffing~~ of 1.0 hour of direct care by a licensed nurse per resident per day. A facility may not staff below a ratio of one licensed nurse per 40

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residents.

2. Nursing assistants employed under s. 400.211(2) may be included in computing the hours of direct care provided by certified nursing assistants and may be included in computing the staffing ratio for certified nursing assistants if their job responsibilities include only nursing-assistant-related duties.

3. Each nursing home facility must document compliance with staffing standards as required under this paragraph and post daily the names of licensed nurses and certified nursing assistants ~~staff~~ on duty for the benefit of facility residents and the public. Facilities must maintain the records documenting compliance with minimum staffing standards for a period of 5 years and must report staffing in accordance with 42 C.F.R. s. 483.70(q).

4. The agency must ~~shall~~ recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants if the nursing home facility otherwise meets the minimum staffing requirements for licensed nurses and the licensed nurses are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted toward the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and not also be counted toward the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of

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documenting compliance with minimum staffing requirements for certified and licensed nursing staff. The hours of a licensed nurse with dual job responsibilities may not be counted twice.

5. The nurse staffing requirements imposed in this paragraph are minimum nurse staffing requirements for nursing home facilities. Evidence that a facility complied with the minimum direct care staffing requirements under subparagraph 1. is not admissible as evidence of compliance with the nursing services requirements under 42 C.F.R. s. 483.35 or 42 C.F.R. s. 483.70.

(c) ~~(b)~~ Paid feeding assistants and direct care staff, other than certified nursing assistants, who have successfully completed the feeding assistant training program under s. 400.141(1)(v) and who provide ~~nonnursing staff providing~~ eating assistance to residents shall ~~not~~ count toward compliance with overall direct care minimum staffing hours but not the hours of direct care required for certified nursing assistants or licensed nurses ~~standards~~.

(d) ~~(c)~~ Licensed practical nurses licensed under chapter 464 who provide ~~are providing~~ nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

(e) The agency may adopt rules to implement this subsection.

Section 3. Present subsection (2) of section 400.0234, Florida Statutes, is redesignated as subsection (3), and a new subsection (2) is added to that section, to read:

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400.0234 Availability of facility records for investigation of resident's rights violations and defenses; penalty.—

(2) Forms filed with the agency pursuant to s. 408.061(5) and (6) are not confidential or exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be discoverable and admissible in a civil action under this part or an administrative action under this part or part II of chapter 408.

Section 4. Subsection (4) of section 400.024, Florida Statutes, is amended to read:

400.024 Failure to satisfy a judgment or settlement agreement.—

(4) ~~If,~~ After the agency is placed on notice pursuant to subsection (2), the following applies ~~and~~:

(a) If the license is subject to renewal, the agency may deny the license renewal unless compliance with this section is achieved.~~; and~~

(b) If a change of ownership application for the facility at issue is filed ~~submitted~~ by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, the unsatisfied or undischarged adverse final judgment under subsection (1) becomes the responsibility and liability of the transferee, and the agency shall deny the change of ownership application unless compliance with this section is achieved.

(c) If a change of ownership application for the facility at issue is filed by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, then:

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1. The licensee or transferor must provide written notice of the filing of the application to each pending claimant or the claimant's attorney of record, if applicable, within 14 days after the date the application is filed with the agency.

2. The written notice must be provided by certified mail, return receipt requested, or other method that provides verification of receipt.

3. A claimant has 30 days after the date of receipt of the written notice to object to the application if the claimant has reason to believe that the approval of the application would facilitate a fraudulent transfer or allow the transferor to avoid financial responsibility for the claimant's pending claim.

4. The agency must consider any objection brought pursuant to this subsection in its decision to approve or deny an application for change of ownership under this part and part II of chapter 408.

5. If a claim is pending in arbitration at the time that the application for change of ownership is filed, the claimant may file a petition to enjoin the transfer in circuit court.

6. As used in this paragraph, "claimant" means a resident or the resident's family or personal representative who has notified the licensee or facility of a potential claim by notice of intent letter or who has initiated an action, claim, or arbitration proceeding against the licensee or facility.

Section 5. Paragraphs (g), (n), and (r) of subsection (1) of section 400.141, Florida Statutes, are amended to read:

400.141 Administration and management of nursing home facilities.—

(1) Every licensed facility shall comply with all

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applicable standards and rules of the agency and shall:

(g) If the facility has a standard license, exceeds the minimum required hours of direct care provided by licensed nurses ~~nursing~~ and certified nursing assistants ~~assistant direct care~~ per resident per day, and is part of a continuing care facility licensed under chapter 651 or is a retirement community that offers other services pursuant to part III of this chapter or part I or part III of chapter 429 on a single campus, be allowed to share programming and staff. At the time of inspection, a continuing care facility or retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were met. Licensed nurses and certified nursing assistants who work in the facility may be used to provide services elsewhere on campus if the facility exceeds the minimum number of direct care hours required per resident per day and the total number of residents receiving direct care services from a licensed nurse or a certified nursing assistant does not cause the facility to violate the staffing ratios required under s. 400.23(3)(b) ~~s. 400.23(3)(a)~~. Compliance with the minimum staffing ratios must be based on the total number of residents receiving direct care services, regardless of where they reside on campus. If the facility receives a conditional license, it may not share staff until the conditional license status ends. This paragraph does not restrict the agency's authority under federal or state law to require additional staff if a facility is cited for deficiencies in care which are caused by an insufficient number of certified nursing assistants or licensed nurses. The agency may adopt rules for the documentation necessary to determine

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compliance with this provision.

(n) Comply with state minimum-staffing requirements:

1. The agency shall impose a moratorium on new admissions for a facility that has failed for 48 consecutive hours to comply with the minimum hours of direct care required to be provided by a licensed nurse or certified nursing assistant. The moratorium must be imposed until the facility is able to document compliance with the minimum direct care hours required per resident per day for licensed nurses and certified nursing assistants ~~state minimum-staffing requirements for 2 consecutive days is prohibited from accepting new admissions until the facility has achieved the minimum-staffing requirements for 6 consecutive days~~. For the purposes of this subparagraph, any person who was a resident of the facility and was absent from the facility for the purpose of receiving medical care at a separate location or was on a leave of absence is not considered a new admission. ~~Failure by the facility to impose such an admissions moratorium is subject to a $1,000 fine.~~

2. A facility that has a standard ~~does not have a conditional~~ license may be cited for failure to comply with the standards in s. 400.23(3)(b)1.b. and c. ~~s. 400.23(3)(a)1.b. and c.~~ only if it has failed to meet those standards on 2 consecutive days ~~or if it has failed to meet at least 97 percent of those standards on any one day~~.

3. A facility that has a conditional license must be in compliance with the standards in s. 400.23(3)(b) ~~s. 400.23(3)(a)~~ at all times.

(r) Maintain in the medical record for each resident a daily chart of direct care ~~certified nursing assistant~~ services

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provided to the resident. The direct care staff ~~certified nursing assistant who is~~ caring for the resident must complete this record by the end of his or her shift. This record must indicate assistance with activities of daily living, assistance with eating, and assistance with drinking, and must record each offering of nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.

Section 6. Nursing Home Sustainability Task Force.—There is created the Nursing Home Sustainability Task Force. The task force shall review, analyze, and make recommendations specific to the sustainability of the state's model of providing quality nursing home care. The task force shall consist of representatives of nursing home providers, nurses, certified nursing assistants, and aging advocates and other interested

By the Committee on Health Policy; and Senator Albritton

588-02938-22 2022804c1

A bill to be entitled

An act relating to modernization of nursing home facility staffing; amending s. 400.021, F.S.; revising the definition of the term "resident care plan"; amending s. 400.23, F.S.; defining the terms "direct care staff" and "facility assessment"; specifying functions that do not constitute direct care staffing hours for purposes of required nursing home staffing ratios; revising nursing home staffing requirements; requiring nursing home facilities to maintain staffing records for a specified time and report staffing information consistent with federal law; providing construction; providing that evidence of compliance with state minimum staffing requirements is not admissible as evidence for compliance with specified provisions of federal law; providing that eating assistance to residents provided by certain direct care staff counts toward certain minimum direct care staffing requirements; authorizing the Agency for Health Care Administration to adopt rules; amending s. 400.0234, F.S.; providing that certain forms filed with the agency are not confidential or exempt and may be discoverable and admissible in civil or administrative proceedings; amending s. 400.024, F.S.; providing that an unsatisfied or undischarged adverse final judgment in connection with a nursing home facility becomes the responsibility and liability of a new owner if ownership of the facility is transferred; requiring a licensee to provide written notice to any

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pending claimants or their attorneys of record within a specified timeframe after filing a change of ownership application with the agency; providing requirements for the notice; providing that claimants may object to the application within a specified timeframe under certain circumstances; requiring the agency to consider any such objections in its decision; providing for the filing of such objections in circuit court under certain circumstances; defining the term "claimant"; amending s. 400.141, F.S.; conforming cross-references and provisions to changes made by the act; revising provisions related to moratoriums on new admissions for facilities that fail to comply with minimum staffing requirements; deleting a certain fine; creating the Nursing Home Sustainability Task Force; providing duties and membership of the task force; requiring the task force to submit its recommendations to the agency, the Governor, and the Legislature by a specified date; amending s. 651.118, F.S.; making a technical change; providing an effective date.

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

Section 1. Subsection (18) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(18) "Resident care plan" means a written, comprehensive

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person-centered care plan developed in accordance with 42 C.F.R. s. 483.21(b) which is~~, maintained, and~~ reviewed at least ~~not less than~~ quarterly by a registered nurse, with participation from other facility staff and the resident or his or her designee or legal representative. The resident care plan must include~~, which includes~~ a comprehensive assessment of the needs of an individual resident; the type and frequency of services required to provide the necessary care for the resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being; a listing of services provided within or outside the facility to meet those needs; and an explanation of service goals.

Section 2. Subsection (3) of section 400.23, Florida Statutes, is amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(3)(a)1. As used in this subsection, the term:

a. "Direct care staff" means individuals who, through interpersonal contact with residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. The term includes, but is not limited to, disciplines and professions that must be reported in accordance with 42 C.F.R. s. 483.70(q) in the following categories of direct care services:

(I) Physician.

(II) Nursing.

(III) Pharmacy.

(IV) Dietary.

(V) Therapeutic.

(VI) Dental.

(VII) Podiatry.

(VIII) Mental health.

The term does not include individuals whose primary duty is maintaining the physical environment of the facility, including, but not limited to, food preparation, laundry, and housekeeping.

b. "Facility assessment" means a process to determine the staff competencies that are necessary to provide the level and types of care needed for the facility's resident population considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other pertinent factors that are present within that resident population. Additional requirements for conducting a facility assessment must be performed in accordance with 42 C.F.R. s. 483.70(e).

2. For purposes of this subsection, direct care staffing hours do not include time spent on nursing administration, staff development, staffing coordination, and the administrative portion of the minimum data set and care plan coordination for Medicaid.

(b)1. Each facility must determine its direct care staffing needs based on the facility assessment and the individual needs of each resident based on the resident's care plan. At a minimum, staffing ~~The agency shall adopt rules providing minimum staffing requirements for nursing home facilities. These~~ requirements must include~~:~~ for each facility:

a. A minimum weekly average of ~~certified nursing assistant and licensed nursing staffing combined of~~ 3.6 hours of direct

care per resident per day. As used in this subparagraph ~~sub-subparagraph~~, a week is defined as Sunday through Saturday.

b. A minimum ~~certified nursing assistant staffing~~ of 2.0 ~~2.5~~ hours of direct care by a certified nursing assistant per resident per day. A facility may not staff below a ratio of one certified nursing assistant per 20 residents.

c. A minimum ~~licensed nursing staffing~~ of 1.0 hour of direct care by a licensed nurse per resident per day. A facility may not staff below a ratio of one licensed nurse per 40 residents.

2. Nursing assistants employed under s. 400.211(2) may be included in computing the hours of direct care provided by certified nursing assistants and may be included in computing the staffing ratio for certified nursing assistants if their job responsibilities include only nursing-assistant-related duties.

3. Each nursing home facility must document compliance with staffing standards as required under this paragraph and post daily the names of licensed nurses and certified nursing assistants ~~staff~~ on duty for the benefit of facility residents and the public. Facilities must maintain the records documenting compliance with minimum staffing standards for a period of 5 years and must report staffing in accordance with 42 C.F.R. s. 483.70(q).

4. The agency must ~~shall~~ recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants if the nursing home facility otherwise meets the minimum staffing requirements for licensed nurses and the licensed nurses are performing the duties of a certified nursing assistant. Unless otherwise approved by the

agency, licensed nurses counted toward the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and not also be counted toward the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. The hours of a licensed nurse with dual job responsibilities may not be counted twice.

5. The nurse staffing requirements imposed in this paragraph are minimum nurse staffing requirements for nursing home facilities. Evidence that a facility complied with the minimum direct care staffing requirements under subparagraph 1. is not admissible as evidence of compliance with the nursing services requirements under 42 C.F.R. s. 483.35 or 42 C.F.R. s. 483.70.

(c) ~~(b)~~ Paid feeding assistants and direct care staff, other than certified nursing assistants, who have successfully completed the feeding assistant training program under s. 400.141(1)(v) and who provide ~~nonnursing staff providing~~ eating assistance to residents shall ~~not~~ count toward compliance with overall direct care minimum staffing hours but not the hours of direct care required for certified nursing assistants or licensed nurses ~~standards~~.

(d) ~~(c)~~ Licensed practical nurses licensed under chapter 464 who provide ~~are providing~~ nursing services in nursing home

facilities under this part may supervise the activities of other licensed practical nurses, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

(e) The agency may adopt rules to implement this subsection.

Section 3. Present subsection (2) of section 400.0234, Florida Statutes, is redesignated as subsection (3), and a new subsection (2) is added to that section, to read:

400.0234 Availability of facility records for investigation of resident's rights violations and defenses; penalty.—

(2) Forms filed with the agency pursuant to s. 408.061(5) and (6) are not confidential or exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be discoverable and admissible in a civil action under this part or an administrative action under this part or part II of chapter 408.

Section 4. Subsection (4) of section 400.024, Florida Statutes, is amended to read:

400.024 Failure to satisfy a judgment or settlement agreement.—

(4) ~~If,~~ After the agency is placed on notice pursuant to subsection (2), the following applies ~~and~~:

(a) If the license is subject to renewal, the agency may deny the license renewal unless compliance with this section is achieved.~~; and~~

(b) If a change of ownership application for the facility at issue is filed ~~submitted~~ by the licensee, by a person or entity identified as having a controlling interest in the

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licensee, or by a related party, the unsatisfied or undischarged adverse final judgment under subsection (1) becomes the responsibility and liability of the transferee, and the agency shall deny the change of ownership application unless compliance with this section is achieved.

(c) If a change of ownership application for the facility at issue is filed by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, then:

1. The licensee or transferor must provide written notice of the filing of the application to each pending claimant or the claimant's attorney of record, if applicable, within 14 days after the date the application is filed with the agency.

2. The written notice must be provided by certified mail, return receipt requested, or other method that provides verification of receipt.

3. A claimant has 30 days after the date of receipt of the written notice to object to the application if the claimant has reason to believe that the approval of the application would facilitate a fraudulent transfer or allow the transferor to avoid financial responsibility for the claimant's pending claim.

4. The agency must consider any objection brought pursuant to this subsection in its decision to approve or deny an application for change of ownership under this part and part II of chapter 408.

5. If a claim is pending in arbitration at the time that the application for change of ownership is filed, the claimant may file a petition to enjoin the transfer in circuit court.

6. As used in this paragraph, "claimant" means a resident

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or the resident's family or personal representative who has notified the licensee or facility of a potential claim by notice of intent letter or who has initiated an action, claim, or arbitration proceeding against the licensee or facility.

Section 5. Paragraphs (g), (n), and (r) of subsection (1) of section 400.141, Florida Statutes, are amended to read:

400.141 Administration and management of nursing home facilities.—

(1) Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(g) If the facility has a standard license, exceeds the minimum required hours of direct care provided by licensed nurses ~~nursing~~ and certified nursing assistants ~~assistant direct care~~ per resident per day, and is part of a continuing care facility licensed under chapter 651 or is a retirement community that offers other services pursuant to part III of this chapter or part I or part III of chapter 429 on a single campus, be allowed to share programming and staff. At the time of inspection, a continuing care facility or retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were met. Licensed nurses and certified nursing assistants who work in the facility may be used to provide services elsewhere on campus if the facility exceeds the minimum number of direct care hours required per resident per day and the total number of residents receiving direct care services from a licensed nurse or a certified nursing assistant does not cause the facility to violate the staffing ratios required under s. 400.23(3)(b) ~~s. 400.23(3)(a)~~. Compliance with the minimum staffing ratios must

be based on the total number of residents receiving direct care services, regardless of where they reside on campus. If the facility receives a conditional license, it may not share staff until the conditional license status ends. This paragraph does not restrict the agency's authority under federal or state law to require additional staff if a facility is cited for deficiencies in care which are caused by an insufficient number of certified nursing assistants or licensed nurses. The agency may adopt rules for the documentation necessary to determine compliance with this provision.

(n) Comply with state minimum-staffing requirements:

1. The agency may impose a moratorium on new admissions for a facility that has failed for 48 consecutive hours to comply with the minimum hours of direct care required to be provided by a licensed nurse or certified nursing assistant. The moratorium may be imposed until the facility is able to document compliance with the minimum direct care hours required per resident per day for licensed nurses and certified nursing assistants ~~state minimum staffing requirements for 2 consecutive days is prohibited from accepting new admissions until the facility has achieved the minimum-staffing requirements for 6 consecutive days~~. For the purposes of this subparagraph, any person who was a resident of the facility and was absent from the facility for the purpose of receiving medical care at a separate location or was on a leave of absence is not considered a new admission. ~~Failure by the facility to impose such an admissions moratorium is subject to a $1,000 fine.~~

2. A facility that has a standard ~~does not have a conditional~~ license may be cited for failure to comply with the

standards in s. 400.23(3)(b)1.b. and c. ~~s. 400.23(3)(a)1.b. and c.~~ only if it has failed to meet those standards on 2 consecutive days ~~or if it has failed to meet at least 97 percent of those standards on any one day~~.

3. A facility that has a conditional license must be in compliance with the standards in s. 400.23(3)(b) ~~s. 400.23(3)(a)~~ at all times.

(r) Maintain in the medical record for each resident a daily chart of direct care ~~certified nursing assistant~~ services provided to the resident. The direct care staff ~~certified nursing assistant who is~~ caring for the resident must complete this record by the end of his or her shift. This record must indicate assistance with activities of daily living, assistance with eating, and assistance with drinking, and must record each offering of nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.

Section 6. Nursing Home Sustainability Task Force.—There is created the Nursing Home Sustainability Task Force. The task force shall review, analyze, and make recommendations specific to the sustainability of the state's model of providing quality nursing home care. The task force shall consist of representatives of nursing home providers and other interested stakeholders. The task force shall review all areas of the provision of health care services to residents, regulation, liability, licensing, quality initiatives, and the availability of quality, affordable, and accessible health care. The task force shall make any recommendations to the Agency for Health Care Administration, the Governor, the President of the Senate,

and the Speaker of the House of Representatives by January 1, 2025.

Section 7. Subsection (6) of section 651.118, Florida Statutes, is amended to read:

651.118 Agency for Health Care Administration; certificates of need; sheltered beds; community beds.—

(6) Unless the provider already has a component that is to be a part of the continuing care facility and that is licensed under chapter 395, part II of chapter 400, or part I of chapter 429 at the time of construction of the continuing care facility, the provider must construct the non-nursing ~~nonnursing~~ home portion of the facility and the nursing home portion of the facility at the same time. If a provider constructs less than the number of residential units approved in the certificate of authority, the number of licensed sheltered nursing home beds shall be reduced by a proportionate share.

Section 8. This act shall take effect upon becoming a law.

3/1/22
Meeting Date

Senate Rules
Committee

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SB 804 = Albritton Amendment to Amendment
Bill Number or Topic

612826
Amendment Barcode (if applicable)

Name Toby Philpot

Phone 352-318-2008

Address 307 W. Park Avenue
Street

Email tphilpot@fhca.org

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:
FL 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

March 1, 2022
Meeting Date

Rules
Committee

The Florida Senate

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CS/SB 804
Bill Number or Topic

308330
Amendment Barcode (if applicable)

Name Geoffrey Moore

Phone 407-839-0866

Address PO Box 2209
Street

Email gtmoore@maherlawfirm.com

Winter Park FL 32790
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

3/1/22
Meeting Date

Rules
Committee

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804
Bill Number or Topic

308330
Amendment Barcode (if applicable)

Name Amina Dubisson - Ventura Services

Phone (305) 389-9485

Address 2901 Stirling Road
Street

Email adubuisson@venturesvc.com

Ft Lauderdale 33312
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 Health Care Assoc.

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)

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Committee

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804
Bill Number or Topic

308330
Amendment Barcode (if applicable)

Name Deborah Franklin

Phone 850-294-3907

Address 307 W. Park Ave
Street

Email DFranklin@fhca.org

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: Paul M Cairo Florida Hospital 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

March 1, 2022
Meeting Date

Senate Rules
Committee

The Florida Senate

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SB 804
Bill Number or Topic

308330
Amendment Barcode (if applicable)

Name Steve Bahmer

Phone (850) 671-3700

Address 1812 Riggins Road
Street

Email sbahmer@leadingageflorida.org

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:
Leading Age 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. 2020-2022JointRules.pdf (flsenate.gov)

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3/1/22
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Committee

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804
Bill Number or Topic

308330
Amendment Barcode (if applicable)

Name Kelvin Joseph

Phone 347 821 7072

Address 850 S Gadsden
Street

Email kjoseph@riverchasehrc.com

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

Riverchase Health & Rehab

☐ 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)

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S-001 (08/10/2021)

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3/1/22
Meeting Date

Rules
Committee

804
Bill Number or Topic

308330
Amendment Barcode (if applicable)

Name Joanne Watson

Phone 2502248486

Address 1329 Alabama St
Street

Email Joanne.Watson@MHNR-ORG.

Tallahassee FL 32304
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:

Miracle Hills Nursing Rehab

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)

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S-001 (08/10/2021)

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03/01/2022
Meeting Date

Rules
Committee

804
Bill Number or Topic

308330
Amendment Barcode (if applicable)

Name Dale Ewart

Phone 305-785-1951

Address 10723 Lenox Rd
Street

Email Dale.Ewart@1199.org

Cooper City FL 33026
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:
SEIU1199

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)

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This information not read into the record by the Chair

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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03/01/2022
Meeting Date

Rules
Committee

804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dale Ewart

Phone 305-785-1951

Address 10723 Lenox Rd
Street

Email Dale.Ewart@1199.org

Cooper City FL 33026
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:
SEIU1199

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03/01/2022
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Rules
Committee

804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tanya C. Jackson

Phone 850-445-0107

Address 110 E. College Ave.
Street

Email Tanya@PinPointResults.com

Tallahssee 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:**

SEIU1199 Healthcare Workers

☐ **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)

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S-001 (08/10/2021)

3-1-22
Meeting Date

Rules
Committee

The Florida Senate
APPEARANCE RECORD

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804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barbara DeVane

Phone 850-251-4280

Address 625 E. Brevard St
Street

Email barbaradevane1@yahoo.com

Tallahassee FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
FLNOW & Volunteer for FL Alliance for Retired Americans

☐ 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 JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

03/01/2022
Meeting Date

Rules
Committee

The Florida Senate

APPEARANCE RECORD

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CS/SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lynn Hearn

Address 4040 Esplanade Way
Street

Phone (850)414-2054

Email hearnl@elderaffairs.org

Tallahassee FL 32312
City State Zip

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

☐ I am appearing without compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am a registered lobbyist, representing:
Florida Long-Term Care Ombudsman Program

☐ 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)

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The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

SB 704
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shirley Y. Hevman

Phone 561-596-7780

Address 2600 N. Flagler Dr apt 207
Street

Email ~~Shirley Y. Hevman~~
shirleyyhevman@aol.com

West Palm Beach, FL 33407
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. 2020-2022JointRules.pdf (flsenate.gov)

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3-1-22
Meeting Date

Committee

The Florida Senate

APPEARANCE RECORD

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SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jacquelin Bruno

Phone

Address 910 NW 104 st
Street

Email

Miami FL 33150
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. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

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SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Suzie Cherenfant

Phone

Address 19080 N.W 27th Ave Apt 201
Street

Email

Miami Gardens FL 33056
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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Meeting Date

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Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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CS/SB 804
nursing home facility staffing
Bill Number or Topic

Amendment Barcode (if applicable)

Name Roslyn Carter

Phone (772) 777-2091

Address 1966 S.W Logan St
Street

Email eleuthera-rara@prodigy.net

Pt. St Lucie FL 34953
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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3. 1. 22
Meeting Date

Rules
Committee

SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sonia Palmer

Phone 352 804 8162

Address 2 Spruce Run
Street

Email groundhoglady@yahoo.com

Ocala Fl. 34472
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:

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Rules
Committee

The Florida Senate
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SB 804 Modernization of Nursing Home
Bill Number or Topic

Amendment Barcode (if applicable)

Name H Joan Waitkewicz MD

Phone 561-307-3418

Address 2600 N Flagler Dr #207
Street

Email dwcjoan@gmail.com

West Palm Beach FL 33407
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:

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Committee

The Florida Senate

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804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Zayne Smith – AARP

Phone (850) 228-4243

Address 215 S. Monroe St.
Street

Email zsmith@aarp.org

Tallahssee 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:
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. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

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3/1/22
Meeting Date

Senate Rules
Committee

SB 8084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sylvia Moffett

Phone 561-319-6279

Address 513 35th St,
Street

Email sylvia.s.moffett@gmail.com

West Palm Beach FL 33407
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:

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3/1/22
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Rules
Committee

The Florida Senate
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SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elaine Morrison

Phone 352 282-3495

Address 8518 SW 93rd Circle
Street

Email elmo72434@gmail.com

Ocala FL, 34481
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:

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3/1/22
Meeting Date

Rules
Committee

S
SB 804
Bill Number or Topic

Name Francine Julius Edwards

Phone 352-202-0514 able)

Address 9825 SE 140th Street
Street

Email khamilah30@gmail.com

Summerfield 34491
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. 2020-2022JointRules.pdf (flsenate.gov)

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3-1-22
Meeting Date

SB 804
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Jason Morales Phone

Address 2305 Wells ave Email
Street

Alva 33920
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:

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S-001 (08/10/2021)

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Rules
Committee

The Florida Senate
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SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Avelia Perkins

Phone 909-262-8407

Address 9470 SW 99th Ct.
Street

Email perky8913@gmail.com

Ocala FL 34481
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. 2020-2022JointRules.pdf (flsenate.gov)

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3/1/22
Meeting Date

Rules
Committee

804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Adam Basford

Phone 224-7173

Address 516 N Adams St
Street

Email abasford@aif.com

Tallahassee FL 32442
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:
Associated Industries of FL

☐ 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)

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The Florida Senate

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3-1-2022
Meeting Date

Rules
Committee

CS/SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Deborah Baker-Rian

Phone 850.449.0198

Address 3926 Balsam Dr
Street

Email deborah.bakerrian@gmail.com

Niceville FL 32578
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3/1/2022
Meeting Date

Rules
Committee

CS/SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ellen Baker, PBC Teacher

Phone 561-801-0383

Address 5673 Whirlaway Rd.
Street

Email bakeret@hotmail.com

Palm Beach Gardens, FL 33418
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. 2020-2022JointRules.pdf (flsenate.gov)

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3/1/22
Meeting Date

Senate Rules
Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jessica Brason

Phone 5618152881

Address 12031 Copozo Ct
Street

Email JBrason@gmail.com

PBG FL 33418
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:

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S-001 (08/10/2021)

March 1, 2022
Meeting Date

Rules
Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB 864
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patty Farley

Phone 321-794-1955

Address 101 Bay View Dr.
Street

Email pfarley_101@hotmail.com

Indian Harbour FL. 32937
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

3/1/22
Meeting Date

Rules
Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Reesa Levy

Phone 917-952-6904

Address 120 N. Riverdr W
Street

Email Levyreesa@gmail.com

Jupiter FL 33458
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:

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S-001 (08/10/2021)

3/1/22
Meeting Date

Rules
Committee

The Florida Senate
APPEARANCE RECORD

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DUPLICATE

804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joanne Watson

Phone 850-224-8486

Address 1329 Abraham St.
Street

Email Joanne.Watson@mhnr.org

Tallahassee, FL 32304
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:

Miracle Hills Nursing & Rehab Center

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. 611.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

DUPLICATE

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kelvin Joseph

Phone 850-875-3711

Address 1017 Strong Rd.
Street

Email

Quincy, FL 323
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:

Riverchase Health + Rehab Center

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S-001 (08/10/2021)

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APPEARANCE RECORD

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DUPLICATE

804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Deborah Franklin

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Street

Email DFranklin@fhca.org

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:

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S-001 (08/10/2021)

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Meeting Date

Rules
Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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DUPLICATE

804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Amina Dubuisson w/ Ventura Services Phone 305-389-9485

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City State Zip

Email aDubuisson@venturasvc.com

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 Health Care Association

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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:	CS/SB 944
INTRODUCER:	Rules Committee and Senator Baxley
SUBJECT:	Online Marketplace Transparency
DATE:	March 2, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	**Favorable**
2.	Hunter	Ryon	CA	**Favorable**
3.	McMillan	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 944 creates s. 559.953, F.S., which establishes that an online marketplace must require high-volume third-party sellers to provide the online marketplace with verification and disclosure information. Additionally, an online marketplace must require high-volume third-party sellers with an aggregate total of $20,000 or more in annual gross revenues on its online platform to provide consumers with disclosure information.

The bill requires an online marketplace to provide consumers with a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.

The bill provides that a violation of s. 559.953, F.S., constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act, and the Department of Legal Affairs may adopt rules to collect and verify the required information. Additionally, regulation under s. 559.953, F.S., is preempted to the Department of Legal Affairs.

The bill takes effect January 1, 2023.

II. Present Situation:

Florida Deceptive and Unfair Trade Practices Act (FDUTPA)

History and Purpose of FDUTPA

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) became law in 1973.[1] The FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce.[2] The FDUTPA is based on federal law, and s. 501.204(2), F.S., provides that it is the intent of the Legislature that due consideration and great weight must be given to the interpretations of the Federal Trade Commission and the federal courts relating to section 5 of the Federal Trade Commission Act.[3]

The State Attorney or the Department of Legal Affairs may bring actions when it is in the public interest on behalf of consumers or governmental entities.[4] The Office of the State Attorney may enforce violations of the FDUTPA if the violations take place in its jurisdiction.[5] The Department of Legal Affairs has enforcement authority if the violation is multi-jurisdictional, the state attorney defers in writing, or the state attorney fails to act within 90 days after a written complaint is filed.[6] Consumers may also file suit through private actions.[7]

Remedies under the FDUTPA

The Department of Legal Affairs and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments;
- Injunctive relief;
- Actual damages on behalf of consumers and businesses;
- Cease and desist orders; and
- Civil penalties of up to $10,000 per willful violation.[8]

Remedies for private parties are limited to the following:

- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation; and
- Actual damages, attorney fees and court costs, where a person has suffered a loss due to a FDUTPA violation.[9]

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[1] Ch. 73-124, Laws of Fla.; codified at part II of ch. 501, F.S.

[2] *See* s. 501.202, F.S. Trade or commerce means the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. "Trade or commerce" shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity. *See* s. 501.203(8), F.S.

[3] *See* s 501.204(2), F.S.

[4] *See* ss. 501.203(2), 501.206, and 501.207, F.S.

[5] Section 501.203(2), F.S.

[6] *Id.*

[7] Section 501.211, F.S.

[8] Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

[9] Section 501.211(1) and (2), F.S.

Federal Unfair and Deceptive Trade Practices

The Federal Trade Commission's (FTC's) unfair and deceptive trade practices regulations prohibit unfair[10] or deceptive[11] acts or practices in or affecting commerce.[12] The FTC's regulations include "Truth In Advertising" guidelines, which require advertisements to be truthful, not misleading, and, when appropriate, backed by scientific evidence.[13] To enforce these regulations, the FTC takes law enforcement actions, provides consumer and business education, issues reports and policy guidance, leads workshops, and participates in other forums.[14]

The FTC also provides "online shopping" guidance to consumers.[15] The guidance includes confirming an online seller's physical address and phone number, scrutinizing details provided about a product, paying with credit card, keeping records of any transaction, and protecting personal information.[16] Additionally, the FTC offers resources on how to compare products online, as well as where to go to report online shopping fraud.[17]

E-commerce Marketplace

As e-commerce grows, the sale of counterfeit goods alongside authentic products continues to be a concern.[18] In 2020, the Department of Homeland Security published a report detailing potential strategies and policies to combat the trade of counterfeit goods.[19] According to the report, e-commerce platforms enable counterfeiters to produce products at lower prices, while also reaching a larger number of potential customers.[20] The report points to a scenario where third-party marketplace websites contain photos of the real product, fake reviews of the counterfeit product, and other information designed to mislead consumers.[21]

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[10] An "unfair" practice is unfair if it causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. *See* 15 U.S.C. Sec. 45(n).
[11] A "deceptive" practice involves a material representation, omission or practice that is likely to mislead a consumer acting reasonably in the circumstances. *See* FTC Policy Statement on Deception (Oct. 14, 1983) *available at* https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf (last visited Jan. 14, 2022). *See also* Federal Trade Commission, *A Brief Overview of the Federal Trade Commission's Investigative, Law Enforcement, and Rulemaking Authority* (revised, May 2021) *available at* https://www.ftc.gov/about-ftc/what-we-do/enforcement-authority (last visited Jan. 14, 2022).
[12] 15 U.S.C. s. 45(a)(1).
[13] Federal Trade Commission, *Truth In Advertising, available at* https://www.ftc.gov/news-events/media-resources/truth-advertising (last visited Jan. 14, 2022).
[14] Federal Trade Commission, *Protecting Consumers from Fraud and Deception, available at* https://www.ftc.gov/news-events/media-resources/truth-advertising/protecting-consumers (last visited Jan. 14, 2022).
[15] *See* Federal Trade Commission, *Shopping Online, available at* https://www.consumer.ftc.gov/articles/0020-shopping-online (last visited Jan. 14, 2022).
[16] *Id.*
[17] *Id. See also* Federal Trade Commission, *Comparison Shopping, available at* https://www.consumer.ftc.gov/shopping (last visited Jan. 14, 2022).
[18] *See* Department of Homeland Security, *Combating Trafficking in Counterfeit and Pirated Goods* (Jan. 24, 2020), *available at* https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf (last visited Jan. 14, 2022).
[19] *Id.*
[20] *Id.* at 21.
[21] *Id.* at 22.

The report also discusses how the online marketplace is changing consumer attitudes and perceptions.[22] For instance, shopping online makes it harder for consumers to identify what the report calls traditional "red flag" indicators, which has the potential to cause safety risks when consumers rely on false claims that certain products have health or safety certificates.[23] The report points out that this dynamic creates a lack of consumer trust, as well as harming the reputation of brands or businesses.[24]

In 2019, the Organization for Economic Cooperation and Development (OECD) in partnership with the EU Intellectual Property Office also published a study detailing trends in counterfeit and pirated goods.[25] According to the OECD, trade in fake goods infringe on trademarks and copyright, while also potentially harming the health and safety of consumers.[26] The OECD reported that counterfeit and pirated goods were steadily rising, and in March of 2019, accounted for 3.3 percent of global trade.[27]

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.[28]

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.[29] Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.[30] In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.[31]

In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.[32] Implied preemption is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.[33] Preemption of a

[22] *Id*. at 14.
[23] *Id*. at 15.
[24] *Id*.
[25] *See* Organization for Economic Cooperation and Development, *Trends in Trade in Counterfeit and Pirated Goods* (2019), *available at* https://read.oecd-ilibrary.org/trade/trends-in-trade-in-counterfeit-and-pirated-goods_g2g9f533-en#page1 (last visited Jan. 14, 2022).
[26] *See* Organization for Economic Cooperation and Development, *Trade in Fake Goods is now 3.3% of World Trading and Rising* (March 18, 2019), *available at* www.oecd.org/newsroom/trade-in-fake-goods-is-now-33-of-world-trade-and-rising.htm (last visited Jan. 14, 2022).
[27] *Id*.
[28] *See* James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).
[29] *See City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).
[30] *Mulligan*, 934 So.2d at 1243.
[31] *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).
[32] *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami,* 812 So.2d 504 (Fla. 3d DCA 2002).
[33] *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.[34] Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.[35]

III. Effect of Proposed Changes:

The bill creates s. 559.953, F.S., and provides the following definitions:

- "Consumer product" means a product that is used or bought for use primarily for personal, family, or household purposes;
- "High-volume third-party seller" means a participant in an online marketplace that is a third-party seller and who, in any continuous 12-month period during the previous 24-months, has entered into 200 or more discrete sales or transactions of new or unused consumer products resulting in the accumulation of an aggregate total of $5,000 or more in gross revenues;[36]
- "Online marketplace" means any consumer-directed electronically based or accessed platform that includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States, is used by one or more third-party sellers for such purposes, and has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products;
- "Seller" means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace;
- "Third-party seller" means any seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace;[37] and
- "Verify" means to confirm information and documentation provided to an online marketplace by the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided which correspond to the seller or an individual acting on the seller's behalf are valid, not misappropriated, and not falsified.

The bill establishes that an online marketplace must require high-volume third-party sellers to provide the online marketplace with the following information within 10 days after qualifying as a high-volume third-party seller:

- Deposit account information from a financial institution;
- Contact information;[38]and

[34] *Id.*
[35] *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.
[36] Only sales or transactions made through the online marketplace for which payment was processed by the online marketplace, either directly or through the seller's payment processer, count towards the calculation for the number of discrete sales or transactions or gross revenues.
[37] The term "third-party seller" does not include, with respect to an online marketplace: a seller that operates the online marketplace; a business entity that has made available to the general public the entity's name, business address, and working contact information; a business entity with an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; or a business entity that has provided to the online marketplace identifying information that has been verified.
[38] Contact information includes: a valid e-mail address and phone number; if the high-volume third-party seller is an individual, the individual's name; if the high-volume third-party seller is not an individual, either a copy of a government-issued photo identification for an individual acting on behalf of such seller which includes such individual's name and

- A business tax identification number or, if the high-volume third party seller does not have a business tax identification number, a taxpayer identification number.

The bill provides that the online marketplace must verify the information the high-volume third-party seller provides under s. 559.953(2)(a), F.S., within 10 days after receiving the information. If the high-volume third-party seller provides any changes to the information, the online marketplace must verify such changes within 10 days after receiving the information.[39]

The bill requires the online marketplace to annually notify each high-volume third-party seller that they must inform the online marketplace of any changes to the information provided by the seller within 10 days after receiving the notification.[40]

The bill establishes that an online marketplace must require a high-volume third-party seller to disclose to consumers in a clear and conspicuous manner in the order confirmation message or other document or communication made to the consumer after the purchase is finalized and in the consumer's account transaction history, all of the following information of any high-volume third party seller with an aggregate total of $20,000 or more in annual gross revenues on its online platform:

- The full name of the high-volume third-party seller;[41]
- The full physical address of the high-volume third-party seller;[42]
- Contact information for the high-volume third-party seller, including a telephone number or e-mail address or other means of direct electronic messaging, which may be provided to the seller by the online marketplace, to allow for direct, unhindered communication with the high-volume third-party seller;[43] and
- Whether the high-volume third-party seller used a different seller to supply the consumer product to the consumer upon purchase.[44]

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physical address or a copy of a government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller.

[39] If a high-volume third-party seller provides a copy of a valid government-issued tax document, the information contained within such document must be presumed verified as of the date of issuance of the document.

[40] The online marketplace must include in the notification direction to each high-volume third-party seller to electronically certify either that the seller's information is unchanged or that the seller is providing changes to the information. The high-volume third-party seller's participation on the marketplace must be suspended until they have certified that their information is unchanged or has provided any changed information and the information has been verified.

[41] This may include the seller's name or company name, or the name by which the seller or company operates on the online marketplace

[42] If the seller certifies to the online marketplace that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace may disclose to consumers the country of the seller and, if applicable, the state in which the seller resides, or inform consumers that a business address is not available for the seller and that consumer inquiries should be submitted to the seller by telephone, e-mail, or other means of electronic messaging provided to the seller by the online marketplace. If the seller certifies to the online marketplace that the seller is a business that has a physical address for product returns, the online marketplace may disclose the seller's physical address for product returns.

[43] If the only telephone number of the high-volume third-party seller is the personal telephone number of the high-volume third-party seller, then the online marketplace must inform consumers that a telephone number is not available for the seller and that consumer inquiries should be submitted to the seller's email address or other means of electronic messaging provided to the seller by the online marketplace.

[44] Upon the request of the consumer, the online marketplace must disclose the identification of a seller, if the seller is different from the high-volume third-party seller listed on the consumer product listing before purchase.

The bill provides that if an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to restrict access to the full physical address, telephone number, or e-mail address required, then the online marketplace, after providing the seller with written or electronic notice, must require the full disclosure of the high-volume third-party seller's full physical address, telephone number, and e-mail address. If such information is not disclosed within 10 days after notification, the online marketplace must suspend the selling privileges of the high-volume third-party seller on the online marketplace until the required information is disclosed.

The bill requires an online marketplace to conspicuously, on the product listing of any high-volume third-party seller, provide to consumers a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.

The bill provides that an online marketplace is not prevented from providing additional measures, electronic or otherwise, that it deems necessary to prevent spam, fraud, or abuse in communication between the consumer and the high-volume third-party seller, or the sale of fraudulent, stolen, or counterfeit consumer products on its platform.

The bill provides that data collected to comply with the requirements of the bill may not be used for any other purpose unless required by law.

The bill requires an online marketplace to implement and maintain reasonable security procedures to protect the data collected to comply with the bill from unauthorized use, disclosure, access, destruction, or modification.

The bill establishes that a violation of s. 559.953, F.S., constitutes a violation of the Deceptive and Unfair Trade Practices Act,[45] and the Department of Legal Affairs may adopt rules to collect and verify the required information.[46]

The bill provides that the regulation under s. 559.953, F.S., is preempted to the Department of Legal Affairs.

The bill takes effect January 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[45] *See* part II of ch. 501, F.S.
[46] The bill does not provide a right of private cause of action under FDUTPA.

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:

Marketplace providers will be required to verify high volume third-party sellers, as well as require certain disclosures. This will potentially provide more safety within the online marketplace.

C. Government Sector Impact:

This bill will potentially lead to an increase in the investigations and enforcement actions undertaken by the Department of Legal Affairs relating to violations of the provisions of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates the following section of the Florida Statutes: 559.953.

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 March 1, 2022:
The committee substitute does the following:

- Clarifies that a private cause of action is not created by the bill;

- Changes the effective date of the bill from July 1, 2022, to January 1, 2023;
- Changes time period requirements from "10 business days" to "10 days" throughout the bill;
- Makes a minor change to the definition of "third-party seller";
- Removes the requirement that any high-volume third-party seller who is an individual must provide the online marketplace with a copy of a valid government-issued photo identification for the individual;
- Makes changes to the disclosure requirements that the online marketplace must provide to consumers;
- Provides that data collected to comply with the requirements of the bill may not be used for any other purpose unless required by law; and
- Requires an online marketplace to implement and maintain reasonable security procedures to protect the data collected.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2022	.	
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	.	
	.	

The Committee on Rules (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 42 - 202

and insert:

directly or through the online marketplace's payment processer, count towards the calculation for the number of discrete sales or transactions or the gross revenues.

(c) "Online marketplace" means any consumer-directed electronically based or accessed platform that:

1. Includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment,

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storage, shipping, or delivery of a consumer product in the United States;

2. Is used by one or more third-party sellers for such purposes; and

3. Has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

(d) "Seller" means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace.

(e) "Third-party seller" means any seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace. The term does not include, with respect to an online marketplace:

1. A seller that operates the online marketplace;

2. A business entity that has made available to the general public the entity's name, business address, and working contact information;

3. A business entity with an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; or

4. A business entity that has provided to the online marketplace identifying information that has been verified.

(f) "Verify" means to confirm information and documentation provided to an online marketplace by the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided which correspond to

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the seller or an individual acting on the seller's behalf are valid, not misappropriated, and not falsified.

(2) VERIFICATION.—

(a) An online marketplace shall require that any high-volume third-party seller on the online marketplace provide the online marketplace with all of the following information within 10 days after qualifying as a high-volume third-party seller:

1. Deposit account information from a financial institution. If the high-volume third-party seller does not have deposit account information at a financial institution, such seller must provide the online marketplace with the name of the payee for payments issued by the online marketplace to the high-volume third-party seller, and the information must be confirmed by the online marketplace or by another third party contracted by the online marketplace.

2. Contact information, including all of the following:

a. A valid e-mail address and working phone number.

b. If the high-volume third-party seller is an individual, the individual's name.

c. If the high-volume third-party seller is not an individual, either a copy of a government-issued photo identification for an individual acting on behalf of such seller which includes such individual's name and physical address or a copy of a government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller.

3. A business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number.



(b) The online marketplace shall verify the information the high-volume third-party seller provides under this subsection within 10 days after receiving such information. If the high-volume third-party seller provides any changes to the information, the online marketplace must verify such changes within 10 days after receiving the information. If a high-volume third-party seller provides a copy of a valid government-issued tax document, the information contained within such tax document shall be presumed verified as of the date of issuance of such document.

(c) The online marketplace shall, on at least an annual basis, notify each high-volume third-party seller on the online marketplace that such seller must inform the online marketplace of any changes to the information previously provided by the seller within 10 days after receiving the notification. The notification must require the high-volume third-party seller to either electronically certify that the high-volume third-party seller's information is unchanged or provide changes to the information as necessary. If the online marketplace becomes aware that a high-volume third-party seller has not certified that such information is unchanged or provided such changed information within 10 days after receiving such notification, the online marketplace must suspend the selling privileges of the high-volume third-party seller until such seller provides such certification or changed information.

(3) DISCLOSURE.—

(a) An online marketplace shall disclose to consumers, in a clear and conspicuous manner in the order confirmation message or other document or communication made to the consumer after



the purchase is finalized and in the consumer's account transaction history, all of the following information of any high-volume third-party seller with an aggregate total of $20,000 or more in annual gross revenues on its online platform:

1. The full name of the high-volume third-party seller, which may include the seller's name or company name, or the name by which the seller or company operates on the online marketplace.

2. The full physical address of the high-volume third-party seller. If the seller certifies to the online marketplace that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace may:

a. Disclose to consumers the country of the seller and, if applicable, the state in which the seller resides.

b. Inform consumers that a business address is not available for the seller and that consumer inquiries should be submitted to the seller by telephone, e-mail, or other means of electronic messaging provided to the seller by the online marketplace. If the seller certifies to the online marketplace that the seller is a business that has a physical address for product returns, the online marketplace may disclose the seller's physical address for product returns.

3. Contact information for the high-volume third-party seller, including a working telephone number or a working e-mail address or other means of direct electronic messaging, which may be provided to the seller by the online marketplace, to allow for direct, unhindered communication with the seller. If the only telephone number of the seller is the personal telephone



569968

number of the seller, the online marketplace must inform consumers that a telephone number is not available for the seller and that consumer inquiries should be submitted to the seller's e-mail address or other means of electronic messaging provided to the seller by the online marketplace.

4. Whether the high-volume third-party seller used a different seller to supply the consumer product to the consumer upon purchase. Upon the request of the consumer, the online marketplace shall disclose the identification of a seller, if the seller is different from the high-volume third-party seller listed on the consumer product listing before the purchase.

(b) If an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to restrict access to the full physical address, telephone number, or e-mail address required in paragraph (a), the online marketplace must, after providing the seller with written or electronic notice, require the full disclosure of the high-volume third-party seller's full physical address, telephone number, and e-mail address. If such information is not disclosed within 10 days after notification, the online marketplace must suspend the selling privileges of the high-volume third-party seller on the online marketplace until the required information is disclosed.

(c) An online marketplace shall provide to consumers, in a conspicuous manner on the consumer product listing of any high-volume third-party seller, a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.

(d) This subsection does not prevent an online marketplace

569968

from using any additional measures, electronic or otherwise, that it deems necessary to prevent spam, fraud, or abuse in communication between the consumer and the high-volume third-party seller, or the sale of fraudulent, stolen, or counterfeit consumer products on its platform.

(4) ENFORCEMENT.—A violation of this section constitutes a violation of the Deceptive and Unfair Trade Practices Act under part II of chapter 501. A person who violates this section is subject to the penalties and remedies provided therein. Notwithstanding s. 501.211, this section does not create a private cause of action in favor of any person damaged by a violation of this section.

(5) RULES.—The Department of Legal Affairs may adopt rules with respect to collecting and verifying information under this section, provided that such rules are limited to what is necessary to collect and verify such information.

(6) PREEMPTION.—The regulation of the requirement for online marketplaces to verify information from high-volume third-party sellers on a one-time or ongoing basis or disclose information to consumers is preempted to the department. A local governmental entity may not establish, mandate, or otherwise require the verification or disclosure of such information.

Section 2. This act shall take effect January 1, 2023.

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

And the title is amended as follows:

Delete lines 18 - 19

and insert:

specified manner; requiring specified disclosures;

569968

providing for enforcement; providing construction;
authorizing the Department

380838

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/01/2022	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (569968)

Delete lines 48 - 55.

543416

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/01/2022	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (569968)

Delete lines 133 - 138.

942640

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/01/2022	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (569968)(with title amendment)

Between lines 161 and 162
insert:

(4) THIRD-PARTY SELLER INFORMATION.—An online marketplace must permanently delete or dispose of any third-party seller information collected by the online marketplace under this section within 24 months after receipt of the information. Except as required by this section, the information may not be shared, sold, or disseminated in any other way to any person or

942640

entity. However, the information may be disseminated to a law enforcement agency with a valid subpoena.

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

And the title is amended as follows:

Between lines 185 and 186

insert:

requiring online marketplaces to permanently delete or dispose of third-party seller information collected by the online marketplace within a specified timeframe; prohibiting online marketplaces from taking specified actions relating to such information; providing an exception;

920832

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2022	.	
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	.	
	.	

The Committee on Rules (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 42 - 202
and insert:
directly or through the online marketplace's payment processer, count towards the calculation for the number of discrete sales or transactions or the gross revenues.

(c) "Online marketplace" means any consumer-directed electronically based or accessed platform that:

1. Includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment,

920832

storage, shipping, or delivery of a consumer product in the United States;

2. Is used by one or more third-party sellers for such purposes; and

3. Has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

(d) "Seller" means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace.

(e) "Third-party seller" means any seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace. The term does not include, with respect to an online marketplace:

1. A seller that operates the online marketplace;

2. A business entity that has made available to the general public the entity's name, business address, and contact information;

3. A business entity with an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; or

4. A business entity that has provided to the online marketplace identifying information that has been verified.

(f) "Verify" means to confirm information and documentation provided to an online marketplace by the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided which correspond to

920832

the seller or an individual acting on the seller's behalf are valid, not misappropriated, and not falsified.

(2) VERIFICATION.—

(a) An online marketplace shall require that any high-volume third-party seller on the online marketplace provide the online marketplace with all of the following information within 10 days after qualifying as a high-volume third-party seller:

1. Deposit account information from a financial institution. If the high-volume third-party seller does not have deposit account information at a financial institution, such seller must provide the online marketplace with the name of the payee for payments issued by the online marketplace to the high-volume third-party seller, and the information must be confirmed by the online marketplace or by another third party contracted by the online marketplace.

2. Contact information, including all of the following:

a. A valid e-mail address and phone number.

b. If the high-volume third-party seller is an individual, the individual's name.

c. If the high-volume third-party seller is not an individual, either a copy of a government-issued photo identification for an individual acting on behalf of such seller which includes such individual's name and physical address or a copy of a government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller.

3. A business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number.



(b) The online marketplace shall verify the information the high-volume third-party seller provides under this subsection within 10 days after receiving such information. If the high-volume third-party seller provides any changes to the information, the online marketplace must verify such changes within 10 days after receiving the information. If a high-volume third-party seller provides a copy of a valid government-issued tax document, the information contained within such tax document shall be presumed verified as of the date of issuance of such document.

(c) The online marketplace shall, on at least an annual basis, notify each high-volume third-party seller on the online marketplace that such seller must inform the online marketplace of any changes to the information previously provided by the seller within 10 days after receiving the notification. The notification must require the high-volume third-party seller to either electronically certify that the high-volume third-party seller's information is unchanged or provide changes to the information as necessary. If the online marketplace becomes aware that a high-volume third-party seller has not certified that such information is unchanged or provided such changed information within 10 days after receiving such notification, the online marketplace must suspend the selling privileges of the high-volume third-party seller until such seller provides such certification or changed information.

(3) DISCLOSURE.—

(a) An online marketplace shall disclose to consumers, in a clear and conspicuous manner in the order confirmation message or other document or communication made to the consumer after



the purchase is finalized and in the consumer's account transaction history, all of the following information of any high-volume third-party seller with an aggregate total of $20,000 or more in annual gross revenues on its online platform:

1. The full name of the high-volume third-party seller, which may include the seller's name or company name, or the name by which the seller or company operates on the online marketplace.

2. The full physical address of the high-volume third-party seller. If the seller certifies to the online marketplace that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace may:

a. Disclose to consumers the country of the seller and, if applicable, the state in which the seller resides.

b. Inform consumers that a business address is not available for the seller and that consumer inquiries should be submitted to the seller by telephone, e-mail, or other means of electronic messaging provided to the seller by the online marketplace. If the seller certifies to the online marketplace that the seller is a business that has a physical address for product returns, the online marketplace may disclose the seller's physical address for product returns.

3. Contact information for the high-volume third-party seller, including a telephone number or an e-mail address or other means of direct electronic messaging, which may be provided to the seller by the online marketplace, to allow for direct, unhindered communication with the seller. If the only telephone number of the seller is the personal telephone number

920832

of the seller, the online marketplace must inform consumers that a telephone number is not available for the seller and that consumer inquiries should be submitted to the seller's e-mail address or other means of electronic messaging provided to the seller by the online marketplace.

4. Whether the high-volume third-party seller used a different seller to supply the consumer product to the consumer upon purchase. Upon the request of the consumer, the online marketplace shall disclose the identification of a seller, if the seller is different from the high-volume third-party seller listed on the consumer product listing before the purchase.

(b) If an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to restrict access to the full physical address, telephone number, or e-mail address required in paragraph (a), the online marketplace must, after providing the seller with written or electronic notice, require the full disclosure of the high-volume third-party seller's full physical address, telephone number, and e-mail address. If such information is not disclosed within 10 days after notification, the online marketplace must suspend the selling privileges of the high-volume third-party seller on the online marketplace until the required information is disclosed.

(c) An online marketplace shall provide to consumers, in a conspicuous manner on the consumer product listing of any high-volume third-party seller, a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.

(d) This subsection does not prevent an online marketplace


920832

from using any additional measures, electronic or otherwise, that it deems necessary to prevent spam, fraud, or abuse in communication between the consumer and the high-volume third-party seller, or the sale of fraudulent, stolen, or counterfeit consumer products on its platform.

(4) DATA USE LIMITATION.—Data collected solely to comply with the requirements of this section may not be used for any other purpose unless required by law.

(5) DATA SECURITY REQUIREMENT.—An online marketplace shall implement and maintain reasonable security procedures and practices, including administrative, physical, and technical safeguards, which are appropriate to the nature of the data and the purposes for which the data will be used, to protect the data collected to comply with the requirements of this section from unauthorized use, disclosure, access, destruction, or modification.

(6) ENFORCEMENT.—A violation of this section constitutes a violation of the Deceptive and Unfair Trade Practices Act under part II of chapter 501. A person who violates this section is subject to the penalties and remedies provided therein. Notwithstanding s. 501.211, this section does not create a private cause of action in favor of any person damaged by a violation of this section.

(7) RULES.—The Department of Legal Affairs may adopt rules with respect to collecting and verifying information under this section, provided that such rules are limited to what is necessary to collect and verify such information.

(8) PREEMPTION.—The regulation of the requirement for online marketplaces to verify information from high-volume


920832

third-party sellers on a one-time or ongoing basis or disclose information to consumers is preempted to the department. A local governmental entity may not establish, mandate, or otherwise require the verification or disclosure of such information.

Section 2. This act shall take effect January 1, 2023.

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

And the title is amended as follows:

Delete lines 18 - 19

and insert:

specified manner; requiring specified disclosures; prohibiting certain collected data from being used for any other purpose unless required by law; requiring online marketplaces to implement and maintain certain security procedures and practices relating to data security; providing for enforcement; providing construction; authorizing the Department

136974

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/01/2022	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (920832)

Delete lines 133 - 138.

200492

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/01/2022	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (920832) (with title amendment)

Delete lines 162 - 164

and insert:

(4) DATA USE LIMITATION.—Data collected to comply with the requirements of this section may not be used for any other purpose unless required by law and must be deleted within 36 months after the last sale or listing of a third-party seller.

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

200492

And the title is amended as follows:

Between lines 198 and 199

insert:

that such data be deleted within a specified timeframe; requiring

By Senator Baxley

12-00821A-22 2022944__

A bill to be entitled

An act relating to online marketplace transparency; creating s. 559.953, F.S.; defining terms; requiring online marketplaces to require high-volume third-party sellers using their service to provide certain information to the online marketplace within a specified timeframe; requiring the online marketplace to verify such information, or changes to such information, within a specified timeframe; providing that information on valid government-issued tax documents is presumed verified as of the issuance date; requiring an online marketplace to update and require certification of the updated information at least annually; requiring the online marketplace to suspend certain sellers who do not provide such a certification or updated information; requiring online marketplaces to disclose certain information in a specified manner; requiring disclosure of suppliers; providing for enforcement; authorizing the Department of Legal Affairs to adopt rules; preempting the regulation of the verification and disclosure of such information to the department; providing an effective date.

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

Section 1. Section 559.953, Florida Statutes, is created to read:

559.953 Disclosure of information by online marketplaces.—

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

12-00821A-22 2022944__

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

(a) "Consumer product" means a product that is used or bought for use primarily for personal, family, or household purposes.

(b) "High-volume third-party seller" means a participant in an online marketplace that is a third-party seller and that, in any continuous 12-month period during the previous 24 months, has entered into 200 or more discrete sales or transactions of new or unused consumer products resulting in the accumulation of an aggregate total of $5,000 or more in gross revenues. Only sales or transactions made through the online marketplace for which payment was processed by the online marketplace, either directly or through the seller's payment processer, count towards the calculation for the number of discrete sales or transactions or the gross revenues.

(c) "Online marketplace" means any consumer-directed electronically based or accessed platform that:

1. Includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States;

2. Is used by one or more third-party sellers for such purposes; and

3. Has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

(d) "Seller" means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace.

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

(e) "Third-party seller" means any seller, independent of an operator, a facilitator, or an owner of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace. The term does not include, with respect to an online marketplace:

1. A seller that operates the online marketplace;

2. A business entity that has made available to the general public the entity's name, business address, and working contact information;

3. A business entity with an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; or

4. A business entity that has provided to the online marketplace identifying information that has been verified.

(f) "Verify" means to confirm information and documentation provided to an online marketplace by the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided which correspond to the seller or an individual acting on the seller's behalf are valid, not misappropriated, and not falsified.

(2) VERIFICATION.—

(a) An online marketplace shall require that any high-volume third-party seller on the online marketplace provide the online marketplace with all of the following information within 10 business days after qualifying as a high-volume third-party seller:

1. Deposit account information from a financial

institution. If the high-volume third-party seller does not have deposit account information at a financial institution, such seller must provide the online marketplace with the name of the payee for payments issued by the online marketplace to the high-volume third-party seller, and the information must be confirmed by the online marketplace or by another third party contracted by the online marketplace.

2. Contact information, including all of the following:

a. A valid e-mail address and working phone number.

b. If the high-volume third-party seller is an individual, a copy of a valid government-issued photo identification for the individual which includes the individual's name and physical address.

c. If the high-volume third-party seller is not an individual, either a copy of a government-issued photo identification for an individual acting on behalf of such seller which includes such individual's name and physical address or a copy of a government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller.

3. A business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number.

(b) The online marketplace shall verify the information the high-volume third-party seller provides under this subsection within 10 business days after receiving such information. If the high-volume third-party seller provides any changes to the information, the online marketplace must verify such changes within 10 business days after receiving the information. If a

high-volume third-party seller provides a copy of a valid government-issued tax document, the information contained within such tax document shall be presumed verified as of the date of issuance of such document.

(c) The online marketplace shall, on at least an annual basis, notify each high-volume third-party seller on the online marketplace that such seller must inform the online marketplace of any changes to the information previously provided by the seller within 10 business days after receiving the notification. The notification must require the high-volume third-party seller to either electronically certify that the high-volume third-party seller's information is unchanged or provide changes to the information as necessary. If the online marketplace becomes aware that a high-volume third-party seller has not certified that such information is unchanged or provided such changed information within 10 business days after receiving such notification, the online marketplace must suspend the selling privileges of the high-volume third-party seller until such seller provides such certification or changed information.

(3) DISCLOSURE.—

(a) An online marketplace shall disclose to consumers in a conspicuous manner on the product listing, through a conspicuously placed link on the product listing, or in the order confirmation message or other document or communication made to the consumer after the purchase is finalized and in the consumer's account transaction history, all of the following information of any high-volume third party seller with an aggregate total of $20,000 or more in annual gross revenues on its online platform:

1. The full name of the high-volume third-party seller.

2. The full physical address of the high-volume third-party seller. If the full physical address of the high-volume third-party seller is the primary residential address of such high-volume third-party seller, only the city, state, and country of the high-volume third-party seller is required to be disclosed.

3. Contact information for the high-volume third-party seller, including a working telephone number and working e-mail address to allow for direct, unhindered communication with the high-volume third-party seller. If the only telephone number of the high-volume third-party seller is the personal telephone number of the high-volume third-party seller, then only the working e-mail address is required to be disclosed or the online marketplace must provide other means of electronic messaging to contact such seller.

4. The identification of any seller that supplies the consumer product to the consumer upon purchase, if such seller is different than the high-volume third-party seller listed on the consumer product listing before the purchase.

(b) If an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to restrict access to the full physical address, telephone number, or e-mail address required in paragraph (a), the online marketplace must, after providing the seller with written or electronic notice, require the full disclosure of the high-volume third-party seller's full physical address, telephone number, and e-mail address. If such information is not disclosed within 10 business days after notification, the online marketplace must suspend the selling

privileges of the high-volume third-party seller on the online marketplace until the required information is disclosed.

(c) An online marketplace shall provide to consumers, in a conspicuous manner on the consumer product listing of any high-volume third-party seller, a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace and a message encouraging individuals seeking goods for purchase to report suspicious activity to the online marketplace.

(d) This subsection does not prevent an online marketplace from providing any additional measures, electronic or otherwise, that it deems necessary to prevent the sale of fraudulent, stolen, or counterfeit consumer products on its platform.

(4) ENFORCEMENT.—A violation of this section constitutes a violation of the Deceptive and Unfair Trade Practices Act under part II of chapter 501. A person who violates this section is subject to the penalties and remedies provided therein.

(5) RULES.—The Department of Legal Affairs may adopt rules with respect to collecting and verifying information under this section, provided that such rules are limited to what is necessary to collect and verify such information.

(6) PREEMPTION.—The regulation of the requirement for online marketplaces to verify information from high-volume third-party sellers on a one-time or ongoing basis or disclose information to consumers is preempted to the department. A local governmental entity may not establish, mandate, or otherwise require the verification or disclosure of such information.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Alternating Chair*

SENATOR DENNIS BAXLEY
12th District

January 26, 2022

The Honorable Senator Kathleen Passidomo
400 Senate Office Building
Tallahassee, FL 32399

Dear Chair Passidomo,

I would like to request SB 944 Online Marketplace Transparency be heard in the next Rules Committee meeting.

Organized retail crime poses enormous risks to workers, consumers, and retail businesses. Florida businesses lose millions of dollars each year due to organized retail crime and now this is even more devastating at a time when many are struggling to stay afloat due to COVID-19.

SB 944 is common sense legislation that requires online marketplaces to verify and authenticate the identity of third parties who sell a "high volume" of products on their platforms. The bill defines "High Volume Third Party Sellers"--we are not talking about selling a mirror or something you might find at a yard sale on Facebook Marketplace – a high volume seller is a seller that during a 12-month period, has had 200 or more sales totaling $5,000 or more in gross revenue. If an online marketplace does not comply, it would be a violation of the Deceptive and Unfair Trade Practices Act and enforced by the Attorney General's office.

I appreciate your favorable consideration.

Onward & Upward,

Dennis K Baxley

Senator Dennis Baxley
Senate District 12

DKB/dd

cc: John Phelps, Staff Director

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

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

01 March 2022
Meeting Date

Rules
Committee

944
Bill Number or Topic

136974
Amendment Barcode (if applicable)

Name Grace Lovett

Phone 850-222-4082

Address 227 S. Adams St.
Street

Email Grace@frf.org

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 Retail Federation

☐ 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

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

3/1/22
Meeting Date

Rules
Committee

1382 994?
Bill Number or Topic

136974
Amendment Barcode (if applicable)

Name Tim Nungesser

Phone 445-9367

Address 2051 Country Club Dr.
Street

Email tim.nungesser@nfib.org

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:
NFIB

☐ 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

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

3/1/2022
Meeting Date

RULES
Committee

SB 944
Bill Number or Topic

200492
Amendment Barcode (if applicable)

Name Robert McKinnon

Phone 843.364.4403

Address 25 N. Market St.
Street

Email L2G.joey@gmail.com

Jacksonville FL 32202
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:
Alliance of Resellers and Online Entrepreneurs

☐ 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

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

01 March 2022
Meeting Date

Rules
Committee

944
Bill Number or Topic

200492
Amendment Barcode (if applicable)

Name Grace Lovett

Phone 850. 222. 4082

Address 227 S. Adams St.
Street

Email Grace@frf.org

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 Retail Federation

☐ 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)

3/1/22
Meeting Date

Rules
Committee

The Florida Senate
APPEARANCE RECORD

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1382 ?
Bill Number or Topic

200492
Amendment Barcode (if applicable)

Name Tim Nungesser

Phone 445-5367

Address 2051 County Club Dr.
Street

Email tim.nungesser@nfib.org

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:
NFIB

☐ 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)

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01 March 2022
Meeting Date

Rules
Committee

944
Bill Number or Topic

920832
Amendment Barcode (if applicable)

Name Grace Lovett

Phone 850 . 222 . 4082

Address 227 S. Adams
Street

Email Grace@frf.org

Tallahassee FL 32301
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 Retail Federation

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

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S-001 (08/10/2021)

The Florida Senate

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01 March 2022
Meeting Date

Rules
Committee

944
Bill Number or Topic

Amendment Barcode (if applicable)

Name Grace Lovett

Phone 850.222.4082

Address 227 S. Adams St.
Street

Email Grace@frf.org

Tallahassee FL 32301
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 Retail Federation

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

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

944
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tim Nungesser

Phone 445-5301

Address 2051 County Club Dr.
Street

Email Tim.nungesser@nfib.org

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: NFIB

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

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S-001 (08/10/2021)

The Florida Senate

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3/1/2022	SB 944
Meeting Date	Bill Number or Topic
Rules	
Committee	Amendment Barcode (if applicable)

Name Rob Johnson **Phone** (850) 491-1430

Address 110 E Jefferson St **Email** Rob@themayernickgroup.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:**

The Home Depot

☐ **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)

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3/1/22
Meeting Date

Rules
Committee

944
Bill Number or Topic

Amendment Barcode (if applicable)

Name Greg Blazek

Phone 509-8022

Address PO Box 838
Street

Email Greg@WaypointStrat.com

TLH FL 32302
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:
ICSC

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-1-22
Meeting Date

Rules
Committee

944
Bill Number or Topic

Amendment Barcode (if applicable)

Name [redacted] JAKE FARMER

Phone 352-359-6835

Address
Street

Email Jake.farmer@walgreens.com

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: WALGREENS

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/2022
Meeting Date

RULES
Committee

SB 944
Bill Number or Topic

Amendment Barcode (if applicable)

Name Robert McKinnon

Phone 843 364.4403

Address 25 N. Market St.
Street

Email L2G.joey@gmail.com

Jacksonville FL 32202
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:
Alliance of Resellers and Online Entrepreneurs

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1
Meeting Date

Rules
Committee

944
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Hansen

Phone 850/251-2672

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Street

Email Chanson@ballardpartners.com

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

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

Consumer Healthcare Products Assoc. (CHPA)

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)

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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:	CS/SB 990
INTRODUCER:	Transportation Committee and Senator Diaz
SUBJECT:	Towing Vehicles
DATE:	February 25, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	**Favorable**
2.	Price	Vickers	TR	**Fav/CS**
3.	Hackett	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 990 clarifies that an investigating agency may have a wrecker operator tow a motor vehicle directly from the scene of the tow to the investigating agency's storage facility. If a motor vehicle is towed directly to the investigating agency's storage facility, the vehicle may not be released to the owner or lienholder until proof of payment of the towing and storage charges incurred by the wrecker operator is presented to the investigating agency. If the investigating agency releases the vehicle without such proof of payment, the investigating agency must pay the wrecker operator accrued expenses within 60 days of the vehicle's release. Additionally, the bill clarifies that the investigating agency's payment to the wrecker operator following a judicial finding of no probable cause must occur within 60 days.

In addition, the bill:

- Revises the timeframe required for sending a notice of lien provided by a wrecker operator for fees or charges for the recovery, towing, or storage of a vehicle or vessel. The notice must be sent by certified mail no earlier than six hours before, and no later than seven business days after, the date of storage of the vehicle or vessel.
- Clarifies that a wrecker operator in possession of a towed vehicle or vessel must release the vehicle, vessel, or all personal property in the vehicle or vessel only to the owner, lienholder, or agent.
- Provides that for the purposes of a wrecker operator releasing a vehicle to the owner's agent, or for the purposes of releasing a vehicle that has been towed from private property, a rental

agreement is insufficient to convey agency necessary to authorize the vehicle's release. A rental car company must appoint a person its agent by original notarized writing.
- Revises a lienor's authorization to charge an "administrative" fee to the registered owner or another person claiming a lien against a vehicle or vessel for releasing a claim of lien, not to exceed $250. The bill authorizes a lienor to charge a $75 "notification" fee, plus the actual costs of complying with specified notice requirements, not to exceed $250.
- Provides that if a towing-storage operator uses a third-party service approved by the Department of Highway Safety and Motor Vehicles (DHSMV) to transmit the required notices, proof of mailing by the third-party service is proof that the towing-storage operator made a good faith effort to comply with the notice requirements, regardless of whether the recipient accepts delivery or otherwise receives notice.

The bill also preempts to the state regulation of claiming a lien for the recovery, removal, towing, or storage of a vehicle or vessel and supersedes any county or municipal ordinance, resolution, rule, regulation, or otherwise to the contrary.

The bill takes effect July 1, 2022.

II. Present Situation:

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.[1] After the establishment of such contract(s), the county or municipality must create a "wrecker operator system" to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.[2] Any wrecker operator that is included in the wrecker operator system is an "authorized wrecker operator" in the jurisdiction, while any wrecker operation not included is an "unauthorized wrecker operator."[3]

Counties must establish maximum rates for the towing of vehicles or vessels removed from private property, as well as the towing and storage of vehicles or vessels removed from the scene of an accident or from where the vehicle or vessel is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality

[1] Section 323.002(1)(c), F.S. The definition of "vehicle" does not include a vessel or trailer intended for the transport on land of a vessel. *See* s. 320.01, F.S. (defining "motor vehicle" for the purpose of issuance of motor vehicle licenses and separately defining a "marine boat trailer dealer" as a person engaged in the "business of buying … trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.") *But see* s. 323.002(4)(b), F.S., which expressly authorizes a county or municipality to adopt or maintain an ordinance or rule that imposes a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel that is towed by an authorized wrecker operator, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from *public* property. The fee, if imposed and collected by an authorized wrecker operator or towing business, must be remitted to the county or municipality after it is collected.
[2] Section 323.002(1)(c), F.S.
[3] Section 323.002(1)(a)-(b), F.S.

enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality. [4]

Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days, unless extended in writing.[5] A hold may be applied when the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.[6]

An officer may also apply a hold when the vehicle is impounded under s. 316.193, F.S., (relating to driving under the influence), or s. 322.34, F.S., (relating to driving with a suspended or revoked license), or when the officer is complying with a court order.[7] The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.[8]

The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer time.[9] The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle is held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot, in which case the vehicle may not be released by the investigating agency to the owner or lienholder of the vehicle until proof of payment of the towing and storage charges incurred by the wrecker operator is presented to the investigating agency or, if the tow operator chooses to leave the vehicle at the wrecker operator's storage facility, to pay for storage.[10] If a subsequent judicial finding of no probable cause for having continued the hold occurs, the investigating agency ordering the hold is required to pay the accrued charges for any towing and storage.[11]

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for a reasonable towing fee, an administrative fee or charge imposed by a county or municipality,

[4] Sections 125.0103(1)(c) and 166.043(1)(c), F.S. Section 715.07, F.S., relates to the towing and storage of vehicles or vessels illegally parked on *private* property without the consent of the registered owner or other legally authorized person in control of the vehicle. That section addresses towing, for example, at the direction of the owner or lessee of a condominium association or of a business owner, not at the direction of law enforcement. *See* "Towing from Private Property" heading below.
[5] Section 323.001(1), F.S.
[6] Section 323.001(4)(a)-(e), F.S.
[7] Section 323.001(4)(f)-(g), F.S.
[8] Section 323.001(5), F.S.
[9] Section 323.001(2), F.S.
[10] Section 323.001(2)(a)-(b), F.S.
[11] Section 323.001(3), F.S.

and a storage fee (for a vehicle or vessel stored for six hours or more) if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed according to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated under s. 715.104, F.S.; or
- Any law enforcement agency.[12]

A wrecker operator who claims a lien is required to give notice, by certified mail, to the registered owner, the insurance company insuring the vehicle, and all persons claiming a lien, as disclosed by the records in the Department of Highway Safety and Motor Vehicles (DHSMV) or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check.

A towing-storage operator currently must use a third-party service[13] approved by the DHSMV to transmit the notice (as well as any other notices required under s. 713.78, F.S.). If there is no approved service, the operator may mail the notice and provide evidence of compliance upon application for a certificate of title.[14] The notice of lien must be sent by certified mail within seven business days after the date of storage of the vehicle or vessel.[15]

A lienor or its agent may currently charge an administrative fee[16] to the registered owner or other person claiming a lien against the vehicle or vessel for a release from the lien, not to exceed $250.[17]

If a towing-storage operator is unsuccessful in locating the name and address of the owner or other lienholder, the operator must, after seven business days after the initial tow or storage, notify the jurisdictional entity where the vehicle or vessel is stored, in writing by certified mail or acknowledged hand delivery, that the operator has been unable to local the name and address, a physical search of the vehicle or vessel has revealed no ownership information, and a "good faith

[12] Section 713.78(2), F.S.
[13] The term "third-party service" is defined in s. 713.78(16)(a), F.S., to mean a qualified business entity that, upon a request submitted through a website by an operator: 1) Accesses the National Motor Vehicle Title Information System records to obtain the last state of record of the vehicle; 2) Accesses the owner, lienholder, and insurer information, as applicable, for a vehicle or vessel from the DHSMV; 3) Electronically generates the notices required of a towing-storage operator through the website; 4) Prints and sends the notices to each owner, lienholder, and insurer of record by certified mail; 5) Electronically returns tracking information or other proof of mailing and delivery of the notices to the towing-storage operator; and 6) Electronically reports to the DHSMV via an electronic data exchange process certain information related to the towing and storage notice.
[14] Section 713.78(16), F.S.
[15] Section 713.78(4)(a) and (c), F.S.
[16] Defined to mean a lien fee or any fee imposed by the lienor or the lienor's agent for administrative costs added to the amount due for towing and storing the vehicle or vessel. Section 713.78(15)(a), F.S.
[17] *Id.*

effort"[18] has been made, including a records check of the DHSMV database and of the National Motor Vehicle Title Information System.[19]

Recovery of a Vehicle or Vessel from a Towing-Storage Operator

Towing and storage operators must permit vehicle or vessel owners, lienholders, insurance company representatives, or agents to inspect a towed vehicle or vessel and release to that person the vehicle, vessel, or all personal property that was not affixed when the vehicle or vessel came into the custody of the towing or storage operator.[20] The authorization of agency must be documented in an original writing acknowledged by the owner before a notary public or someone authorized to administer oaths. This subsection, however, does not provide guidance on how an interested party may take possession of the vehicle or vessel once it has been towed or stored.

Whoever violates the inspection and release provisions contained in s. 713.78 (10) , F.S., is guilty of a third degree felony[21] which is punishable by a fine that does not exceed $5,000[22] and imprisonment that does not exceed five years.[23]

Towing from Private Property

A vehicle or vessel may be towed at the direction of an owner or lessee of real property, or their designee if the vehicle or vessel is parked on the property without permission.[24] A person regularly engaged in the business of towing vehicles or vessels must conduct the tow. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or another legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions. These conditions and restrictions include:[25]

- Any towed or removed vehicle or vessel must be stored at a site within a specified distance of the point of removal.[26]

[18] Section 713.84(4)(e), F.S., defines the term to mean that the operator has performed a list of "checks" of items such as searching specified databases and information systems; looking for any type of tag, tag record, temporary or regular tag on the vehicle or vessel; or looking for the vehicle identification number or the vessel registration number.
[19] "The National Motor Vehicle Title Information System (NMVTIS) is a system that allows the titling agency to instantly and reliably verify the information on the paper title with the electronic data from the state that issued the title." *See* AAMVA, *National Motor Vehicle Title Information System (NMVTIS)*, available at National Motor Vehicle Title Information System (NMVTIS) (aamva.org) (last visited February 2, 2022).
[20] Section 713.78(10), F.S. One municipal attorney has opined that under current law, "there is no express language …which expressly limits, mandates or prohibits that the release of towed vehicle(s) is strictly limited to those individuals" identified by statute (*i.e.*, owners, lienholders, insurance company representatives, or agents). *See* email from City Of Miami Beach Chief Deputy City Attorney, January 29, 2020 (on file in the Senate Transportation Committee).
[21] Section 713.78(12)(b), F.S.
[22] Section 775.083(1)(c), F.S.
[23] Section 775.082(3)(e), F.S. Additional penalties may apply for certain habitual felony offenders under s. 775.084, F.S.
[24] Section 715.07(2), F.S.
[25] Section 715.07(2)(a), F.S.
[26] Section 715.07(2)(a)1.a., F.S. The vehicle or vessel must be stored within a 10-mile radius of the removal point in a county with a population of at least 500,000 and within a 15-mile radius of the removal point in a county with a population of fewer than 500,000. If no towing business operated within the given area, these radiuses are extended to 20 miles (for a county with a population of at least 500,000) and 30 miles (for a county with a population of fewer than 500,000). The site must be open

- The towing company must notify local law enforcement within 30 minutes of completing the tow of the storage site; the time the vehicle or vessel was towed; and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. The towing truck operation is required to record the name of the law enforcement officer who received the information in the trip record.
- The owner of a vehicle or vessel must be allowed to redeem the vehicle or vessel from the towing company if the owner seeks the return before the tow has occurred. The towing company may charge a reasonable service fee of up to one-half of the posted towing rate for the return of the vehicle or vessel and may tow the vehicle or vessel if the owner is unable to pay the fee after a reasonable opportunity.
- A towing company may not pay or accept money in exchange for the privilege of towing or removing vehicles or vessels from a particular location.
- If the towing company requires the owner of a vehicle to pay the costs of towing and storage before redemption, the towing company must file and keep on record its rate schedule with the local law enforcement agency and post the rate schedule at the storage site.
- Trucks and wreckers used by the towing company must have the name, address, and telephone number of the company printed on both sides of the vehicle in contrasting letters. The name of the towing company must be in 3-inch or taller permanently affixed letters, while the address and telephone number must be in 1-inch or taller permanently affixed letters.
- The towing company must exercise reasonable care when entering a vehicle or vessel to remove it. The towing company is liable for any damage to the vehicle caused by failure to exercise reasonable care.
- The vehicle or vessel must be released to its owner within one hour after request. The owner maintains a right to inspect the vehicle or vessel, and the towing company operation may not require a release or waiver of damages to be signed as a condition of returning the vehicle. The towing company operator must issue a detailed, single receipt to the owner of the vehicle or vessel.

Additionally, a vehicle or vessel may not be towed without consent of its owner, except from property appurtenant to a single-family residence, unless a notice is posted which states the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or that the vehicle or vessel is subject to being removed at the owner's or operator's expense and the notice meets the following requirements:[27]

- The notice is placed prominently at each driveway access or curb cut, within five feet from the public right-of-way line. If the property has no curbs or access barriers, signs must be posted at least once every 25 feet of lot frontage.
- The notice must indicate, in not less than two-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense and contain the words "tow-away zone" in letters not less than four inches high.
- The notice must provide the name and telephone number of the towing company.
- The sign containing the notices must be permanently installed in such a way that the words "tow-away zone" is between three and six feet above ground level and the sign must have

from 8 am to 6 pm when the towing business is in operation and must post a telephone number where the operator of the site can be reached when the site is closed. The operator must return to the site within one hour.

[27] Section 715.07(2)(a)5., F.S.

been continuously maintained on the property for not less than 24 hours before the towing of any vehicle or vessel.
- Local governments may also require permitting and inspection of signage before any towing is authorized.
- A business with 20 or fewer parking spaces may satisfy the requirement by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than four-inch high, light-reflective letters on a contrasting background.
- A property owner towing or removing vessels from real property must post a notice, consistent with the requirements in the statute which apply to vehicles,[28] that unauthorized vehicles or vessels will be towed away at the owner's expense.

A vehicle or vessel may be towed even in the absence of a tow-away zone sign if the vehicle or vessel is parked in such a way that it restricts the normal operation of a business or restricts access to a private driveway and the business owner or lessee requests the tow.[29]

III. Effect of Proposed Changes:

Section 1 amends s. 323.001, F.S., to clarify that an investigating agency may have a wrecker operator tow a motor vehicle directly from the scene of the tow to the investigating agency's storage facility. If a motor vehicle is towed directly to the investigating agency's storage facility, the vehicle may not be released to the owner or lienholder until proof of payment of the towing and storage charges incurred by the wrecker operator is presented to the investigating agency. If the investigating agency releases the vehicle without such proof of payment, the investigating agency must pay the wrecker operator accrued expenses within 60 days of the vehicle's release.

Additionally, the section clarifies that the investigating agency's payment to the wrecker operator following a judicial finding of no probable cause must occur within 60 days.

Section 2 amends s. 713.78, F.S., to:
- Require that a notice of lien provided by a wrecker operator for fees or charges for the recovery, towing, or storage of a vehicle or vessel be sent by certified mail no earlier than six hours before, and no later than seven business days after, the date of storage of the vehicle or vessel. This revision clarifies and re-states current law that a lien for storage of a vehicle or vessel must be for storage that lasts six hours or more.
- Clarify that a wrecker operator must release a towed vehicle or vessel and un-affixed personal property *only* to the owner, lienholder, or agent.
- Provide that, for the purposes of a wrecker operator releasing a vehicle to the owner's agent, a rental agreement is insufficient to convey agency. A rental car company must appoint a person its agent by original notarized writing.
- Authorize a lienor or lienor's agent to charge a $75 notification (rather than "administrative") fee, *plus the actual costs of complying with the notice requirements,* but the fee remains capped at $250.

[28] These requirements are contained in s. 715.07(2)(a)5.a.-f., F.S.
[29] Section 715.07(2)(a)5.g., F.S.

- Provide that if a towing-storage operator uses a third-party service approved by the DHSMV to transmit the required notices, proof of mailing by the third-party service is proof that the towing-storage operator made a good faith effort to comply with the notice requirements, regardless of whether the recipient accepts delivery or otherwise receives notice.
- Preempt to the state regulation of claiming a lien for the recovery, removal, towing, or storage of a vehicle or vessel. Any county or municipal ordinance, resolution, rule, regulation, or otherwise to the contrary is superseded.

Section 3 amends s. 715.07, F.S., to provide that a rental agreement is insufficient to convey agency for the purposes of releasing a vehicle that has been towed from private property. A rental car company must appoint a person its agent by original notarized writing.

Section 4 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities. Subsection (b) of Art. VII, s. 18 of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The bill preempts to the state regulation of claiming a lien for the recovery, removal, towing, or storage of a vehicle or vessel and supersedes any county or municipal ordinance, resolution, rule, regulation, or otherwise to the contrary. Because it is unknown how many counties or municipalities regulate the claiming of a lien and whether that regulation involves revenue generated to the county or municipality, the presence or absence of a mandate is unknown.

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:

Current law authorizes a lienor or the lienor's agent to charge an "administrative" fee to the registered owner or other person claiming a lien against a vehicle or vessel for release from the lien. The amount of the fee is unspecified, except that it may not exceed $250.

The bill renames the "administrative" fee as a "notification" fee and authorizes a lienor to charge a $75 fee, plus the actual costs of complying with the notice requirements, but the fee still may not exceed $250.

Because the specified fee and the addition of actual costs remains capped at $250, the bill does not appear to present a tax or fee issue.

B. Private Sector Impact:

Indeterminate, as it is unknown, for example, how many tows or claims of lien will occur.

C. Government Sector Impact:

Indeterminate, as it is unknown, for example, how many tows will occur, how many vehicles or vessels are released by an investigating agency without the required proof of payment, or what the amount of applicable towing and storage charges would be.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 323.001, 713.78, and 715.07 of the Florida Statutes.
Additional Information:

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 Transportation on February 2, 2022:

The committee substitute:

- Revises the timeframe required for sending a notice of lien provided by a wrecker operator for fees or charges for the recovery, towing, or storage of a vehicle or vessel. The notice must be sent by certified mail no earlier than six hours before, and no later than seven business days after, the date of storage of the vehicle or vessel.
- Clarifies that a wrecker operator in possession of a towed vehicle or vessel must release the vehicle, vessel, or all personal property in the vehicle or vessel only to the owner, lienholder, or agent.
- Revises a lienor's authorization to charge an "administrative" fee to the registered owner or another person claiming a lien against a vehicle or vessel for releasing a claim of lien, not to exceed $250. The bill authorizes a lienor to charge a $75 "notification" fee, plus the actual costs of complying with specified notice requirements, not to exceed $250.
- Provides that if a towing-storage operator uses a third-party service approved by the DHSMV to transmit the required notices, proof of mailing by the third-party service is proof that the towing-storage operator made a good faith effort to comply with the notice requirements, regardless of whether the recipient accepts delivery or otherwise receives notice.
- Preempts to the state regulation of claiming a lien for the recovery, removal, towing, or storage of a vehicle or vessel and supersedes any county or municipal ordinance, resolution, rule, regulation, or otherwise to the contrary.

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 Transportation; and Senator Diaz

596-02634-22 2022990c1

A bill to be entitled

An act relating to towing vehicles; amending s. 323.001, F.S.; providing construction; prohibiting investigating agencies from releasing motor vehicles towed to an agency's storage facility until certain proof of payment is presented to the agency; specifying that investigating agencies that do not obtain proof of payment must pay certain charges within a specified timeframe; requiring investigating agencies to pay wrecker operators charges relating to towing and storage within a specified timeframe if certain judicial findings are made; amending s. 713.78, F.S.; revising the timeframe required for sending notices of lien; prohibiting towing companies from releasing vehicles owned by rental car companies, which are towed under certain circumstances, to the person who rented the vehicle unless the rental car company appoints the person as its agent; providing requirements for such appointment; revising fees relating to obtaining the release of a vehicle or vessel with a claimed lien; deleting the definition of the term "administrative fee"; specifying that proof of mailing by a third-party service is proof that a towing-storage operator made a good faith effort to comply with specified notice requirements; preempting the regulation of claiming a lien for the recovery, removal, towing, or storage of a vehicle or vessel to the state; amending s. 715.07, F.S.; prohibiting towing companies from releasing vehicles owned by

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Florida Senate - 2022 **CS for SB 990**

596-02634-22 2022990c1

rental car companies which are towed under certain circumstances, to the person who rented the vehicle unless the rental car company appoints the person as its agent; providing requirements for such appointment; providing an effective date.

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

Section 1. Subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 323.001, Florida Statutes, are amended to read:

323.001 Wrecker operator storage facilities; vehicle holds.—

(1) An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for a period not to exceed 5 days, excluding holidays and weekends, unless extended in writing. This subsection may not be construed to prohibit an investigating agency from having a wrecker operator tow a motor vehicle directly from the scene of the tow to the investigating agency's storage facility. If a motor vehicle is towed directly from the scene of the tow to the investigating agency's storage facility, the vehicle may not be released by the investigating agency to the owner or lienholder of the vehicle until proof of payment of the towing and storage charges incurred by the wrecker operator is presented to the investigating agency. If the investigating agency releases the vehicle to the owner or lienholder of the vehicle without obtaining proof of payment, the investigating agency must pay the wrecker operator the accrued towing and storage charges

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within 60 days after the vehicle is released.

(2) The investigating agency must notify the wrecker operator in writing within 5 days, excluding holidays and weekends, whether the hold is to be continued. If no notification follows this period of time, the wrecker operator may release the vehicle to the designated person pursuant to s. 713.78.

(a) If the hold is to continue beyond 5 days, excluding holidays and weekends, the investigating agency may have the vehicle removed to a designated impound lot, in which event the vehicle will not be released by the investigating agency to the owner or lienholder of the vehicle until proof of payment of the towing and storage charges incurred by the wrecker operator is presented to the investigating agency. If the investigating agency releases the vehicle to the owner or lienholder of the vehicle without obtaining proof of payment, the investigating agency must pay the wrecker operator the accrued towing and storage charges within 60 days after the vehicle is released.

(3) If there is a judicial finding of no probable cause for having continued the immobilization or impoundment, the investigating agency ordering the hold must pay the wrecker operator the accrued charges for any towing and storage within 60 days after the judicial finding.

Section 2. Paragraph (c) of subsection (4), subsection (10), and paragraph (a) of subsection (15) of section 713.78, Florida Statutes, are amended, paragraph (g) is added to subsection (16) of that section, and subsection (18) is added to that section, to read:

713.78 Liens for recovering, towing, or storing vehicles

and vessels.—

(4)

(c) The notice of lien must be sent by certified mail to the registered owner, the insurance company insuring the vehicle notwithstanding s. 627.736, and all other persons claiming a lien thereon no earlier than 6 hours before and no later than ~~within~~ 7 business days, excluding Saturday and Sunday, after the date of storage of the vehicle or vessel. However, in no event shall the notice of lien be sent less than 30 days before the sale of the vehicle or vessel. The notice must state:

1. If the claim of lien is for a vehicle, the last 8 digits of the vehicle identification number of the vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, clearly printed in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon.

2. The name, physical address, and telephone number of the lienor, and the entity name, as registered with the Division of Corporations, of the business where the towing and storage occurred, which must also appear on the outside of the envelope sent to the registered owner and all other persons claiming an interest in or lien on the vehicle or vessel.

3. The fact of possession of the vehicle or vessel.

4. The name of the person or entity that authorized the lienor to take possession of the vehicle or vessel.

5. That a lien as provided in subsection (2) is claimed.

6. That charges have accrued and include an itemized statement of the amount thereof.

7. That the lien is subject to enforcement under law and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5).

8. That any vehicle or vessel that remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less.

9. The address at which the vehicle or vessel is physically located.

(10) Persons who provide services pursuant to this section shall permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents, which agency is evidenced by an original writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle or vessel and shall release only to the owner, lienholder, or agent the vehicle, vessel, or all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the person providing such services. For the purposes of this subsection, a rental car agreement does not constitute evidence that the person who rented a vehicle is an agent of the owner of the vehicle, and a towing company may not release a vehicle owned by a rental car company to the person who rented the vehicle unless the rental car company appoints the person who rented the vehicle as its agent. Such appointment must be evidenced in an

original writing acknowledged by the rental car company before a notary public or other person empowered by law to administer oaths and must authorize the person to inspect and redeem the towed vehicle.

(15)(a) A lienor or the lienor's agent may charge a $75 notification ~~an administrative~~ fee plus the actual costs of complying with the requirements of this section to the registered owner or a person claiming a lien against the vehicle or vessel to obtain release of the vehicle or vessel from the claim of lien imposed under this section. Such notification ~~administrative~~ fee plus the actual costs of complying with the requirements of this section may not exceed $250. ~~For purposes of this paragraph, the term "administrative fee" means a lien fee or any fee imposed by the lienor or the lienor's agent for administrative costs added to the amount due for towing and storing the vehicle or vessel.~~

(16) A towing-storage operator must use a third-party service approved by the Department of Highway Safety and Motor Vehicles to transmit all notices required by this section. If there is no third-party service approved by the department, the towing-storage operator may mail the notices and provide evidence of compliance with this section upon submission of an application for certificate of title or certificate of destruction.

(g) If a towing-storage operator uses a third-party service approved by the department to provide notice required by this section, proof of mailing by the third-party service is proof that the towing-storage operator made a good faith effort to comply with such notice requirement, regardless of whether the

recipient accepts delivery or otherwise receives notice.

(18) The regulation of claiming a lien for the recovery, removal, towing, or storage of a vehicle or vessel, including, but not limited to, notification fees, is preempted to the state, and this section supersedes any county or municipal ordinance, resolution, rule, regulation, or otherwise to the contrary.

Section 3. Paragraph (a) of subsection (2) of section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles or vessels parked on private property; towing.—

(2) The owner or lessee of real property, or any person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle or vessel parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles or vessels, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under any of the following circumstances:

(a) The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to substantial compliance with the following conditions and restrictions:

1.a. Any towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal in any county of 500,000 population or more, and within a 15-mile

radius of the point of removal in any county of fewer than 500,000 population. That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle or vessel is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator shall return to the site within 1 hour or she or he will be in violation of this section.

b. If no towing business providing such service is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: any towed or removed vehicle or vessel must be stored at a site within a 20-mile radius of the point of removal in any county of 500,000 population or more, and within a 30-mile radius of the point of removal in any county of fewer than 500,000 population.

2. The person or firm towing or removing the vehicle or vessel shall, within 30 minutes after completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff, of such towing or removal, the storage site, the time the vehicle or vessel was towed or removed, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

3. A person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle

or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service fee of not more than one-half of the posted rate for the towing or removal service as provided in subparagraph 6. The vehicle or vessel may be towed or removed if, after a reasonable opportunity, the owner or legally authorized person in control of the vehicle or vessel is unable to pay the service fee. If the vehicle or vessel is redeemed, a detailed signed receipt must be given to the person redeeming the vehicle or vessel.

4. A person may not pay or accept money or other valuable consideration for the privilege of towing or removing vehicles or vessels from a particular location.

5. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle or vessel that the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or vessels and that the vehicle or vessel is subject to being removed at the owner's or operator's expense, any property owner or lessee, or person authorized by the property owner or lessee, before towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within 10 feet from the road, as defined in s. 334.03(22). If

there are no curbs or access barriers, the signs must be posted not fewer than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not fewer than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not fewer than 4-inch high letters.

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels.

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not fewer than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for not fewer than 24 hours before the towing or removal of any vehicles or vessels.

e. The local government may require permitting and inspection of these signs before any towing or removal of vehicles or vessels being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not fewer than 4-inch high, light-reflective letters on a contrasting background.

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-f., which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the

owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle or vessel is parked in such a manner that restricts the normal operation of business; and if a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

6. Any person or firm that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in control or custody of a vehicle or vessel to pay the costs of towing and storage before redemption of the vehicle or vessel must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles or vessels as provided in this section.

7. Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in control or custody of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 713.78(1)(c), or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The

name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.

8. Vehicle entry for the purpose of removing the vehicle or vessel shall be allowed with reasonable care on the part of the person or firm towing the vehicle or vessel. Such person or firm shall be liable for any damage occasioned to the vehicle or vessel if such entry is not in accordance with the standard of reasonable care.

9. When a vehicle or vessel has been towed or removed pursuant to this section, it must be released to its owner or person in control or custody within 1 hour after requested. Any vehicle or vessel owner or person in control or custody has the right to inspect the vehicle or vessel before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle or vessel from liability for damages noted by the owner or person in control or custody at the time of the redemption may be required from any vehicle or vessel owner or person in control or custody as a condition of release of the vehicle or vessel to its owner or person in control or custody. A detailed receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not. A towing company may not release a vehicle owned by a rental car company to the person who rented the vehicle unless the rental car company appoints the person who rented the vehicle as its agent. Such appointment must be evidenced in an original writing acknowledged by the rental car company before a notary public or

other person empowered by law to administer oaths and must authorize the person to inspect and redeem the towed vehicle.

Section 4. This act shall take effect July 1, 2022.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR MANNY DIAZ, JR.
36th District

COMMITTEES:
Health Policy Chair
Appropriations Subcommittee on Education Vice Chair
Appropriations
Appropriations Subcommittee on Health and Human Services
Education
Commerce and Tourism
Rules

February 4, 2022

Honorable Senator Kathleen Passidomo
Chair
Committee on Rules

Honorable Chair Passidomo,

I respectfully request that SB 990 Towing Vehicles be placed in the next committee agenda.

The bill prohibits investigating agencies from releasing motor vehicles towed to an agency's storage facility until certain proof of payment is presented to the agency; specifying that investigating agencies that do not obtain proof of payment must pay certain charges within a specified timeframe; revising the timeframe required for sending notices of lien; prohibiting towing companies from releasing vehicles owned by rental car companies, which are towed under certain circumstances, to the person who rented the vehicle unless the rental car company appoints the person as its agent.

Sincerely,



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

03/01/2022
Meeting Date

Rules
Committee

990 by Sen. Diaz
Bill Number or Topic

n/a
Amendment Barcode (if applicable)

Name David Custin, David R. Custin & Associates, Inc.

Phone 305-607-8576

Address 6401 SW 113 Place
Street

Email CustinDR@DavidRCustin.com

Miami FL 33173
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:

Beach Towing, Inc.

☐ 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

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

3/1/22
Meeting Date

990
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Towing

Name Jose Diaz

Job Title Lobbyist

Address 108 E. Jefferson St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-681-0254

Email jdiazjea@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Professional ~~Wrecker~~ Wrecker Operators of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/CS/CS/SB 1024
INTRODUCER:	Rules Committee; Community Affairs Committee; Regulated Industries Committee and Senator Bradley
SUBJECT:	Renewable Energy Generation
DATE:	March 3, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon	Imhof	RI	**Fav/CS**
2.	Hackett	Ryon	CA	**Fav/CS**
3.	Sharon	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1024 amends s. 163.04, F.S., relating to energy devices based on renewable resources, to allow governing entities with a deed restriction, covenant, declaration, or similar binding agreement affecting the alteration of residential dwellings or condominiums to prohibit the installation of solar collectors in locations outside of specifically designated parameters.

The bill also amends s. 366.91, F.S., relating to renewable energy, requiring the Public Service Commission (PSC) to revise its rules on net metering of customer renewable generation, providing for two sets of rulemaking.

Under the bill, the PSC must first propose a revised net metering rule by January 1, 2024, which provides the following:

- Excess electricity used by the customer is billed in accordance with normal billing practices; and
- Electricity delivered to the utility's grid during the customer's regular billing cycle is credited toward the customer's energy consumption for the next month's billing cycle as follows:
  - For energy credits produced from customer-owned or -leased renewable generation for which a standard interconnection agreement is executed by both parties during calendar years 2024 and 2025, the customer's energy usage is offset by 75 percent of the amount credited.

- For energy credits produced from customer-owned or -leased renewable generation for which a standard interconnection agreement is executed by both parties during calendar years 2026 and 2027, the customer's energy usage is offset by 50 percent of the amount credited.

The bill allows customers who own or lease renewable generation systems before December 31, 2023, to continue to use the net metering rate design and rates that applied at the time the standard interconnection agreement was executed by both parties for twenty years. This provision also applies to customers who purchase or lease real property with renewable generation systems installed for all or part of the twenty-year period.

The bill requires the PSC to provide for subsequent rules that must become effective January 1, 2028, establishing a new program design for customer-owned or -leased renewable generation for which a standard interconnection agreement was executed by both parties on or after January 1, 2028. The subsequent rules must comply with the following criteria:

- Ensure that customers owning or leasing renewable generation systems pay the full cost of electric service and are not subsidized by the general body of ratepayers;
- All energy delivered by the public utility must be purchased at the applicable retail rate;
- All energy delivered by a customer generation system to the public utility must be credited to the customer at the public utility's full avoided costs; and
- Establish revised guidelines for net metering credits, netting intervals, fees, and charges, ensuring that the renewable generation subsidy is zero by January 1, 2028.

After the subsequent rules become effective, the bill allows public utilities to petition the PSC for approval of fixed charges, base facilities charges, electric grid access fees, or monthly minimum bills, which ensure that the public utility recovers the fixed costs of serving customers and that the general body of ratepayers is not subsidizing customers with renewable generation systems.

The bill requires the PSC to initiate rulemaking to implement the bill's subsequent rule criteria if the statewide penetration rate of customer-owned or-leased renewable generation exceeds 6.5%. This may be done at any time, upon petition or on the PSC's own motion, and the rules become effective 60 days after adoption.

The bill provides that the penetration rate is calculated by dividing the aggregate gross power rating (alternating current) of all in-service customer-owned or-leased renewable generation for all investor-owned electric utility service territories by the total summer peak demand of all investor-owned electric utilities.

The bill provides that it establishes the minimum requirements for each public utility net metering program, and allows a public utility to petition the PSC at any time for approval of a net metering program with terms more favorable to customers.

The bill is effective July 1, 2022.

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.[1] The role of the PSC is to ensure that Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, reasonable, and reliable manner.[2] In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: (1) Rate or economic regulation; (2) Market competition oversight; and/or (3) Monitoring of safety, reliability, and service issues.[3]

Public Utilities

A public utility includes any person or legal entity supplying electricity or gas, including natural, manufactured, or similar gaseous substance, to or for the public within the state.[4] The term does not include municipal electric utilities and rural electric cooperatives.[5] Therefore, the PSC does not regulate the rates of publicly owned municipal or cooperative electric utilities.[6]

There are five investor-owned electric utility companies (IOU) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), Gulf Power Company (Gulf), and Florida Public Utilities Corporation.[7] IOU rates and revenues are regulated by the PSC.[8] These utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.[9]

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. To fulfill that obligation, public utilities monitor customer usage patterns in order to plan for future energy needs. Utilities use billing data to predict and make investments in their infrastructure.[10] Section 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.[11]

Renewable Energy

Section 377.803, F.S., defines "renewable energy" to mean "electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources:

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[1] Section 350.001, F.S.
[2] *See* Florida Public Service Commission, *The PSC's Role*, http://www.psc.state.fl.us (last visited Mar. 2, 2022).
[3] *Id*.
[4] Section 366.02(1), F.S.
[5] *Id*.
[6] *See* PSC, *Florida PSC 2020 Annual Report*, p. 13, available at http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Annualreports/2020.pdf (last visited Mar.2, 2022).
[7] *Id*. FPL acquired Gulf in 2019 and merged as of January 3, 2022.
[8] Florida Department of Agriculture and Consumer Services, *Electric Utilities*, https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Electric-Utilities (last visited Mar. 2, 2022).
[9] PSC, *2020 Annual Report*, *supra* at n. 6, p. 6.
[10] PSC, *Bill Analysis for SB 1024* (Dec. 20, 2021) p. 2 (on file with the Senate Committee on Regulated Industries).
[11] *Id*.

hydrogen, biomass, as defined in s. 366.91, F.S., solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power."

Section 366.91, F.S.,[12] requires utilities whose annual sales are greater than 2,000 gigawatt hours, to continuously offer a purchase contract to renewable energy producers, containing payment provisions for energy and capacity,[13] based on the utility's full avoided costs,[14] for a minimum of ten years.[15]

Public Utility Regulatory Policies Act (PURPA)

In 1978, the federal government enacted the Public Utility Regulatory Policies Act (PURPA),[16] which required promotion of energy efficiency and use of renewables. The act required utilities to purchase power from "qualifying facilities,"[17] which fall into two categories: qualifying small power production facilities and qualifying cogeneration facilities.[18] The PURPA directed the Federal Energy Regulatory Commission to implement the provisions, which in turn, directed the states to implement the provisions. In response, the Florida Legislature created s. 366.051, F.S.,[19] directing the utilities to purchase power from the cogenerators or small power producers.

Full Avoided Costs

A utility's full avoided cost is the incremental costs of electric energy or capacity, which, but for the purchase from cogenerators or small power producers, the utility would have to generate itself or purchase from another source.[20] Traditionally, the PSC has approved electric utilities power purchase contracts that include provisions for payment, capacity, and energy based upon either the utility's cost to construct and operate its next planned generating unit or the cost of purchasing capacity and energy from generating units owned by other utilities in the interchange market.[21]

The utility's full avoided costs and the utility's as-available tariff rate are not the same. Full avoided costs can include capacity and energy avoided costs, while the as-available rate only includes avoided energy costs, which is largely fuel.[22]

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[12] Originally enacted by Chapter 2005-259, s. 1, Laws of Fla.
[13] Capacity is the maximum electric output, in megawatts, that an electricity generator can produce under ideal conditions. *See* U.S. Energy Information Administration, *What is the difference between electricity generation capacity and electricity generation?* https://www.eia.gov/tools/faqs/faq.php?id=101&t=3 (last visited Mar. 2, 2022).
[14] *See* "Full avoided Costs," on p. 3.
[15] Section 366.91, F.S.
[16] 16 U.S.C. s. 2601 et seq.
[17] Federal Energy Regulatory Commission, *PURPA Qualifying Facilities*, https://www.ferc.gov/qf (last visited Mar. 2, 2022).
[18] *Id*.
[19] Chapter 89-292, s. 4, Laws of Fla.
[20] Section 366.051, F.S.
[21] Florida Public Service Commission, *States' Electric Restructuring Activities Update: Wholesale Sales* http://www.psc.state.fl.us/Publications/ElectricRestructuringDetails#4 (last visited Mar. 2, 2022).
[22] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.

Customer-Owned Renewable Energy Generation Systems

Customer-owned renewable energy generation systems, primarily solar systems in Florida,[23] allow customers to generate their own electricity.[24] It is defined as an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy.[25]

Interconnection[26] with the electric grid allows customers to reliably power their homes even when the sun is not shining.[27] When a customer-owned system generates more electricity than needed, the electricity flows onto the electric grid for distribution to another customer and the generating customer receives a credit toward future usage from the utility.[28] Utilities are federally required to purchase excess power from small renewable energy generators.[29]

Utility customers primarily benefit from interconnected renewable generation systems through personal use and reducing the amount of electricity they purchase from the utility.[30] In turn, this effectively lowers the demand for electricity that the utility must meet for these customers.[31] The average full life of renewable energy generating equipment is approximately 20 years.[32]

Net Metering

Net metering is a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site.[33] Under net metering, customers are credited for excess energy produced which flows back to the grid. A meter is used to record both electricity drawn from the grid and excess electricity that flows to the grid from the customer-owned system.[34]

Florida's net metering rule was established in 2008 requiring IOUs to offer a standardized interconnection agreement for expedited interconnection and net metering of customer-owned renewable generation up to two megawatts.[35] The rule's purpose is to:

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[23] PSC, *Interconnection and Net Metering of Customer-Owned Renewable Generation 2020*, available at http://www.floridapsc.com/Files/PDF/Utilities/Electricgas/CustomerRenewable/2020/2020%20Net%20Metering%20Summary%20Spreadsheet/2020%20Net%20Metering%20Report.pdf#search=Interconnection%20and%20Net%20Metering%20of%20Customer-Owned%20Renewable%20Generation (last visited Mar. 2, 2022).
[24] U.S. Department of Energy, *Grid-Connected Renewable Energy Systems*, https://www.energy.gov/energysaver/grid-connected-renewable-energy-systems (last visited Mar. 2, 2022).
[25] Section 366.91, F.S.
[26] "Interconnection is defined as the technical procedures and legal requirements surrounding energy customers' ability to connect their small-scale renewable energy projects to the electricity grid. U.S. Department of Energy, *Renewable Energy: Distributed Generation Policies and Programs*, https://www.energy.gov/eere/slsc/renewable-energy-distributed-generation-policies-and-programs (last visited Mar. 2, 2022).
[27] USDE, *Grid-Connected Renewable Energy Systems*, *supra* at n. 24.
[28] *Id*.
[29] *Id*.
[30] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 1.
[31] *Id*.
[32] PSC, *SB 1024 Analysis*, *supra* at n. 10 p. 5.
[33] Section 366.91, F.S.
[34] USDE, *Grid-Connected Renewable Energy Systems*, *supra* at n. 24.
[35] Fla. Admin. Code R. 25-6.065(3).

> Promote the development of small customer-owned renewable generation, particularly solar and wind energy systems; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on fossil fuels for the production of electricity; minimize the volatility of fuel costs; encourage investment in the state; improve environmental conditions; and, at the same time, minimize costs of power supply to investor-owned utilities and their customers.[36]

Under the rule, customers are categorized into tiers, with varying requirements, based on system capacity:[37]

- Tier 1 Systems, have a capacity of 10 kilowatts or less; there is no application fee, no interconnection study requirement, no insurance requirement, and no manual disconnect switch requirement.
- Tier 2 Systems, have a capacity greater than 10 kilowatts and less than 100 kilowatts; there is an application fee if approved by the PSC, no interconnection study requirement, a $1 million insurance requirement, and a manual disconnect switch requirement.
- Tier 3 Systems, are greater than 100 kilowatts and less than 2 megawatts; there is an application fee if approved by the PSC, an interconnection study may be required, a $2 million insurance requirement, and a manual disconnect switch requirement.

All electric utilities, as defined in s. 366.02(2), F.S., must annually report the total:

- Number of customer-owned renewable generation interconnections;
- Kilowatt capacity of the interconnections;
- Kilowatt hours received by interconnected customers from the utility;
- Kilowatt hours received by the utility from the interconnected customers;
- Energy payments made to interconnected customers energy generation delivered to the utility for the previous calendar year; and
- Energy payments made since the implementation of the net metering rule.[38]

In 2008, there were 577 customer-owned renewable generation interconnections.[39] As of December 31, 2020, Florida electric utilities reported a total of 90,552 interconnections, of which 90,518 were solar; and 71,567 interconnections were for IOU customers, of which 71,541 were solar.[40] Less than one percent of Florida's electric customers have installed renewable generation equipment as of the 2020 Report.[41] In comparison, there were 10,504,960 electric utility customers in Florida, as of January 1, 2021.[42]

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[36] Fla. Admin. Code R. 25-6.065(1).
[37] Fla. Admin. Code R. 25-6.065(4).
[38] Fla. Admin. Code R. 25-6.065(10).
[39] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.
[40] PSC, 2020 *Interconnection and Net Metering Report*, *supra* at n. 23.
[41] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 3.
[42] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 3 *citing* PSC, *Review of 2021 Ten-year Site Plans of Florida's Electric Utilities*, p.13, available at http://www.psc.state.fl.us/Files/PDF/Utilities/Electricgas/TenYearSitePlans/2021/Review.pdf (last visited Mar. 2, 2022).

Net Metering Billing

When net metering customers generate excess energy that is delivered to the IOU's grid, they receive an excess energy credit toward their energy consumption for the next month's billing cycle.[43] The value of the excess energy is equivalent to the utility's retail rate that includes the cost of generation, transmission, distribution, fuel, operating and maintenance expenses and other costs[44]. Excess energy credits may be carried over to credit energy usage in subsequent months, but not for more than twelve months.[45] At the end of each calendar year, the IOU pays the customer for any unused excess energy credits at an average annual rate based on the "IOU's as-available energy tariff."[46] "The utility's full avoided costs and the utility's as-available tariff rate are not the same. "Full avoided costs" can include capacity and energy avoided costs, while the "as-available rate" only includes avoided energy costs, which is largely fuel."[47]

Net metering customers still receive a monthly bill, regardless of their energy usage from the grid.[48] Net metering customers must pay any applicable customer charge and the applicable demand charge.[49] This may include a fixed monthly customer charge, a base facility charge, volumetric rates for cents per kilowatt hour based on the customer's energy consumption, or demand rates based upon the maximum kilowatt demand in a monthly billing cycle.[50]

PSC Workshop on Net Metering

On September 17, 2020, the PSC held an informational workshop on customer-owned renewable generation, for the purpose of evaluating the effect of the current net metering policy. The workshop included presentations by PSC staff,[51] Vote Solar,[52] Southern Alliance for Clean Energy,[53] Florida Solar Energy Industries Association,[54] and Florida Sunrun.[55]

Net Metering Customer Demographics

The following demographic information has been identified by FPL and Gulf,[56] respectively, among their net metered customers:

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[43] Fla. Admin. Code R. 25-6.065(8)(e).
[44] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.
[45] Fla. Admin. Code R. 25-6.065(8)(f).
[46] *Id*. According to the PSC, as-available energy is purchased by the utility at a rate, in cents per kilowatt-hour, not to exceed the utility's avoided energy cost.
[47] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.
[48] Fla. Admin. Code R. 25-6.065(8)(h).
[49] *Id*.
[50] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.
[51] Matthew A. Vogel, PSC Office of Industry Development and Market Analysis, *Staff Presentation Workshop on Customer-owned Renewable Generation* (September 17, 2020) available at http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/PSC.pdf (last visited Mar. 2, 2022).
[52] Vote Solar, *The State of Rooftop Solar in Florida* (September 2020) available at http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/VoteSolar.pdf (last visited Mar. 2, 2022).
[53] Bryan Jacob, *Southern Alliance for Clean Energy Comments on Net Metering* (September 17, 2020) available at http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/SACE.pdf (last visited Mar. 2, 2022).
[54] Justin Hoysradt, Florida Solar Energy Industries Association, *Net-Metering Powers Job Growth*, available at http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/FSEIA.pdf (last visited Mar. 2, 2022).
[55] Florida Sunrun, *NEM is working for the Sunshine State* (September 2020) available at http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/FloridaSunrun.pdf (last visited Mar. 2, 2022).
[56] Now merged.

- Average Age: 54 years and 47 years.
- Percentage of Homeowners: 96% and 80%.
- Average Length of time in their Residence: 12 years and 9 years.
- Household Income greater than $50,000: 67% and 59%.
- Household Income greater than $100,000: 34% and 22%.[57]

Cross-Subsidization

Concerns of cross-subsidization of net metered customers by non-net metered customers have been raised before the PSC.[58] Questions relate to the components of the utility's cost of service that are offset by energy generated by net metered customers.[59] These questions are partly based on net metered customers purchasing less energy from the grid,[60] because a utility is statutorily entitled to recoup its "honestly and prudently invested costs of providing electric service to its customers," regardless of customer use patterns.[61]

There is disagreement among stakeholders as to the question of cross-subsidization and how to quantify it. Notably, the Solar Energy Industries Association states that "[s]ome level of cross-subsidization is inherent in all rate designs, particularly for large diverse classes of ratepayers an independent finding of a material cost shift should be required before regulators authorize substantial changes to rates or rate design."[62]

According to Vote Solar, Florida's current level of solar adoption results in a negligible impact on customer rates.[63] Projections for cross subsidization among the general body of ratepayers for four of Florida's IOUs result in estimates of a cumulative cross-subsidy of over $700 million by 2025.[64]

Energy Devices Based on Renewable Resources

Current law expressly prohibits ordinances by governing bodies which prohibit the installation of solar collectors, clotheslines, or other energy devices based on renewable resources.[65] Deed restrictions, covenants, declarations, or similar binding agreements may not prohibit such devices from being installed on buildings erected on the lots or parcels covered by binding agreements.[66]

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[57] FPL, *FPL and Gulf Post-Workshop Comments*, p. 6, available at https://www.floridapsc.com/Files/PDF/Utilities/RenewableGenerationWorkshop/FPLGulfPostWorkshop.pdf (last visited Mar. 2, 2022).
[58] PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 4.
[59] *Id*. "For example, questions have been raised as to whether the excess energy offsets the utility's cost of power plants, given that power plants must be available to meet a renewable energy customer's electric needs when their systems are not operating or when their demand exceeds the capability of their renewable energy system."
[60] *Id*.
[61] Section 366.06, F.S.; PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 4.
[62] *See* Solar Energy Industries Association, *Principles for the Evolution of Net Energy Metering and Rate Design*, available at https://www.seia.org/initiatives/principles-evolution-net-energy-metering-and-rate-design (last visited Mar. 2, 2022).
[63] *See Vote Solar Post Workshop Comment*, available at http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/VoteSolar_Post_Workshop_Comments.pdf (last visited March 2, 2022).
[64] *FPL and Gulf Post-Workshop Comments*, *supra* at n. 57, p. 7.
[65] Section 163.04(1), F.S.
[66] Section 163.04 (2), F.S.

However, governing entities may determine the specific location of solar collectors installed on roofs, within an orientation to the south or within 45° east or west of due south, so long as it does not impair the devices effective operation.[67] These provisions are intended to encourage the development and use of renewable resources and prevent the adoption of measures that ultimately drive up the costs of owning and operating commercial or residential property.[68]

III. Effect of Proposed Changes:

Section 1 amends s. 163.04, F.S., relating to energy devices based on renewable resources, to allow governing entities with a deed restriction, covenant, declaration, or similar binding agreement affecting the alteration of residential dwellings or within the boundaries of a condominium unit to prohibit the installation of solar collectors in locations outside of specifically designated parameters.

Section 2 amends the legislative findings, under s. 366.91, F.S., relating to renewable energy, to state that:

- The continued development of renewable energy resources in a fair and equitable manner to all public utility customers is in the public interest.
- A net metering rule redesign is supported by the development and maturity of the industry, the decline in solar panel costs, and increased customer-owned/leased renewable generation.
- Customer-owned or-leased renewable generation is not available to public utility customers lacking financial resources or otherwise residing in multitenant buildings.
- The industry's growth has resulted in increased cross-subsidization of electric service costs onto the general body of ratepayers.
- The redesigned net metering rate structures must ensure that customers who own or lease renewable generation pay the full cost service.

The bill requires the Public Service Commission (PSC) to revise its rules on net metering of customer renewable generation, providing for two sets of rulemaking.

Under the bill, the PSC must first propose a revised net metering rule by January 1, 2024, which provides the following:

- Excess electricity used by the customer is billed in accordance with normal billing practices; and
- Electricity delivered to the utility's grid during the customer's regular billing cycle is credited toward the customer's energy consumption for the next month's billing cycle as follows:
    - For energy credits produced from customer-owned or -leased renewable generation for which a standard interconnection agreement is executed by both parties during calendar years 2024 and 2025, the customer's energy usage is offset by 75 percent of the amount credited.
    - For energy credits produced from customer-owned or -leased renewable generation for which a standard interconnection agreement is executed by both parties during calendar

[67] *Id*.
[68] Section 163.04(4), F.S.

years 2026 and 2027, the customer's energy usage is offset by 50 percent of the amount credited.

The bill allows customers who own or lease renewable generation systems before December 31, 2023, to continue to use the net metering rate design and rates that applied at the time the standard interconnection agreement was executed by both parties for twenty years. This provision also applies to customers who purchase or lease real property with renewable generation systems installed for all or part of the twenty-year period.

The bill requires the PSC to provide for subsequent rules that must become effective January 1, 2028, establishing a new program design for customer-owned or -leased renewable generation for which a standard interconnection agreement was executed by both parties on or after January 1, 2028. The subsequent rules must comply with the following criteria:

- Ensure that customers owning or leasing renewable generation systems pay the full cost of electric service and are not subsidized by the general body of ratepayers;
- All energy delivered by the public utility must be purchased at the applicable retail rate;
- All energy delivered by a customer generation system to the public utility must be credited to the customer at the public utility's full avoided costs; and
- Establishes revised guidelines for net metering credits, netting intervals, fees, and charges, ensuring that the renewable generation subsidy is zero by January 1, 2028.

After the subsequent rules become effective, the bill allows public utilities to petition the PSC for approval of fixed charges, base facilities charges, electric grid access fees, or monthly minimum bills, which ensure that the public utility recovers the fixed costs of serving customers and that the general body of ratepayers is not subsidizing customers with renewable generation systems.

The bill requires the PSC to initiate rulemaking to implement the bill's subsequent rule criteria if the statewide penetration rate of customer-owned or-leased renewable generation exceeds 6.5%. This may be done at any time, upon petition or on the PSC's own motion, and the rules become effective 60 days after adoption.

The bill provides that the penetration rate is calculated by dividing the aggregate gross power rating (alternating current) of all in-service customer-owned or-leased renewable generation for all investor-owned electric utility service territories by the total summer peak demand of all investor-owned electric utilities.

The bill establishes the minimum requirements for each public utility net metering program, and allows a public utility to petition the PSC at any time for approval of a net metering program with terms more favorable to customers.

Section 3 provides that the bill is effective 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:

There may be an indeterminate impact on the solar installation and manufacturing industry if fewer customers purchase rooftop solar as a result of the redesigned net metering rate structure.[69]

Decreasing the credit amount from the retail rate to the full avoided cost may impact a customer's decision to install a renewable generation system.[70]

Decreasing the credit amount from retail to the full avoided cost may have a positive impact on the IOUs, where projections of the cumulative cross-subsidy to be absorbed by non-net metered customers of FPL, Gulf, TECO, and Duke for 2020 through 2025 total $719 million.[71]

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

[69] PSC, *SB 1024 Analysis*, *supra* at n. 10 p. 5.
[70] *Id*.
[71] *FPL and Gulf Post-Workshop Comments*, *supra* at n. 57, p. 7.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 366.91 and 163.04 of the Florida Statutes.

IX. Additional Information:

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

CS/CS/CS by Rules on March 1, 2022:

- Provides for 2 sets of rulemaking.
- The first set of rules must be adopted by January 1, 2024, and must provide that:
  - Excess electricity used by the customer is billed in accordance with normal billing practices; and
  - Electricity delivered to the utility's grid during the customer's regular billing cycle is credited toward the customer's energy consumption for the next month's billing cycle in accordance with the phases established.
- Replaces references throughout the bill to an "approved net metering application" with an "executed standard interconnection agreement (SIA)."
- Retains the current bill's dates and percentages for phase 1 and phase 2 of the first set of rules, but clarifies that the customer's usage is offset by the amount credited.
- Extends the grandfather provision to apply to SIAs executed before December 31, 2023, as opposed to requiring generation to be in service by January 1, 2023.
- The subsequent set of rulemaking replaces what was previously the third phase and must become effective January 1, 2028.
- Moves the provision allowing for fixed charges, base facilities charges, electric grid access fees, or monthly minimum bills to the subsequent set of rules, and clarifies that a public utility may petition the commission for approval to impose such fees.
- Requires the PSC to initiate rulemaking to implement the bill's subsequent rule criteria if the statewide penetration rate of customer-owned or-leased renewable generation exceeds 6.5%. This may be done at any time, upon petition or on the PSC's own motion, and the rules become effective 60 days after adoption.
- Provides that the penetration rate must be calculated by dividing the aggregate gross power rating (alternating current) of all in-service customer-owned or-leased renewable generation in all investor-owned electric utilities' service territories by the total summer peak demand of all investor-owned electric utilities.
- Clarifies that the bill establishes the minimum requirements for each public utility net metering program, and allows a public utility to petition the PSC at any time for approval of a net metering program with terms more favorable to customers.

CS/CS by Community Affairs on February 8, 2022:
The CS provides that energy delivered by a customer to the public utility will be credited at 75 percent of the utility's retail rate in 2024 and 2025, 50 percent in 2026 and 2027,

and credited at the public utility's full avoided costs in 2028. The amendment also extends the grandfathering provision for existing interconnection agreements from 10 to 20 years.[72]

CS by Regulated Industries on January 11, 2022:
The CS amends s. 163.04(3), F.S. to allow governing entities with a deed restriction, covenant, declaration, or similar binding agreement affecting the alteration of residential dwellings or within the boundaries of a condominium unit to prohibit the installation of solar collectors in locations outside of the parameters specified in s. 163.04(2)(a), F.S.

B. Amendments:

None.

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

[72] PSC, *SB 1024 Analysis*, *supra* at n. 10 p. 5.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/02/2022	.	
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The Committee on Rules (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 44 - 126
and insert:
Section 2. Subsections (1) and (5) of section 366.91, Florida Statutes, are amended to read:
366.91 Renewable energy.—
(1) The Legislature finds that:
(a) It is in the public interest to continue ~~promote~~ the development of renewable energy resources in this state in a manner that is fair and equitable to all public utility


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customers. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies. The development and maturation of the solar energy industry, the substantial decline in the cost of solar panels, and the increase in customer-owned or leased renewable generation support the redesign of net metering by the commission.

(b) Customer-owned or leased renewable generation is not available to many public utility customers who lack the financial resources to purchase or lease rooftop solar panels or who reside in multitenant buildings. The substantial growth of customer-owned or leased renewable generation has resulted in increased cross-subsidization of the full cost of electric service onto the public utility's general body of ratepayers. Therefore, the redesigned net metering rate structures required in subsection (5)(d) must ensure that public utility customers who own or lease renewable generation pay the full cost of electric service and are not cross-subsidized by the public utility's general body of ratepayers.

(5)(a) ~~On or before January 1, 2009,~~ Each public utility shall develop a standardized interconnection agreement and net metering program for customer-owned or leased renewable generation. The commission shall establish requirements relating to the expedited interconnection and net metering of customer-owned or leased renewable generation by public utilities and shall ~~may~~ adopt new rules to administer this section.

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(b) Effective January 1, 2024, public utility net metering programs for customer-owned or leased renewable generation must provide that:

1. Electricity used by the customer in excess of the generation supplied by customer-owned or leased renewable generation is billed by the public utility in accordance with normal billing practices; and

2. Excess customer-owned or leased renewable generation delivered to the public utility's electric grid during the customer's regular billing cycle is credited to the customer's energy consumption for the next month's billing cycle as follows:

a. For energy credits produced from customer-owned or leased renewable generation for which a net metering application is approved during calendar years 2024 and 2025, an amount equal to 75 percent of the public utility's retail rate.

b. For energy credits produced from customer-owned or leased renewable generation for which a net metering application is approved during calendar years 2026 and 2027, an amount equal to 50 percent of the public utility's retail rate.

(c) A public utility customer who owns or leases renewable generation for which a net metering application is approved before December 31, 2023, pursuant to a standard interconnection agreement offered by a public utility, is granted 20 years to continue to use the net metering rate design and rates that applied at the time the net metering application was approved. This paragraph applies to customers who purchase or lease real property upon which customer-owned or leased renewable generation is installed for all or part of that 20-year period.

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(d) The commission shall adopt subsequent rules to become effective January 1, 2028, which establish a new program design for customer-owned or leased renewable generation for which a net metering application is approved on or after January 1, 2028. The new program design must comply with the following criteria:

1. Each public utility customer who owns or leases renewable generation must pay the full cost of electric service and may not be subsidized by the public utility's general body of ratepayers after December 31, 2027.

2. All energy delivered by the public utility must be purchased at the public utility's applicable retail rate, and all energy delivered by the customer-owned or leased renewable generation to the public utility must be credited to the customer at the public utility's full avoided costs.

3. The commission shall establish revised guidelines for net metering credits, netting intervals, fees, and charges as described herein, so as to ensure that the renewable generation subsidy is zero by January 1, 2028.

4. The net metering guidelines may include fixed charges, including base facilities charges, electric grid access fees, or monthly minimum bills, to help ensure that the public utility recovers the fixed costs of serving customers who engage in net metering and that the general body of public utility ratepayers does not subsidize customer-owned or leased renewable generation.

(e)1. If at any time the statewide penetration rate of customer-owned or leased renewable generation exceeds 6.5 percent, the commission, upon petition or on its own motion,

384970

must initiate rulemaking to adopt a new program design that complies with subparagraphs (d)1. and 2. A new program design adopted pursuant to this subparagraph becomes effective 60 days after rule adoption or 60 days after the date the commission determines that the actual penetration rate has reached 6.5 percent, whichever is later, and shall apply to customer-owned or leased renewable generation for which a net metering application is approved after that effective date.

2. For purposes of this paragraph, the penetration rate must be calculated by dividing the aggregate total summer peak demand of the public utility by the gross power rating (alternating current) of all in-service customer-owned or leased renewable generation in the public utility's service territory.

(f) This subsection establishes the minimum requirements for each public utility net metering program. A public utility may petition the commission at any time for approval to offer a net metering program on terms that are more favorable to customers who own or lease renewable generation than the terms specified in this subsection or in commission rules adopted pursuant to this subsection.

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

And the title is amended as follows:

Delete lines 9 - 17

and insert:

classes of ratepayers; providing the terms for public utility net metering programs after a specified date; authorizing certain customers who own or lease renewable generation to remain under the net metering

384970

rules that initially applied to those customers for a specified time; requiring the Public Service Commission to adopt rules that meet certain requirements by a specified date; providing conditions under which rulemaking must be initiated if the penetration rate of customer-owned or leased renewable generation meets a specified threshold; authorizing public utilities to petition the commission to offer certain alternative net metering programs; providing an effective date.

655702

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2022	.	
	.	
	.	
	.	

The Committee on Rules (Bradley) recommended the following:

Senate Substitute for Amendment (384970) (with title amendment)

Delete lines 44 - 126
and insert:

Section 2. Subsections (1) and (5) of section 366.91, Florida Statutes, are amended to read:

366.91 Renewable energy.—

(1) The Legislature finds that:

(a) It is in the public interest to continue ~~promote~~ the development of renewable energy resources in this state in a


655702

manner that is fair and equitable to all public utility customers. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies. The development and maturation of the solar energy industry, the substantial decline in the cost of solar panels, and the increase in customer-owned or -leased renewable generation support the redesign of net metering by the commission.

(b) Customer-owned or -leased renewable generation is not available to many public utility customers who lack the financial resources to purchase or lease rooftop solar panels or who reside in multitenant buildings. The substantial growth of customer-owned or -leased renewable generation has resulted in increased cross-subsidization of the full cost of electric service onto the public utility's general body of ratepayers. Therefore, the redesigned net metering rate structures required in subsection (5)(d) must ensure that public utility customers who own or lease renewable generation pay the full cost of electric service and are not cross-subsidized by the public utility's general body of ratepayers.

(5)(a) ~~On or before January 1, 2009,~~ Each public utility shall develop a standard ~~standardized~~ interconnection agreement and net metering program for customer-owned or -leased renewable generation. The commission shall establish requirements relating to the expedited interconnection and net metering of customer-owned or -leased renewable generation by public utilities and


655702

shall ~~may~~ adopt new rules to administer this section.

(b) Effective January 1, 2024, public utility net metering programs for customer-owned or -leased renewable generation must provide that:

1. Electricity used by the customer in excess of the generation supplied by customer-owned or -leased renewable generation is billed by the public utility in accordance with normal billing practices; and

2. Excess customer-owned or -leased renewable generation delivered to the public utility's electric grid during the customer's regular billing cycle is credited to the customer's energy consumption for the next month's billing cycle as follows:

a. For energy credits produced from customer-owned or -leased renewable generation for which a standard interconnection agreement is executed by both parties during calendar years 2024 and 2025, the customer's energy usage is offset by 75 percent of the amount credited.

b. For energy credits produced from customer-owned or -leased renewable generation for which a standard interconnection agreement is executed by both parties during calendar years 2026 and 2027, the customer's energy usage is offset by 50 percent of the amount credited.

(c) A public utility customer who owns or leases renewable generation for which a standard interconnection agreement is executed by both parties before December 31, 2023, is granted 20 years to continue to use the net metering rate design and rates that applied at the time the standard interconnection agreement was executed by both parties. This paragraph applies to


655702

customers who purchase or lease real property upon which customer-owned or -leased renewable generation is installed for all or part of that 20-year period.

(d) The commission shall adopt subsequent rules to become effective January 1, 2028, which establish a new program design for customer-owned or -leased renewable generation for which a standard interconnection agreement was executed by both parties on or after January 1, 2028. The new program design must comply with the following criteria:

1. Each public utility customer who owns or leases renewable generation must pay the full cost of electric service and may not be subsidized by the public utility's general body of ratepayers after December 31, 2027.

2. All energy delivered by the public utility must be purchased at the public utility's applicable retail rate, and all energy delivered by the customer-owned or -leased renewable generation to the public utility must be credited to the customer at the public utility's full avoided costs.

3. The commission shall establish revised guidelines for net metering credits, netting intervals, fees, and charges as described herein, so as to ensure that the renewable generation subsidy is zero by January 1, 2028.

(e) After the effective date of the subsequent net metering rules described in paragraph (d), a public utility may petition the commission for approval to impose fixed charges, including base facilities charges, electric grid access fees, or monthly minimum bills, to help ensure that the public utility recovers the fixed costs of serving customers who engage in net metering and that the general body of public utility ratepayers does not


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subsidize customer-owned or -leased renewable generation.

(f)1. If at any time the statewide penetration rate of customer-owned or -leased renewable generation exceeds 6.5 percent, the commission, upon petition or on its own motion, must initiate rulemaking to adopt a new program design that complies with subparagraphs (d)1. and 2. A new program design adopted pursuant to this subparagraph becomes effective 60 days after rule adoption and shall apply to customer-owned or -leased renewable generation for which a standard interconnection agreement was executed by both parties after that effective date.

2. For purposes of this paragraph, the penetration rate must be calculated by dividing the aggregate gross power rating (alternating current) of all in-service customer-owned or -leased renewable generation in all investor-owned electric utilities' service territories by the total summer peak demand of all investor-owned electric utilities.

(g) This subsection establishes the minimum requirements for each public utility net metering program. A public utility may petition the commission at any time for approval to offer a net metering program on terms that are more favorable to customers who own or lease renewable generation than the terms specified in this subsection or in commission rules adopted pursuant to this subsection.

(h) The commission shall require a public utility requesting a change in base rates under s. 366.06 to report to the commission the impact of net metering on the public utility's revenues and cost of service.


655702

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 9 - 15
and insert:
classes of ratepayers; providing the terms for public utility net metering programs after a specified date; authorizing certain customers who own or lease renewable generation to remain under the net metering rules that initially applied to those customers for a specified time; providing applicability; requiring the Public Service Commission to adopt rules that meet certain requirements by a specified date; authorizing public utilities to petition the commission, after a specified date, for approval of certain charges; providing conditions under which rulemaking must be initiated if the penetration rate of customer-owned or -leased renewable generation meets a specified threshold; authorizing public utilities to petition the commission to offer certain alternative net metering programs; requiring certain

By the Committees on Community Affairs; and Regulated Industries; and Senator Bradley

578-02849-22 20221024c2

A bill to be entitled

An act relating to renewable energy generation; amending s. 163.04, F.S.; authorizing certain entities to prohibit the installation of solar collectors under certain circumstances; amending s. 366.91, F.S.; revising and providing legislative findings relating to the redesign of net metering to avoid cross-subsidization of electric service costs between classes of ratepayers; requiring the Public Service Commission to propose new net metering rules that comply with specified criteria by a certain date; authorizing certain customers who own or lease renewable generation before a specified date to remain under the existing net metering rules for a specified time; providing applicability; requiring certain public utilities to provide a specified report to the commission; providing an effective date.

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

Section 1. Subsection (2) of section 163.04, Florida Statutes, is amended to read:

163.04 Energy devices based on renewable resources.—

(2) A deed restriction, covenant, declaration, or similar binding agreement may not prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement. A

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

578-02849-22 20221024c2

property owner may not be denied permission to install solar collectors or other energy devices by any entity granted the power or right in any deed restriction, covenant, declaration, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings and within the boundaries of a condominium unit. Such entity may:

(a) Determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45 degrees ~~45°~~ east or west of due south if such determination does not impair the effective operation of the solar collectors; and

(b) Prohibit the installation of solar collectors in locations beyond the parameters specified in paragraph (a).

Section 2. Present subsections (6) through (9) of section 366.91, Florida Statutes, are redesignated as subsections (7) through (10), respectively, a new subsection (6) is added to that section, and subsection (1) and present subsection (7) of that section are amended, to read:

366.91 Renewable energy.—

(1) The Legislature finds that:

(a) It is in the public interest to continue ~~promote~~ the development of renewable energy resources in this state in a manner that is fair and equitable to all public utility customers. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and

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

innovative technologies. The development and maturation of the solar energy industry, the substantial decline in the cost of solar panels, and the increase in customer-owned and -leased renewable generation support the redesign of net metering by the commission.

(b) Customer-owned and -leased renewable generation are not available to many public utility customers who lack the financial resources to purchase or lease rooftop solar panels or who reside in multitenant buildings. The substantial growth of customer-owned and -leased renewable generation has resulted in increased cross-subsidization of the full cost of electric service onto the public utility's general body of ratepayers. Therefore, the redesigned net metering rate structures required in paragraph (6)(a) must ensure that public utility customers who own or lease renewable generation pay the full cost of electric service and are not cross-subsidized by the public utility's general body of ratepayers.

(6)(a) On or before January 1, 2023, the commission shall propose a revised net metering rule that complies with the following criteria:

1. The net metering rate structures and billing must ensure that public utility customers owning or leasing renewable generation pay the full cost of electric service and are not subsidized by the public utility's general body of ratepayers.

2. The net metering must ensure that all energy delivered by the public utility is purchased at the public utility's applicable retail rate and that all energy delivered by the customer-owned or -leased renewable generation to the public utility is credited to the customer as follows:

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

a. During calendar years 2024 and 2025, the credit is 75 percent of the public utility's retail rate.

b. During calendar years 2026 and 2027, the credit is 50 percent of the public utility's retail rate.

c. During calendar year 2028, the credit is the public utility's full avoided costs.

3. The net metering may include fixed charges, including base facilities charges, electric grid access fees, or monthly minimum bills, to help ensure that the public utility recovers the fixed costs of serving customers who engage in net metering and that the general body of public utility ratepayers does not subsidize customer-owned or -leased renewable generation.

(b) Any public utility customer who owns or leases renewable generation that is in service before January 1, 2023, pursuant to a standard interconnection agreement offered by a public utility shall be granted 20 years to continue to use the net metering rate design and rates that applied before the revised net metering rule was adopted under paragraph (a). This paragraph applies to customers who purchase or lease real property upon which customer-owned or -leased renewable generation is installed for all or part of that 20-year period.

(c) The commission shall require a public utility requesting a change in base rates under s. 366.06 to report to the commission the impact of net metering on the public utility's revenues and cost of service.

(8)~~(7)~~ Under the provisions of subsections (5) and (7) ~~(6)~~, when a utility purchases power generated from biogas produced by the anaerobic digestion of agricultural waste, including food waste or other agricultural byproducts, net metering shall be

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

available at a single metering point or as a part of conjunctive billing of multiple points for a customer at a single location, so long as the provision of such service and its associated charges, terms, and other conditions are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers, as determined by the commission for public utilities, or as determined by the governing authority of the municipal electric utility or rural electric cooperative that serves at retail.

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

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The Florida Senate

APPEARANCE RECORD

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2/1
Meeting Date

Rules
Committee

1024
Bill Number or Topic

& Substitute 655702
Amendment Barcode (if applicable)

Name Richard Pinsky

Phone

Address 201 E. Park Ave.
Street

Tallahassee FL.
City State Zip

Email

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 Solar and Storage 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

RULES
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name ENNIS JACOBS

Phone 850-491-2710

Address P.O. BOX 11101
Street

Email JACOBSLAWFLA@GMAIL.COM

TALL FL 32302
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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3/1/22
Meeting Date

Rules
Committee

SB1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Catarina Fernandez

Phone (305) 300 4727

Address 399 Prince St
Street

Email cat@ourclimate.us

Tallahassee FL 32304
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 Student Power Network

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)

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elizabeth Gilbert

Phone 386-214-9710

Address
Street

Email Egilbert@floridarisng.org

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 Student Power Network

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S-001 (08/10/2021)

The Florida Senate

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CS/CS/SB 1024
Renewable Energy GEN
Bill Number or Topic

Meeting Date

Committee

Amendment Barcode (if applicable)

Name Roslyn Carter

Phone (772) 777-2091

Address 1966 SW Logan St
Street

Email Eleuthera-Rara@Prodigy.net

Pt. St Lucie FL 34953
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name JIM J. PUREKAL

Phone (850) 723-5859

Address 1123 5th Street, NE
Street

Email JIM.PUREKAL@SUNPOWER.COM

Washington, DC 20002
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-1-12
Meeting Date

1024 - Net Metering
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Tyson Grinstead

Phone 336-213-3545

Address 1086 Coatesdale Rd
Street

Email Tyson.grinstead@sunrun.com

Columbia SC 29209
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:
Sunrun

☐ 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 JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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03/01/2022
Meeting Date

RULES
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Linda Beauport

Phone 954-515-2824

Address 1730 West Pensacola
Street

Email lindaBeauport@gmail.com

Tallahassee FL 32304
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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3-1-22
Meeting Date

Rules
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kim Ross

Phone 850-888-2565

Address 603 N MLK Jr. Blvd.
Street

Email kim@rethinkenergyflorida.org

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

RC 412 B 1:30 pm
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID CULLEN

Phone 941-323-2404

Address 9830 ELM ST
Street

OCEAN CITY MD 21842
City *State* *Zip*

Email cullenasea@gmail.com

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:
SIERRA CLUB 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 JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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Deliver both copies of this form to
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3-1-2022
Meeting Date

Rules
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jodi James

Phone 321 890 7302

Address 2613 Larry Ct
Street

Email jodi@flcan.org

Melbourne, FL 32935
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 Cannabis Action Network

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/1/22
Meeting Date

Rules
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lindsay Cross

Phone

Address 1700 N monroe 11-286
Street

Email lindsay@fcvoters.org

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 conservation voters

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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March 1
Meeting Date

Senate Rules
Committee

SB 1024 - net metering
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lisa Edgar

Phone 850-322-6502

Address

Email lisaedgar7@gmail.com

Street

Tallahassee FL 32309
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[X] 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/1/22
Meeting Date

S. RULES
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name META CALDER

Phone 850-228-5900

Address 3740 RAVINE DR.
Street

Email metacalders@gmail.com

TALL. 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:

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

FLORIDA LEAGUE OF WOMEN VOTERS

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Senate Rules
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name John Grant

Phone 813-787-9900

Address 10025 Orange Grove Dr.
Street

Email john.grant@johngrant.net

Tampa FL 33618
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shirley Y. Herman

Phone 561-596-7780

Address 7600 N. Flagler Dr. Apt 207
Street

West Palm Beach, FL 33407
City State Zip

Email Shirleyyherman@aol.com

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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~~Rules~~ 3/1/22
Meeting Date

Rules
Committee

SB1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ana Guevara

Phone 561 215 1062

Address
Street

Email ana@flordansing.org

Lake Worth FL 33461
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 Student Power.

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/2022
Meeting Date

RULES
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name BETH ALVI

Phone 850-999-1028

Address 308 N. MONROE
Street

Email Beth.Alvi@audubon.org

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:
AUDUBON 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/1/22
Meeting Date

Senate Rules
Committee

SB1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sylvia Moffett

Phone 561-319-6279

Address 513 35th St.
Street

West Palm Beach FL 33407
City State Zip

Email Sylvia.S.moffett@gmail.com

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/1/22
Meeting Date

Rules
Committee

SB 1024 Renewable Energy
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joan Waitkewicz MS

Phone 561 307 3418

Address 2600 N Flagler Dr # 207
Street

West Palm Beach FL 33407
City State Zip

Email dwcjoan@gmail.com

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/2022
Meeting Date

Rules
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall

Phone

Address 579 E. Call St.
Street

Email fcfep@yahoo.com

Tallahassee, FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Earth Justice

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
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Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Cody Rogers

Phone 954-591-6437

Address 300 W. Pensacola Street
Street

Email crogers@cleoinstitute.org

Tallahassee FL 32399
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: The CLEO 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/2022
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Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Avelia Perkins

Phone 909-262-8407

Address 9470 SW 99th Ct.
Street

Email perky8913@gmail.com

Ocala FL 34481
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3/1/22
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Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Franare Julius Edwards

Phone 352-502-9844

Address 9825 SE 140th Street
Street

Summerfield 34491
City State Zip

Email Khamilah50@gmail.com

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elaine Morrison

Phone 352 282 3495

Address 8518 SW 93rd Circle
Street

Email elmo72434@gmail.com

Ocala FL. 34481
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-1-22
Meeting Date

Rules
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barbara DeLane

Phone 850-251-4280

Address 625 E. Brevard St
Street

Email barbaradelane1@yahoo.com

Tallahassee FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

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

FL NOW & FL Alliance for Retired Americans

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone

Address 134 E. Wonica Dr
Street

Email

Orlando FL 32801
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 Rising

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Senate Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aashutosh Pyakurel

Phone

Address
Street

Email

Orlando 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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

AB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Reesa Lewy

Phone 917-952-6909

Address 120 N River Dr W
Street

Email Lewyreesa@gmail.com

Jupiter FL 33458
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

March 1, 2022
Meeting Date

Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patty Farley

Phone 321-794-1985

Address 101 Bayview Drive
Street

Email pfarley-101@hotmail.com

Indian Harbour FL. 32937
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3/1/22
Meeting Date

Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name [redacted] Anna Grace Lewis

Phone 521-1200

Address 136 S Bronough St
Street

Tallahassee FL 32301
City State Zip

Email

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3-1-2022
Meeting Date

Rules
Committee

CS/SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Deborah Baker-Rian Phone 850.499.0198

Address 3926 Balsam Email deborah.bakerrian@gmail.com
Street

Niceville FL 32578
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/1/22
Meeting Date

Rules
Committee

1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Adam Basford

Phone 224-7173

Address 516 N Adams St
Street

Email abasford@aif.com

Tallahassee FL 32442
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:
Associated Industries of FL

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/1/2022	SB 1024
Meeting Date	Bill Number or Topic
Rules Committee	
Committee	Amendment Barcode (if applicable)

Name Kevin Doyle

Phone 904-806-1714

Address 200 W College Ave # 313
Street

Email kdoyle@consumerenergyalliance.org

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:
Consumer Energy Alliance - 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3/1/2022
Meeting Date

Rules
Committee

CS/CS SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ellen Baker, PBC Teacher

Phone 561-801-0383

Address 5673 Whirlaway Rd.
Street

Email bakeret@hotmail.com

Palm Beach Gardens, FL 33418
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/1/22
Meeting Date

RWES
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jessica Brason

Phone 561-815 2881

Address 12031 COROZO Ct
Street

PBC FL 33418
City State Zip

Email JBrason@gmail.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/1/2022
Meeting Date

Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Devin West

Phone 954.785.9293

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Fort Lauderdale, FL 33301
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:
Broward County

☐ 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

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

3 1. 2022
Meeting Date

Rules
Committee

SB 1024
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sonia Palmer

Phone 352 804 8162

Address 2 Spruce Run
Street

Email groundhoglady2@yahoo.c

Ocala FL 34472
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

Meeting Date	1024 (Bill Number or Topic)
Committee	Amendment Barcode (if applicable)

Name Ken Kniepmann Phone 850-510-0552

Address 201 W Park 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: Florida Conference 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. 2020-2022JointRules.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:	CS/SB 1060
INTRODUCER:	Education Committee and Senator Hutson
SUBJECT:	Florida Bright Futures Scholarship Program Student Service Requirements
DATE:	March 1, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazesi	Bouck	ED	**Fav/CS**
2.	Grace	Sadberry	AP	**Favorable**
3.	Palazesi	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1060 modifies the eligibility requirements for the Florida Bright Futures Scholarship Program to include an option for students to use paid work hours in lieu of volunteer hours to qualify for a scholarship. Additionally, the bill requires a student to evaluate and reflect upon his or her paid work experience through papers or other presentations, and makes it optional for a student to identify a social or civic issue or a professional area and develop a plan for personal involvement or learning about the area.

The bill has an indeterminate fiscal impact. *See* Section V. Fiscal Impact Statement.

The takes effect on July 1, 2022.

II. Present Situation:

Florida Bright Futures Scholarship Program

In 1997,[1] the Florida Legislature created the Florida Bright Futures Scholarship Program (Bright Futures Program), a postsecondary scholarship program funded by the lottery. The intent of the Bright Futures Program was to reward any Florida high school graduate who merits recognition of high academic achievement and who enrolls in a degree program, certificate program, or applied technology program at an eligible Florida public or private postsecondary education

[1] Chapter 97-379, L.O.F.

institution.[2] Since 1997, the Bright Futures Program has disbursed $7.48 billion to over 2.9 million students.[3]

The Bright Futures Program consists of the following awards:
- Florida Academic Scholars (FAS);
- Florida Medallion Scholars (FMS);
- Florida Gold Seal CAPE Scholars (FGSC); and
- Florida Gold Seal Vocational Scholars (FGSV).[4]

Florida Academic Scholarship and Florida Medallion Scholarship

A Florida high school student who wishes to qualify for the FAS or FMS award must graduate from a Florida public high school with a standard high school diploma, graduate from a private high school registered with the Florida Department of Education (DOE), earn a general education diploma (GED), complete a home education program, or graduate from a non-Florida high school as an eligible student.[5] A student must also meet the following initial eligibility requirements:[6]

[2] Section 1009.53(1), F.S.
[3] Florida Department of Education, Office of Student Financial Assistance, *Florida Bright Futures Scholarship Disbursement History*, https://www.floridastudentfinancialaidsg.org//PDF/PSI/BFReportsD.pdf, (last visited Feb. 2, 2022).
[4] Section 1009.53(2), F.S.
[5] 2021-22 Bright Futures Student Handbook, *Chapter 1: Initial Eligibility Requirements* (Aug. 5, 2021), at 3, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf. An out-of-state student may qualify for a Bright Futures Scholarship if the student earned a high school diploma from a non-Florida school while living with a parent or guardian who is a Florida resident and on military or public service assignment away from Florida during the student's last year of high school. Florida Department of Education, *Florida Bright Futures Scholarship Program and the Out-Of-State Student* (2021-22), at 2, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFOOSGuide.pdf.
[6] 2021-22 Bright Futures Student Handbook, *Chapter 1: Initial Eligibility Requirements* (Aug. 5, 2021), at 3, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf.

Scholarship Type	16 High School Course Credits[7]	High School Weighted Bright Futures GPA	College Entrance Exams (ACT/SAT)[8]	Service Hours
FAS[9]	4 - English *(three must include substantial writing)* 4 - Mathematics *(at or above the Algebra I level)* 3 - Natural Science *(two must have substantial laboratory)* 3 - Social Science 2 - World Language *(sequential, in same language)*	3.50	29/1330	100 hours
FMS[10]		3.00	25/1210	75 hours

A student who has demonstrated academic merit through a recognition program may be eligible for a FAS or FMS award without having to meet the college entrance exam requirement. These merit recognition programs include:

- National Merit Finalists and Scholars;
- National Hispanic Scholars;
- Advanced International Certificate of Education (AICE) Diploma;
- International Baccalaureate (IB) Diploma; [11]

A FAS award recipient is eligible for an award equal to the amount necessary to pay 100 percent of tuition and applicable fees and an additional stipend for textbooks as specified in the General Appropriations Act (GAA).[12] A FMS award recipient is eligible for an award equal to the amount necessary to pay 75 percent of tuition and fees,[13] however, an eligible FMS recipient enrolled at a Florida College System (FCS) institution is eligible for an award amount equal to the amount necessary to pay 100 percent of tuition and fees.[14]

A student may receive a FAS or FMS award for a maximum of 100 percent of the number of credit hours required to complete an associate degree, baccalaureate degree, or postsecondary career certificate program.[15]

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[7] The required coursework aligns with the State University System admission requirements found in Florida Board of Governor's Regulation 6.002, *Admission of Undergraduate First-Time-in-College, Degree-Seeking Freshmen, available at* https://www.flbog.edu/wp-content/uploads/6_002FINAL_FTIC_03252020.pdf.

[8] Section 1009.531(6)(b)-(d), F.S. To ensure the required exam scores represent top student performance and are equivalent between the ACT and SAT, the department determines the score for FAS as no lower than 89th national percentile on the SAT, for FMS no lower than 75th national percentile on the SAT, and the required ACT score must be made concordant. The department must publish any changes to the exam requirements that apply to students graduating in the next 2 years.

[9] Section 1009.534, F.S.

[10] Section 1009.535, F.S.

[11] Sections 1009.535(1)(b)-(e), F.S.

[12] Section 1009.534(2), F.S. The 2021 GAA did not provide funds for a textbook stipend. Specific Appropriation 5, ch. 2021-36, L.O.F.

[13] Section 1009.535(2), F.S.

[14] *Id*. Beginning with the fall 2021 semester, a FMS who is enrolled in an associate degree program at a FCS institution is eligible for the award.

[15] Section 1009.532(3)(a), F.S.

For the 2020-2021 academic year, a total of $438,909,995 was disbursed to 67,369 students[16] receiving a FAS award and $212,251,523 to 51,818 students[17] receiving a FMS award.

Florida Gold Seal Vocational Scholarship

A Florida high school student who wishes to qualify for the Florida Gold Seal Vocational Scholarship (FGSV) award must meet the following initial eligibility requirements:

- Achieve a minimum 3.0 weighted GPA in the non-elective high school courses;
- Take at least three full credits in a single career and technical education program;
- Achieve a minimum 3.5 unweighted GPA in the career education courses;
- Complete 30 service hours; and[18]
- Achieve the required minimum score on the ACT, SAT, or Florida Postsecondary Education Readiness Test (P.E.R.T.) exams depicted in the table below:[19]

Exam Type	Sub-test	Required Score
ACT	Reading	19
	English	17
	Mathematics	19
SAT	Reading Test	24
	Writing and Language Test	25
	Math Test	24
P.E.R.T.	Reading	106
	Writing	103
	Mathematics	114

A FGSV award recipient is eligible for an award equal to the amount specified in the GAA.[20]

A student may receive a FGSV award for a maximum of 100 percent of the number of credit hours or equivalent clock hours required to complete an applied technology diploma, associate in applied science or associate in science degree, or a postsecondary career certificate program.[21]

For the 2020-2021 academic year, a total of $638,015 was disbursed to 755 students[22] receiving a FGSV award.

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[16] Florida Bright Futures Scholarship Program, *Florida Bright Futures Scholarship Disbursement History* (as of Sep. 2021), *available at* https://www.floridastudentfinancialaidsg.org/PDF/PSI/BFReportsD2.pdf.
[17] Florida Bright Futures Scholarship Program, *Florida Medallion Scholars Disbursement History* (as of Sep. 2021), *available at* https://www.floridastudentfinancialaidsg.org/PDF/PSI/BFReportsD3.pdf.
[18] Section 1009.532(1), F.S.; *See also* 2021-22 Bright Futures Student Handbook, *Chapter 1: Initial Eligibility Requirements* (Aug. 5, 2021), at 6, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf.
[19] *Id*.
[20] Section 1009.536(3), F.S.
[21] Section 1009.532(5)(a)1., F.S.; *See also* 2021-22 Bright Futures Student Handbook, *Chapter 2: What You Need to Know Now That You Are Eligible* (July 1, 2021), at 3, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter2.pdf.
[22] Florida Bright Futures Scholarship Program, *Florida Gold Seal Vocational Scholars Disbursement History* (as of Sep. 2021), *available at* https://www.floridastudentfinancialaidsg.org/PDF/PSI/BFReportsD4.pdf.

Florida Gold Seal CAPE Scholarship

A Florida high school student who wishes to qualify for the Florida Gold Seal Career and Professional Education (FGSC) Scholarship must meet the following initial eligibility requirements:

- Earn a minimum of five postsecondary credit hours through CAPE industry certifications which articulate for college credit; and
- Complete 30 service hours.[23]

A FGSC award recipient is eligible for an award equal to the amount specified in the GAA.[24]

A student may receive an FGSC award for a maximum of 100 percent of the number of credit hours or equivalent clock hours required to complete an applied technology diploma, associate in applied science or associate in science degree, or a postsecondary career certificate program.[25] Upon completion of an eligible associate in science degree program which articulates to a baccalaureate degree, a FGSC scholar may also receive an award for a maximum of 60 credit hours toward the baccalaureate degree.[26]

For the 2020-2021 academic year, a total of $262,253 was disbursed to 286 students[27] receiving a FGSC award.

Student Volunteer Requirements for the Florida Bright Futures Scholarship Program

To be eligible for a scholarship award under the Bright Futures Program, a student must complete a specified number of hours of volunteer service work. A student must meet the following service hour requirements:

Bright Futures Scholarship Program	Required Service Hours[28]
FAS	100
FMS	75
FGSV	30
FGSC	30

The student's volunteer service work must be approved by the district school board, the administrators of a nonpublic school, or the DOE for home education students.[29]

Each district school board and the administrators of a nonpublic school must establish approved activities and the process for documentation of service hours, including the deadline by which

[23] Section 1009.536(2)(a)-(b), F.S.
[24] Section 1009.536(3), F.S.
[25] Section 1009.532(4)(b)1., F.S.; *See also* 2021-22 Bright Futures Student Handbook, *Chapter 2: What You Need to Know Now That You Are Eligible* (July 1, 2021), at 3, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter2.pdf.
[26] Section 1009.536(5)(b)2., F.S.
[27] Florida Bright Futures Scholarship Program, *Florida Gold Seal CAPE Scholars Disbursement History* (as of Sep. 2021), *available at* https://www.floridastudentfinancialaidsg.org/PDF/PSI/BFReportsD5.pdf.
[28] Sections 1009.534(1), 1009.535(1), 1009.536(1)(e), and 1009.536(3)(b), F.S.
[29] *Id*.

the hours must be completed.[30] Service work may include, but is not limited to, a business or governmental internship, work for a nonprofit community service organization, or activities on behalf of a candidate for public office.[31] Except for credit earned through service-learning courses,[32] the student may not receive payment or academic credit for service work performed.[33]

The hours earned by a student must be documented in writing, signed by the student and the student's parent or guardian, and a representative of the organization where the work was performed.

In addition to the service hours, a student must identify a social or civic issue or a professional area that interests him or her, develop a plan for their personal involvement in addressing the issue or learning more about the area, and, through papers or presentations, evaluate and reflect upon his or her experience.[34]

III. Effect of Proposed Changes:

CS/SB 1060 modifies the eligibility requirements for the Bright Futures Scholarship Program to include an option for students to use paid work hours in lieu of volunteer hours to qualify for a scholarship. Specifically, the bill allows students, beginning with students graduating in the 2022-2023 academic year and thereafter, to meet volunteer service or paid work requirements through:[35]

- Florida Academic Scholars (FAS): 100 hours of volunteer service or 300 hours of paid work;
- Florida Medallion Scholars (FMS): 75 hours of volunteer service or at least 300 hours of paid work; and
- Florida Gold Seal Vocational Scholars (FGSV) and Florida Gold Seal CAPE Scholars (FGSC): 30 hours of volunteer service or at least 300 hours of paid work.

The paid work hours must meet the requirements for volunteer hours, including documentation in writing of paid work hours, and a student evaluation and reflection upon his or her volunteer service or paid work experience through papers or other presentations. The bill also makes it optional for a student to identify a social or civic issue or a professional area and develop a plan for personal involvement or learning about the area.

The takes effect on July 1, 2022.

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[30] 2021-22 Bright Futures Student Handbook, *Chapter 1: Initial Eligibility Requirements* (Aug. 5, 2021), at 4 and 6-7, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf.
[31] *Id*.
[32] Section 1003.497, F.S.
[33] 2021-22 Bright Futures Student Handbook, *Chapter 1: Initial Eligibility Requirements* (Aug. 5, 2021), at 4 and 6-7, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf.
[34] 2021-22 Bright Futures Student Handbook, *Chapter 1: Initial Eligibility Requirements* (Aug. 5, 2021), at 4 and 6-7, *available at* https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf.
[35] The bill does not provide an option for students to qualify for the Bright Futures Scholarship Program using a combination of volunteer and paid hours.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private business could see an increase in the number of high school students applying for employment opportunities that qualify for the Bright Futures Scholarship program. Additionally, expanding the eligibility requirements could lead to more students qualifying for the Bright Futures Scholarship program, making college more affordable for students.

C. Government Sector Impact:

According to the Department of Education, the bill could lead to more students qualifying for a Bright Futures award due to expanding the pathways toward successfully completing the service hour requirement. The total number of additional students seeking to utilize the pathway of paid work to satisfy the initial eligibility requirement is indeterminable at this time.[36]

VI. Technical Deficiencies:

None.

[36] Florida Department of Education, *2022 Agency Bill Analysis for HB 461* (Dec. 6, 2021).

VII. Related Issues:

The bill does not address whether students may use past work hours to meet the requirements. Since the Bright Futures Scholarship program requires the student to submit a plan for volunteer hours, most school districts had a "pre-approval" type process for these hours. Accordingly, students who only had work hours, which do not currently count toward the requirement, likely would not have submitted a plan for approval and would be limited to those hours earned after July 1, 2022.[37]

VIII. Statutes Affected:

This bill substantially amends sections 1009.534, 1009.535, and 1009.536 of the Florida Statutes.

IX. Additional Information:

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

CS by Education on February 8, 2022:
The committee substitute increases the number of paid work hours required for specified Bright Futures scholarships to equal the paid work hours required for the Florida Academic Scholars award, as follows:

- Florida Medallion Scholars (FMS): increases the 75 paid work hours in the bill to at least 300 hours; and
- Florida Gold Seal Vocational Scholars (FGSV) and Florida Gold Seal CAPE Scholars (FGSC): increases the 30 paid work hours in the bill to at least 300 hours.

B. Amendments:

None.

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

[37] *Id.*

By the Committee on Education; and Senator Hutson

581-02817-22 20221060c1

A bill to be entitled

An act relating to Florida Bright Futures Scholarship Program student service requirements; amending ss. 1009.534, 1009.535, and 1009.536, F.S.; providing that students may satisfy eligibility requirements for a Florida Academic Scholars, Florida Medallion Scholars, Florida Gold Seal Vocational Scholars, or a Florida Gold Seal CAPE Scholars award, respectively, by performing a specified number of hours of paid work; authorizing, instead of requiring, such students to identify a specified interest or develop a plan for their service requirements under the program; conforming provisions to changes by the act; providing an effective date.

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

Section 1. Subsection (1) of section 1009.534, Florida Statutes, is amended to read:

1009.534 Florida Academic Scholars award.—

(1) A student is eligible for a Florida Academic Scholars award if he or she meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and:

(a) Has achieved a 3.5 weighted grade point average as calculated pursuant to s. 1009.531, or its equivalent, in high school courses ~~that are~~ designated by the State Board of Education as college-preparatory academic courses and has attained at least the score required under s. 1009.531(6)(a) on the combined verbal and quantitative parts of the Scholastic

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Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(b) Has attended a home education program according to s. 1002.41 during grades 11 and 12, has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, or has completed the Advanced International Certificate of Education curriculum but failed to earn the Advanced International Certificate of Education Diploma, and has attained at least the score required under s. 1009.531(6)(a) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(c) Has been awarded an International Baccalaureate Diploma from the International Baccalaureate Office or an Advanced International Certificate of Education Diploma from the University of Cambridge International Examinations Office;

(d) Has been recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist; or

(e) Has been recognized by the National Hispanic Recognition Program as a scholar recipient.

The student must complete a program of volunteer service <u>or, beginning with a high school student graduating in the 2022-2023 academic year and thereafter, paid</u> work, as approved by the district school board, the administrators of a nonpublic school,

or the Department of Education for home education program students, which must include ~~a minimum of 75 hours of service work for high school students graduating in the 2010-2011 academic year and~~ 100 hours of volunteer service or 300 hours of paid work ~~for high school students graduating in the 2011-2012 academic year and thereafter~~. The student may ~~must~~ identify a social or civic issue or a professional area that interests him or her and~~,~~ develop a plan for his or her personal involvement in addressing the issue or learning about the area. The student must, ~~and,~~ through papers or other presentations, evaluate and reflect upon his or her volunteer service or paid work experience. ~~Except for credit earned through service-learning courses adopted pursuant to s. 1003.497, the student may not receive remuneration or academic credit for the volunteer service work performed.~~ Such volunteer service or paid work may include, but is not limited to, a business or governmental internship, work for a nonprofit community service organization, or activities on behalf of a candidate for public office. The hours of volunteer service or paid work must be documented in writing, and the document must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student performed the volunteer service or paid work.

Section 2. Subsection (1) of section 1009.535, Florida Statutes, is amended to read:

1009.535 Florida Medallion Scholars award.—

(1) A student is eligible for a Florida Medallion Scholars award if he or she meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and:

(a) Has achieved a weighted grade point average of 3.0 as calculated pursuant to s. 1009.531, or the equivalent, in high school courses that are designated by the State Board of Education as college-preparatory academic courses and has attained at least the score required under s. 1009.531(6)(b) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(b) Has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma or has completed the Advanced International Certificate of Education curriculum but failed to earn the Advanced International Certificate of Education Diploma, and has attained at least the score required under s. 1009.531(6)(b) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(c) Has attended a home education program according to s. 1002.41 during grades 11 and 12 and has attained at least the score required under s. 1009.531(6)(b) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(d) Has been recognized by the merit or achievement program of the National Merit Scholarship Corporation as a scholar or finalist but has not completed the program of volunteer service

or paid work required under s. 1009.534; or

(e) Has been recognized by the National Hispanic Recognition Program as a scholar, but has not completed the program of volunteer service or paid work required under s. 1009.534.

A high school student ~~graduating in the 2011-2012 academic year and thereafter~~ must complete at least 75 hours of volunteer service or, beginning with a high school student graduating in the 2022-2023 academic year and thereafter, at least 300 hours of paid work approved by the district school board, the administrators of a nonpublic school, or the Department of Education for home education program students. The student may ~~must~~ identify a social or civic issue or a professional area that interests him or her and~~,~~ develop a plan for his or her personal involvement in addressing the issue or learning about the area. The student must, ~~and,~~ through papers or other presentations, evaluate and reflect upon his or her volunteer service or paid work experience. ~~Except for credit earned through service learning courses adopted pursuant to s. 1003.497, the student may not receive remuneration or academic credit for volunteer service work performed.~~ Such volunteer service or paid work may include, but is not limited to, a business or governmental internship, work for a nonprofit community service organization, or activities on behalf of a candidate for public office. The hours of volunteer service or paid work must be documented in writing, and the document must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student

performed the volunteer service or paid work.

Section 3. Paragraph (e) of subsection (1) and subsection (2) of section 1009.536, Florida Statutes, are amended to read:

1009.536 Florida Gold Seal Vocational Scholars and Florida Gold Seal CAPE Scholars awards.—The Florida Gold Seal Vocational Scholars award and the Florida Gold Seal CAPE Scholars award are created within the Florida Bright Futures Scholarship Program to recognize and reward academic achievement and career preparation by high school students who wish to continue their education.

(1) A student is eligible for a Florida Gold Seal Vocational Scholars award if he or she meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and:

(e) ~~Beginning with high school students graduating in the 2011-2012 academic year and thereafter,~~ Completes at least 30 hours of volunteer service or, beginning with high school students graduating in the 2022-2023 academic year and thereafter, at least 300 hours of paid work approved by the district school board, the administrators of a nonpublic school, or the Department of Education for home education program students. The student may ~~must~~ identify a social or civic issue or a professional area that interests him or her and~~,~~ develop a plan for his or her personal involvement in addressing the issue or learning about the area. The student must, ~~and,~~ through papers or other presentations, evaluate and reflect upon his or her volunteer service or paid work experience. ~~Except for credit earned through service learning courses adopted pursuant to s. 1003.497, the student may not receive remuneration or academic credit for the volunteer service work performed.~~ Such volunteer

service or paid work may include, but is not limited to, a business or governmental internship, work for a nonprofit community service organization, or activities on behalf of a candidate for public office. The hours of volunteer service or paid work must be documented in writing, and the document must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student performed the volunteer service or paid work.

(2) A ~~high school~~ student ~~graduating in the 2016-2017 academic year and thereafter~~ is eligible for a Florida Gold Seal CAPE Scholars award if he or she meets the general eligibility requirements for the Florida Bright Futures Scholarship Program, and the student:

(a) Earns a minimum of 5 postsecondary credit hours through CAPE industry certifications approved pursuant to s. 1008.44 which articulate for college credit; and

(b) Completes at least 30 hours of volunteer service or, beginning with a high school student graduating in the 2022-2023 academic year and thereafter, at least 300 hours of paid work, approved by the district school board, the administrators of a nonpublic school, or the Department of Education for home education program students. The student may ~~must~~ identify a social or civic issue or a professional area that interests him or her and~~,~~ develop a plan for his or her personal involvement in addressing the issue or learning about the area. The student must, ~~and,~~ through papers or other presentations, evaluate and reflect upon his or her experience. ~~Except for credit earned through service learning courses adopted pursuant to s. 1003.497, the student may not receive remuneration or academic credit for the volunteer service work performed.~~ Such volunteer service or paid work may include, but is not limited to, a business or governmental internship, work for a nonprofit community service organization, or activities on behalf of a candidate for public office. The hours of volunteer service or paid work must be documented in writing, and the document must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student performed the volunteer service or paid work.

Section 4. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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

03/01/2022
Meeting Date

Rules 412K
Committee

1060
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Mazzola

Phone 407-855-7604

Address 1747 Orlando Central Pkwy
Street

Email legislation@floridapta.org

Orlando FL 32809
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 PTA

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

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/CS/SB 1374
INTRODUCER:	Appropriations Committee; Health Policy Committee; and Senator Rodriguez
SUBJECT:	Clinical Laboratory Testing
DATE:	February 25, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	**Fav/CS**
2.	Howard	Sadberry	AP	**Fav/CS**
3.	Rossitto-Van Winkle	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1374 amends section 483.801, Florida Statutes, to exempt registered nurses (RNs) licensed under chapter 464, Florida Statutes, who are determined by the clinical lab director of a hospital or hospital-based off-campus emergency department licensed under chapter 395, Florida Statutes, to be qualified under 42 Code of Federal Regulations (C.F.R.) section 493.1423 to perform only moderate-level or waiver-level clinical laboratory testing in accordance with section 395.0091 Florida Statutes, within the hospital or hospital-based off-campus emergency department with a separate federal Clinical Laboratory Improvement Amendments (CLIA) program clinical laboratory certification under 42 C.F.R. part 493.

The bill will have no fiscal impact on state government.

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

II. Present Situation:

The Department of Health

The Legislature created the Department of Health (DOH) to protect and promote the health of all residents and visitors in the state.[1] The DOH is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards[2] and professions within the DOH.[3]

Clinical Laboratories

Part I of ch. 483, F.S., regulates clinical laboratories and laboratory personnel. The purpose of this part is to protect the public health, safety, and welfare of the people of Florida from the hazards of improper performance by clinical laboratory personnel.

In s. 483.800, F.S., the Legislature declares that clinical laboratories provide essential services to practitioners of the healing arts[4] by furnishing vital information that is essential to a determination of the nature, cause, and extent of the condition involved. Unreliable and inaccurate reports may cause unnecessary anxiety, suffering, and financial burdens and may even contribute directly to death. The protection of public and individual health requires the licensure of clinical laboratory personnel who meet minimum requirements for safe practice. The Legislature finds that laboratory testing technology continues to advance rapidly.[5]

A clinical laboratory is the physical location in which services are performed to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition.[6] Services performed in clinical labs include:[7]

- The examination of fluids or other materials taken from the human body;
- The examination of tissue taken from the human body; and
- The examination of cells from individual tissues or fluid taken from the human body.

Federal Clinical Laboratory Regulations

Clinical laboratories that provide testing services in Florida must be certified by the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) program.[8] The CLIA program sets forth the conditions that all laboratories must meet to be certified to perform testing on human specimens and applies to all laboratories seeking payment under the Medicare and Medicaid programs.[9] The CLIA program categorizes laboratory tests by complexity (waived

[1] Section 20.43, F.S.
[2] Section 456.001(1), F.S., defines "board" as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the MQA.
[3] Section 20.43, F.S.
[4] Section 483.803(7), F.S., defines "licensed practitioners of the healing arts" as licensed allopathic physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, naturopaths, and dentists.
[5] Section 483.800, F.S.
[6] Section 483.803(2), F.S.
[7] Section 483.803(a) - (c), F.S.
[8] Section 395.009(1), F.S.
[9] 42 C.F.R. s. 493.1.

tests, tests of moderate complexity, and tests of high complexity) and must be either CLIA-exempt or possess a CLIA program certificate for each category of tests the clinical laboratory will perform.[10]

Under the CLIA program, a clinical laboratory performing waived tests, tests of moderate complexity, or test of high complexity, or any combination of the three, must file a separate application for each laboratory location, unless it fits one of the following exceptions:

- Laboratories that are not at a fixed location, that is, laboratories that move from testing site to testing site, such as mobile units providing laboratory testing, health screening fairs, or other temporary testing locations, may be covered under the certificate of the designated primary site or home base, using its address;
- Not-for-profit or federal, state, or local government laboratories that engage in limited public health testing[11] may file a single application; and
- Laboratories within a hospital that are located at contiguous buildings on the same campus and under common direction may file a single application or multiple applications for the laboratory sites within the same physical location or street address.[12]

A CLIA program certified clinical laboratory must also meet the federal requirements related to laboratory testing personnel in 42 C.F.R. ss. 493.1406 through 493.1491.

The CLIA program requires that each individual performing high complexity testing must possess a state-issued license if licensure is required in the state in which the laboratory is located, and meet one of the following requirements:[13]

- Be a licensed allopathic or osteopathic physician (MD or DO), or doctor of podiatric medicine (DPM); or
- Have earned a doctorate, master's, or bachelor's in laboratory science; or
- Have earned an associate degree in laboratory science with the following; or
  - 60 semester hours including 24 semester hours of medical lab technology; or,
  - 60 semester hours including 24 hours of science that includes six hours of chemistry, six hours of biology, and 12 hours of chemistry, biology or, medical lab technology in any combination and laboratory training that includes either:
    - Completion of a clinical lab training program; or
    - Three months of training in each specialty the high complexity testing is performed; or
    - Previously qualified or could have qualified as a technologist under federal regulations prior to February 28, 1992.

The CLIA program requires that each individual performing moderate complexity testing must possess a state-issued license if licensure is required in the state in which the laboratory is located, and meet one of the following requirements:[14]

- Be qualified to perform high complexity testing; or

[10] 42 C.F.R. s. 493.5.
[11] "Limited" means not more than a combination of 15 moderately complex or waived tests per certificate.
[12] 42 C.F.R. ss. 493.35, 493.43 and 493.55.
[13] 42 C.F.R. s. 493.1489.
[14] 42 C.F.R. s. 493.1423.

- Be a licensed MD, DO, or DPM; or
- Have earned a doctorate, master's, bachelor's, or associate's degree in laboratory science; or
- Be a high school graduate or equivalent, and
  - Have had 50 weeks military training as a medical lab specialist; or
  - Have documentation of training appropriate to testing to be performed. Training must ensure skills in:
    - Specimen collection, labeling, preparation, etc.;
    - Implementing laboratory procedures;
    - Performing assigned tests;
    - Conducting preventative maintenance, troubleshooting, calibration;
    - Knowledge of reagent stability and storage;
    - Implementing quality control (QC) procedures;
    - Knowledge of factors influencing test results; and
    - Validating patient test results with QC before reporting.

There are no specific CLIA program requirements for clinical laboratory personnel performing waived testing only.

Clinical Lab Personnel

In addition to the federal CLIA program, clinical laboratory personnel requirements set out in 42 C.F.R. 493.1406 through 493.1491, clinical laboratories in Florida must also meet the clinical laboratory personnel requirements in part I, ch. 483, F.S.

"Clinical laboratory personnel" in Florida includes a clinical laboratory director, supervisor, technologist, blood gas analyst, or technician who performs or is responsible for laboratory test procedures, but the term does not include trainees, persons who perform screening for blood banks or plasmapheresis centers, phlebotomists, or persons employed by a clinical laboratory to perform manual pretesting duties or clerical, personnel, or other administrative responsibilities.[15]

The Board of Clinical Laboratory Personnel (Board) oversees the licensure and regulation of clinical laboratory personnel, including supervisors, technologists, technicians, directors, and public health laboratory personnel. Generally, licensure requirements for clinical laboratory personnel include passage of an exam designated by the Board, completion of a medical technology training program, and completion of applicable education requirements.[16]

Part I of ch. 483, F.S., applies to all clinical laboratories and clinical laboratory personnel within this state, except:[17]

- Clinical laboratories operated by the U.S. government;
- Laboratories operated exclusively for research and teaching purposes, involving no patient or public health services;
- Persons engaged in testing in laboratories that are wholly owned and operated by one or more licensed allopathic physicians, osteopathic physicians, chiropractic physicians,

[15] Section 483.803(4), F.S.
[16] Section 483.809, F.S. and Fla. Admin. Code R. 64B3-5, (2021).
[17] Section 483.801, F.S.

podiatric physicians, naturopaths, optometrists or dentists who practice in the same group practice, and perform no testing on patients for non-member group member healthcare providers;
- Respiratory therapists and respiratory care practitioners certified or registered under Part V of ch. 468. F.S.;
- Advanced practice registered nurses licensed under Part I of ch. 464, F.S., who are engaged in performing provider-performed microscopy procedures in laboratories that are wholly owned and operated by one or more licensed allopathic physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, naturopaths, optometrists and dentists who practice in the same group practice; and
- Persons performing laboratory testing within a physician's office for patients referred by a health care provider who is a member of the same physician office practice, if the laboratory or entity operating the laboratory within a physician office practice is under common ownership, directly or indirectly, with an entity licensed under ch. 395, F.S.

Nurse Practice Act

Florida's Nurse Practice Act is found in Part I of ch. 464, F.S. The purpose of the Nurse Practice Act is to ensure that every nurse practicing in this state meets minimum requirements for safe practice. It is legislative intent that nurses who fall below minimum competency or who otherwise present a danger to the public are prohibited from practicing in this state.[18]

Registered Nurse Licensure by Examination

Any person desiring to be licensed as a RN in Florida must apply to the DOH to take the licensure examination. The DOH must examine each applicant who:[19]
- Has completed an application and remitted the appropriate fee;
- Has submitted to a statewide criminal background check through the Florida Department of Law Enforcement (FDLE);
- Is in good mental and physical health;
- Has received a high school diploma or the equivalent, and has completed the requirements for:
  - Graduation from a DOH approved nursing program;
  - Graduation from a pre-licensure nursing education program that the Board of Nursing (BON) determines is equivalent to a BON approved program;
  - Graduation on or after July 1, 2009, from an accredited program; or
  - Graduation before July 1, 2009, from a pre-licensure nursing education program whose graduates at that time were eligible for examination; and
- Has the ability to communicate in English, which may be determined by an examination given by the DOH

[18] Section 464.002, F.S.
[19] Section 464.008, F.S.

Approved Registered Nursing Education Programs

All nursing programs requesting BON approval must conform to the Florida Department of Education curriculum framework. In order to ensure the preparation of nurses capable of competent practice, the curriculum must:

- Reflect the stated philosophy and objectives of the program;
- Evidence an organized pattern of instruction consistent with principles of learning and sound educational practices;
- Provide for systematic evaluation of student learning in both clinical experience and theoretical instruction; and
- Evidence ongoing program evaluation in relation to currency of content, competency of instruction, adequacy of clinical experiences and effectiveness of graduate performance.

Each nursing program, and each campus offering nursing education, requires separate individual approval from the BON. Programs may be offered in the following categories:

- Professional nursing education programs that terminate in a bachelor's degree;
- Professional nursing education programs that terminate in an associate's degree; and
- Professional nursing education programs that terminate in a diploma.[20]

The BON requires specific minimum requirements for professional nursing education programs. Course content must include:

- Medical;
- Surgical;
- Obstetrics;
- Pediatrics;
- Psychiatric;
- Geriatric;
- Acute care, long term care and community settings;
- Personal, family, and community health concepts;
- Nutrition;
- Human growth and development throughout the life span;
- Body structure and function;
- Interpersonal relationship and leadership skills;
- Mental health concepts;
- Pharmacology and administration of medication;
- Legal aspects of practice;
- Professional role and function; and
- Health teaching and counseling skills.[21]

The percentage of clinical training required for curriculums for professional nursing programs that terminate in a bachelor's degree must consist of at least 40 percent clinical training. The

[20] Fla. Admin. Code R. 64B9-2.021 (2021).
[21] *Id.*

curriculums for professional nursing programs that terminate in an associate's degree or a diploma degree must consist of at least 50 percent clinical training.[22]

Registered Nurses

A registered nurse is any person licensed in this state or holding an active multistate license under the Nurse Practice Act to practice professional nursing. The practice of professional nursing means performing acts requiring substantial specialized knowledge, judgment, and nursing skill based on applied principles of psychological, biological, physical, and social sciences and includes, but is not limited to:

- The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others;
- The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments; and
- The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.[23]

A professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.[24]

Currently, a professional registered nurse does not receive classroom education or clinical training sufficient to satisfy the CLIA program requirements to act as clinical laboratory personnel capable of performing all Moderate Complexity Laboratory Testing or All High Complexity Laboratory testing without additional training.[25]

Alternate-site Lab Testing

The term "alternate-site testing" includes any laboratory testing done under the administrative control of a hospital but performed out of the physical or administrative confines of the central laboratory.[26] Alternate-site testing locations are hospital units or departments on the hospital premises that are located outside of the physical or administrative confines of the hospital's central laboratory, but are still under the administrative control of the hospital and under the supervision of the laboratory director.[27]

A hospital laboratory may operate more than one alternate-site. A Florida hospital is required to provide on the premises, or by contract, clinical and pathology laboratory services commensurate with the hospital's needs. The hospital laboratory, and any contracted laboratory providing services for hospital patients, must be certified by the federal Centers for Medicare & Medicaid Services (CMS) under the federal CLIA program and the federal rules adopted thereunder in all specialties or subspecialties in which testing is performed. Hospitals may operate more than one

[22] *Supra* note 20.
[23] Section 464.003, F.S.
[24] *Id.*
[25] *See* 42 C.F.R. ss. 493. 1423 and 493.1489.
[26] Section 395.0091, F.S.
[27] Fla. Admin. Code R. 59A-3.242 (1)(g), (2021).

CLIA program certified laboratory on site or at satellite locations that are certified by the CLIA program and on the same or adjoining grounds of a hospital licensed under ch. 395, F.S.[28]

Section 395.0091, F.S., requires the Agency for Health Care Administration (AHCA), in consultation with the Board, to adopt by rule criteria for alternate-site testing to be performed under the supervision of a clinical laboratory director.[29]At a minimum, the criteria must include the following:

- The hospital's internal needs assessment;
- A protocol for implementation, including the identification of tests to be performed and who will perform them;
- Selection of the method of testing to be used for alternate-site testing;
- Minimum training and education requirements for those who will perform alternate-site testing, such as documented training, licensure, certification, or other medical professional background not limited to laboratory professionals;
- Documented in-service training and initial and ongoing competency validation;
- An appropriate internal and external quality control protocol;
- An internal mechanism for the central laboratory to identify and track alternate-site testing; and
- Recordkeeping requirements.

Alternate-site testing locations must be registered when the hospital applies to renew its license.[30]

Current AHCA rule does not require authorized alternate-site testing personnel to be licensed under Part I of ch. 483, F.S., as laboratory personnel but does require personnel to have a high school diploma or its equivalent, satisfy the HIV/AIDS educational requirements of s. 381.0035, F.S., and be licensed or certified as one of the following:[31]

- Emergency medical technician;
- Paramedic;
- Physician assistant;
- Anesthesiologist assistant;
- Advanced practice registered nurse;
- Registered nurse;
- Licensed practical nurse;
- Radiologic technologist;
- Respiratory care practitioner in critical care services;
- Respiratory therapist;
- Clinical laboratory director, supervisor, technologist, technician, or person exempt from such licensure;
- Phlebotomist;
- Clinical laboratory assistant;

[28] Section 395.002(13)(b), F.S. and Fla. Admin. Code R. 59A-3.242 (1), (2021).
[29] Fla. Admin. Code R. 59A-3.242 (1), (2021).
[30] Section 395.0091, F.S.
[31] Fla. Admin. Code R. 59A-3.242(1)(g)(6)d., (2021).

- Medical laboratory assistant;
- Perfusionist with specific experience; or
- Cardiovascular technician.

The laboratory director will determine if the personnel listed above are suitable to perform testing at an alternate-site.[32]

Hospital-Based Off-Campus Emergency Departments

Section 395.002(10), F.S., defines a hospital-based off-campus emergency department (HB-OCED) to mean a facility that:

- Provides emergency services and care;
- Is owned and operated by a licensed hospital and operates under the license of the hospital; and
- Is located on separate premises from the hospital.

Florida Administrative Code Rule 59A-3.066(2)(e), relating to hospital licensure procedures, also refers to, "off-site emergency departments" in regard to hospital licensure applications for additional off-site emergency departments. The American College of Emergency Physicians defines a hospital-based, freestanding emergency department (HB-FED) as a licensed facility that is structurally separate and distinct from a hospital and provides emergency care, and is also referred to as an off-site, hospital-based or satellite emergency department.[33] CMS refers to these facilities as Provider-based Off-campus Emergency Departments and requires them to operate under the license of the main provider for purposes of Medicare reimbursement.[34]

In Florida, any licensed hospital which has a dedicated emergency department may provide emergency services in a location separate from the hospital's main premises.[35] A single license will be issued to a licensee for facilities located on separate premises, upon request of the applicant. The license will specifically state the location of the facility, its services, and the licensed beds available on each separate premises.[36] Additional statutory requirements for HB-OCEDs may be found in s. 395.1041(3)(m), F.S., but none relate to clinical laboratory services.

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[32] Fla. Admin. Code R. 59A-3.242(1)(g)(6)e., (2021).
[33] American College of Emergency Physicians, Policy Statement, *Freestanding Emergency Departments*, June, 2014, Rev. Apr., 2020, available at https://www.acep.org/patient-care/policy-statements/freestanding-emergency-departments/ (last visited Jan. 26, 2022).
[34] 42 C.F.R. ss. 413.65(a)(2) and (d)(1) (2017). *See also* U.S. Department of Health & Human Services, Centers for Medicaid & Medicare Services, *Requirements for Provider-based Off-campus Emergency Departments* (Jan. 11, 2008), available at https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/SCLetter08-08.pdf (last visited Jan. 26, 2022).
[35] Section 395.002(23), F.S., defines "premises" as those buildings, beds, and equipment located at the address of the licensed facility and all other buildings, beds, and equipment for the provision of hospital or ambulatory surgical care located in such reasonable proximity to the address of the licensed facility as to appear to the public to be under the dominion and control of the licensee. For any licensee that is a teaching hospital as defined in s. 408.07, F.S., reasonable proximity includes any buildings, beds, services, programs, and equipment under the dominion and control of the licensee that are located at a site with a main address that is within one mile of the main address of the licensed facility; and all such buildings, beds, and equipment may, at the request of a licensee or applicant, be included on the facility license as a single premises.
[36] Fla. Admin. Code R. 59A-3.066(2)(i), (2021).

The AHCA interprets existing law to allow a licensed hospital to establish and operate a HB-OCED as part of the facility operations, similar to other hospital outpatient departments, without a separate license. A hospital that wishes to establish a HB-OCED is required to get approval from the AHCA's Office of Plans and Construction.[37]

Under current federal CLIA program regulations, a HB-OCED without its own CLIA program certificate would be unable to operate an onsite clinical laboratory or perform clinical laboratory tests, though the use of the mobile laboratory testing service exemption would allow it to make clinical laboratory services available to patients.

III. Effect of Proposed Changes:

The bill amends s. 483.801, F.S., to exempt RNs licensed under ch. 464, F.S., who are determined by the clinical lab director of a hospital or HB-OCED licensed under ch. 395, F.S., to be qualified under 42 C.F.R. s. 493.1423 to perform only moderate-level or waiver-level clinical laboratory testing in accordance with s. 395.0091 F.S., within the hospital or hospital-based off-campus emergency department with a separate federal CLIA program clinical laboratory certification under 42 C.F.R. part 493.

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.

[37] Fla. Admin. Code R. 59A-3.066(2)(e), (2021). *See also* Fla. Admin. Code R. 59A-3.080, (2021).

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 483.801 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 21, 2022:
The committee substitute puts the bill in compliance with all federal regulations for off campus emergency department clinical laboratory testing.

CS by Health Policy on February 2, 2022:
The CS amends s. 483.801, F.S., to limit the unspecified "persons" exempted from the application of Part I, ch. 483, F.S., to only exempting registered nurses performing alternate-site clinical laboratory testing within a hospital or HB-OCED licensed under ch. 395, F.S., from the application of the requirements of Part I of ch. 483, F.S.

B. Amendments:

None.

By the Committees on Appropriations; and Health Policy; and Senator Rodriguez

576-03237-22 20221374c2

A bill to be entitled

An act relating to clinical laboratory testing; amending s. 483.801, F.S.; exempting registered nurses from clinical laboratory personnel licensure requirements under certain circumstances; providing an effective date.

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

Section 1. Subsection (7) is added to section 483.801, Florida Statutes, to read:

483.801 Exemptions.—This part applies to all clinical laboratories and clinical laboratory personnel within this state, except:

(7) Registered nurses licensed under chapter 464 who are determined by the clinical laboratory director of a hospital or hospital-based off-campus emergency department licensed under chapter 395 to be qualified under 42 C.F.R. s. 493.1423 to perform only moderate-level or waiver-level clinical laboratory testing in accordance with s. 395.0091 within the hospital or hospital-based off-campus emergency department with a separate federal Clinical Laboratory Improvement Amendments (CLIA) program clinical laboratory certification under 42 C.F.R. part 493.

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

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/1/22
Meeting Date

Appropriations
Committee

1374
Number or Topic

Amendment Barcode (if applicable)

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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:
HCA

☐ 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)

3/1/22
Meeting Date

Rules
Committee

The Florida Senate

APPEARANCE RECORD

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1374
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

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PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Associated Industries of FL

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

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S-001 (08/10/2021)

1374

The Florida Senate
APPEARANCE RECORD

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3/1/2022
Meeting Date

Rules
Committee

Alt Testing
Bill Number or Topic

Amendment Barcode (if applicable)

Name Allison Kinney

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Address 101 N. Monroe St
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Tallahassee, Fl 32303
City State Zip

Email

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

PLEASE CHECK ONE OF THE FOLLOWING:

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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:	CS/SJR 1412
INTRODUCER:	Ethics and Elections Committee, and Senator Brodeur
SUBJECT:	Revisions or Amendments of the State Constitution by Citizen Initiative
DATE:	February 25, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rey	Roberts	EE	**Fav/CS**
2.	Rey	Phelps	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 1412 is a joint resolution proposing an amendment to Section 3 of Article XI of the State Constitution to limit revisions or amendments of the State Constitution by citizen initiative to matters relating to procedural subjects or to the structure of the government or of the State Constitution.

The SJR requires three-fifths vote of the membership of each house of the Legislature for passage.[1] Resolutions are not subject to the veto power of the Governor but are filed by the Legislature directly to the Secretary of State.

If approved by three-fifths of the membership of each house of the Legislature, the amendment will be placed on the 2022 general election ballot. If adopted by at least sixty percent of electors voting on the measure at the 2022 general election, the proposed amendment will take effect on January 10, 2023.[2]

[1] Fla. Const. art. XI, s. 1 (2021).
[2] Fla. Const. art. XI, s. 5(e) (2021).

II. Present Situation:

Amendments to the State Constitution can be proposed by five distinct methods: 1) joint legislative resolution 2) the Constitutional Revision Commission, 3) citizen's initiative,[3] 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.[4]

The citizen's initiative provision is a self-executing constitutional amendment.[5] However, the citizen's initiative has and can be refined by statute or administrative rule, provided it is necessary to ensure ballot integrity.[6] The Division of Elections must pre-approve the petition format prior to a person's or group's circulation of the petition for signatures.[7] The signatures are submitted to the respective county supervisor of elections, who verifies the validity and registered-elector status of each signatory.[8] Each supervisor then certifies the number of valid signatures to the Secretary of State, no later than the February 1 of the year in which the general election is held.[9]

The Division of Elections then compiles and certifies the total number of verified signatures to determine whether the requisite number of signatures has been obtained.[10] If the requisite number of signatures is obtained, the Secretary of State issues a certificate of the ballot position for the proposed amendment and assign, a designating number pursuant to s. 101.161, F.S.[11]

When the initiative petition meets the criteria pursuant to s. 15.21, F.S., the Secretary of State shall immediately submit it to the Attorney General.[12] The Attorney General, within thirty days of receiving the initiative petition from the Secretary of State, shall petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text in the petition with Section 3 of Article XI of the State Constitution, the petition's validity under the United States Constitution, and the compliance of the proposed ballot title with s. 101.161, F.S.[13]

There is no restriction on the content permitted in amendments or revisions proposed by initiative.

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[3] Fla. Const. art. XI, s. 3 (2021), provides for citizen initiative to propose amendment or revisions to the Constitution, specifically providing that "[A]ny such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith."
[4] Fla. Const. art. XI (2021).
[5] *Browning v. Florida Hometown Democracy, Inc., PAC*, 29 So.3d 1053 (Fla. 2010).
[6] *See State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So.2d 561 (Fla. 1980); *Smith v. Coalition to reduce Class Size*, 827 So.2d 959 (Fla. 2002).
[7] Section 100.371, F.S. (2021).
[8] *Id.*
[9] Section 100.371(11), F.S. (2021).
[10] Section 100.371 (12), F.S. (2021).
[11] *Id.*
[12] Section 15.21, F.S. (2021); The Secretary of State shall immediately submit an initiative petition to the Attorney General if the sponsor has: 1) Registered as political action committee pursuant to s. 106.03, F.S.; 2) Submitted ballot title, substance, and text of the proposed revision or amendment to the Secretary of State pursuant to ss. 100.371, 101.161, F.S.; and 3) Obtained a letter from the Division of Elections confirming that the sponsor has submitted to the appropriate supervisors for verification, and the supervisors have verified, forms signed and dated equal to 25 percent of the number of electors statewide required by s. 3, Art. XI of the State Constitution in one-half of the congressional districts of the state.
[13] Section 16.061, F.S. (2021).

III. Effect of Proposed Changes:

The SJR proposes limiting the scope of citizen initiatives to include only those proposed amendments or revisions that relate to procedural subjects or to the structure of the government or the State Constitution.

The SJR also provides a ballot statement consisting of a 14-word title and a 36-word summary. The summary reflects the substance of the proposed amendment word for word.

If approved by at least three-fifths of each legislative chamber and by at least sixty percent of the electors voting on the question, the amendment will take effect on the first Tuesday after the first Monday in January following the general election.[14]

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:

C. Government Sector Impact:

Article XI, Section 5(d) of the State Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each

[14] Fla. Const. art. XI, s. 5(e) (2021).

county where a newspaper is published. The amendment must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State is also required to provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment.[15] The cost to advertise the amendment and procure booklets would be paid from non-recurring General Revenue funds. The Division has not completed an agency analysis for this bill or for the identical House bill at this time. The fiscal impact of this requirement is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends Article XI, s. 3 of the State Constitution.

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 Ethics and Elections on February 8, 2022:

- Revises the title of the amendment as it would appear on the ballot.

B. Amendments:

None.

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

[15] Section 101.171, F.S. (2021).

By the Committee on Ethics and Elections; and Senator Brodeur

582-02833-22 20221412c1

Senate Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article XI of the State Constitution to limit revisions or amendments of the State Constitution by citizen initiative to matters relating to procedural subjects or to the structure of the government or of the State Constitution.

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

That the following amendment to Section 3 of Article XI of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XI

AMENDMENTS

SECTION 3. Initiative.—The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith and shall be limited to matters relating to procedural subjects or to the structure of the government or of this constitution. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight

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

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percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE XI, SECTION 3

LIMITING SUBJECT OF CONSTITUTIONAL REVISIONS OR AMENDMENTS PROPOSED BY CITIZEN INITIATIVE.—Proposing an amendment to the State Constitution to limit revisions or amendments of the State Constitution by citizen initiative to matters relating to procedural subjects or to the structure of the government or of the State Constitution.

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:	CS/CS/SB 1710
INTRODUCER:	Rules Committee; Children, Families, and Elder Affairs Committee; and Senator Bradley and others
SUBJECT:	Guardianship
DATE:	March 2, 2022
REVISED:	2/28/22

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	**Fav/CS**
2.	Gerbrandt	Sadberry	AP	**Fav/1 Amendment**
3.	Delia	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1710 requires the Florida Clerks of Court Operations Corporation (the CCOC) to establish two statewide databases of guardianship information, one publicly searchable database and webpage intended to increase public transparency and a second that is accessible to judges and their direct staff with the goal of increasing judicial oversight in guardianship matters.

Additionally, the bill requires the Department of Elder Affairs (DOEA) to create a publicly accessible webpage that contains specified guardian information, including disciplinary actions taken against a professional guardian.

The bill provides a number of provisions related to the CCOC databases, including:

- Requiring the CCOC, on or after July 1, 2023, to create a limited access statewide database for the judiciary to increase judicial oversight and a publicly searchable website and database to increase transparency with the public.
- Requiring the judicial oversight database to be accessible only by the judiciary and their direct staff to perform court personnel's duties.
- Providing an enumerated list of data elements that must, at a minimum, be included and list of searchable elements that must, at a minimum, be included in the judicial oversight database.
- Requiring the COCC, on or after July 1, 2023, to also create a publicly accessible and searchable webpage that contains specified guardian information.

- Requiring the CCOC to generate and publish monthly reports of statistical data and generate other reports upon request by certain entities.
- Requiring the CCOC to work with stakeholders to develop proposed lists of data elements for inclusion in the judicial oversight and publicly searchable databases and provide the lists to the Governor and Legislature by January 1, 2023.

Further, the bill requires the OPPAGA to conduct a comparative analysis and to study trends in the use of Florida's guardianship system and provide an annual report to the Governor and the Legislature beginning in 2024 through 2027.

The bill is anticipated to have a significant negative fiscal impact on the CCOC and the clerks of court due to the cost of creating and maintaining the database and guardian registration profiles. Additionally, the bill has a significant negative fiscal impact on the DOEA related to the transmission of data to the CCOC and clerks of court, and from publishing professional guardian profiles on their website. The bill provides specific appropriations to the DOEA and the Justice Administrative Commission for the CCOC. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Guardianship

When an individual is unable to make legal decisions regarding his or her person or property, a guardian may be appointed to act on his or her behalf. 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.[1] Adjudicating a person totally incapacitated and in need of a guardian deprives a person of his or her civil and legal rights.[2] The Legislature has recognized that the least restrictive form of guardianship should be used to ensure the most appropriate level of care and the protection of that person's rights.[3]

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.[4] Once a person has been adjudicated incapacitated, termed a "ward", the court appoints a guardian and the letters of guardianship are issued.[5] 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.[6]

[1] Section 744.102(9), F.S.
[2] Section 744.1012(1), F.S.
[3] Section 744.1012(2), F.S
[4] Section 744.3201, F.S.
[5] *See* s. 744.345, F.S.
[6] Section 744.2005, F.S.

Types of Guardians

Two Main Forms of Guardianship

There are two main forms of guardianship:
- Guardianship over the person; or
- Guardianship over the property, which may be limited or plenary.[7]

For adults, a guardianship may be established when a person has demonstrated that he or she is unable to manage his or her own affairs. If the adult is competent, this can be accomplished voluntarily.[8] However, when an individual's mental competence is in question, an involuntary guardianship may be established through the adjudication of incompetence which is determined by a court appointed examination committee.[9]

Natural Guardians

Parents are considered natural guardians of their biological and adopted children, up until the time that their children cease to be minors, or unless the parents' parental rights have been terminated.[10]

Guardian Advocates

Guardian advocates are appointed by the court for persons with developmental disabilities.[11] A circuit court may appoint a guardian advocate, without an adjudication of incapacity, for a developmentally disabled individual if the person:
- Lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person, property, or estate; or
- Has voluntarily petitioned for the appointment of a guardian advocate.[12]

Voluntary Guardians

A court may appoint a voluntary guardian for a person who:
- Is incapable of the care, custody, and management of his or her estate by reason of age or physical infirmity; and
- Has voluntarily petitioned for the appointment.[13]

The petition must be accompanied by a certificate of a licensed physician specifying that he or she has examined the petitioner and that the petitioner is competent to understand the nature of the guardianship and his or her delegation of authority.[14] Notice of hearing on any petition for appointment and for authority to act must be given to the petitioner and to any person requested

[7] *See generally*, s. 744.102(9), F.S. A plenary guardian exercises all delegable rights and powers of the ward after a court has determined that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property.
[8] Section 744.341(1), F.S.
[9] *See generally*, s. 744.102(12), F.S.
[10] Section 744.301(1), F.S.
[11] Section 744.102(11), F.S.
[12] Section 744.3085, F.S.
[13] Section 744.341(1), F.S.
[14] *Id*.

by the petitioner.[15] Such request may be made in the petition for appointment of guardian or in a subsequent written request for notice signed by the petitioner.[16]

Unless the voluntary guardianship is limited, a voluntary guardian appointed has the same duties and responsibilities as are provided by law for plenary guardians of the property.[17] A voluntary guardianship may be terminated by the ward by filing a notice with the court that the voluntary guardianship is terminated.[18]

Successor Guardians

A successor guardian must be appointed and duly qualified before a guardian can be relieved of their duties.[19] A successor guardian can only be appointed if a guardian dies, becomes incapacitated, or is removed. Successor guardians are governed by the laws concerning guardianships.[20]

Appointment of a Guardian

The following may be appointed guardian of a ward:

- Any resident of Florida who is 18 years of age or older and has full legal rights and capacity;
- A nonresident if he or she is related to the ward by blood, marriage, or adoption;
- A trust company, a state banking corporation, or state savings association, or a national banking association or federal savings and loan association, provided the entity is authorized and qualified to exercise fiduciary powers in Florida;
- A nonprofit corporation organized for religious or charitable purposes and existing under the laws of Florida;
- A judge who is related to the ward by blood, marriage, or adoption, or has a close relationship with the ward or the ward's family, if he or she serves without compensation;
- A provider of health care services to the ward, whether direct or indirect, when the court specifically finds that there is no conflict of interest with the ward's best interests; or
- A for-profit corporation that meets certain qualifications, including being wholly owned by the person who is the circuit's public guardian in the circuit where the corporate guardian is appointed.[21]

Guardians[22] who are not professional guardians are required to complete eight hours of instruction and training through a course approved by the chief judge of the circuit court and taught by a court-approved organization within four months after being appointed to a ward.[23] The instruction and training must cover:

- The legal duties and responsibilities of the guardian;
- The rights of the ward;

[15] *Id*.
[16] *Id*.
[17] Section 744.341(3), F.S.
[18] Section 744.341(5), F.S.
[19] Section 744.471, F.S.
[20] *Id*.
[21] Section 744.309, F.S.
[22] Other than a parent who is the guardian of the property of a minor child.
[23] Section 744.3145, F.S.

- The availability of local resources to aid the ward; and
- The preparation of habilitation plans and annual guardianship reports, including financial accounting for the ward's property.[24]

Examining Committees

Section 744.331, F.S., sets forth the procedures for determining whether a person is incapacitated. The notice of filing of a petition to determine incapacity and the petition for appointment of a guardian must be read to the alleged incapacitated person.[25] The alleged incapacitated person must be provided with an attorney, who cannot serve as the guardian or counsel for the guardian.[26] Within five days of filing a petition for determination of incapacity, the court must appoint an examining committee consisting of three members, which must include a psychiatrist or physician and two other persons, such as a psychologist, a nurse, social worker, gerontologist, or other qualified persons with sufficient knowledge, skill, experience, or training.[27]

Each committee member must examine the person and then issue a report evaluating the person's mental health, functional ability, and physical health.[28] The examining committee members must each submit their examining reports within 15 days after appointment.[29] Within three days after the report is filed and at least 10 days before the hearing, a copy of the committee member's report must be served on the petitioner and on the attorney for the alleged incapacitated person.[30] If the committee determines that the person is not incapacitated in any respect, the court must dismiss the petition.[31] However, if at least two of the three examining committee members conclude the person is incapacitated in some respect, the court proceeds to a hearing on the petition and makes a final determination based on the evidence presented by the parties.[32]

Emergency Temporary Guardianship

A court may appoint an emergency temporary guardian[33] for an allegedly incapacitated person upon a finding that there appears to be an imminent danger that:

- The physical or mental health or safety of the person will be seriously impaired; or
- The person's property is in danger of being wasted, misappropriated, or lost unless immediate action is taken.[34]

Under those circumstances, a court may appoint an emergency temporary guardian after the filing of a petition for determination of incapacity and before the appointment of a guardian.[35]

[24] *Id*.
[25] Section 744.331(1), F.S.
[26] Section 744.331(2)(c), F.S.
[27] Section 744.331(3)(a), F.S.
[28] Section 744.331(3)(e)-(f), F.S.
[29] Section 744.331(3)(e), F.S.
[30] Section 744.331(3)(h), F.S.
[31] Section 744.331(4), F.S.
[32] Section 744.331(5), F.S.
[33] Section 744.3031(1), F.S.
[34] *Id*.
[35] *Id*.

The court must appoint counsel to represent the alleged incapacitated person during the proceedings.[36] Further, the court may appoint an emergency temporary guardian on its own motion if no petition for appointment of guardian has been filed when the order determining incapacity is entered.[37]

Office of Public and Professional Guardians

In 1999, the Legislature created the "Public Guardianship Act" and established the Statewide Public Guardianship Office (SPGO) within the DOEA.[38] In 2016, the Legislature renamed the Statewide Public Guardianship Office within the DOEA as the Office of Public and Professional Guardians (OPPG), required OPPG to regulate professional guardians and investigate complaints, and added six full-time equivalent positions to the OPPG, including an attorney and investigators.[39] The OPPG appoints local public guardian offices to provide guardianship services to people who have neither adequate income nor assets to afford a private guardian, nor any willing family or friend to serve.[40]

There are 17 public guardian offices that serve all 67 counties.[41] Since 2016, approximately 550 professional guardians have registered with the OPPG.[42]

Complaint Investigations

Any person may submit a complaint against a professional guardian to the OPPG. Once the OPPG receives a complaint, it is required to:

- Review and, if determined legally sufficient,[43] investigate complaints against professional guardians;
- Initiate an investigation no later than 10 business days after the OPPG receives a complaint;
- Complete and provide initial investigative findings and recommendations, if any, to the professional guardian and person filing the complaint within 60 days;
- Obtain supporting information, including interviewing the ward, family member, or interested party, or documentation to determine the legal sufficiency of a complaint;
- Dismiss any complaint that is not legally sufficient; and
- Coordinate with the clerks of court to avoid duplication of duties.

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;

[36] *Id*.
[37] Section 744.3031(2), F.S.
[38] Chapter 99-277, L.O.F.
[39] Chapter 2016-40, L.O.F.
[40] The DOEA, *Office of Public and Professional Guardians*, available at https://elderaffairs.org/programs-services/office-of-public-professional-guardians-oppg/ (last visited January 22, 2022).
[41] The DOEA, *Office of Public and Professional Guardians (OPPG)*, available at https://elderaffairs.org/programs-services/office-of-public-professional-guardians-oppg/ (last visited January 23, 2022).
[42] *Id*.
[43] Section 744.2004(1), F.S., states that a complaint is legally sufficient if it contains ultimate facts that show a violation of a standard of practice by a professional guardian has occurred.

- 56 in 2018;
- 113 in 2019;
- 169 in 2020; and
- 89 in the first 6-months of 2021.[44]

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.[45]

Public and 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.[46] A public guardian is considered a professional guardian for purposes of regulation, education, and registration.[47]

Registration

A professional guardian must register with the OPPG annually.[48] As part of the registration, the professional guardian must:

- Provide sufficient information to identify the professional guardian;
- Complete a minimum of 40 hours of instruction and training through a course approved or offered by the OPPG;[49]
- Successfully pass an examination approved by the DOEA to demonstrate competency to act as a professional guardian;
- Undergo a criminal background check by the Federal Bureau of Investigation and the Florida Department of Law Enforcement;
- Submit to a credit history check; and
- Maintain a current blanket bond.[50, 51]

[44] Email from Derek Miller, Legislative Affairs Director, the DOEA, August 26, 2021 (on file with the Senate Children, Families, and Elder Affairs Committee).
[45] *Id*.
[46] Section 744.102(17), F.S
[47] *Id*.
[48] Section 744.2002, F.S.
[49] This training may not be paid with the assets of the ward.
[50] Section 744.2003(2), F.S., further requires the bond to be maintained by the guardian in an amount not less than $50,000 and must cover all wards for whom the guardian has been appointed at any given time. The liability of the provider of the bond is limited to the face amount of the bond, regardless of the number of wards for whom the professional guardian has been appointed.
[51] Sections 744.2002(3) and 744.3135, F.S.

Guardians registered with the OPPG must complete a minimum of 16 hours of continuing education every two calendar years after the year in which the initial 40-hour educational requirement is met. The ward's assets may not be used to pay for such education.[52]

Guardians seeking appointment by the court and all employees of a professional guardian who have a fiduciary responsibility to the ward must submit to a credit history check and undergo a level 2 background screening.[53] The DOEA must ensure the clerks of the court and the chief judge of each judicial circuit receive information about each registered professional guardian.[54]

The executive director of the OPPG may deny registration to a professional guardian if the executive director determines that the guardian's proposed registration, including the guardian's credit or criminal investigations, indicates that registering the professional guardian would violate any provision of ch. 744, F.S.[55] The OPPG is required to report any suspension or revocation of a professional guardian's registration to the court of competent jurisdiction for any guardianship case to which the professional guardian is currently appointed.[56]

Responsibilities of the Clerk of the Circuit Court

In addition to the duty to serve as the custodian of the guardianship files, the clerk must review each initial and annual guardianship report to ensure that it contains required information about the ward.[57] Guardians are required to file initial reports and annual reports consisting of accounting or guardianship plans after they are appointed to a ward.[58] The initial guardianship report, for a guardian of a ward's property, must consist of a verified inventory of such property.[59] For a guardian of a person, the initial guardianship report must consist of an initial guardianship plan, including details such as where the ward will live and any medical or social services the ward may need.[60] Annual plans must consist of an annual accounting of the ward's property and the process by which the ward is being served by the guardian.[61]

The clerk is required to complete his or her review of the initial or annual report within 30 days after the filing of such reports.[62] The clerk is also required to audit the verified inventory and accountings report within 90 days of its filing, and report his or her findings to the court.[63] The clerk must notify the court when a required report is not timely filed by a guardian.[64]

[52] Section 744.2003(3), F.S.
[53] Section 744.3135(1), F.S.
[54] Section 744.2002(9), F.S.
[55] Section 744.2002, F.S.
[56] Section 744.2004(4), F.S.
[57] Section 744.368, F.S.
[58] Section 744.361, F.S.
[59] Section 744.362, F.S.,
[60] Sections 744.362–744.363, F.S.
[61] Section 744.367, F.S.
[62] Section 744.368(2), F.S.
[63] *Id.*
[64] *Id.*

If the clerk has reason to believe further review is appropriate, the clerk may request and review records and documents that reasonably impact guardianship assets, including, but not limited to, the beginning inventory balance and any fees charged to the guardianship.[65]

If a guardian fails to produce records and documents to the clerk upon request, the clerk may request the court to enter an order requiring a guardian to file the report.[66] The judge may also impose sanctions on the guardian, which may include contempt, removal of the guardian, and fines.[67]

Florida Clerks of Court Operations Corporation

The Legislature created the CCOC in 2003.[68] It is a public corporation organized to perform the specific functions assigned in ss. 28.35, 28.36, and 28.37, F.S., which outline the CCOC's duties, the clerks' budget procedure for court-related functions, and how fines, fees, service charges, and costs are to be remitted to the state.[69] All clerks of the circuit court are members and hold their position and authority as ex officio members.[70] The responsibilities assigned to the CCOC are performed by an executive council composed of eight clerks from various size populations and three ex officio members designated by the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.[71]

In general terms, the CCOC was created to provide professional budget support to the 67 clerks of court and ensure that resources are fairly and equitably distributed for the operation of the courts.[72] The CCOC's duties include, but are not limited to:

- Recommending to the Legislature changes in the amounts of various court-related fines, fees, service charges, and costs that are established in law to ensure that the clerks have reasonable and adequate funding to perform their court-related functions.
- Developing and certifying a uniform system of workload measures and workload standards for court-related functions.
- Entering into a contract with the Department of Financial Services to audit the court-related expenditures of individual clerks.
- Approving the proposed budgets submitted by clerks.[73]

When approving the clerks' proposed budgets, the CCOC must ensure that the total combined budgets of the clerks do not exceed:

- The total estimated revenues from fees, service charges, costs, and fines for court-related functions that are available for court-related expenditures (as determined by the most recent Revenue Estimating Conference);

[65] *Id.*
[66] Sections 744.368–744.3685, F.S.
[67] Sections 744.3685(3) and 744.367(5), F.S.
[68] Chapter 2003-402, L.O.F.
[69] Sections 28.35-28.37, F.S.
[70] Section 28.35(1)(a), F.S.
[71] Section 28.35(1)(b)1., F.S.
[72] The CCOC, *About the CCOC*, available at https://flccoc.org/about-us/ (last visited January 25, 2022).
[73] Section 28.35(2)(c), (d), (e), and (f), F.S.

- The total of unspent budgeted funds for court-related functions carried forward by the clerks from the previous county fiscal year; and
- The balance of funds remaining in the Clerks of Court Trust Fund after funds are transferred to General Revenue as required by law.[74]

Guardianship Improvement Task Force

In the summer of 2021, the Florida Court Clerks and Comptrollers organized the Guardianship Improvement Task Force (Task Force), which examined numerous aspects of Florida's guardianship system and laws.[75] The Task Force was formed with the goal of studying the current status of guardianships in Florida and making recommendations to improve the safety of wards across Florida.[76] The Task Force was comprised of 22 members, including judges, clerks of court, members of the Legislature, attorneys, state agencies, and numerous others.[77]

Task Force Report

On November 15, 2021, the Task Force finalized a report summarizing their work and containing numerous legislative recommendations.[78] Recommendations encompassed the following nine focus areas:

- Statewide Guardianship Data Transparency;
- Statewide Uniformity in Forms, Processes, and Practices;
- Increased Oversight, Safeguards, and Court Monitoring Practices Across the State;
- Preserving the Rights, Dignity, and Autonomy of Alleged and Adjudged Incapacitated Persons;
- Ensuring the Use of Least Restrictive Alternatives (including Advance Directives and Supported Decision-Making);
- Health and Residential Care "Pipeline to Guardianship";
- Enhanced Education and Qualification Requirements of Professionals and Parties in Guardianship;
- Increased Accessibility and Transparency of Professional Guardians and the Guardianship Process; and
- Need for Additional Workgroup(s) Responsible for Assessing Florida's Guardianship System.[79]

The report concluded that the most significant issue addressed by the Task Force was the need for a method to improve the availability of data in order to document problems within Florida's

[74] Section 28.35(2)(f), F.S.
[75] The Florida Bar, Florida Bar News, *Guardianship Improvement Task Force Inks Its Final Report*, November 16, 2021, available at https://www.floridabar.org/the-florida-bar-news/guardianship-improvement-task-force-inks-its-final-report/ (last visited January 23, 2022).
[76] Florida Court Clerks and Comptrollers, Guardianship Improvement Task Force, *About the Task Force*, available at https://www.guardianshipimprovementtaskforce.com/ (last visited January 23, 2022).
[77] *Id*.
[78] Florida Court Clerks and Comptrollers, Guardianship Improvement Task Force, *Final Report*, January 2022, available at https://guardianshiptf.wpengine.com/wp-content/uploads/2022/01/GITFReport-Jan2022.pdf (last visited January 23, 2022) (hereinafter, "The Final Report").
[79] *Id.* at pp. 19-23.

guardianship system.[80] The report further stated that a great deal of basic information related to guardianship cases is not readily available, including but not limited to:

- The number of people under guardianship;
- The number of guardians across the state;
- How many cases each guardian has under their purview;
- How much money and property are under the control of guardians across the state; and
- Information related to wards.[81]

According to the report, one topic of concern identified was the potential failure by the courts, clerks of court, and/or court monitors to report situations of abuse, neglect, or exploitation to Florida's Central Abuse Hotline.[82] Without any formalized method for data collection by the courts in each guardianship case, the Task Force concluded that there is no way to determine whether the courts, clerks, and court monitors are complying with their mandatory reporting obligations provided under s. 415.1034, F.S.[83]

Ultimately, the Task Force made the following four recommendations in the area of data transparency:

- Create a statewide data collection system for all guardianship cases;
- Require that every judicial circuit collect and report information in all guardianship cases regarding the existence of advance directives, powers of attorney, health care surrogate designations, and other similar legal documents, whether the document was honored (in part or total), and any reason given by the court for not honoring the document;
- Require that every judicial circuit collect and report guardianship case information and changes to the Office of Public and Professional Guardians (OPPG); and
- Require that OPPG promptly notify the chief judge in any judicial circuit in which a professional guardian is currently serving and/or has previously served as a guardian in a case of any verified findings of misconduct, disciplinary records, or removal of the guardian for cause by any other court.[84]

The report also noted that exactly how widespread and extensive such abuses by guardians may be remains is unknown, due in part to a lack of available data.[85] Relevant questions regarding the demographics of Florida's professional guardians include:

- How many professional guardians in Florida are also public guardians?
- How many professional guardians in Florida maintain dual (state or federal) licenses, such as attorneys barred to practice in Florida?
- How many professional guardians also serve as representative payees in non-guardianship cases?
- How many professional guardians in Florida take on pro bono cases?

[80] *Id*. at p. 29.
[81] *Id*.
[82] *Id*. at p. 30.
[83] Section 415.1034, F.S., provides that any person who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited must immediately report such knowledge or suspicion to the central abuse hotline.
[84] The Final Report at p. 29-38.
[85] *Id*. at p. 85.

- How many professional guardians are compensated by hospitals, assisted living facilities, or other health or residential care providers to serve as a guardian in specific cases?

To address these issues, the Task Force recommended the creation of a publicly accessible, online database regarding the registration, qualifications, and disciplinary/removal history for all professional guardians.[86]

III. Effect of Proposed Changes:

Clerks of Court Operations Corporation Databases

Judicial Access Database

The bill creates s. 744.2112, F.S., requiring the CCOC and clerks of court, on or after July 1, 2023, to establish a statewide database (the judicial access database) of guardianship information to facilitate improved court oversight of guardianships. The bill limits access to member of the judiciary and their direct staff, and requires that access be restricted to only the information needed by individual court personnel for the performance of their duties, while in no way limiting access to judges and magistrates.

The bill requires the judicial access database to meet interoperability standards defined by the Florida Courts Technology Commission to allow each circuit court to easily access the data for regular use in judicial proceedings under ch. 744, F.S. The judicial access database must include, at a minimum:

- The status of each professional guardian's bond and registration data;
- Substantiated disciplinary data of each professional guardian and the grounds for such discipline;
- Information related to the status of guardian compliance with the statutory qualifications for guardianship;
- Information related to the status of required annual registrations and the status of statutorily required reports and submissions required under ch. 744, F.S.; and
- The number of wards served by each guardian, by ward county of residence.

The bill requires the judicial access database to be searchable by, at a minimum:

- Petitioner;
- Ward and ward demographic information;
- Guardian, guardian advocate, and guardian location;
- Counsel for all parties;
- Other parties to each case;
- Judge;
- Circuit; and
- Number of wards served by each guardian by the ward's county of residence.

The bill also requires the judicial access database to have the ability to generate statewide and circuit-level statistical data to provide assistance to the courts.

[86] *Id*. at p. 84.

Public Access Database

The bill also requires the CCOC to establish a publicly accessible webpage and database (the public accessible database) to facilitate improving transparency of guardianship cases to the public. As with the judicial access database, the webpage and database must be established on or after January 1, 2023.

Similar to the judicial access database, the bill directs the CCOC to generate statewide and circuit-level statistical data to provide assistance to the courts and the DOEA, and transparency to the public and policymakers regarding Florida's guardianship system. The bill limits such reports to including only aggregated and de-identified data, and requires the reports to be published on the CCOC webpage.

The bill requires the publicly accessible database to be searchable by professional guardian name in order to view the current data regarding:

- Number of wards served;
- Ward counties of residence; and
- Whether a ward is under a limited or plenary guardianship.

The bill specifically prohibits the database from allowing access to personal identifying information of wards. This will provide members of the public with needed information on guardianship matters throughout the state while maintaining the privacy and confidentiality of sensitive information related to wards.

The bill requires the OPPG to share registration and disciplinary data with the CCOC and clerks of court, and requires the CCOC to generate reports using information in both the judicial access database and the publicly accessible database at the request of the Legislature, judiciary, and the DOEA.

Development of Data Elements

The bill requires the CCOC to develop a list of specific data elements for inclusion in the judicial access database, and requires the CCOC to provide the list to the Legislature by January 1, 2023.

The bill directs the CCOC to develop a second list of proposed data elements to be included in the public accessible database, and it requires the data elements to be established in a manner that ensures the confidentiality of ward information.

The bill requires the CCOC to engage with relevant stakeholders in developing the lists for each database in order to obtain feedback for use in the development of specific data elements for use in either of the two databases created by the bill. The relevant stakeholders include but are not limited to:

- Judicial officers and magistrates who handle guardianship and probate matters;
- The Florida Guardianship Association;
- The Elder Law Section of the Florida Bar;
- The Real Property, Probate, and Trust Law Section of the Florida Bar;
- The DOEA.

The bill also directs the CCOC to collaborate with the Florida Courts Technology Commission to implement the data elements and databases to achieve interoperability.

Department of Elder Affairs Public Access Webpage

The bill also requires the OPPG to publish public professional guardian registration profiles on its website. The profiles must be accessible and searchable by the public and include, at a minimum:

- The guardian's name and business address;
- Documentation proving bonding and educational requirements have been met;
- The number and type of substantiated complaints against the guardian, if any; and
- Disciplinary actions taken by the DOEA against the guardian, if any.

The bill provides rule making authority the DOEA to implement this provision.

OPPAGA Report

The bill directs the CCOC to compile data collected from the clerks of court and the DOEA and submit the data to the Office of Program and Policy Analysis and Government Accountability (OPPAGA). The bill requires OPPAGA to analyze the data in order to evaluate trends in the use of guardianships and conduct a comparative analysis of guardianship laws in other states. OPPAGA must collaborate with the CCOC, the clerks of court, and the DOEA and submit the a report containing findings and recommendations to the Governor and the Legislature by October 15, 2024, and annually thereafter until October 15, 2027.

The bill specifies that the data included in the OPPAGA reports must:

- Be produced in a statewide, circuit-level, and county-level statistical format;
- Include only aggregated and de-identified data; and
- Not contain personal identifying information of wards.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides the CCOC with $2.4 million in nonrecurring general revenue funds to establish the database. The bill also provides $340,000 ($40,000 recurring and $300,000 nonrecurring) general revenue funds to the DOEA to implement the bill.

The CCOC may have recurring costs associated with maintenance of the database and the clerk of courts may have recurring costs associated with an increase in workload related to compiling data, yet those costs are currently indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the section 744.2112 of the Florida Statutes.

This bill creates section 744.2001 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Rules on March 1, 2022
The CS:

- Requires the CCOC, on or after July 1, 2023, to create a limited access statewide database for the judiciary to increase judicial oversight and a publicly searchable website and database to increase transparency with the public.
- Requires the judicial oversight database to be accessible only by the judiciary and their direct staff to perform court personnel's duties.
- Provides an enumerated list of data elements that must, at a minimum, be included and list of searchable elements that must, at a minimum, be included in the judicial oversight database.
- Requires the COCC, on or after July 1, 2023, to also create a publicly accessible and searchable webpage that contains specified guardian information.
- Requires the CCOC to generate and publish monthly reports of statistical data and generate other reports upon request by certain entities.
- Requires the CCOC to work with stakeholders to develop proposed lists of data elements for inclusion in the judicial oversight and publicly searchable databases and provide the lists to the Governor and Legislature by January 1, 2023.
- Requires the DOEA to create a publicly accessible webpage that contains specified guardian information, including disciplinary actions taken against a professional guardian and provides the DOEA with rulemaking authority to implement this provision.
- Requires the OPPAGA to conduct a comparative analysis and to study trends in the use of Florida's guardianship system and provide an annual report to the Governor and the Legislature beginning in 2024 through 2027.
- Provides a $2.4 million nonrecurring general revenue appropriation to the CCOC to develop the databases.
- Provides $340,000, of which $300,000 is nonrecurring, to the DOEA to implement the provisions of the bill.

CS by Children, Families, and Elder Affairs on January 25, 2022:
The CS:

- Requires the CCOC and clerks of court to create and maintain a guardianship database, rather than the DOEA as under the original bill;
- Requires the database to have the ability to generate statewide and circuit-level statistical data of assistance to the courts and the DOEA;
- Requires the database to be interoperable with existing data systems in each circuit court;
- Requires the database to include and be searchable by minimum data points;
- Requires the OPPG to share registration and disciplinary data with the CCOC and clerks of court;
- Requires the OPPG to publish public professional guardian registration profiles on its website;
- Requires the profiles to be accessible and searchable by the public and to include certain minimum information;
- Removes conforming provisions made in ss. 744.2001, 744.362, 744.363, 744.365, and 744.367, F.S.;
- Removes legislative findings and intent;

- Removes dates specifying when data must be submitted to the DOEA and published; and
- Removes language specifying that any information which, pursuant to s. 119.071, F.S., is exempt from public records disclosure requirements when held by a reporting agency retains that exempt status after being submitted to the DOEA.

B. Amendments:

None.

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

208562

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/28/2022	.	
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The Committee on Appropriations (Bradley) recommended the following:

Senate Substitute for Amendment (483144) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 744.2112, Florida Statutes, is created to read:

744.2112 Guardianship data collection and transparency.—

(1)(a) On or after July 1, 2023, the Florida Clerks of Court Operations Corporation and the clerks of court shall

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establish a statewide database of guardianship information to facilitate improving court oversight of guardianship cases. The database must meet interoperability standards defined by the Florida Courts Technology Commission, such that each circuit court can easily access the data for regular use in judicial proceedings under this chapter. The database must include, at a minimum, all of the following:

1. The status of each professional guardian's bond and registration data.

2. Substantiated disciplinary data of each professional guardian provided by the Office of Public and Professional Guardians and the grounds for such discipline.

3. Information regarding the status of each guardian's compliance with the statutory qualifications for guardianship.

4. The status of statutorily required annual registrations for the professional guardian as required by s. 744.2002(2) and the status of reports and submissions statutorily required under chapter 744.

5. The number of wards served by each guardian, by ward county of residence.

(b) The database must be searchable by, at a minimum, the name of the petitioner, ward, guardian, guardian advocate, and legal counsel for all parties; the demographic information of the ward; the guardian's location; the name of the judge and circuit in which the case is brought; and the number of wards served by each guardian, by ward county of residence. The database must have the ability to generate statewide and circuit-level statistical data to provide assistance to the courts.

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(c) The database established under this subsection must be accessible only by members of the judiciary and their direct staff. The database must restrict access to that information needed to perform an individual court personnel's duties, but in no way restrict access by judges and magistrates.

(2) On or after July 1, 2023, the Florida Clerks of Court Operations Corporation shall also establish a publicly accessible webpage to facilitate improving transparency of guardianship cases to the public.

(a) The Florida Clerks of Court Operations Corporation must generate monthly reports of statewide, circuit-level, and county-level statistical data to provide assistance to the courts and the Department of Elderly Affairs, and transparency to the public and policymakers, regarding the state's guardianship system. Such data reports must include only aggregated and deidentified data and must be published on the webpage established under this subsection.

(b) The webpage established under this subsection must include a database that is accessible to and searchable by the public. The database must be searchable by the name of a professional guardian to view current data regarding the number of wards served by that guardian, the counties of residence of such wards, and whether the wards are under limited or plenary guardianships. Such search may not allow access to personal identifying information of wards.

(3) The Office of Public and Professional Guardians is directed to share professional guardian registration and disciplinary action data for the purposes of this section.

(4) In addition to the reports required under paragraph

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(2)(a), the Florida Clerks of Court Operations Corporation must also generate reports using information in the databases established under subsection (1) or subsection (2) at the request of the Legislature, the judiciary, or the Department of Elderly Affairs.

(5)(a) By January 1, 2023, the Florida Clerks of Court Operations Corporation must provide the President of the Senate and the Speaker of the House of Representatives with a proposed list of specific data elements for inclusion in a database established pursuant to subsection (1) for regular judicial use. Additionally, the Florida Clerks of Court Operations Corporation must provide a proposed list of relevant data elements that may be considered for inclusion, in addition to those enumerated in paragraph (2)(b), in a publicly accessible and searchable database to be used for providing enhanced transparency of the state's guardianship cases to the public. Any data elements recommended for inclusion in the publicly searchable database must be established in a manner that ensures confidentiality of ward information.

(b) To develop the proposed lists of data points, the Florida Clerks of Court Operations Corporation shall engage with stakeholders, including, but not limited to, judicial officers and magistrates who handle guardianship and probate matters; the Florida State Guardianship Association; the Elder Law Section of The Florida Bar; the Real Property, Probate, and Trust Law Section of The Florida Bar; and the Department of Elderly Affairs, to obtain feedback for use in the development of specific data elements for any databases established in accordance with this section. The Florida Clerks of Court


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Operations Corporation must collaborate with the Office of the State Courts Administrator and the clerks of the court through the Florida Courts Technology Commission to implement the data elements and databases to achieve interoperability.

(6)(a) Beginning July 1, 2024, and annually thereafter through July 1, 2027, the Florida Clerks of Court Operations Corporation shall compile data maintained in the database that has been collected from the clerks of court and the Department of Elderly Affairs and submit such data to the Office of Program Policy Analysis and Government Accountability (OPPAGA).

(b) OPPAGA shall analyze the consolidated data compiled in accordance with paragraph (a) to evaluate trends in the use of guardianships in this state and conduct a comparative analysis of guardianship laws in other states. In conducting the analysis, OPPAGA shall consult with the Office of State Courts Administrator, the Clerks of Court Operations Corporation, the clerks of the court, and the Department of Elderly Affairs. OPPAGA shall submit a report containing findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 15, 2024, and annually thereafter through October 15, 2027.

(c) The data compiled and reported under paragraphs (a) and (b) must be produced in a statewide, circuit-level, and county-level statistical format. Such reports must include only aggregated and deidentified data. Further, the reports provided under paragraphs (a) and (b) may not contain personal identifying information of wards.

Section 2. Subsection (7) is added to section 744.2001, Florida Statutes, to read:

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744.2001 Office of Public and Professional Guardians.—There is created the Office of Public and Professional Guardians within the Department of Elderly Affairs.

(7) The Office of Public and Professional Guardians shall publish on its website a profile of each registered professional guardian. The profiles must be accessible and searchable by the public and must include, at a minimum, the guardian's name and business address, whether the guardian meets the education and bonding requirements under s. 744.2003, the number and type of substantiated complaints against the professional guardian, and any disciplinary actions taken by the Department of Elderly Affairs against the guardian. The Department of Elderly Affairs may adopt rules necessary to implement this subsection.

Section 3. For the 2022-2023 fiscal year, the sum of $2,400,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Justice Administrative Commission for distribution to the Florida Clerks of Court Operations Corporation for the purpose of implementing this act.

Section 4. For the 2022-2023 fiscal year, the sums of $40,000 in recurring funds and $300,000 in nonrecurring funds are appropriated from the General Revenue Fund to the Department of Elderly Affairs for the purpose of implementing this act.

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

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to guardianship data transparency;

208562

creating s. 744.2112, F.S.; requiring the Florida Clerks of Court Operations Corporation and the clerks of court to establish a statewide database of guardianship data on or after a certain date; specifying requirements for the database; specifying database access restrictions; requiring the corporation and clerks of court to establish a webpage for certain purposes on or after a specified date; requiring the corporation to generate certain monthly reports; requiring that the webpage include a database meeting certain requirements; requiring the Office of Public and Professional Guardians to share certain data; requiring the corporation to generate certain reports at the request of certain entities; requiring the corporation to provide the Legislature with certain lists by a specified date; providing requirements for the corporation in developing such lists and in implementing data elements and databases; requiring the corporation to annually compile and submit certain data to the Office of Program Policy Analysis and Government Accountability (OPPAGA); requiring OPPAGA to conduct a certain analysis and submit annual reports to the Governor and the Legislature; specifying requirements for certain data and reports; amending s. 744.2001, F.S.; requiring the Office of Public and Professional Guardians to publish profiles of registered professional guardians on its website; specifying requirements for the profiles; authorizing the Department of Elderly Affairs to adopt

208562

rules; providing appropriations; providing an effective date.

By the Committee on Children, Families, and Elder Affairs; and Senators Bradley, Brandes, and Brodeur

586-02286-22 20221710c1

A bill to be entitled

An act relating to guardianship; creating s. 744.2112, F.S.; requiring the Florida Clerks of Court Operations Corporation and clerks of court to establish a statewide database of guardianship information for certain purposes; requiring the database to be interoperable with certain data systems; requiring the database to include certain information; requiring the database to be searchable by certain data points; requiring the database to have the ability to generate certain information; requiring the Office of Public and Professional Guardians to share certain information; requiring the Office of Public and Professional Guardians to publish professional guardian registration profiles on its website; requiring the profiles to be accessible and searchable by the public; requiring the profiles to include certain information; providing an effective date.

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

Section 1. Section 744.2112, Florida Statutes, is created to read:

744.2112 Statewide database of guardianship information; publication of professional guardian registration profiles.—

(1) The Florida Clerks of Court Operations Corporation and clerks of court shall establish a statewide database of guardianship information to facilitate improved court oversight of such guardianships. The database must be interoperable with

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

586-02286-22 20221710c1

the data systems of each circuit court, such that each circuit court may easily access the data for regular use in judicial proceedings. The database must include, at a minimum, professional guardian registration and disciplinary data provided by the Office of Public and Professional Guardians, information on the status of guardian compliance with the statutory qualifications for guardianship, and the status of statutorily required reports and submissions. The database must be searchable by, at a minimum, petitioner, ward, ward demographic information, guardian and guardian location, counsel, other parties to each case, judge, and circuit. The database must have the ability to generate statewide and circuit-level statistical data of assistance to the courts and the Department of Elderly Affairs. The Office of Public and Professional Guardians shall share professional guardian registration and disciplinary data for the purposes of this subsection.

(2) The Office of Public and Professional Guardians shall publish professional guardian registration profiles on its Internet website. The profiles must be accessible and searchable by the public, and shall include, at a minimum, information submitted under s. 744.2002, whether any complaints against the professional guardian have been substantiated, and any disciplinary actions taken by the department.

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

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1710

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/1/22
Meeting Date

Senate Rules
Committee

~~1170~~
Bill Number or Topic

Amendment Barcode (if applicable)

Name John Grant

Phone 813-787-9900

Address 10025 Orange Grove Dr.
Street

Email john.grant@johngrant.net

Tampa FL 33618
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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/01/2022
Meeting Date

RULES
Committee

SB 1710
Bill Number or Topic

Amendment Barcode (if applicable)

Name KEN BURKE (PINELLAS CLERK OF COURT)

Phone 727-647-1859

Address 315 COURT ST 4th FLOOR
Street

Email KBURKE @MYPINELLASCLERK. ORG

CLEARWATER FL 33756
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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

1710
Bill Number or Topic

Amendment Barcode (if applicable)

Name Greg Black

Phone 509-8022

Address PO Box 838
Street

Email Greg@WaypointStrat.com

TLH 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: Elder Law Section of The FL Bar

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

CS/SB 1710
Bill Number or Topic

Amendment Barcode (if applicable)

Name Buddy Jacobs, General Counsel / FPAA Phone 904-261 3693

Address 961687 Gateway Blvd
Street

Fernandina Bch FL 32034
City State Zip

Email ajjacobs@comcast.net

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: Fla. Prosecuting Attorneys Assoc

☐ 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

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3/1/2022
Meeting Date

Rules
Committee

1710
Bill Number or Topic

Amendment Barcode (if applicable)

Name Zayne Smith – AARP

Phone (850) 228-4243

Address 215 S. Monroe St.
Street

Email zsmith@aarp.org

Tallahssee 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:
AARP

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S-001 (08/10/2021)

The Florida Senate

AGAINST AMENDMENT

APPEARANCE RECORD

3-1-22
Meeting Date

1710
Bill Number or Topic

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

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

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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:	CS/CS/SB 1796
INTRODUCER:	Rules Committee; Judiciary Committee; and Senator Gruters, and others
SUBJECT:	Dissolution of Marriage
DATE:	March 2, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	**Fav/CS**
2.	Dale	Sadberry	AP	**Fav/1 amendment**
3.	Bond	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1796 amends laws related to dissolution of marriage. Changes to alimony applicable to any final judgment entered on or after July 1, 2022 include:

- Permanent (lifetime) alimony is eliminated, leaving bridge-the-gap, rehabilitative, and durational forms of alimony.
- Rehabilitative alimony is limited to 5 years.
- Durational alimony may not be awarded for a marriage of less than 3 years, is scaled based on duration of marriage, with an exception if the obligee is disabled or is a full-time caretaker of a totally disabled child of both spouses, and may not exceed the lesser of the obligee's reasonable need or 35 percent of the difference between the parties' net incomes.
- The bill creates a presumption that both parties will have a lower standard of living after dissolution of the marriage.
- Alimony may not be awarded to a party whose net income exceeds the net income of the other party.
- A court may not require an obligor to purchase life insurance to secure the award of alimony.
- The concept of a supportive relationship is expanded to allow consideration of a supportive relationship when first setting alimony in the dissolution of marriage case. The criteria defining a supportive relationship at the time of dissolution is the same as for a later modification.

Current case law allows for modification or termination of alimony upon "reasonable retirement," a loosely-defined court-created concept. The bill codifies standards and procedures related to retirement of a party to a dissolution of marriage case:

- A proposed obligor who is retired at the time of the dissolution of marriage may not be required to pay any form of alimony unless one of the safeguards applies, and the party seeking alimony does not qualify for any Social Security benefits.
- If the obligor seeks to retire in the future (final judgment after July 1, 2022), the obligor must give 1 years' prior notice of the planned retirement. The retirement will be effective and durational alimony will end when the obligor reaches the Social Security full retirement age unless the obligee timely objects by showing any of the following:
  - A safeguard applies; or
  - The obligor continues to work beyond the planned retirement and earns active gross income of more than 50 percent of the past 3-year average.
- If the obligor seeks to retire in the future after reaching age 65 or later (modification of a final judgment entered before July 1, 2022), the obligor must give 1-years' prior notice of the planned retirement. The retirement will be effective and the alimony will phase out (25 percent a year) starting no sooner than age 65, unless the obligee timely objects by showing any of the following:
  - A safeguard applies; or
  - The obligor continues to work beyond the planned retirement and earns active gross income of more than 50 percent of the past 3-year average.
- Alternatively, there will be no phase-out and alimony may be modified or terminated based on a reasonable retirement.
- Current law provides that a court should not modify alimony for a payor's retirement where the effect of modification would be to leave the recipient "in peril of poverty." The bill codifies peril of poverty in the form of safeguards that allow a court to extend alimony, in part or in whole, beyond the obligor's planned retirement, if:
  - The party receiving alimony is full-time caregiver to a disabled common child;
  - The party receiving alimony would have an income of less than 130 percent of the federal poverty level;
  - The party receiving alimony would be unable to meet the basic needs of life; or
  - The marital settlement agreement, if one was entered into, prohibits the modification.

The bill creates a rebuttable presumption that equal time-sharing with minor children is in the best interests of a child, and provides that a parent moving to a residence within 50 miles of the primary residence of a child is a substantial change in circumstances.

Bifurcation refers to the process where the court dissolves the marriage, reserving other matters such as property distribution, alimony, time-sharing, and child support for future court action. The bill gives either party to a dissolution of marriage the right to bifurcation if the case has been pending for longer than 2 years from the date the respondent received the summons, effective for petitions filed on or after July 1, 2022.

The bill will have no fiscal impact on state government.

The bill is effective July 1, 2022, and applies to cases pending on the effective date except as noted.

II. Present Situation:

Dissolution of marriage may involve many different but related matters. The matters related to dissolution addressed by this bill are alimony, time-sharing with minor children, and bifurcation. Changes to time-sharing may result in different results from the child support formula, but the base child support formula and laws are not affected by this bill.

Alimony

Alimony is a court-ordered allowance that one spouse pays to the other spouse for maintenance and support while they are separated, while they are involved in a matrimonial lawsuit, or after they are divorced.[1] Alimony may be agreed to by the parties or awarded by the court after an evidentiary hearing. While child support is determined primarily through a statutory formula, alimony is determined at the discretion of the trial court based on statutory and equitable factors.

Calculation of the Amount of Alimony

There is no fixed formula for alimony. Alimony is based on both financial need and the ability to pay.[2] After making an initial determination to award alimony, the court must consider ten factors:

- The standard of living established during the marriage.
- The length of marriage.
- Ages and physical and emotional condition of the parties.
- Financial resources of the parties.
- Earning capacity, education level, vocational skill, and employability of the parties.
- Marital contributions, including homemaking, child care, and education and career building of the other party.
- Responsibilities of each party towards minor children.
- Tax treatment and consequences of alimony awards.
- All sources of income.
- Any other factor that advances equity and justice.[3]

The income tax factor has less relevance than in the past. Beginning January 1, 2019, alimony or separate maintenance payments are not deductible from the income of the obligor, or includable in the income of the obligee, if made under a divorce or separation agreement executed after December 31, 2018. This also applies to a divorce or separation agreement executed on or before December 31, 2018, and modified after December 31, 2018, as long as the modification changes the terms of the alimony or separate maintenance payments and states that the alimony or separate maintenance payments are not deductible by the obligor or includable in the income of the obligee. On the other hand, alimony or separate maintenance payments are generally deductible from the income of the obligor and includable in the income of the obligee, if made under a divorce or separation agreement executed on or before December 31, 2018, even if the

[1] Alimony, BLACK'S LAW DICTIONARY (11th ed. 2019).
[2] Section 61.08(2), F.S.
[3] Section 61.08(2)(a)-(j), F.S.

agreement was modified after December 31, 2018, so long as the modification is not one described in the preceding sentence.[4]

The court may also consider adultery by either spouse in a decision to award alimony.[5] That consideration is dependent upon the circumstances of each particular case. Absent a showing of a related depletion of marital assets, a party's adulterous misconduct is not a valid reason to award a greater share of those marital assets to the innocent spouse or to deny the adulterous spouse alimony. Furthermore, despite evidence of adultery, need and ability to pay remain the primary considerations in awarding alimony.[6]

To protect an alimony award, the court may order an obligor to maintain a life insurance policy.[7] A court making the requirement must first make specific findings regarding the availability and cost of insurance, the obligor's ability to pay, and the special circumstances that warrant the requirement for security of the obligation.[8] The special circumstances required to support an order mandating life insurance include "a spouse potentially left in dire financial straits after the death of the obligor spouse due to age, ill health and/or lack of employment skills, obligor spouse in poor health, minors living at home, supported spouse with limited earning capacity, obligor spouse in arrears on support obligations, and cases where the obligor spouse agreed on the record to secure an award with a life insurance policy."[9]

An award of alimony may not result in the obligor with significantly less net income than the net income of the obligee absent exceptional circumstances.[10] What qualifies as exceptional circumstances is undefined.

Types of Alimony

For purposes of determining the appropriate type of alimony to award, marriages are classified by term or length of marriage, based on the time from the date of marriage to the date the dissolution of marriage action is filed:

- Short-term means less than 7 years.
- Moderate-term means greater than 7 years but less than 17 years.
- Long-term means greater than 17 years.[11]

The length of the marriage does not include time spent cohabitating prior to marriage.[12]

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[4] IRS, *CLARIFICATION: Changes to deduction for certain alimony payments effective in 2019,* (updated March 24, 2021), *available at* https://www.irs.gov/forms-pubs/clarification-changes-to-deduction-for-certain-alimony-payments-effective-in-2019 (last viewed Jan. 24, 2022).
[5] Section 61.08(1), F.S.
[6] *Williamson v. Williamson*, 367 So. 2d 1016, 1019 (Fla.1979); *Noah v. Noah*, 491 So. 2d 1124, 1127 (Fla. 1986); *Keyser v. Keyser*, 204 So. 3d 159, 161 (Fla. 1st DCA 2016).
[7] Section 61.08(3), F.S.
[8] *O'Neill v. O'Neill*, 305 So. 3d 551, 554 (Fla. 4th DCA 2020).
[9] *Kotlarz v. Kotlarz*, 21 So. 3d 892, 893 (Fla. 1st DCA 2009).
[10] Section 61.08(9), F.S.; *Rabadan v. Rabadan*, 322 So. 3d 660 (Fla. 4th DCA 2021).
[11] Section 61.08(4), F.S. This triad was first enacted in 2010. Ch. 2010-199, Laws of Fla.
[12] *Taylor v. Davis*, 324 So. 3d 570 (Fla. 1st DCA 2021) (couple cohabitated for 24 years prior to 3 year marriage, court denied an award of permanent alimony because it was a short-term marriage).

Florida law recognizes four forms of alimony: bridge-the-gap, rehabilitative, durational, and permanent periodic alimony.[13]

Bridge-the-gap alimony:[14]

- Is designed to assist a party in his or her transition from being married to being single.
- May be awarded in a marriage of any term.
- Cannot exceed 2 years in duration.
- May not be modified.
- Terminates upon death or remarriage.

Rehabilitative alimony:[15]

- Is designed to assist a party in establishing the capacity for self-support through either the redevelopment of previous skills or credentials; or the acquisition of education, training, or work experience necessary to develop appropriate employment skills or credentials.
- May be awarded in a marriage of any term.
- Can be of any duration.
- May be modified based upon a substantial change in circumstances, upon noncompliance with the rehabilitative plan, or upon completion of the rehabilitative plan.
- Does not automatically terminate upon remarriage.

Durational alimony:16

- Is designed to provide a party with economic assistance for a set period of time.
- May be awarded following a marriage of short or moderate duration, or following a marriage of long duration if there is no ongoing need for support on a permanent basis.
- May not exceed the length of the marriage.
- May be modified as to amount, based upon a substantial change in circumstances; but the length may not be modified except under exceptional circumstances.
- Terminates upon the death of either party or upon the remarriage of the party receiving alimony.

Permanent alimony:[17]

- Is designed to provide for the needs and necessities of life as they were established during the marriage of the parties for a party who lacks the financial ability to meet his or her needs and necessities of life following a dissolution of marriage.
- May be awarded only after a finding that no other form of alimony is fair and reasonable under the circumstances of the parties, following a marriage of:
    - Long duration, if such an award is appropriate upon consideration of the ten factors by a preponderance of the evidence;
    - Moderate duration, if such an award is appropriate based upon clear and convincing evidence after consideration of the 10 factors; or
    - Short duration, if there are written findings of exceptional circumstances.

[13] Section 61.08(1), F.S.
[14] Section 61.08(5), F.S.
[15] Section 61.08(6), F.S.
[16] Section 61.08(7), F.S.
[17] Section 61.08(8), F.S.

- Is not for a fixed period of time.
- May be modified or terminated based upon a substantial change in circumstances, including retirement of the obligor or upon the existence of a supportive relationship benefiting the obligee.
- Terminates upon the death of either party or upon the remarriage of the party receiving alimony.

Modification or Termination of Alimony - In General

Where allowed, either party may seek modification (up to termination) of an alimony award on the grounds of a substantial change in circumstances.[18] To obtain a modification of alimony, the party seeking modification must allege, and the trial court must find, that:

- There has been a substantial change in circumstances.
- The change was not contemplated at the time of the final judgment of dissolution.
- The change is sufficient, material, permanent, and involuntary.[19]

The mere existence of a substantial change in circumstances does not automatically lead to a modification or termination of alimony, it merely opens up the question of the appropriate amount of alimony based on the new situation and on the normal equitable factors, namely need and ability to pay. The court may modify support retroactively to the date of the filing of the motion.[20] If the parties to a dissolution of marriage settled the case and have designated alimony as non-modifiable in the marital settlement agreement, the court may not thereafter modify the alimony.[21]

Modification Based on a Supportive Relationship

To avoid termination of an alimony award because of remarriage, it was once common for an obligee former spouse to simply "live with" someone else in a committed but non-marital arrangement. Today, the existence of a supportive relationship between the obligee and a third party may be a substantial change in circumstances that warrants a modification (up to termination) of alimony. To modify alimony on an assertion of cohabitation between the obligee and a third party, the court must find:

- The existence of a supportive relationship between the obligee and a third party; and
- That the obligee lives with the third party.

To determine whether a relationship is supportive, the court will examine:

- The extent to which the obligee and the third party hold themselves out as a married couple;
- The length of time that the third party has resided with the obligee;
- Whether the obligee and the third party have jointly purchased property;
- The extent to which the obligee and third party commingle financial assets; and
- The extent to which one of the parties supports the other party.[22]

[18] Section 61.14(1)(a), F.S.
[19] *Golson v. Golson*, 207 So. 3d 321, 325 (Fla. 5th DCA 2016); *Tanner v. Tanner*, 2021 WL 4877772 (Fla. 2nd DCA 2021).
[20] Section 61.14(1)(a), F.S.
[21] *Dills v. Perez*, 2021 WL 5140865 (Fla. 5th DCA 2021) ("[P]arties to a marital dissolution are free to enter into contractual agreements that include provisions no court of law could impose.").
[22] Section 61.14(b), F.S.

The burden is on the obligor to show by a preponderance of evidence that a supportive relationship exists.[23]

Modification of Alimony Based on Retirement

Retirement of a party in a pending dissolution of marriage case falls within the "need and ability to pay" framework. Voluntary retirement may qualify as a substantial change in circumstances which warrants a modification or termination of an existing alimony award. It is an exception to the general rule that a substantial change in circumstances must result from an involuntary action.

Retirement, whether related to an initial award of alimony or as a substantial change in circumstances for modification, is not addressed in statute. In deciding whether to modify or terminate alimony based on retirement of the obligor, the courts look to whether the retirement is reasonable. There are no fixed standards for reasonable. The leading case in this area ruled:

> In determining whether a voluntary retirement is reasonable, the court must consider the payor's age, health, and motivation for retirement, as well as the type of work the payor performs and the age at which others engaged in that line of work normally retire. . . . [A] payor spouse should not be permitted to unilaterally choose voluntary retirement if this choice places the receiving spouse in peril of poverty. Thus, the court should consider the needs of the receiving spouse and the impact a termination or reduction of alimony would have on him or her. In assessing those needs, the court should consider any assets which the receiving spouse has accumulated or received since the final judgment as well as any income generated by those assets.[24]

Timesharing with Minor Children

Determination of a time-sharing schedule for minor children is of vital importance to the children and their parents. Time-sharing also affects the calculation of child support.

Timesharing - In General

The public policy of the state is for each minor child to have "frequent and continuing contact with both parents."[25] Additionally, a court must order shared parental responsibility for a minor child unless the court finds that shared responsibility would be detrimental to the child.[26] In setting a time-sharing award, there is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.[27] In determining time-sharing with each parent, a court must consider the best interests of the child based on statutory factors, namely:

[23] Section 61.14(1)(b)1., F.S.
[24] *Pimm v. Pimm*, 601 So. 2d 534, 537 (Fla. 1992).
[25] Section 61.13(2)(c)1., F.S.
[26] Section 61.13 (2)(c)2., F.S.
[27] Section 61.13(2)(c)1., F.S.

- The demonstrated capacity of each parent to have a close and continuing parent-child relationship, honor the time-sharing schedule, and be reasonable when changes are required.
- The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child, including developmental needs.
- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
- The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- The moral fitness and the mental and physical health of the parents.
- The reasonable preference of the child, if the child is of sufficient intelligence, understanding, and experience to express a preference.
- The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime, and to be involved in the child's school and extracurricular activities.
- The demonstrated capacity of each parent to keep the other parent informed about the minor child, and the willingness of each parent to adopt a unified front on major issues.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has knowingly provided false information about these issues. If the court accepts evidence of prior or pending actions on these issues, the court must acknowledge in writing that the evidence was considered in evaluating best interests.
- The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before and during litigation, including the extent to which parenting responsibilities were undertaken by third parties.
- The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.[28]

A final factor provides the court with flexibility to consider any other factor relevant in establishing a parenting plan, including a time-sharing schedule.[29]

Modification of a Timesharing Award

Times change and circumstances change. Just like alimony, timesharing with a minor child is subject to future modification by the court. Either party to a final judgment of dissolution or final order regarding timesharing and child support may seek modification of the timesharing or child support award on the grounds of a substantial change in circumstances.[30] The party seeking modification of a timesharing order must allege, and the trial court must find, that:

- Circumstances have substantially and materially changed since the original custody determination;
- The change was not reasonably contemplated by the parties; and
- The child's best interests justify changing custody.[31]

[28] Section 61.13(3), F.S.
[29] Section 61.13(3)(t), F.S.
[30] Section 61.14(1)(a), F.S.
[31] *Korkmaz v. Korkmaz*, 200 So. 3d 263, 265 (Fla. Dist. Ct. App. 2016)

The court may modify support retroactively to the date of the filing of the motion.[32] Unlike alimony, timesharing is always modifiable while the child is a minor and the parties may not enter into an agreement that prohibits modification in the future.

Studies on Equal Time-sharing

A paper reviewing 40 studies on equal time-sharing found in part that:

> While acknowledging that some studies were more methodologically sophisticated and used more valid and reliable measures than the others, the fact remains that the 40 studies reached similar conclusions. First, shared parenting was linked to better outcomes for children of all ages across a wide range of emotional, behavioral, and physical health measures. Second, there was not any convincing evidence that overnighting or shared parenting was linked to negative outcomes for infants or toddlers.[33]

Bifurcation of a Dissolution Case

Normally, a dissolution of marriage case is resolved when the court issues an omnibus final judgment of dissolution, which judgment dissolves the marriage, splits the debts and property of the couple, and where required, resolves time-sharing with the children, child support, and alimony. The term "bifurcation" refers to the process whereby the court grants the dissolution of marriage but reserves jurisdiction to resolve the remaining issues between the parties at a later date.

Parties seek bifurcation mostly for purposes of remarriage. Bifurcation is allowed but its use is discouraged by the courts. The Florida Supreme Court explained why:

> [W]e believe the trial court should avoid this split procedure. The general law and our procedural rules at both the trial and appellate levels are designed for one final judgment and one appeal. Splitting the process can cause multiple legal and procedural problems which result in delay and additional expense to the litigants. This split procedure should be used only when it is clearly necessary for the best interests of the parties or their children.[34]

The Florida Supreme Court has established trial court time standards for the most common types of cases. The time standards are not deadlines, but represent the time within which most cases should be resolved. The time standard for a contested domestic relations case is 180 days from filing to final disposition.[35]

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[32] Section 61.14(1)(a), F.S.
[33] Neilson, *Shared Physical Custody: Summary of 40 Studies on Outcomes for Children*, Journal of Divorce & Remarriage, 55:613–635, 2014
[34] *Claughton v. Claughton*, 393 So. 2d 1061, 1062 (Fla. 1980).
[35] Fla. R. Jud. Admin. 2.250(a)(1)(C).

Presumptions

A presumption in a legal proceeding is an assumption of the existence of a fact that is in reality unproven by direct evidence. A presumption is derived from another fact or group of facts that has been proven in the action. If a presumption is recognized, the presumed fact must be found to be present if the trier of fact finds that the underlying facts which give rise to the presumption exist. Presumptions usually assist in managing circumstances in which direct proof is rendered difficult. Presumptions arising out of considerations of fairness, public policy, and probability, as well as judicial economy, are also useful devices for allocating the burden of proof.[36] There are two types of presumption applicable to civil actions -- a presumption affecting the burden of producing evidence and a presumption affecting the burden of proof.[37]

Presumptions that are recognized primarily to facilitate the determination of an action, rather than to implement public policy, are presumptions affecting the burden of producing evidence. These so-called bursting bubble presumptions are recognized when the underlying facts are proved to exist and they remain in effect until credible evidence is introduced to disprove the presumed fact. Once the evidence of the nonexistence of the presumed fact is offered, the presumption disappears.[38]

Any presumption not falling within the category of presumptions affecting the burden of producing evidence is a presumption affecting the burden of proof.[39] These presumptions are recognized because they express a policy that society deems desirable. When proof is introduced of the basic facts giving rise to a presumption affecting the burden of proof, the presumption operates to shift the burden of persuasion regarding the presumed fact to the opposing party.[40]

Social Security Retirement Age

The original Social Security Act of 1935 set the age for receiving full retirement benefits at 65.[41] Citing improvements in the health of older people and increases in average life expectancy as primary reasons for increasing the normal retirement age, Congress has increased the age for full retirement. On the effective date of this bill, the full retirement age for Social Security purposes will be 66 years and 4 months of age. It will increase gradually in the future until it reaches 67 years of age on January 1, 2027.[42]

The minimum age for claiming Social Security retirement benefits is 62. Benefits are reduced when a person elects to take early benefits.[43] The act increasing the age for full benefits did not change the minimum age for claiming benefits.

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[36] *Presumptions—Generally*, 1 Fla. Prac., Evidence s. 301.1 (2020 ed.).
[37] Section 90.302, F.S.
[38] *Types of presumptions which affect the burden of producing evidence*, 1 Fla. Prac., Evidence s. 303.1 (2020 ed.).
[39] Section 90.304, F.S.
[40] *Types of presumptions which affect the burden of proof*, 1 Fla. Prac., Evidence § 304.1 (2020 ed.).
[41] U.S. Social Security Administration, *Social Security Fact Sheet: Increase in Retirement Age*, https://www.ssa.gov/pressoffice/IncRetAge.html (last viewed Feb. 23, 2022).
[42] U.S. Social Security Administration, *Retirement Benefits*, https://www.ssa.gov/benefits/retirement/planner/agereduction.html (last viewed Feb. 23, 2022).
[43] *Id*.

III. Effect of Proposed Changes:

Alimony

Forms of Alimony

The bill eliminates permanent alimony as a form of alimony that a court may award. If the court orders a combination of forms of alimony, it must make written findings regarding the basis for the award. A combination may be awarded only to provide greater economic assistance for the purpose of rehabilitation of the obligee.

Criteria for an Award of Alimony

The bill repeals current law that allows a court to consider the adultery of either spouse when determining the amount, if any, of alimony to award.

The bill requires the court to make specific written findings of the need for alimony. The bill amends the 10 factors for consideration in determining the amount of an award of alimony as follows:

- The standard of living established during the marriage factor is limited. In looking at the standard of living during the marriage, the court must take into account the needs and necessities of life for each party after dissolution. The bill also creates a rebuttable presumption that both parties will have a lower standard of living after the dissolution.
- The tax treatment factor is modified by repeal of the portion regarding the tax treatment of the alimony. This reflects a change in the federal tax code effective January 1, 2019.
- A court using the "any other factor" language must specify the other factor and the findings of fact justifying the factor.

The bill prohibits a court from requiring that the obligor purchase life insurance or secure a bond or other security naming the obligee as beneficiary. The bill adds that the obligee may purchase life insurance on the obligor, and that the obligor must cooperate with the application and underwriting process. The bill implies that an obligee has an insurable interest in the life of obligor.

The bill changes the length of time married as a classification of a marriages being either short-term, moderate-term, or long-term. A short-term marriage is changed to 0-10 years, a moderate-term marriage is changed to 10-20 years, and a long-term marriage is changed to 20 or more years duration. The bill also repeals references to these three terms of marriage; thus, the changes in length of marriages has no effect.

The bill limits the length of an alimony award:

- Bridge-the-gap alimony is not changed by the bill, and remains limited to 2 years.
- Rehabilitative alimony is limited to the lesser of 5 years or upon early completion of the rehabilitation plan.

- No durational alimony may be awarded if the marriage lasted fewer than 3 years.[44] Durational alimony may end upon retirement of the obligor (see discussion below). With two exceptions, durational alimony of a marriage of over 3 years is limited in duration to:
  - 50 percent of the length of the marriage if the length of the marriage was between 3 and 10 years.
  - 60 percent of the length of the marriage if the length of the marriage was between 10 and 20 years.
  - 75 percent of the length of the marriage if the length of the marriage was over 20 years.
- The two exceptions regarding the maximum length of durational alimony, which thereby allow durational alimony to extend beyond the maximum length above, only apply so long as there is a need for the special exception. The exceptions are:
  - Where the party seeking alimony is permanently mentally and physically disabled; or
  - Where the party seeking alimony is the full-time caregiver to a fully and permanently mentally or physically disabled child who is common to the parties.

The bill also changes durational alimony to:
- Limit the amount of durational alimony to the lesser of the obligee's reasonable need or no more than 35 percent of the difference between the parties' net incomes.
- Add that proof of a supportive relationship between the obligee and another person, at any time starting 180 days before the filing of the action for dissolution, may be considered by the court. The factors that a court must consider in finding whether a supportive relationship exists are the same factors used in current law applicable to a modification based on a supportive relationship.
- Repeal the requirement to show "exceptional circumstances" in order to modify the length of the alimony.
- Codify standards for retirement by an obligor (see retirement discussion below).

The term "net income" is defined by the bill as gross income[45] minus allowable deductions, which are:
- Federal, state, or local income tax deductions, adjusted for actual filing status and allowable dependents and income tax liabilities.
- Federal insurance contributions or self-employment tax.
- Mandatory union dues.
- Mandatory retirement payments.
- Health insurance payments, excluding payments for coverage of a minor child.
- Court-ordered support for other children which is actually paid.
- Spousal support paid pursuant to a court order from a previous marriage.

The bill makes the following additional changes to, and limits on, an alimony award:
- The court may not use potential Social Security benefits in calculating imputed income.

[44] The length of the marriage is calculated as follows: the time period starts on the date of the marriage, and ends on date of the filing of the petition for dissolution of the marriage.
[45] The bill references the definition of "gross income" in the child support law at s. 61.30(2), F.S. That subsection broadly includes all forms of income, including imputed income, but excluding public support payments.

- For a spouse to claim disability as grounds for not imputing income to that spouse, the spouse must either be actually qualified for federal Social Security benefits or must show that he or she would qualify as disabled under that program.
- The court must consider all alimony payments made prior to the final hearing, whether voluntary or court-ordered, when determining the amount and duration of alimony awarded in the final judgment of dissolution.
- The bill repeals the provision providing that an award of alimony may not leave the obligor with significantly less net income than the obligee, except with exceptional circumstances. Instead, the bill provides that, notwithstanding any other statute regarding alimony, alimony may not be awarded to a party who has a monthly net income that is equal to or more than the other party's monthly net income.

Retirement - Cases First Adjudicated After July 1, 2022

When an obligor reaches the Social Security full retirement age, durational alimony ends, provided that:

- Notice of retirement was personally served on the obligee, and his or her last known attorney of record if the attorney is still practicing law in the county, at least 1 year before the intended date of retirement.
- The obligee has not objected, or if the retirement was objected to, the court has approved the retirement.

Any of the following are grounds for objection to retirement:

- That the obligee's income after the modification or termination would be less than 130 percent of the federal poverty guidelines for a one-person household, as published by the United States Department of Health and Human Services, based on the obligee's income and investable assets, including any retirement assets from which the obligee can access income without incurring early withdrawal penalties.[46]
- That the party seeking alimony would be left with the inability to meet the basic needs and necessities of life, such as housing, utilities, food and transportation.
- That the retirement is a violation of the terms of the marital settlement agreement between the parties because the marital settlement agreement either does not allow for modification or termination of the alimony award or the proposed reduction in alimony does not comply with applicable terms for modification of alimony specified in the agreement.
- That the obligee is the full-time in-home caregiver to a fully and permanently mentally or physically disabled child who is common to the parties.
- That the obligee is permanently mentally or physically disabled and unable to provide for his or her own support, either partially or fully.

If the obligor continues to work beyond the noticed retirement date and earns active gross income of more than 50 percent of the 3 year average preretirement active gross income, the court must extend durational alimony to the end of its previously-ordered termination or the point at which the obligor reduces his or her active gross income to less than 50 percent.

[46] The 2022 HHS Poverty Guideline for a one-person household is $13,590. https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines. 130% of that figure is $17,667. The guidelines are adjusted annually.

The term "active gross income" generally means income from active work or self-employment and excludes investment and other passive income. Specifically, the bill defines "active gross income" as:

> Salary, wages, bonuses, commissions, allowances, overtime, tips, and other similar payments and business income from self-employment, partnership, close corporations, independent contracts, and other similar sources. For purposes of this definition, "business income" means gross receipts minus ordinary and necessary expenses required to produce income and requires that such business income be derived in a way that meets any of the material participation tests outlined in the Internal Revenue Service's Publication 925 (2020), Passive Activity and At-Risk Rules.

If a spouse has reached the Social Security full retirement age at the time of the final adjudication of the petition for dissolution of marriage, that spouse may not be ordered to pay any form of alimony to the other spouse unless one of these apply:

- The other spouse would, based on the outcome of the dissolution, have income less than 130 percent of the federal poverty guidelines for a one-person household;
- The obligee would be left with the inability to meet the obligee's basic needs and necessities of life, such as housing, utilities, food and transportation.
- The party seeking alimony is the full-time caregiver to a fully and permanently mentally or physically disabled child who is common to the parties;
- The party is permanently and mentally or physically disabled and as a result thereof is unable to provide for his or her own support, whether partially or fully; or
- The party is continuing to work and earn more than 50 percent of the active gross income average for the 3 years before achieving the retirement age, but only so long as he or she continues to earn more than the 50 percent.

Retirement - Modification of an Existing Award of Alimony

Within the 12 months before a planned retirement, an obligor may file a notice of retirement and intent to terminate alimony. A copy must be personally served on the obligee and his or her attorney if the attorney is still practicing law in the county. The obligee has 20 days after service to object to the retirement. Any of the following are grounds for objection:

- That the obligee's income after the modification or termination would be less than 130 percent of the federal poverty guidelines for a one-person household, as published by the United States Department of Health and Human Services, based on the obligee's income and investable assets, including any retirement assets from which the obligee can access income without incurring early withdrawal penalties.
- That the obligee would be left with the inability to meet the obligee's basic needs and necessities of life, such as housing, utilities, food and transportation.
- That the modification or termination is a violation of the terms of a marital settlement agreement between the parties because the marital settlement agreement either does not allow for modification or termination of the alimony award or the proposed reduction in alimony does not comply with applicable terms for modification or termination of alimony specified in the agreement.

- That the obligee is the full-time in-home caregiver to a fully and permanently mentally or physically disabled child who is common to the parties.
- That the obligee is permanently mentally or physically disabled and unable to provide for his or her own support, either partially or fully.

If any of these conditions exist, the court must make written findings and must consider the following factors when deciding whether to modify the length or amount of alimony:

- The duration of the marriage.
- The financial resources of the obligee, comparing them to those distributed at divorce and in light of how the obligee has managed those assets.
- The obligee's current assets and available sources of income, including retirement accounts not subject to a tax penalty for early withdrawal.[47]
- The effort and sacrifices of time and leisure that would be necessary for the obligor to continue to provide such alimony.
- Consideration of the presumption that the obligor has a right to retire when attaining full retirement age as per the Social Security Administration.
- The obligor's age and health.
- The terms of a marital settlement, if any, that govern modification of alimony.

Unless the obligee objects and the court rules in favor of the obligee:

- Durational alimony is decreased by 25 percent starting on the later of one year after the notice of intent to retire was filed or the date that the obligor reaches 65 years of age.
- Durational alimony is decreased an additional 25 percent (of the initial amount) each year thereafter until termination after 4 years.
- However, if the obligor continues to work beyond the retirement age, and in so working earns more than 50 percent of the 3-year average preretirement active gross income, the court may extend the length of alimony until the obligor reduces his or her active gross income below the 50 percent threshold.

Alternatively, an obligor may seek court permission for a reasonable retirement. A petition for reasonable retirement may be filed up to 12 months before the anticipated retirement. A person may seek reasonable retirement if he or she has reached age 65 or earlier if reasonable for his or her profession or line of work. If the court finds the retirement to be reasonable, the court may allow the retirement and thereby terminate alimony, unless it finds and puts in writing cause not to allow the retirement. In determining whether the retirement is reasonable, the court must consider these factors:

- The obligor's age and health.
- The obligor's motivation for retirement.
- The obligor's profession or line of work and the typical retirement age for that profession or line of work.

[47] "Generally, the amounts an individual withdraws from an IRA or retirement plan before reaching age 59½ are called 'early' or 'premature' distributions. Individuals must pay an additional 10% early withdrawal tax unless an exception applies." https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-tax-on-early-distributions (last viewed Feb. 23, 2022). The IRS recognizes 18 exceptions to the early withdrawal additional tax. The additional tax is referred to as additional because the withdrawal is ordinary income and thus is also subject to income tax.

- The impact that a termination or reduction of alimony would have on the obligee, considering assets of the obligee, income generated by such assets, retirement assets from which the obligee can access income without incurring early withdrawal penalties, and the obligee's role in the depletion or conservation of any assets.

The bill provides that new receipt of any Social Security, disability, or retirement payments by an obligee is considered a substantial change in circumstances that would allow the obligor to seek modification of alimony.

The bill further provides that agreements on alimony payments, whether voluntary or pursuant to a court order, which allow for modification or termination of alimony are considered agreements that are expressly modifiable or eligible for termination once the specified condition is met.

Modification or Termination of Alimony Based on a Supportive Relationship

The bill expands the qualification for the filing of a petition to modify or terminate alimony based on a supportive relationship to include the right to file the petition regarding a past relationship happening up to 180 days prior to filing the petition. If the court finds that a supportive relationship existed, the court may order equitable reimbursement of past alimony that was paid.

The bill provides that, upon proof that a supportive relationship, the obligee has the burden of proof to show that alimony should not be reduced or terminated. Thus, the bill effectively creates a presumption that alimony should be reduced or terminated if the obligee is involved in a supportive relationship.

The bill requires that a court make written findings regarding each of the factors regarding whether a supportive relationship exists.

The bill provides that a supportive relationship of the obligor is not actionable. Remarriage or cohabitation by the obligor is not grounds for either party to petition for modification of alimony.

Timesharing with Minor Children

The bill creates a rebuttable presumption that equal time-sharing between the parents is in the best interest of a child common to the parties. The parties may waive the presumption and agree on a different timesharing agreement.

The bill also provides that a parent's permanent relocation to a residence within 50 miles of the primary residence of the child is a substantial, material, and unanticipated change in circumstances.

Bifurcation of Dissolution of Marriage Case

Applicable to a petition for dissolution of marriage filed on or after July 1, 2022, the bill creates a statutory right to bifurcation of a dissolution of marriage case. Either party may request bifurcation if more than two years have elapsed since the respondent spouse was served with a summons. Unless the other party shows that irreparable harm will result from granting a final

judgment of dissolution of marriage, the court must grant the motion. Once granted, the court will enter a final judgment of dissolution of marriage with a reservation of jurisdiction to subsequently determine all other substantive issues.

Before granting the final dissolution reserving jurisdiction, if the court has not already done so, the court must enter temporary orders necessary to protect the parties and their children, which orders remain effective until all other issues can be adjudicated by the court.

Effective Date

The bill takes effect July 1, 2022, and applies to cases pending on that date, except that the bifurcation provision applies to cases filed on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in article VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Some commentators to the bill have alleged that the portions allowing for modification of alimony based on retirement of the payor are retroactive and thus "unconstitutional." Note that the bill does not make changes that would require the return of alimony paid in the past, only future alimony may be affected. The bill does not create a right to modify alimony based on retirement, it merely adds parameters to the existing right to modification. A party to an existing alimony award knew, or should have known, that alimony awards are generally modifiable in the future. The bill does not affect terms of a marital settlement agreement that the parties designated as non-modifiable. The bill does not appear to be retroactive or to impair existing contracts.

Additionally, courts have ruled that "legislation readjusting rights and burdens is not unlawful solely because it upsets otherwise settled expectations."[48] Even if found to be

[48] *Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 16 (1976).

retroactive, a retroactive civil legislation violates due process only if it is particularly "harsh and oppressive" or "arbitrary and irrational."[49]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. CS/CS/SB 1796 may reduce litigation costs by making alimony awards and timesharing orders more predictable.

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: 61.046, 61.08, 61.13, 61.14, and 61.19.

IX. Additional Information:

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

CS/CS by Rules on March 1, 2022:
The committee substitute adds that:

- Time-sharing with minor children is changed by creation of a presumption in favor of equal timesharing between parents;
- A noncustodial parent's move to within 50 miles of a child's primary residence is a substantial change in circumstances;
- The minimum age at which one may retire and seek modification of an alimony award is 65, unless the court finds the retirement qualifies as a reasonable retirement; and
- If the obligee would be left with the inability to meet the obligee's basic needs and necessities of life, including, but not limited to, housing, utilities, food, and

[49] *Pension Ben. Guar. Corp. v. R.A. Gray & Co.*, 467 U.S. 717, 733 (1984).

transportation, the court may refuse to modify the obligor's alimony obligation based on retirement.

CS by Judiciary on January 24, 2022:
The committee substitute removes a reference to "involuntary combat-related disability benefits" as an exception to income of a party; removes the priorities of the remaining types of income; removes the ability to agree to permanent alimony; repeals current law allowing evidence of adultery; removes new limit on rehabilitative alimony of one-half of the durational alimony limit; replaces references to "medically needy" in favor of "permanently disabled"; removes statutory prohibition on court considering the income and assets of a new spouse of the obligor; changes bifurcation period from one year to two years; and makes numerous technical, grammar and style changes.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/28/2022	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Substitute for Amendment (797882) (with title amendment)

Delete lines 316 - 625
and insert:
combination of the other forms of alimony, is insufficient.

(b) The amount of durational alimony is the amount determined to be the obligee's reasonable need or an amount not to exceed 35 percent of the difference between the parties' net incomes, whichever amount is less.



(c) In determining the length of an award of durational alimony, the court shall reduce the length of an award of durational alimony for the length of time during which the obligor made temporary support payments to the obligee, either voluntarily or pursuant to a court order, after the date of filing of a petition for dissolution of marriage.

(d) In determining the extent to which alimony should be granted because a supportive relationship exists or has existed between the party seeking alimony and another person who is not related by consanguinity or affinity at any time since 180 days before the filing of the petition of dissolution of marriage, the court shall consider all relevant factors presented concerning the nature and extent of the supportive relationship in question. The burden is on the obligor to prove by a preponderance of the evidence that a supportive relationship exists. If a supportive relationship is proven to exist, the burden shifts to the obligee to disprove by a preponderance of the evidence that the court should deny or reduce the initial award of alimony. The court must make written findings of fact concerning the circumstances of the supportive relationship, including, but not limited to, the factors set forth in s. 61.14(1)(b)2.

(e) In the event that the obligor reaches full retirement age as determined by the Social Security Administration before the end of the durational period indicated by paragraph (a), and has reached at least 65 years of age, the durational alimony shall end on such retirement date if all of the following conditions are met:

1. The obligor files a notice of retirement and intent to

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terminate alimony with the court and personally serves the alimony recipient and his or her last known attorney of record, if such attorney is still practicing in the same county, at least 1 year before the date that the obligor's retirement is intended to become effective.

2. The obligee has not contested the notice of retirement and intent to terminate alimony according to the factors specified in s. 61.14(12)(b) or the court has determined that such factors do not apply. If the court makes any of the findings specified in s. 61.14(12)(b), the court must consider and make written findings regarding the factors listed in s. 61.14(12)(c) to determine whether to extend the length of the alimony award as set forth in s. 61.08(8)(a).

However, if the obligor continues to work beyond his or her retirement age as provided under this paragraph and earns active gross income of more than 50 percent of the obligor's average preretirement annual active gross income for the 3 years preceding his or her retirement age, the court may extend alimony until the durational limitations established in this subsection have been satisfied or the obligor retires and reduces his or her active gross income below the 50 percent threshold established in this paragraph.

(9)(a) A party against whom alimony is sought who has attained his or her full retirement age as determined by the Social Security Administration before the adjudication of the petition for dissolution of marriage may not be ordered to pay bridge-the-gap, rehabilitative, or durational alimony, unless the court determines that:

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1. As a result of the dissolution of marriage, the party seeking alimony would have an income of less than 130 percent of the federal poverty guidelines for a one-person household, as published by the United States Department of Health and Human Services, based on the income and investable assets available after the dissolution is final, including any retirement assets from which the obligee can access income without incurring early withdrawal penalties;

2. The party seeking alimony would be left with the inability to meet his or her basic needs and necessities of life, including, but not limited to, housing, utilities, food, and transportation; or

3. The party seeking alimony is the full-time in-home caregiver to a fully and permanently mentally or physically disabled child who is common to the parties, or the party is permanently and mentally or physically disabled and unable to provide for his or her own support, either partially or fully.

(b) However, if the obligor continues to work beyond his or her retirement age as provided under this subsection and earns active gross income of more than 50 percent of the obligor's average preretirement annual active gross income for the 3 years preceding his or her retirement age, the court may award durational alimony until the durational limitations established in subsection (8) have been satisfied or the obligor retires and reduces his or her active gross income below the 50 percent threshold established in this paragraph.

(10) Notwithstanding any other law, alimony may not be awarded to a party who has a monthly net income that is equal to or more than the other party's monthly net income.

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(11) Social security retirement benefits may not be imputed to the obligor as demonstrated by a social security retirement benefits entitlement letter unless those benefits are actually being paid.

(12) If the obligee alleges that a physical disability has impaired his or her capability to earn income, the obligee must have qualified for benefits under the Social Security Administration Disability Insurance Program or, in the event the obligee is not eligible for the program, must demonstrate that his or her disability meets the disability qualification standards of the Social Security Administration Disability Insurance Program.

~~(8) Permanent alimony may be awarded to provide for the needs and necessities of life as they were established during the marriage of the parties for a party who lacks the financial ability to meet his or her needs and necessities of life following a dissolution of marriage. Permanent alimony may be awarded following a marriage of long duration if such an award is appropriate upon consideration of the factors set forth in subsection (2), following a marriage of moderate duration if such an award is appropriate based upon clear and convincing evidence after consideration of the factors set forth in subsection (2), or following a marriage of short duration if there are written findings of exceptional circumstances. In awarding permanent alimony, the court shall include a finding that no other form of alimony is fair and reasonable under the circumstances of the parties. An award of permanent alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. An award may be modified or~~


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~~terminated based upon a substantial change in circumstances or upon the existence of a supportive relationship in accordance with s. 61.14.~~

~~(9) The award of alimony may not leave the payor with significantly less net income than the net income of the recipient unless there are written findings of exceptional circumstances.~~

(13)(a) ~~(10)(a)~~ With respect to any order requiring the payment of alimony entered on or after January 1, 1985, unless ~~the provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the court shall direct in the order that the payments of alimony be made through the appropriate depository as provided in s. 61.181.

(b) With respect to any order requiring the payment of alimony entered before January 1, 1985, upon the subsequent appearance~~,~~ on or after that date~~,~~ of one or both parties before the court having jurisdiction for the purpose of modifying or enforcing the order or in any other proceeding related to the order~~,~~ or upon the application of either party, unless ~~the provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the court shall modify the terms of the order as necessary to direct that payments of alimony be made through the appropriate depository as provided in s. 61.181.

(c) If there is no minor child, alimony payments need not be directed through the depository.

(d)1. If there is a minor child of the parties and both parties so request, the court may order that alimony payments need not be directed through the depository. In this case, the order of support must ~~shall~~ provide, or be deemed to provide,

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that either party may subsequently apply to the depository to require that payments be made through the depository. The court shall provide a copy of the order to the depository.

2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~, either party may subsequently file with the depository an affidavit alleging default or arrearages in payment and stating that the party wishes to initiate participation in the depository program. The party shall provide copies of the affidavit to the court and the other party or parties. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments shall be directed to the depository.

3. In IV-D cases, the IV-D agency has ~~shall have~~ the same rights as the obligee in requesting that payments be made through the depository.

(14) The court shall apply this section to all petitions for dissolution of marriage which have not been adjudicated before July 1, 2022, and to any petitions for dissolution of marriage filed on or after July 1, 2022.

Section 3. Paragraph (c) of subsection (2) and subsection (3) of section 61.13, Florida Statutes, are amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(2)

(c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting plan



and time-sharing schedule requires a showing of a substantial, material, and unanticipated change of circumstances.

1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. Unless otherwise provided in this section or agreed to by the parties, there is a presumption that equal time-sharing of a minor child is in the best interests of the minor child who is common to the parties ~~Except as otherwise provided in this paragraph, there is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule~~ when creating or modifying the parenting plan of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. The following evidence creates a rebuttable presumption of detriment to the child:

a. A parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775;

b. A parent meets the criteria of s. 39.806(1)(d); or

c. A parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense:

(I) The parent was 18 years of age or older.

(II) The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

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If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

3. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child’s welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

4. The court shall order sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent if it is in the best interests of the minor child.

5. There is a rebuttable presumption against granting time-sharing with a minor child if a parent has been convicted of or



had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense:

a. The parent was 18 years of age or older.

b. The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

A parent may rebut the presumption upon a specific finding in writing by the court that the parent poses no significant risk of harm to the child and that time-sharing is in the best interests of the minor child. If the presumption is rebutted, the court shall consider all time-sharing factors in subsection (3) when developing a time-sharing schedule.

6. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

(3) For purposes of establishing or modifying parental responsibility and creating, developing, approving, or modifying a parenting plan, including a time-sharing schedule, which governs each parent’s relationship with his or her minor child and the relationship between each parent with regard to his or her minor child, the best interest of the child shall be the

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primary consideration. A determination of parental responsibility, a parenting plan, or a time-sharing schedule may not be modified without a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the best interests of the child. For purposes of the modification of a parenting plan and time-sharing schedule, a parent's permanent relocation to a residence within 50 miles of the primary residence of the child is presumed to be a substantial, material, and unanticipated change in circumstances. Determination of the best interests of the child shall be made by evaluating all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, but not limited to:

(a) The demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required.

(b) The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.

(c) The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent.

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(e) The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the



parenting plan. This factor does not create a presumption for or against relocation of either parent with a child.

(f) The moral fitness of the parents.

(g) The mental and physical health of the parents.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(j) The demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, but not limited to, the child's friends, teachers, medical care providers, daily activities, and favorite things.

(k) The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime.

(l) The demonstrated capacity of each parent to communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.

(m) Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, regardless of whether a prior or pending action relating to those issues has been brought. If the court accepts evidence of prior or pending actions regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect, the court must specifically acknowledge in writing that such evidence was



considered when evaluating the best interests of the child.

(n) Evidence that either parent has knowingly provided false information to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.

(o) The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.

(p) The demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.

(q) The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

(r) The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.

(s) The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.

(t) Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

Section 4. Paragraph (b) of subsection (1) of section

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61.14, Florida Statutes, is amended, and paragraph (c) is added to subsection (11) of that section, and subsections (12), (13), and (14) are added to that section, to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(1)

(b)1. The court may reduce or terminate an award of alimony or order reimbursement to the obligor for any amount the court determines is equitable upon specific written findings by the court that since the granting of a divorce and the award of alimony, a supportive relationship exists or ~~has~~ existed between the obligee and another ~~a~~ person at any time during the 180 days before the filing of a petition for modification of alimony ~~with whom the obligee resides~~. On the issue of whether alimony should be reduced or terminated under this paragraph, the burden is on the obligor to prove by a preponderance of the evidence that a supportive relationship exists or existed. If a supportive relationship is proven to exist or have existed, the burden shifts to the obligee to disprove, by a preponderance of the evidence, that the court should terminate an existing award of alimony.

2. In determining the extent to which ~~whether~~ an existing award of alimony should be reduced or terminated because of an alleged supportive relationship between an obligee and a person who is not related by consanguinity or affinity ~~and with whom the obligee resides~~, the court must make written findings of fact concerning the nature and the extent of the supportive relationship in question and the circumstances of the supportive relationship, including, but not limited to, the following



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factors ~~shall elicit the nature and extent of the relationship in question. The court shall give consideration, without limitation, to circumstances, including, but not limited to, the following, in determining the relationship of an obligee to another person~~:

a. The extent to which the obligee and the other person have held themselves out as a married couple by engaging in conduct such as using the same last name, using a common mailing address, referring to each other in terms such as "my husband" or "my wife," or otherwise conducting themselves in a manner that evidences a permanent supportive relationship.

b. The period of time that the obligee has resided with the other person in a permanent place of abode.

c. The extent to which the obligee and the other person have pooled their assets or income or otherwise exhibited financial interdependence.

d. The extent to which the obligee or the other person has supported the other, in whole or in part.

e. The extent to which the obligee or the other person has performed valuable services for the other.

f. The extent to which the obligee or the other person has performed valuable services for the other's company or employer.

g. Whether the obligee and the other person have worked together to create or enhance anything of value.

h. Whether the obligee and the other person have jointly contributed to the purchase of any real or personal property.

i. Evidence in support of a claim that the obligee and the other person have an express agreement regarding property sharing or support.

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j. Evidence in support of a claim that the obligee and the other person have an implied agreement regarding property sharing or support.

k. Whether the obligee and the other person have provided support to the children of one another, regardless of any legal duty to do so.

3. This paragraph does not abrogate the requirement that every marriage in this state be solemnized under a license, does not recognize a common law marriage as valid, and does not recognize a de facto marriage. This paragraph recognizes only that relationships do exist that provide economic support equivalent to a marriage and that alimony terminable on remarriage may be reduced or terminated upon the establishment of equivalent equitable circumstances as described in this paragraph. The existence of a conjugal relationship, though it may be relevant to the nature and extent of the relationship, is not necessary for the application of the provisions of this paragraph.

(11)

(c) An obligor's subsequent remarriage or cohabitation does not constitute a basis for either party to seek a modification of an alimony award.

(12)(a) Up to 12 months before seeking to terminate alimony as provided under this section, an obligor may file a notice of retirement and intent to terminate alimony with the court and shall personally serve the obligee and his or her last known attorney of record, if such attorney is still practicing in the same county, with such notice.

(b) The obligee shall have 20 days after the date of

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service of the notice to request the court to enter findings that as of the date of filing of the notice:

1. The reduction or termination of alimony would result in any of the following:

a. The obligee's income would be less than 130 percent of the federal poverty guidelines for a one-person household, as published by the United States Department of Health and Human Services, based on the obligee's income and investable assets, including any retirement assets from which the obligee can access income without incurring early withdrawal penalties.

b. The obligee would be left with the inability to meet the obligee's basic needs and necessities of life, including, but not limited to, housing, utilities, food, and transportation.

c. A violation of the terms of the marital settlement agreement between the parties because the marital settlement agreement either does not allow for modification or termination of the alimony award or the proposed reduction in alimony does not comply with applicable terms for modification of alimony specified in the agreement;

2. The obligee is the full-time in-home caregiver to a fully and permanently mentally or physically disabled child who is common to the parties; or

3. The obligee is permanently mentally or physically disabled and unable to provide for his or her own support, either partially or fully.

(c) If the court makes any of the findings specified in paragraph (b), the court must consider and make written findings regarding the following factors when deciding whether to reduce either the amount or duration of alimony:

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1. The duration of the marriage.

2. The financial resources of the obligee, including the nonmarital and marital assets and liabilities distributed to the obligee, as well as the obligee's role in conserving or depleting the marital assets distributed at the dissolution of marriage.

3. The sources of income available to the obligee, including income available to the obligee through investments of any asset, including retirement assets from which the obligee can access income without incurring early withdrawal penalties.

4. The effort and sacrifices of time and leisure necessary for the obligor to continue to provide such alimony and consideration of the presumption that the obligor has a right to retire when attaining full retirement age as per the Social Security Administration.

5. The age and health of the obligor.

6. The terms of the marital settlement agreement between the parties which govern modification of alimony.

(d) If the court does not make any of the findings specified in paragraph (b), the alimony award amount shall decrease by 25 percent on the date the obligor reaches 65 years of age or 1 year after the date on which the notice of retirement and intent to terminate alimony is filed, whichever occurs later, and shall continue to decrease by 25 percent each year thereafter until the date the obligor reaches 68 years of age or 4 years after the date on which the notice is filed, whichever occurs later, at which time alimony shall terminate.

(e) Notwithstanding paragraphs (a)-(d), if the obligor continues to work beyond full retirement age as determined by

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the United States Social Security Administration or beyond the reasonable retirement age for his or her profession or line of work as determined in paragraph (f), whichever occurs earlier, and earns active gross income of more than 50 percent of the obligor's average preretirement annual active gross income for the 3 years preceding his or her retirement age, actual retirement date, or reasonable retirement age, as applicable, the court may extend alimony until the obligor retires and reduces his or her active gross income below the 50 percent active gross income threshold established under this paragraph.

(f) If an obligor, so long as he or she is older than 65 years of age, seeks to retire at an age that is

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

And the title is amended as follows:

Between lines 61 and 62

insert:

s. 61.13, F.S.; creating a presumption that equal time-sharing is in the best interest of the child, with exceptions; creating a presumption for purposes of modifying a parenting plan or time-sharing schedule; amending

By the Committee on Judiciary; and Senators Gruters, Rodriguez, Hooper, and Diaz

A bill to be entitled

An act relating to dissolution of marriage; amending s. 61.046, F.S.; defining the term "active gross income"; revising the definition of the term "income"; amending s. 61.08, F.S.; defining terms; requiring the court to make certain written findings in its awards of alimony; limiting the court's ability to award a combination of forms of alimony to only certain circumstances; removing the court's ability to consider adultery of either spouse in determining the amount of an alimony award; requiring the court to make certain findings in writing; revising factors that the court must consider in determining the proper type and amount of alimony; removing the court's ability to order an obligor to purchase or maintain a life insurance policy or other instrument to secure an alimony award; authorizing a party to whom the court has awarded alimony to purchase or maintain a life insurance policy on the obligor's life to protect an award of alimony; requiring the obligor to cooperate in the process of procuring the life insurance policy; modifying certain rebuttable presumptions related to the duration of a marriage for purposes of determining alimony; prohibiting the length of an award of rehabilitative alimony from exceeding a specified timeframe; revising a provision authorizing the modification of rehabilitative alimony upon completion of the rehabilitative plan to include a certain condition; revising provisions related to durational

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alimony; prohibiting the length of an award of durational alimony from exceeding specified timeframes; authorizing the court to extend durational alimony under certain circumstances; specifying what constitutes the length of a marriage for the purpose of determining durational alimony; requiring the court to make certain written findings when awarding durational alimony; providing a formula for the calculation of durational alimony; requiring the court to reduce the length of an award of durational alimony based on certain payments made by the obligor; requiring the court to consider specified factors when determining an alimony award involving the existence of a supportive relationship between the obligee and another person; providing for the burden of proof in such determinations; requiring the court to make certain written findings in such determinations ; providing for the termination of a durational alimony award upon retirement of the obligor under certain circumstances; providing an exception; providing that a party who has reached retirement age before adjudication of a petition for dissolution of marriage may not be ordered to pay alimony; providing exceptions; establishing that alimony may not be awarded to a party who has a certain monthly net income; prohibiting social security retirement benefits from being imputed to the obligor, with an exception; requiring an obligee to meet certain requirements if he or she alleges that a physical

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disability has impaired his or her ability to earn income; removing the court's ability to grant permanent alimony; providing applicability; amending s. 61.14, F.S.; authorizing the court to order an obligee to reimburse alimony payments to the obligor under certain circumstances; specifying a timeframe for the court to consider a supportive relationship between the obligee and another person for purposes of reducing or terminating an award of alimony or ordering reimbursement of alimony payments; providing for the burden of proof in such determinations; revising factors the court may consider when determining whether a supportive relationship exists or existed between the obligee and another person; requiring the court to make its findings related to such factors in writing; providing that an obligor's subsequent remarriage or cohabitation is not a basis for modification of alimony; authorizing an obligor to file a notice of retirement and intent to terminate alimony within a specified timeframe before such retirement; providing notice and response requirements; requiring the court to make written findings regarding specified factors when deciding whether to reduce the amount or duration of alimony; providing for the reduction and termination of alimony within specified timeframes under certain circumstances; authorizing the court to extend durational alimony beyond an obligor's full retirement age or reasonable retirement age for his or her

profession or line of work under certain circumstances, notwithstanding its other findings; authorizing the court to terminate an alimony obligation if the obligor retires at a reasonable age for his or her profession or line of work or is past his or her full retirement age; requiring the court to consider certain factors in determining whether the obligor's retirement is reasonable; authorizing an obligor to prospectively file a petition for modification or termination of alimony, effective upon his or her retirement; requiring a court to modify or terminate an alimony award upon retirement of the obligor, with an exception; providing that certain benefits of the obligee constitute a change in circumstances for which an obligor may seek modification of an alimony award; providing that certain agreements on alimony payments are considered expressly modifiable or eligible for termination under certain circumstances; amending s. 61.19, F.S.; requiring the court to grant, upon request of either party, a final judgment of dissolution of marriage and reserve jurisdiction to adjudicate other substantive issues, under certain circumstances; requiring the court to enter temporary orders necessary to protect the parties and their children, if any; providing that such temporary orders are effective until all other issues are adjudicated by the court; providing applicability; providing an effective date.

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

Section 1. Present subsections (1) through (23) of section 61.046, Florida Statutes, are redesignated as subsections (2) through (24), respectively, a new subsection (1) is added to that section, and present subsection (8) of that section is amended, to read:

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

(1) "Active gross income" means salary, wages, bonuses, commissions, allowances, overtime, tips, and other similar payments and business income from self-employment, partnership, close corporations, independent contracts, and other similar sources. For purposes of this definition, "business income" means gross receipts minus ordinary and necessary expenses required to produce income and requires that such business income be derived in a way that meets any of the material participation tests outlined in the Internal Revenue Service's Publication 925 (2020), Passive Activity and At-Risk Rules.

(9)~~(8)~~ "Income" means any form of payment to an individual, regardless of source, including, but not limited to,~~:~~ wages, salary, commissions and bonuses, compensation as an independent contractor, worker's compensation, disability benefits, annuity and retirement benefits, pensions, dividends, interest, royalties, trust distributions ~~trusts~~, and any other payments, made by any person, private entity, federal or state government, or any unit of local government. United States Department of Veterans Affairs disability benefits and reemployment assistance or unemployment compensation, as defined in chapter 443, are excluded from this definition of income except for purposes of

establishing an amount of support.

Section 2. Section 61.08, Florida Statutes, is amended to read:

61.08 Alimony.—

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

(a) "Alimony" means a court-ordered or voluntary payment of support by one spouse to the other spouse. The term includes any voluntary payment made after the date of filing an order for maintenance, spousal support, temporary support, or separate support when the payment is not intended for the benefit of a child in common.

(b) "Gross income" means gross income as determined in accordance with s. 61.30(2).

(c) "Net income" means income that is determined by subtracting allowable deductions from gross income. For purposes of this section, allowable deductions include any of the following:

1. Federal, state, or local income tax deductions, adjusted for actual filing status and allowable dependents, and income tax liabilities.

2. Federal insurance contributions or self-employment tax.

3. Mandatory union dues.

4. Mandatory retirement payments.

5. Health insurance payments, excluding payments for coverage of a minor child.

6. Court-ordered support for other children which is actually paid.

7. Spousal support paid pursuant to a court order from a previous marriage.

(2)(a) In a proceeding for dissolution of marriage, the court may grant alimony to either party in the form of~~, which alimony may be~~ bridge-the-gap, rehabilitative, or durational alimony, or a ~~permanent in nature or any~~ combination of these forms of alimony. In an ~~any~~ award of alimony, the court may order periodic payments, ~~or~~ payments in lump sum, or both.

(b) The court shall make written findings regarding the basis for awarding a combination of forms of alimony, including the type of alimony and the length of time for which the alimony is awarded. The court may award a combination of forms of alimony only to provide greater economic assistance in order to allow the recipient to achieve rehabilitation.

(c) ~~The court may consider the adultery of either spouse and the circumstances thereof in determining the amount of alimony, if any, to be awarded.~~ In all dissolution actions, the court shall include written findings of fact relative to the factors provided ~~enumerated~~ in subsection (3) ~~(2)~~ supporting the ~~an~~ award or denial of alimony.

(3)~~(2)~~ In determining whether to award alimony or maintenance, the court shall first make a specific, written factual determination as to whether the ~~either~~ party seeking alimony or maintenance has an actual need for it ~~alimony or maintenance~~ and whether the other ~~either~~ party has the ability to pay alimony or maintenance. If the court finds that the ~~a~~ party seeking alimony or maintenance has a need for it ~~alimony or maintenance~~ and that the other party has the ability to pay alimony or maintenance, then in determining the proper type and amount of alimony or maintenance under subsections (5)-(9) ~~(5)-(8)~~, the court must ~~shall~~ consider all relevant factors,

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including, but not limited to:

(a) The standard of living established during the marriage, including the needs and necessities of life for each party after the dissolution of marriage, taking into consideration the presumption that both parties will have a lower standard of living after the dissolution of marriage than their standard of living during the marriage. This presumption may be overcome by a preponderance of the evidence.

(b) The duration of the marriage.

(c) The age and the physical and emotional condition of each party.

(d) The financial resources of each party, including the nonmarital and the marital assets and liabilities distributed to each.

(e) The earning capacities, educational levels, vocational skills, and employability of the parties and, when applicable, the time necessary for either party to acquire sufficient education or training to enable such party to find appropriate employment.

(f) The contribution of each party to the marriage, including, but not limited to, services rendered in homemaking, child care, education, and career building of either ~~the other~~ party.

(g) The responsibilities each party will have with regard to any minor children whom the parties ~~they~~ have in common.

(h) The tax treatment and consequences to both parties of an ~~any~~ alimony award~~, including the designation of all or a portion of the payment as a nontaxable, nondeductible payment~~.

(i) All sources of income available to either party,

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including income available to either party through investments of any asset held by that party.

(j) Any other factor necessary for ~~to do~~ equity and justice between the parties, if such factor is specifically identified in the award with findings of fact justifying the application of such factor.

(4)~~(3)~~ To the extent necessary to protect an award of alimony, the obligee may ~~court may order any party who is ordered to pay alimony to~~ purchase or maintain a life insurance policy on the obligor's life in an amount adequate to ~~or a bond, or to otherwise~~ secure such alimony award. If the obligee purchases a life insurance policy, the obligor must cooperate in the process of procuring the issuance and underwriting of the life insurance policy ~~with any other assets which may be suitable for that purpose~~.

(5)~~(4)~~ For purposes of determining alimony, there is a rebuttable presumption that a short-term marriage is a marriage having a duration of less than 10 ~~7~~ years, a moderate-term marriage is a marriage having a duration between 10 ~~of greater than 7 years~~ and 20 ~~but less than 17~~ years, and a long-term marriage is a marriage having a duration of 20 ~~17~~ years or longer ~~greater~~. The length of a marriage is the period of time from the date of marriage until the date of filing of an action for dissolution of marriage.

(6)~~(5)~~ Bridge-the-gap alimony may be awarded to assist a party by providing support to allow the party to make a transition from being married to being single. Bridge-the-gap alimony is designed to assist a party with legitimate identifiable short-term needs, and the length of an award of

bridge-the-gap alimony may not exceed 2 years. An award of bridge-the-gap alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. An award of bridge-the-gap alimony is ~~shall~~ not ~~be~~ modifiable in amount or duration.

(7)(a)~~(6)(a)~~ Rehabilitative alimony may be awarded to assist a party in establishing the capacity for self-support through either:

1. The redevelopment of previous skills or credentials; or

2. The acquisition of education, training, or work experience necessary to develop appropriate employment skills or credentials.

(b) In order to award rehabilitative alimony, there must be a specific and defined rehabilitative plan which shall be included as a part of any order awarding rehabilitative alimony.

(c) The length of an award of rehabilitative alimony may not exceed 5 years.

(d) An award of rehabilitative alimony may be modified or terminated in accordance with s. 61.14 based upon a substantial change in circumstances, upon noncompliance with the rehabilitative plan, or upon completion of the rehabilitative plan if the plan is completed before the length of the award of rehabilitative alimony expires.

(8)(a)~~(7)~~ Durational alimony may be awarded ~~when permanent periodic alimony is inappropriate. The purpose of durational alimony is~~ to provide a party with economic assistance for a set period of time ~~following a marriage of short or moderate duration or following a marriage of long duration if there is no ongoing need for support on a permanent basis~~. An award of

durational alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. The amount of an award of durational alimony may be modified or terminated based upon a substantial change in circumstances in accordance with s. 61.14. Durational alimony may not be awarded following a marriage lasting fewer than 3 years. ~~However,~~ The length of an award of durational alimony may not ~~be modified except under exceptional circumstances and may not~~ exceed 50 percent of the length of a ~~the~~ marriage lasting between 3 and 10 years, 60 percent of the length of a marriage lasting between 10 and 20 years, or 75 percent of the length of a marriage lasting 20 years or longer. However, if the party seeking alimony is either permanently mentally or physically disabled and unable to provide for his or her own support, either partially or fully, or is the full-time in-home caregiver to a fully and permanently mentally or physically disabled child who is common to the parties, the court may extend durational alimony beyond the thresholds established in this subsection based on the duration of the marriage until the death of the child or until the court determines that there is no longer a need for durational alimony. For purposes of this subsection, the length of a marriage is the period of time beginning on the date of marriage and ending on the date an action for dissolution of marriage is filed. When awarding durational alimony, the court must make written findings that an award of another type of alimony, or a combination of the other forms of alimony, is not appropriate.

(b) The amount of durational alimony is the amount determined to be the obligee's reasonable need or an amount not to exceed 35 percent of the difference between the parties' net

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incomes, whichever amount is less.

(c) In determining the length of an award of durational alimony, the court shall reduce the length of an award of durational alimony for the length of time during which the obligor made temporary support payments to the obligee, either voluntarily or pursuant to a court order, after the date of filing of a petition for dissolution of marriage.

(d) In determining the extent to which alimony should be granted because a supportive relationship exists or has existed between the party seeking alimony and another person who is not related by consanguinity or affinity at any time since 180 days before the filing of the petition of dissolution of marriage, the court shall consider all relevant factors presented concerning the nature and extent of the supportive relationship in question. The burden is on the obligor to prove by a preponderance of the evidence that a supportive relationship exists. If a supportive relationship is proven to exist, the burden shifts to the obligee to disprove by a preponderance of the evidence that the court should deny or reduce the initial award of alimony. The court must make written finding of fact concerning the circumstances of the supportive relationship, including, but not limited to, the factors set forth in s. 61.14(1)(b)2.

(e) In the event that the obligor reaches full retirement age as determined by the Social Security Administration or the customary retirement age for his or her profession before the end of the durational period indicated by paragraph (a), the durational alimony shall end on such retirement date if all of the following conditions are met:

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1. The obligor files a notice of retirement and intent to terminate alimony with the court and personally serves the alimony recipient or his or her last known attorney of record at least 1 year before the date that the obligor's retirement is intended to become effective.

2. The obligee has not contested the notice of retirement and intent to terminate alimony according to the factors specified in s. 61.14(12)(b) or the court has determined that such factors do not apply. If the court makes any of the findings specified in s. 61.14(12)(b), the court must consider and make written findings regarding the factors listed in s. 61.14(12)(c) to determine whether to extend the length of the alimony award as set forth in s. 61.08(8)(a).

However, if the obligor continues to work beyond his or her retirement age as provided under this paragraph and earns active gross income of more than 50 percent of the obligor's average preretirement annual active gross income for the 3 years preceding his or her retirement age, the court may extend alimony until the durational limitations established in this subsection have been satisfied or the obligor retires and reduces his or her active gross income below the 50 percent threshold established in this paragraph.

(9) A party against whom alimony is sought who has attained his or her full retirement age as determined by the Social Security Administration before the adjudication of the petition for dissolution of marriage may not be ordered to pay bridge-the-gap, rehabilitative, or durational alimony, unless the court determines that:

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(a) The party seeking alimony has not reached the age to qualify for any social security retirement benefits; and

(b)1. As a result of the dissolution of marriage, the party seeking alimony would have an income less than 130 percent of the federal poverty guidelines for a one-person household, as published by the United States Department of Health and Human Services, based on the income and investable assets available after the dissolution is final, including any retirement assets from which the obligee can access income without incurring early withdrawal penalties; or

2. The party seeking alimony is the full-time in-home caregiver to a fully and permanently mentally or physically disabled child who is common to the parties, or the party is permanently and mentally or physically disabled and unable to provide for his or her own support, either partially or fully.

(10) Notwithstanding any other law, alimony may not be awarded to a party who has a monthly net income that is equal to or more than the other party's monthly net income.

(11) Social security retirement benefits may not be imputed to the obligor as demonstrated by a social security retirement benefits entitlement letter unless those benefits are actually being paid.

(12) If the obligee alleges that a physical disability has impaired his or her capability to earn income, the obligee must have qualified for benefits under the Social Security Administration Disability Insurance Program or, in the event the obligee is not eligible for the program, must demonstrate that his or her disability meets the disability qualification standards of the Social Security Administration Disability

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Insurance Program.

~~(8) Permanent alimony may be awarded to provide for the needs and necessities of life as they were established during the marriage of the parties for a party who lacks the financial ability to meet his or her needs and necessities of life following a dissolution of marriage. Permanent alimony may be awarded following a marriage of long duration if such an award is appropriate upon consideration of the factors set forth in subsection (2), following a marriage of moderate duration if such an award is appropriate based upon clear and convincing evidence after consideration of the factors set forth in subsection (2), or following a marriage of short duration if there are written findings of exceptional circumstances. In awarding permanent alimony, the court shall include a finding that no other form of alimony is fair and reasonable under the circumstances of the parties. An award of permanent alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. An award may be modified or terminated based upon a substantial change in circumstances or upon the existence of a supportive relationship in accordance with s. 61.14.~~

~~(9) The award of alimony may not leave the payor with significantly less net income than the net income of the recipient unless there are written findings of exceptional circumstances.~~

(13)(a) ~~(10)(a)~~ With respect to any order requiring the payment of alimony entered on or after January 1, 1985, unless ~~the provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the court shall direct in the order that the payments of alimony

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be made through the appropriate depository as provided in s. 61.181.

(b) With respect to any order requiring the payment of alimony entered before January 1, 1985, upon the subsequent appearance~~,~~ on or after that date~~,~~ of one or both parties before the court having jurisdiction for the purpose of modifying or enforcing the order or in any other proceeding related to the order~~,~~ or upon the application of either party, unless ~~the provisions of~~ paragraph (c) or paragraph (d) applies ~~apply~~, the court shall modify the terms of the order as necessary to direct that payments of alimony be made through the appropriate depository as provided in s. 61.181.

(c) If there is no minor child, alimony payments need not be directed through the depository.

(d)1. If there is a minor child of the parties and both parties so request, the court may order that alimony payments need not be directed through the depository. In this case, the order of support must ~~shall~~ provide, or be deemed to provide, that either party may subsequently apply to the depository to require that payments be made through the depository. The court shall provide a copy of the order to the depository.

2. If ~~the provisions of~~ subparagraph 1. applies ~~apply~~, either party may subsequently file with the depository an affidavit alleging default or arrearages in payment and stating that the party wishes to initiate participation in the depository program. The party shall provide copies of the affidavit to the court and the other party or parties. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments shall be directed to the

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depository.

3. In IV-D cases, the IV-D agency has ~~shall have~~ the same rights as the obligee in requesting that payments be made through the depository.

(14) The court shall apply this section to all petitions for dissolution of marriage which have not been adjudicated before July 1, 2022, and to any petitions for dissolution of marriage filed on or after July 1, 2022.

Section 3. Paragraph (b) of subsection (1) of section 61.14, Florida Statutes, is amended, and paragraph (c) is added to subsection (11) and subsections (12), (13), and (14) are added to that section, to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(1)

(b)1. The court may reduce or terminate an award of alimony or order reimbursement to the obligor for any amount the court determines is equitable upon specific written findings by the court that since the granting of a divorce and the award of alimony, a supportive relationship exists or ~~has~~ existed between the obligee and another ~~a~~ person at any time during the 180 days before the filing of a petition for modification of alimony ~~with whom the obligee resides~~. On the issue of whether alimony should be reduced or terminated under this paragraph, the burden is on the obligor to prove by a preponderance of the evidence that a supportive relationship exists or existed. If a supportive relationship is proven to exist or have existed, the burden shifts to the obligee to disprove, by a preponderance of the evidence, that the court should terminate an existing award of

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alimony.

2. In determining the extent to which ~~whether~~ an existing award of alimony should be reduced or terminated because of an alleged supportive relationship between an obligee and a person who is not related by consanguinity or affinity ~~and with whom the obligee resides~~, the court must make written findings of fact concerning the nature and the extent of the supportive relationship in question and the circumstances of the supportive relationship, including, but not limited to, the following factors ~~shall elicit the nature and extent of the relationship in question. The court shall give consideration, without limitation, to circumstances, including, but not limited to, the following, in determining the relationship of an obligee to another person~~:

a. The extent to which the obligee and the other person have held themselves out as a married couple by engaging in conduct such as using the same last name, using a common mailing address, referring to each other in terms such as "my husband" or "my wife," or otherwise conducting themselves in a manner that evidences a permanent supportive relationship.

b. The period of time that the obligee has resided with the other person in a permanent place of abode.

c. The extent to which the obligee and the other person have pooled their assets or income or otherwise exhibited financial interdependence.

d. The extent to which the obligee or the other person has supported the other, in whole or in part.

e. The extent to which the obligee or the other person has performed valuable services for the other.

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f. The extent to which the obligee or the other person has performed valuable services for the other's company or employer.

g. Whether the obligee and the other person have worked together to create or enhance anything of value.

h. Whether the obligee and the other person have jointly contributed to the purchase of any real or personal property.

i. Evidence in support of a claim that the obligee and the other person have an express agreement regarding property sharing or support.

j. Evidence in support of a claim that the obligee and the other person have an implied agreement regarding property sharing or support.

k. Whether the obligee and the other person have provided support to the children of one another, regardless of any legal duty to do so.

3. This paragraph does not abrogate the requirement that every marriage in this state be solemnized under a license, does not recognize a common law marriage as valid, and does not recognize a de facto marriage. This paragraph recognizes only that relationships do exist that provide economic support equivalent to a marriage and that alimony terminable on remarriage may be reduced or terminated upon the establishment of equivalent equitable circumstances as described in this paragraph. The existence of a conjugal relationship, though it may be relevant to the nature and extent of the relationship, is not necessary for the application of the provisions of this paragraph.

(11)

(c) An obligor's subsequent remarriage or cohabitation does

not constitute a basis for either party to seek a modification of an alimony award.

(12)(a) Up to 12 months before seeking to terminate alimony as provided under this section, an obligor may file a notice of retirement and intent to terminate alimony with the court and shall personally serve the obligee or his or her last known attorney of record with such notice.

(b) The obligee shall have 20 days after the date of service of the notice to request the court to enter findings that as of the date of filing of the notice:

1. The reduction or termination of alimony would result in any of the following:

a. The obligee's income would be less than 130 percent of the federal poverty guidelines for a one-person household, as published by the United States Department of Health and Human Services, based on the obligee's income and investable assets, including any retirement assets from which the obligee can access income without incurring early withdrawal penalties.

b. A violation of the terms of the marital settlement agreement between the parties because the marital settlement agreement either does not allow for modification or termination of the alimony award or the proposed reduction in alimony does not comply with applicable terms for modification of alimony specified in the agreement;

2. The obligee is the full-time in-home caregiver to a fully and permanently mentally or physically disabled child who is common to the parties; or

3. The obligee is permanently mentally or physically disabled and unable to provide for his or her own support,

either partially or fully.

(c) If the court makes any of the findings specified in paragraph (b), the court must consider and make written findings regarding the following factors when deciding whether to reduce either the amount or duration of alimony:

1. The duration of the marriage.

2. The financial resources of the obligee, including the nonmarital and marital assets and liabilities distributed to the obligee, as well as the obligee's role in conserving or depleting the marital assets distributed at the dissolution of marriage.

3. The sources of income available to the obligee, including income available to the obligee through investments of any asset, including retirement assets from which the obligee can access income without incurring early withdrawal penalties.

4. The effort and sacrifices of time and leisure necessary for the obligor to continue to provide such alimony and consideration of the presumption that the obligor has a right to retire when attaining full retirement age as per the Social Security Administration.

5. The age and health of the obligor.

6. The terms of the marital settlement agreement between the parties which govern modification of alimony.

(d) If the court does not make any of the findings specified in paragraph (b), the alimony award amount shall decrease by 25 percent on the date the obligor reaches 65 years of age or 1 year after the date on which the notice of retirement and intent to terminate alimony is filed, whichever occurs later, and shall continue to decrease by 25 percent each

year thereafter until the date the obligor reaches 68 years of age or 4 years after the date on which the notice is filed, whichever occurs later, at which time alimony shall terminate.

(e) Notwithstanding paragraphs (a)-(d), if the obligor continues to work beyond full retirement age as determined by the United States Social Security Administration or beyond the reasonable retirement age for his or her profession or line of work as determined in paragraph (f), whichever occurs earlier, and earns active gross income of more than 50 percent of the obligor's average preretirement annual active gross income for the 3 years preceding his or her retirement age, actual retirement date, or reasonable retirement age, as applicable, the court may extend alimony until the obligor retires and reduces his or her active gross income below the 50 percent active gross income threshold established under this paragraph.

(f) If an obligor seeks to retire at an age that is reasonable for his or her profession or line of work, but before he or she reaches 65 years of age, or if the obligor is past his or her full retirement age as determined by the Social Security Administration, the court may terminate an alimony award if it determines that the obligor's retirement is reasonable. In determining whether the obligor's retirement is reasonable, the court shall consider all of the following:

1. The obligor's age and health.

2. The obligor's motivation for retirement.

3. The obligor's profession or line of work and the typical retirement age for that profession or line of work.

4. The impact that a termination or reduction of alimony would have on the obligee. In determining the impact, the court

must consider any assets accumulated or received by the obligee since the final judgment of dissolution of marriage, including any income generated by such assets and retirement assets from which the obligee can access income without incurring early withdrawal penalties, and the obligee's role in the depletion or conservation of any assets.

(g) Up to 12 months before the obligor's anticipated retirement under paragraph (f), the obligor may file a petition to modify or terminate the alimony award, effective upon his or her actual retirement date. The court shall modify or terminate the alimony award after the obligor's retirement unless the court makes written findings of fact under paragraph (f) that the obligor's retirement is not reasonable.

(13) Any amount of social security or disability benefits or retirement payments received by an obligee subsequent to an initial award of alimony constitutes a change in circumstances for which an obligor may seek modification of an alimony award.

(14) Agreements on alimony payments, voluntary or pursuant to a court order, which allow for modification or termination of alimony by virtue of either party reaching a certain age, income, or other threshold, or agreements that establish a limited period of time after which alimony is modifiable, are considered agreements that are expressly modifiable or eligible for termination for purposes of this section once the specified condition is met.

Section 4. Section 61.19, Florida Statutes, is amended to read:

61.19 Entry of judgment of dissolution of marriage; ~~,~~ delay period; separate adjudication of issues.—

(1) A ~~No~~ final judgment of dissolution of marriage may not be entered until at least 20 days have elapsed from the date of filing the original petition for dissolution of marriage, ~~,~~ but the court, on a showing that injustice would result from this delay, may enter a final judgment of dissolution of marriage at an earlier date.

(2) If more than 2 years have elapsed after the date of service of the original petition for dissolution of marriage, absent a showing by either party that irreparable harm will result from granting a final judgment of dissolution of marriage, the court shall, upon request of either party, grant a final judgment of dissolution of marriage with a reservation of jurisdiction to subsequently determine all other substantive issues. Before granting the judgment, the court shall enter temporary orders necessary to protect the parties and their children, if any, which orders remain effective until all other issues are adjudicated by the court. This subsection applies to all petitions for dissolution of marriage filed on or after July 1, 2022.

Section 5. The court shall apply this act to any action pending on or after July 1, 2022.

Section 6. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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3-1-22
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carla McAuliffe

Phone 954-553-0539

Address 346 Oakridge T
Street

Email CarlaMcAuliffe@Yahoo.com

Deerfield Bch FL. 33442
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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March 1, 2022
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shelly Moxon

Phone

Address
Street

Email

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

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3/1/22
Meeting Date

RULES
Committee

1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Natalie Willis

Phone 561 346-4219

Address 8714 Thousand Pines Cir

Email nsobgyn@aol.com

Street

WPB FL 33411

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:

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S-001 (08/10/2021)

The Florida Senate

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3-1-22
Meeting Date

Rules
Committee

1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Balma DeVane

Phone 850-251-4280

Address 625 E. Brevard St
Street

Email balmadevane1@yahoo.com

Tallahassee FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: FL National Organization for Women

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

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S-001 (08/10/2021)

The Florida Senate

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3/1/2022
Meeting Date

Rules
Committee

1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Vernon Askegard

Phone 7015410371

Address 10624 Pecan Dr
Street

Email vaskegard39@gmail.com

Fairhope | Al | 36532
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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March 1st, 2022
Meeting Date

Rules
Committee

1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Alan Frisher, CDFA, Ch.FC, CLU

Phone 321-242-7526

Address 6550 N. Wickham Rd
Street

Email alan.frisher@gmail.com

Melbourne FI 32940
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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March 1 2022
Meeting Date

Rules
Committee

CS/SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name CYNTHIA LUS

Phone 850 259-6023

Address 6142 Redberry Drive
Street

Email clus2011@yahoo.com

Gulf Breeze Fl. 32542
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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CS/SB 1796

3/1/2022
Meeting Date

Rules
Committee

Dissolution of Marriage
Bill Number or Topic

Amendment Barcode (if applicable)

Name Roslyn Carter

Phone (772) 777-2091

Address 19665W Logan St
Street

Ft. St. Lucie FL 34953
City State Zip

Email eleuthera-rara@prodigy.net

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael Buhler

Phone 305 796 4215

Address 815 Malaga Ave
Street

Email Michelbuhler13@gmail.com

Coral Gables FL 33134
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.

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/12
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Muriélle Fournier

Phone

Address
Street

Email

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:

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S-001 (08/10/2021)

4/1/22
IN RULES
Meeting Date

Rules
Committee

The Florida Senate

APPEARANCE RECORD

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SB1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name David R. Shutt

Phone

Address
Street

Email

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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03-01-2022
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Deborah Gray

Phone Private

Address

Email Private

Street
Pensacola FL
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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S-001 (08/10/2021)

The Florida Senate

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3-1-22
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Camille Fivash

Phone Private

Address Private
Street

Email

Milton F 32570
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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Read by the Chair but did not speak

001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-1-2022
Meeting Date

Rules
Committee

1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name ANDREA Reid

Phone (561) 948-5685

Address 2101 NW Corporate Blvd Ste 35
Street

Email areid@reidlawgroup.com

Boca Raton FL 33431
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

03.01.2022
Meeting Date

RULES
Committee

1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name SEBASTIAN ALEKSANDER

Phone 850.459.1559

Address PO BOX 1800
Street

Email SA@AGCAPITOL.COM

WEST PALM BEACH FL 33402
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:
JONATHAN FRANTZ

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

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S-001 (08/10/2021)

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3 1. 2022
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sonia Palomer

Phone 352 804 8162

Address 2 Spruce Run
Street

Email groundhoglady2@yahoo.com

Ocala FL. 34472
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.

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

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Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shirley Y. Hevanan

Phone 561-596-7780

Address 7600 N. Flagler Dr. apt 207
Street

West Palm Beach, FL 33407
City State Zip

Email shirleyyhevanan@aol.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

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3/1/22
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Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elaine Morrison

Phone 352 282 3495

Address 8518 SW 93rd Circle
Street

Email elm072434@gmail.com

Ocala FL 34481
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:

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Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Francine Julvis Edwards

Phone 352-562-0514

Address 9825 SE 140
Street

Summerfield 34491
City State Zip

Email khamilgh50@gmail.com

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:

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S-001 (08/10/2021)

The Florida Senate

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March 1, 2022
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patty Farley

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Address 101 Bay Views Drive
Street

Email pfarley101@hotmail.com

Indian Harbour Bch, FL 32937
City State Zip

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

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S-001 (08/10/2021)

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3/1/2022
Meeting Date

Rules
Committee

SB1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Avelia Perkins

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Street

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Ocala FL 34481
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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3/1/22
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jessica Brason

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City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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3/1/2022
Meeting Date

Rules
Committee

CS/SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ellen Baker, PBC Teacher

Phone 561-801-0383

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Street

Email bakeret@hotmail.com

Palm Beach Gardens, FL 33418
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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3/1/2022
Meeting Date

RULES
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name TRISH WEELY

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Address 2024 SHANGRI LA LANE
Street

Email

TALLY FL 32303
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:

LEAGUE WOMEN VOTERS FLORIDA

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

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The Florida Senate

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3/1/2022
Meeting Date

Rules
Committee

1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall

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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 Center for Fiscal & Economic Policy

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

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

Senate Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sylvia S. Moffett

Phone 561-319-6279

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Street

West Palm Beach, FL 33407
City State Zip

Email

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

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March 1 2022
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shannon Novey

Phone (850) 224-4000

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Street

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Tallahassee | FL | 32301
City | *State* | *Zip*

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

PLEASE CHECK ONE OF THE FOLLOWING:

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The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

SB 1796 Dissolution of Marriage
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joan Waitkevicz MD

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

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03/01/22
Meeting Date

Rules
Committee

SB 1796
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

RULES
Committee

SB 1296
Bill Number or Topic

Amendment Barcode (if applicable)

Name Reesa Levy

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City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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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:	CS/HB 7, 2nd Eng.
INTRODUCER:	Education and Employment Committee and Representative Avila
SUBJECT:	Individual Freedom
DATE:	February 28, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Phelps	RC	**Favorable**

I. Summary:

CS/HB 7, 2nd Eng., includes provisions designed to protect individual freedoms and prevent discrimination in the workplace and in public schools.

The bill specifies that subjecting any individual, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, to training, instruction, or any other required activity that espouses, promotes, advances, inculcates, or compels such individual to believe certain specified divisive concepts constitutes unlawful discrimination.

The bill defines individual freedoms based on the fundamental truth that all individuals are equal before the law and have inalienable rights. Accordingly, the bill requires that instruction, instructional materials, and professional development in public schools be consistent with principles of individual freedom.

The bill does not have an impact on state revenues or expenditures.

The bill takes effect July 1, 2022.

II. Present Situation:

Unlawful Discrimination in Florida

In 2019, Governor DeSantis reaffirmed the policy of non-discrimination in government employment and declared it the policy of his administration to prohibit discrimination in employment based on age, sex, race, color, religion, national origin, marital status, or disability.[1]

[1] Office of the Governor, *Executive Order Number 19-10*, Jan. 8, 2019 (Reaffirming Commitment to Diversity in Government).

Unlawful Employment Practices

Employers, employment agencies, labor organizations, and joint labor-management committees are prohibited from engaging in employment practices that discriminate against individuals based on race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.[2]

Florida Civil Rights Act (Part I, Chapter 760, F.S.)

The Florida Civil Rights Act (FCRA) of 1992 protects persons from discrimination based on race, color, religion, sex, pregnancy, national origin, age, handicap, and marital status.[3] The FCRA establishes the Florida Commission on Human Relations (the Commission) within the Department of Management Services.[4]

The Commission is empowered to receive, initiate, investigate, conciliate, hold hearings, and act upon complaints alleging discriminatory practices.[5] Additionally, the Attorney General may initiate a civil action for damages, injunctive relief, civil penalties of up to $10,000 per violation, and other appropriate relief.[6]

Florida Educational Equity Act

The Florida Educational Equity Act[7] ("Act") requires equal access to, and prohibits discrimination against, any student or employee of the state's K-20 public education system on the basis of race, ethnicity, gender, national origin, disability, religion, or marital status.[8] No individual may, on such bases, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any public K-20 education program or activity, or in any employment conditions or practices, conducted by a public educational institution that receives or benefits from federal or state financial assistance.[9]

The prohibitions on discrimination extend to participation in any interscholastic, intercollegiate, club, or intermural athletics offered by a public K-20 educational institution; and no K-20 education institution may provide athletics separately on such basis, except as provided by law.[10] The Act is implemented by the Board of Governors and the State Board of Education (SBE).[11]

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[2] *See* s. 760.10, F.S. Limited exceptions apply in bona-fide scenarios where authorized by law or necessary for the performance of the particular employment. *See* s. 760.10(8), F.S.
[3] Section 760.01, F.S.
[4] Section 760.03-04, F.S.
[5] Section 760.06(5), F.S.
[6] Section 760.021(1), F.S.
[7] Section 1000.05(1), F.S.
[8] Section 1000.05(2)(a), F.S.
[9] *Id.* Students may be separated for permissible single gender programs, for portions of a class that deals with human reproduction, or during participation in bodily contact sports. Section 1000.05(2)(d), F.S. All K-20 public education classes and guidance services must be made available to students without regard to any of the bases described above. Sections 1000.05(2)(c) and (e), F.S.
[10] Section 1000.05(3)(a), F.S. Public K-20 educational institutions are authorized to maintain separate teams for members of each gender or based on ability in certain circumstances. Section 1000.05(3)(b)-(c), F.S. It is the responsibility of the Board of Governors and the Commissioner of Education to determine whether equal athletic opportunities are provided for both genders at state universities and in school districts and Florida College Systems, respectively. Section 1000.05(3)(d), F.S.
[11] Board of Governors, Regulation 2.003 (2020); ch. 6A-19, F.A.C.

The Act expressly requires any discrimination motivated by anti-Semitic[12] intent be treated in an identical manner to discrimination motivated by race.[13]

The Act provides a cause of action for anyone aggrieved by a violation of the Act. Such an individual is authorized to seek equitable relief and, should he or she prevail, may be awarded reasonable attorney fees and court costs.[14]

Required Instruction in Public Schools

Each district school board is responsible for providing all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet SBE adopted standards in reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.[15]

Public school teachers are required to teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, and employing approved methods of instruction, certain prescribed courses of study, including health education and character development.[16] The SBE is encouraged to adopt standards and pursue assessment of the requirements for prescribed courses of study and methods of instruction employed by public school teachers.[17]

SBE rule regarding required instruction and reporting requires that instruction on the required topics must be factual and objective, and may not suppress or distort significant historical events, such as the Holocaust, slavery, the Civil War and Reconstruction, the civil rights movement and the contributions of women, African American and Hispanic people to our country.[18] Examples of theories that distort historical events and are inconsistent with SBE-approved standards include the denial or minimization of the Holocaust, and the teaching of Critical Race Theory, meaning the theory that racism is not merely the product of prejudice, but that racism is embedded in American society and its legal systems in order to uphold the supremacy of white persons.[19] Instruction may not utilize material from the 1619 Project[20] and may not define

[12] For purposes of this section, the term "anti-Semitism" includes a certain perception of the Jewish people, which may be expressed as hatred toward Jewish people, rhetorical and physical manifestations of anti-Semitism directed toward a person, his or her property, or toward Jewish community institutions or religious facilities. Section 1005.05(7), F.S. The Act also lists examples of anti-Semitism. Section 1000.05(7)(a)-(b), F.S.
[13] Section 1000.05(7), F.S.
[14] Section 1000.05(8), F.S.
[15] Section 1003.42(1), F.S.
[16] Section 1003.42(2), F.S. Required instruction includes, for example, the history and content of the Declaration of Independence, the arguments in support of adopting our republican form of government, flag education, the history of the Holocaust, the history of African Americans, and kindness to animals. *Id.* Instructional staff of charter schools are exempt from the required instruction section of law. Section 1002.33(16), F.S.
[17] Section 1003.42(2), F.S.
[18] Rule 6A-1.094124(3)(b), F.A.C.
[19] Rule 6A-1.094124(3)(b), F.A.C.
[20] The 1619 Project argues that 1619 is the basis for discussing America's founding. In addition, the author asserted that the Revolutionary War was fought to protect the institution of slavery. Erford, A, *The 1619 Project and the Importance of Historical Significance and Argumentation in the History and Social Studies Classroom* (2021), Teaching History: A Journal of Methods, 46(2), 30+, *available at*

American history as something other than the creation of a new nation based largely on universal principles stated in the Declaration of Independence.[21]

Health Instruction

Teachers must provide instruction on comprehensive age-appropriate and developmentally appropriate K-12 health education that addresses concepts of community health, consumer health, environmental health, and family life, including:[22]

- Mental and emotional health.
- Injury prevention and safety.
- Internet safety.
- Nutrition.
- Personal health.
- Prevention and control of disease.
- Substance use and abuse.
- Prevention of child sexual abuse, exploitation, and human trafficking.
- For students in grades 7 through 12, a teen dating violence and abuse component.
- For students in grades 6 through 12, an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy.

Character Development Program

Each district school board is required to adopt or develop a character development program for students, which must be approved by the Department of Education (DOE).[23] The character development curriculum must stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty, and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation.[24]

In addition, the character development curriculum for grades 9 through 12 must, at a minimum, include instruction on developing leadership skills, interpersonal skills, organization skills, and research skills; creating a resume, including a digital resume; exploring career pathways; using state career planning resources; developing and practicing the skills necessary for employment interviews; conflict resolution, workplace ethics, and workplace law; managing stress and expectations; and developing skills that enable students to become more resilient and self-motivated.[25]

The character development curriculum for grades 11 and 12 must include instruction on voting using the uniform primary and general election ballot.[26]

---

https://go.gale.com/ps/i.do?p=AONE&u=18551_mcpls&id=GALE|A688507445&v=2.1&it=r&sid=bookmark-AONE&asid=9b710f88.

[21] Rule 6A-1.094124(3)(b), F.A.C.
[22] Section 1003.42(2)(n), F.S.
[23] Section 1003.42(2)(s), F.S.
[24] Section 1003.42(2)(s)1., F.S.
[25] Section 1003.42(2)(s)2., F.S.
[26] Section 1003.42(2)(s)3., F.S.

A character development program that incorporates the values of the recipients of the Congressional Medal of Honor and that is offered as part of a social studies, English Language Arts, or other schoolwide character building and veteran awareness initiative satisfies the requirements of the character development curriculum.[27]

The History of African Americans

Teachers must provide instruction on the history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society. Instructional materials are required to include the contributions of African Americans to American society.[28]

Public School Instructional Materials

Adoption of State Instructional Materials

At the state level, the Commissioner of Education (commissioner) adopts instructional materials according to a five-year rotating schedule.[29] The SBE adopts the rules for the DOE to evaluate instructional materials submitted by publishers and manufacturers in each adoption.[30] The commissioner must determine annually the areas in which instructional materials will be submitted for adoption and the number of titles in each area.[31] The commissioner must appoint three state or national experts in the content areas submitted for adoption to review the instructional materials.[32]

Adoption of School District Instructional Materials

At the school district level, the district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students.[33] The school board must provide adequate instructional materials for its students, ensure the materials are consistent with the district's educational goals, and ensure the materials meet the objectives and the curriculum frameworks adopted by the SBE.[34]

The district school board is authorized to implement an instructional materials program that includes the review, recommendation, adoption, and purchase of materials.[35] The district school board may utilize the state-adopted instructional materials list or instructional materials adopted through the district instructional materials program.[36] Additionally, the district school superintendent must certify to the DOE on an annual basis that all instructional materials for core courses used by the district are aligned with applicable state standards.[37]

[27] Section 1003.42(2), F.S.
[28] Section 1003.42(2)(h), F.S.
[29] Section 1006.36(1), F.S.
[30] Section 1006.34(1), F.S.; Rule 6A-7.0710, F.A.C.
[31] Section 1006.29(1)(a), F.S.
[32] Section 1006.29(1)(b), F.S.
[33] Section 1006.28(2)
[34] Section 1006.28(1) and 1001.03(1), F.S.
[35] Section 1006.283(1).
[36] Section 1006.28(2)(a)1., F.S.
[37] Section 1006.283(1), F.S.

Requirements for Review of Instructional Materials

Reviewers of instructional materials may recommend for adoption only instructional materials aligned with state educational standards.[38] In addition, reviewers must consider:[39]

- The age of the students who normally could be expected to have access to the material.
- The educational purpose to be served by the material.
- The degree to which the material would be supplemented and explained by mature classroom instruction as part of a normal classroom instructional program.
- The consideration of the broad racial, ethnic, socioeconomic, and cultural diversity of the students.

Instructional materials recommended by each reviewer must be, to the satisfaction of each reviewer, accurate, objective, balanced, noninflammatory, current, free of pornography and other prohibited materials,[40] and suited to student needs and their ability to comprehend the material presented.[41] Reviewers must consider for recommendation materials developed for academically talented students, such as students enrolled in advanced placement courses.[42]

A reviewer may not recommend any instructional materials that contain any matter reflecting unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, religion, disability, socioeconomic status, or occupation.[43] When recommending instructional materials, each reviewer must:[44]

- Include only instructional materials that accurately portray the ethnic, socioeconomic, cultural, religious, physical, and racial diversity of our society, including men and women in professional, career, and executive roles, and the role and contributions of the entrepreneur and labor in the total development of this state and the United States.
- Include only materials that accurately portray, whenever appropriate, humankind's place in ecological systems, including the necessity for the protection of our environment and conservation of our natural resources and the effects on the human system of the use of tobacco, alcohol, controlled substances, and other dangerous substances.
- Include materials that encourage thrift, fire prevention, and humane treatment of people and animals.
- Require, when appropriate to the comprehension of students, that materials for social science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States.

School Community Professional Development Act

Each district school board is required to develop a professional development system that supports and increases the success of educators through collaboratively developed school

[38] Section 1006.31(2), F.S.
[39] Sections 1006.31(2) and 1006.34(2)(b), F.S.
[40] Section 847.012, F.S., lists materials that are prohibited from distribution to minors.
[41] Section 1006.31(2), F.S.
[42] Section 1006.31(2), F.S.
[43] Section 1006.31(2)(d), F.S.
[44] Section 1006.31(2), F.S.

improvement plans.[45] The system must be developed in consultation with teachers, teacher-educators of Florida College System institutions and state universities, business and community representatives, and local education foundations, consortia, and professional organizations, and be approved by the DOE.[46]

Requirements Related to Specified Divisive Ideas or Concepts

White House Executive Order

In 2020, President Trump issued an Executive Order prohibiting divisive concepts, race or sex stereotyping, and race or sex scapegoating in the Executive Branch. The order defined divisive concepts as concepts that:[47]

- One race or sex is inherently superior to another race or sex.
- The United States is fundamentally racist or sexist.
- An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
- An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex.
- Members of one race or sex cannot and should not attempt to treat others without respect to race or sex.
- An individual's moral character is necessarily determined by his or her race or sex.
- An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.
- Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex.
- Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.
- Promote race or sex stereotyping, which means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.
- Promote race or sex scapegoating, which means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex. It similarly encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.

President Biden revoked the Executive Order in 2021, declaring that advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government.[48]

[45] Section 1012.98(3)(a), F.S.
[46] Section 1012.98(4)(b), F.S.
[47] Exec. Order No. 13,950, 85 Fed. Reg. 60,683 (Sept. 22, 2020).
[48] Exec. Order No. 13,985, 86 Fed. Reg. 7,009 (Jan. 25, 2021).

State Actions Regarding Specified Divisive Ideas or Concepts

In 2021, 10 state governors signed into law or allowed to become law legislation related to the teaching or training about specified divisive concepts in K-12 education, postsecondary education, state agencies, and employers. Specifically, nine states enacted legislation regarding the teaching of specified divisive ideas or concepts, or their inclusion in curricula, in K-12 public schools.[49] Four states enacted legislation regarding teaching at postsecondary institutions.[50] Four states approved laws relating to training by employers or state agencies.[51]

In addition, Montana and Utah have imposed similar restrictions on public school teaching or employer training relating to specified divisive ideas and concepts through attorney general opinion or state board of education action.[52]

III. Effect of Proposed Changes:

CS/HB 7, 2nd Eng., includes provisions designed to protect individual freedoms and prevent discrimination in the workplace and in public schools. In this regard, the bill defines individual freedoms based on the truth that all individuals are equal before the law and have inalienable rights.

Unlawful Employment Practices.

The bill adds to s. 760.10, F.S., to clarify that certain behavior constitutes unlawful discrimination based on race, color, sex, or national origin. The bill specifies that subjecting any individual, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, to training, instruction, or any other required activity that espouses, promotes, advances, inculcates, or compels such individual to believe any of the following concepts constitutes discrimination based on race, color, sex, or national origin:

- Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin.
- An individual, by virtue of his or her race, color, sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
- An individual's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin.

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[49] Arizona (HB 2898), Idaho (HB 377), Iowa (HF 802), New Hampshire (HB 2), North Dakota (HB 1508), Oklahoma (HB 1775), South Carolina (H. 4325), Tennessee (HB 062), Texas (SB 3). However, in Arizona, HB 2898 was invalidated by the Arizona Supreme Court for violating the "title requirement" and "single subject rule" of the Arizona Constitution. Arizona Sch. Boards Ass'n, Inc. v. State, CV-21-0234-T/AP, 2022 WL 57291 (Ariz. Jan. 6, 2022).

[50] Idaho (HB 377), Iowa (HF 802), Oklahoma (HB 1775), South Carolina (H. 4325).

[51] Arkansas (SB 627), Arizona (HB 2906), Iowa (HB 802), New Hampshire (HB 2).

[52] The Montana Attorney General held that use of "Critical Race Theory" (CRT) and "antiracism" programming in education and employment is discriminatory and violates federal and state law. Austin Knudsen, Montana Attorney General, Vol. 58, Opinion No. 1 (May 27, 2021) *available at* https://media.dojmt.gov/wp-content/uploads/AGO-V58-O1-5.27.21-FINAL.pdf. Rule R277-328-1. The Utah state board rule provides local education agencies with the standards for educators and local education agencies regarding professional learning, and guidelines and requirements for curriculum, and classroom instruction on inclusion and educational equity. Utah State Board of Education (Aug. 9, 2021), *available at* https://www.schools.utah.gov/file/722ef396-b45a-4dbb-a974-00a9d9dbcac0. The Alabama and Georgia State Boards of Education have passed resolutions prohibiting certain instruction, which include provisions regarding future rulemaking.

- Members of one race, color, sex, or national origin cannot and should not attempt to treat others without respect to race, color, sex, or national origin.
- An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, sex, or national origin.
- An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.
- An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race, color, sex, or national origin.
- Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin.

The bill clarifies that discussion of the above-listed concepts is allowed as part of a course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

The bill provides that if any provision of the bill that relates to the unlawful employment practices in s. 760.10, F.S., or the provision's application to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions are severable.

Florida Educational Equity Act

The bill expands the protections of the Florida Educational Equity Act by explicitly providing that subjecting a student or employee to training or instruction that espouses, promotes, advances, inculcates, or compels such student or employee to believe any of the following concepts constitutes discrimination as contemplated by the Act:

- Members of one race, color, national origin, or sex are morally superior to members of another race, color, national origin, or sex.
- A person, by virtue of his or her race, color, national origin, or sex is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
- A person's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, national origin, or sex.
- Members of one race, color, national origin, or sex cannot and should not attempt to treat others without respect to race, color, national origin, or sex.
- A person, by virtue of his or her race, color, national origin, or sex bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, national origin, or sex.
- A person, by virtue of his or her race, color, national origin, or sex should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.
- A person, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the person played no part, committed in the past by other members of the same race, color, sex, or national origin.

- Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, national origin, or sex to oppress members of another race, color, national origin, or sex.

The bill provides that discussion of the concepts as part of a larger course of training or instruction is not prohibited, provided such training or instruction is given in an objective manner without endorsement of the concepts.

The bill amends the provisions of the Act such that "color" replaces the term "ethnicity" and "sex" replaces the term "gender" to conform to the terminology used in the Florida Civil Rights Act.

Required Instruction in Public Schools

The bill modifies the instruction required in s. 1003.42, F.S. The bill renames the character development curriculum as civic and character education. The bill also shifts the character development requirements for grades 9 through 12 and the mental and emotional health component of health education into newly required education on life skills.

The bill specifies that the instruction in life skills must build confidence, support mental and emotional health, and enable students to overcome challenges, including:
- Self-awareness and self-management.
- Responsible decisionmaking.
- Resiliency.
- Relationship skills and conflict resolution.
- Understanding and respecting other viewpoints and backgrounds.
- For grades 9 through 12, developing leadership skills, interpersonal skills, organization skills, and research skills; creating a resume, including a digital resume; exploring career pathways; using state career planning resources; developing and practicing the skills necessary for employment interviews; workplace ethics and workplace law; managing stress and expectations; and self-motivation.

The bill specifies that health education and life skills instruction and materials may not contradict principles of individual freedom specified in the bill.

The bill requires that instruction in the history of African Americans:
- Include the history and contributions of Americans of the African diaspora to society.
- Develop in students an understanding of the ramifications of prejudice, racism, and stereotyping on individual freedoms, and examine what it means to be a responsible and respectful person, for the purpose of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions.
- Include the roles and contributions of individuals from all walks of life and their endeavors to learn and thrive throughout history as artists, scientists, educators, businesspeople, influential thinkers, members of the faith community, and political and governmental leaders and the courageous steps they took to fulfill the promise of democracy and unite the nation.

- Use instructional materials that include the vital contributions of African Americans to build and strengthen American society and celebrate the inspirational stories of African Americans who prospered, even in the most difficult circumstances.

The bill authorizes instructional personnel to facilitate discussions and use curricula to address, in an age-appropriate manner, how the individual freedoms of persons have been infringed by slavery, racial oppression, racial segregation, and racial discrimination, as well as topics relating to the enactment and enforcement of laws resulting in racial oppression, racial segregation, and racial discrimination and how recognition of these freedoms has overturned these unjust laws. The bill specifies that classroom instruction and curriculum may not be used to indoctrinate or persuade students to a particular point of view inconsistent with the principles of individual freedom or the state academic standards.

The bill requires the Department of Education (DOE) to prepare and offer standards and curriculum for the instruction and authorizes the DOE to seek input from the Commissioner of Education's African American History Task Force.

Individual Freedom

The bill provides a legislative acknowledgment of the fundamental truth that all individuals are equal before the law and have inalienable rights. Accordingly, the bill provides that required instruction and supporting materials must be consistent with the following principles of individual freedom:

- No individual is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of his or her race or sex.
- No race is inherently superior to another race.
- No individual should be discriminated against or receive adverse treatment solely or partly on the basis of race, color, national origin, religion, disability, or sex.
- Meritocracy or traits such as a hard work ethic are not racist but fundamental to the right to pursue happiness and be rewarded for industry.
- An individual, by virtue of his or her race or sex, does not bear responsibility for actions committed in the past by other members of the same race or sex.
- An individual should not be made to feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race.

The bill provides that instructional personnel may facilitate discussions and use curricula to address, in an age-appropriate manner, how personal freedoms have been infringed by sexism, slavery, racial oppression, racial segregation, and racial discrimination, including how recognition of these freedoms have overturned these unjust laws. The bill requires the State Board of Education to develop or adopt a “Stories of Inspiration” curriculum. This curriculum must consist of stories of American history that demonstrate important life skills and the principles of individual freedom that enabled individuals to prosper even in the most difficult circumstances.

The bill prohibits classroom instruction and curriculum from being used to indoctrinate or persuade students to a particular point of view inconsistent with the principles of individual freedom or state academic standards.

The bill modifies ss. 1006.31 and 1012.98, F.S., to further safeguard principles of individual freedom. The bill specifies that a person reviewing instructional materials for use in schools may not recommend any material that contradicts with principles of individual freedom. The bill also provides that each school district's professional development system must be reviewed and approved by the DOE for compliance with the principles of individual freedom.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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: 760.10, 1000.05, 1002.20, 1003.42, 1006.31, 1006.40, and 1012.98.

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.

A bill to be entitled

An act relating to individual freedom; amending s. 760.10, F.S.; providing that subjecting any individual, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, to training, instruction, or any other required activity that espouses, promotes, advances, inculcates, or compels such individual to believe specified concepts constitutes discrimination based on race, color, sex, or national origin; providing construction; amending s. 1000.05, F.S.; providing that subjecting any student or employee to training or instruction that espouses, promotes, advances, inculcates, or compels such individual to believe specified concepts constitutes discrimination based on race, color, sex, or national origin; conforming provisions to changes made by the act; amending s. 1003.42, F.S.; revising requirements for required instruction on the history of African Americans; authorizing instructional personnel to facilitate discussions and use curricula to address, in an age-appropriate manner, specified topics; prohibiting classroom instruction and curricula from being used to indoctrinate or persuade students in a manner inconsistent with certain principles or state academic

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standards; requiring the department to prepare and offer certain standards and curriculum; authorizing the department to seek input from a specified organization for certain purposes; revising the requirements for required instruction on health education; requiring such instruction to comport with certain principles and include certain life skills; requiring civic and character education instead of a character development program; providing the requirements of such education; providing legislative findings; requiring instruction to be consistent with specified principles of individual freedom; authorizing instructional personnel to facilitate discussions and use curricula to address, in an age-appropriate manner, specified topics; prohibiting classroom instruction and curricula from being used to indoctrinate or persuade students in a manner inconsistent with certain principles or state academic standards; conforming cross-references to changes made by the act; requiring the State Board of Education to adopt a specified curriculum to be made available to schools for a certain purpose; amending s. 1006.31, F.S.; prohibiting instructional materials reviewers from recommending instructional materials that contain any matter that contradicts certain principles;

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amending s. 1012.98, F.S.; requiring the Department of Education to review school district professional development systems for compliance with certain provisions of law; amending ss. 1002.20 and 1006.40, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsections (8) through (10) of section 760.10, Florida Statutes, are renumbered as subsections (9) through (11), respectively, and a new subsection (8) is added to that section, to read:

760.10 Unlawful employment practices.—

(8)(a) Subjecting any individual, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, to training, instruction, or any other required activity that espouses, promotes, advances, inculcates, or compels such individual to believe any of the following concepts constitutes discrimination based on race, color, sex, or national origin under this section:

1. Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin.

2. An individual, by virtue of his or her race, color,

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sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.

3. An individual's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin.

4. Members of one race, color, sex, or national origin cannot and should not attempt to treat others without respect to race, color, sex, or national origin.

5. An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, sex, or national origin.

6. An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.

7. An individual, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the individual played no part, committed in the past by other members of the same race, color, sex, or national origin.

8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or

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sexist, or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin.

(b) Paragraph (a) may not be construed to prohibit discussion of the concepts listed therein as part of a course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

Section 2. Subsections (4) through (8) of section 1000.05, Florida Statutes, are renumbered as subsections (5) through (9), respectively, subsections (2) and (3), present subsection (4), and paragraph (d) of present subsection (6) are amended, and a new subsection (4) is added to that section, to read:

1000.05 Discrimination against students and employees in the Florida K-20 public education system prohibited; equality of access required.—

(2)(a) Discrimination on the basis of race, color ~~ethnicity~~, national origin, sex ~~gender~~, disability, religion, or marital status against a student or an employee in the state system of public K-20 education is prohibited. No person in this state shall, on the basis of race, color ~~ethnicity~~, national origin, sex ~~gender~~, disability, religion, or marital status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any public K-20 education program or activity, or in any employment conditions or

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practices, conducted by a public educational institution that receives or benefits from federal or state financial assistance.

(b) The criteria for admission to a program or course shall not have the effect of restricting access by persons of a particular race, color ~~ethnicity~~, national origin, sex ~~gender~~, disability, religion, or marital status.

(c) All public K-20 education classes shall be available to all students without regard to race, color ~~ethnicity~~, national origin, sex ~~gender~~, disability, religion, or marital status; however, this is not intended to eliminate the provision of programs designed to meet the needs of students with limited proficiency in English, gifted students, or students with disabilities or programs tailored to students with specialized talents or skills.

(d) Students may be separated by sex ~~gender~~ for a single-gender program as provided under s. 1002.311, for any portion of a class that deals with human reproduction, or during participation in bodily contact sports. For the purpose of this section, bodily contact sports include wrestling, boxing, rugby, ice hockey, football, basketball, and other sports in which the purpose or major activity involves bodily contact.

(e) Guidance services, counseling services, and financial assistance services in the state public K-20 education system shall be available to students equally. Guidance and counseling services, materials, and promotional events shall stress access

to academic and career opportunities for students without regard to race, color ~~ethnicity~~, national origin, sex ~~gender~~, disability, religion, or marital status.

(3)(a) No person shall, on the basis of sex ~~gender~~, be excluded from participating in, be denied the benefits of, or be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by a public K-20 educational institution; and no public K-20 educational institution shall provide athletics separately on such basis.

(b) Notwithstanding the requirements of paragraph (a), a public K-20 educational institution may operate or sponsor separate teams for members of each sex ~~gender~~ if the selection for such teams is based upon competitive skill or the activity involved is a bodily contact sport. However, when a public K-20 educational institution operates or sponsors a team in a particular sport for members of one sex ~~gender~~ but does not operate or sponsor such a team for members of the other sex ~~gender~~, and athletic opportunities for that sex ~~gender~~ have previously been limited, members of the excluded sex ~~gender~~ must be allowed to try out for the team offered.

(c) This subsection does not prohibit the grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex ~~gender~~. However,

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when use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex ~~gender~~, the educational institution shall use appropriate standards which do not have such effect.

(d) A public K-20 educational institution which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes ~~genders~~.

1. The Board of Governors shall determine whether equal opportunities are available at state universities.

2. The Commissioner of Education shall determine whether equal opportunities are available in school districts and Florida College System institutions. In determining whether equal opportunities are available in school districts and Florida College System institutions, the Commissioner of Education shall consider, among other factors:

a. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes ~~genders~~.

b. The provision of equipment and supplies.

c. Scheduling of games and practice times.

d. Travel and per diem allowances.

e. Opportunities to receive coaching and academic tutoring.

f. Assignment and compensation of coaches and tutors.

g. Provision of locker room, practice, and competitive facilities.

h. Provision of medical and training facilities and services.

i. Provision of housing and dining facilities and services.

j. Publicity.

Unequal aggregate expenditures for members of each sex ~~gender~~ or unequal expenditures for male and female teams if a public school or Florida College System institution operates or sponsors separate teams do not constitute nonimplementation of this subsection, but the Commissioner of Education shall consider the failure to provide necessary funds for teams for one sex ~~gender~~ in assessing equality of opportunity for members of each sex ~~gender~~.

(e) A public school or Florida College System institution may provide separate toilet, locker room, and shower facilities on the basis of gender, but such facilities shall be comparable to such facilities provided for students of the other sex ~~gender~~.

(4)(a) It shall constitute discrimination on the basis of race, color, national origin, or sex under this section to subject any student or employee to training or instruction that espouses, promotes, advances, inculcates, or compels such

student or employee to believe any of the following concepts:

1. Members of one race, color, national origin, or sex are morally superior to members of another race, color, national origin, or sex.

2. A person, by virtue of his or her race, color, national origin, or sex is inherently racist, sexist, or oppressive, whether consciously or unconsciously.

3. A person's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, national origin, or sex.

4. Members of one race, color, national origin, or sex cannot and should not attempt to treat others without respect to race, color, national origin, or sex.

5. A person, by virtue of his or her race, color, national origin, or sex bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, national origin, or sex.

6. A person, by virtue of his or her race, color, national origin, or sex should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.

7. A person, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the person played no part, committed in the

past by other members of the same race, color, national origin, or sex.

8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, national origin, or sex to oppress members of another race, color, national origin, or sex.

(b) Paragraph (a) may not be construed to prohibit discussion of the concepts listed therein as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

(5)~~(4)~~ Public schools and Florida College System institutions shall develop and implement methods and strategies to increase the participation of students of a particular race, color ~~ethnicity~~, national origin, sex ~~gender~~, disability, or marital status in programs and courses in which students of that particular race, color ~~ethnicity~~, national origin, sex ~~gender~~, disability, or marital status have been traditionally underrepresented, including, but not limited to, mathematics, science, computer technology, electronics, communications technology, engineering, and career education.

(7)~~(6)~~ The functions of the Office of Equal Educational Opportunity of the Department of Education shall include, but are not limited to:

(d) Conducting studies of the effectiveness of methods and strategies designed to increase the participation of students in programs and courses in which students of a particular race, color ~~ethnicity~~, national origin, sex ~~gender~~, disability, or marital status have been traditionally underrepresented and monitoring the success of students in such programs or courses, including performing followup monitoring.

Section 3. Subsection (3) of section 1003.42, Florida Statutes, is renumbered as subsection (5), paragraph (b) of subsection (1) and subsection (2) are amended, and a new subsection (3) and subsection (4) are added to that section, to read:

1003.42 Required instruction.—

(1)

(b) All instructional materials, as defined in s. 1006.29(2), used to teach reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment, as part of the courses referenced in subsection (5) ~~(3)~~, must be annually approved by a district school board in an open, noticed public meeting.

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy,

following the prescribed courses of study, and employing approved methods of instruction, the following:

(a) The history and content of the Declaration of Independence, including national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and inalienable rights of life, liberty, and property, and how they form the philosophical foundation of our government.

(b) The history, meaning, significance, and effect of the provisions of the Constitution of the United States and amendments thereto, with emphasis on each of the 10 amendments that make up the Bill of Rights and how the constitution provides the structure of our government.

(c) The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers.

(d) Flag education, including proper flag display and flag salute.

(e) The elements of civil government, including the primary functions of and interrelationships between the Federal Government, the state, and its counties, municipalities, school districts, and special districts.

(f) The history of the United States, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present

boundaries, the world wars, and the civil rights movement to the present. American history shall be viewed as factual, not as constructed, shall be viewed as knowable, teachable, and testable, and shall be defined as the creation of a new nation based largely on the universal principles stated in the Declaration of Independence.

(g)1. The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions, including the policy, definition, and historical and current examples of anti-Semitism, as described in s. 1000.05(8) ~~s. 1000.05(7)~~, and the prevention of anti-Semitism. Each school district must annually certify and provide evidence to the department, in a manner prescribed by the department, that the requirements of this paragraph are met. The department shall prepare and offer standards and curriculum for the instruction required by this paragraph and may seek input from the Commissioner of Education's Task Force on Holocaust Education or from any state

or nationally recognized Holocaust educational organizations. The department may contract with any state or nationally recognized Holocaust educational organizations to develop training for instructional personnel and grade-appropriate classroom resources to support the developed curriculum.

2. The second week in November shall be designated as "Holocaust Education Week" in this state in recognition that November is the anniversary of Kristallnacht, widely recognized as a precipitating event that led to the Holocaust.

(h) The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the history and contributions of ~~African~~ Americans of the African diaspora to society. Students shall develop an understanding of the ramifications of prejudice, racism, and stereotyping on individual freedoms, and examine what it means to be a responsible and respectful person, for the purpose of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions. Instruction shall include the roles and contributions of individuals from all walks of life and their endeavors to learn and thrive throughout history as artists, scientists, educators, businesspeople, influential thinkers, members of the faith community, and political and governmental leaders and the

courageous steps they took to fulfill the promise of democracy and unite the nation. Instructional materials shall include the vital contributions of African Americans to build and strengthen American society and celebrate the inspirational stories of African Americans who prospered, even in the most difficult circumstances. Instructional personnel may facilitate discussions and use curricula to address, in an age-appropriate manner, how the individual freedoms of persons have been infringed by slavery, racial oppression, racial segregation, and racial discrimination, as well as topics relating to the enactment and enforcement of laws resulting in racial oppression, racial segregation, and racial discrimination and how recognition of these freedoms has overturned these unjust laws. However, classroom instruction and curriculum may not be used to indoctrinate or persuade students to a particular point of view inconsistent with the principles enumerated in subsection (3) or the state academic standards. The department shall prepare and offer standards and curriculum for the instruction required by this paragraph and may seek input from the Commissioner of Education's African American History Task Force.

(i) The elementary principles of agriculture.

(j) The true effects of all alcoholic and intoxicating liquors and beverages and narcotics upon the human body and mind.

(k) Kindness to animals.

(l) The history of the state.

(m) The conservation of natural resources.

(n)~~1.~~ Comprehensive age-appropriate and developmentally appropriate K-12 instruction on: ~~health education that addresses~~

1. Health education that addresses concepts of community health, consumer health, environmental health, and family life, including:

~~a. Mental and emotional health.~~

a.~~b.~~ Injury prevention and safety.

b.~~c.~~ Internet safety.

c.~~d.~~ Nutrition.

d.~~e.~~ Personal health.

e.~~f.~~ Prevention and control of disease.

f.~~g.~~ Substance use and abuse.

g.~~h.~~ Prevention of child sexual abuse, exploitation, and human trafficking.

2. ~~The health education curriculum~~ For students in grades 7 through 12, ~~shall include a~~ teen dating violence and abuse. This component must include ~~that includes~~, but ~~is~~ not be limited to, the definition of dating violence and abuse, the warning signs of dating violence and abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse.

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3. ~~The health education curriculum~~ For students in grades 6 through 12, ~~shall include an~~ awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy.

4. Life skills that build confidence, support mental and emotional health, and enable students to overcome challenges, including:

a. Self-awareness and self-management.

b. Responsible decisionmaking.

c. Resiliency.

d. Relationship skills and conflict resolution.

e. Understanding and respecting other viewpoints and backgrounds.

f. For grades 9 through 12, developing leadership skills, interpersonal skills, organization skills, and research skills; creating a resume, including a digital resume; exploring career pathways; using state career planning resources; developing and practicing the skills necessary for employment interviews; workplace ethics and workplace law; managing stress and expectations; and self-motivation.

Health education and life skills instruction and materials may not contradict the principles enumerated in subsection (3).

(o) Such additional materials, subjects, courses, or fields in such grades as are prescribed by law or by rules of

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the State Board of Education and the district school board in fulfilling the requirements of law.

(p) The study of Hispanic contributions to the United States.

(q) The study of women's contributions to the United States.

(r) The nature and importance of free enterprise to the United States economy.

(s) Civic and character education on ~~A character development program in the elementary schools, similar to Character First or Character Counts, which is secular in nature. Beginning in school year 2004-2005, the character development program shall be required in kindergarten through grade 12. Each district school board shall develop or adopt a curriculum for the character development program that shall be submitted to the department for approval.~~

~~1. The character development curriculum shall stress~~ the qualities and responsibilities of patriotism and~~;~~ ~~responsibility;~~ citizenship, including,~~;~~ ~~kindness; respect for authority, life, liberty, and personal property; honesty; charity; self-control;~~ racial, ethnic, and religious tolerance; and cooperation and,~~.~~

~~2. The character development curriculum for grades 9 through 12 shall, at a minimum, include instruction on developing leadership skills, interpersonal skills, organization~~

~~skills, and research skills; creating a resume, including a digital resume; exploring career pathways; using state career planning resources; developing and practicing the skills necessary for employment interviews; conflict resolution, workplace ethics, and workplace law; managing stress and expectations; and developing skills that enable students to become more resilient and self-motivated.~~

~~3. The character development curriculum~~ for grades 11 and 12~~,~~ ~~shall include instruction on~~ voting using the uniform primary and general election ballot described in s. 101.151(9).

(t) In order to encourage patriotism, the sacrifices that veterans and Medal of Honor recipients have made in serving our country and protecting democratic values worldwide. Such instruction must occur on or before Medal of Honor Day, Veterans' Day, and Memorial Day. Members of the instructional staff are encouraged to use the assistance of local veterans and Medal of Honor recipients when practicable.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection. Instructional programming ~~A character development program~~ that incorporates the values of the recipients of the Congressional Medal of Honor and that is offered as part of a social studies, English Language Arts, or other schoolwide character building and veteran awareness initiative meets the requirements of

paragraph (t) ~~paragraphs (s) and (t)~~.

(3) The Legislature acknowledges the fundamental truth that all persons are equal before the law and have inalienable rights. Accordingly, instruction and supporting materials on the topics enumerated in this section must be consistent with the following principles of individual freedom:

(a) No person is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of his or her race or sex.

(b) No race is inherently superior to another race.

(c) No person should be discriminated against or receive adverse treatment solely or partly on the basis of race, color, national origin, religion, disability, or sex.

(d) Meritocracy or traits such as a hard work ethic are not racist but fundamental to the right to pursue happiness and be rewarded for industry.

(e) A person, by virtue of his or her race or sex, does not bear responsibility for actions committed in the past by other members of the same race or sex.

(f) A person should not be instructed that he or she must feel guilt, anguish, or other forms of psychological distress for actions, in which he or she played no part, committed in the past by other members of the same race or sex.

Instructional personnel may facilitate discussions and use

curricula to address, in an age-appropriate manner, how the freedoms of persons have been infringed by sexism, slavery, racial oppression, racial segregation, and racial discrimination, including topics relating to the enactment and enforcement of laws resulting in sexism, racial oppression, racial segregation, and racial discrimination, including how recognition of these freedoms have overturned these unjust laws. However, classroom instruction and curriculum may not be used to indoctrinate or persuade students to a particular point of view inconsistent with the principles of this subsection or state academic standards.

(4) The State Board of Education shall develop or adopt a curriculum to inspire future generations through motivating stories of American history that demonstrate important life skills and the principles of individual freedom that enabled persons to prosper even in the most difficult circumstances. This curriculum shall be known as "Stories of Inspiration" and made available to schools to implement the requirements of subsection (3).

Section 4. Paragraph (d) of subsection (2) of section 1006.31, Florida Statutes, is amended to read:

1006.31 Duties of the Department of Education and school district instructional materials reviewer.—The duties of the instructional materials reviewer are:

(2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To use the

selection criteria listed in s. 1006.34(2)(b) and recommend for adoption only those instructional materials aligned with the Next Generation Sunshine State Standards provided for in s. 1003.41. Instructional materials recommended by each reviewer shall be, to the satisfaction of each reviewer, accurate, objective, balanced, noninflammatory, current, free of pornography and material prohibited under s. 847.012, and suited to student needs and their ability to comprehend the material presented. Reviewers shall consider for recommendation materials developed for academically talented students, such as students enrolled in advanced placement courses. When recommending instructional materials, each reviewer shall:

(d) Require, when appropriate to the comprehension of students, that materials for social science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States. A reviewer may not recommend any instructional materials that contain any matter reflecting unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, religion, disability, socioeconomic status, or occupation or otherwise contradict the principles enumerated under s. 1003.42(3).

Section 5. Paragraph (b) of subsection (4) of section 1012.98, Florida Statutes, is amended to read:

1012.98 School Community Professional Development Act.—

(4) The Department of Education, school districts,

schools, Florida College System institutions, and state universities share the responsibilities described in this section. These responsibilities include the following:

(b) Each school district shall develop a professional development system as specified in subsection (3). The system shall be developed in consultation with teachers, teacher-educators of Florida College System institutions and state universities, business and community representatives, and local education foundations, consortia, and professional organizations. The professional development system must:

1. Be reviewed and approved by the department for compliance with s. 1003.42(3) and this section. All substantial revisions to the system shall be submitted to the department for review for continued approval.

2. Be based on analyses of student achievement data and instructional strategies and methods that support rigorous, relevant, and challenging curricula for all students. Schools and districts, in developing and refining the professional development system, shall also review and monitor school discipline data; school environment surveys; assessments of parental satisfaction; performance appraisal data of teachers, managers, and administrative personnel; and other performance indicators to identify school and student needs that can be met by improved professional performance.

3. Provide inservice activities coupled with followup

support appropriate to accomplish district-level and school-level improvement goals and standards. The inservice activities for instructional personnel shall focus on analysis of student achievement data, ongoing formal and informal assessments of student achievement, identification and use of enhanced and differentiated instructional strategies that emphasize rigor, relevance, and reading in the content areas, enhancement of subject content expertise, integrated use of classroom technology that enhances teaching and learning, classroom management, parent involvement, and school safety.

4. Provide inservice activities and support targeted to the individual needs of new teachers participating in the professional development certification and education competency program under s. 1012.56(8)(a).

5. Include a master plan for inservice activities, pursuant to rules of the State Board of Education, for all district employees from all fund sources. The master plan shall be updated annually by September 1, must be based on input from teachers and district and school instructional leaders, and must use the latest available student achievement data and research to enhance rigor and relevance in the classroom. Each district inservice plan must be aligned to and support the school-based inservice plans and school improvement plans pursuant to s. 1001.42(18). Each district inservice plan must provide a description of the training that middle grades instructional

personnel and school administrators receive on the district's code of student conduct adopted pursuant to s. 1006.07; integrated digital instruction and competency-based instruction and CAPE Digital Tool certificates and CAPE industry certifications; classroom management; student behavior and interaction; extended learning opportunities for students; and instructional leadership. District plans must be approved by the district school board annually in order to ensure compliance with subsection (1) and to allow for dissemination of research-based best practices to other districts. District school boards must submit verification of their approval to the Commissioner of Education no later than October 1, annually. Each school principal may establish and maintain an individual professional development plan for each instructional employee assigned to the school as a seamless component to the school improvement plans developed pursuant to s. 1001.42(18). An individual professional development plan must be related to specific performance data for the students to whom the teacher is assigned, define the inservice objectives and specific measurable improvements expected in student performance as a result of the inservice activity, and include an evaluation component that determines the effectiveness of the professional development plan.

6. Include inservice activities for school administrative personnel that address updated skills necessary for instructional leadership and effective school management

pursuant to s. 1012.986.

7. Provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs.

8. Provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs.

9. Provide for the continuous evaluation of the quality and effectiveness of professional development programs in order to eliminate ineffective programs and strategies and to expand effective ones. Evaluations must consider the impact of such activities on the performance of participating educators and their students' achievement and behavior.

10. For middle grades, emphasize:

a. Interdisciplinary planning, collaboration, and instruction.

b. Alignment of curriculum and instructional materials to the state academic standards adopted pursuant to s. 1003.41.

c. Use of small learning communities; problem-solving, inquiry-driven research and analytical approaches for students; strategies and tools based on student needs; competency-based instruction; integrated digital instruction; and project-based instruction.

Each school that includes any of grades 6, 7, or 8 must include

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in its school improvement plan, required under s. 1001.42(18), a description of the specific strategies used by the school to implement each item listed in this subparagraph.

11. Provide training to reading coaches, classroom teachers, and school administrators in effective methods of identifying characteristics of conditions such as dyslexia and other causes of diminished phonological processing skills; incorporating instructional techniques into the general education setting which are proven to improve reading performance for all students; and using predictive and other data to make instructional decisions based on individual student needs. The training must help teachers integrate phonemic awareness; phonics, word study, and spelling; reading fluency; vocabulary, including academic vocabulary; and text comprehension strategies into an explicit, systematic, and sequential approach to reading instruction, including multisensory intervention strategies. Each district must provide all elementary grades instructional personnel access to training sufficient to meet the requirements of s. 1012.585(3)(f).

Section 6. Paragraph (d) of subsection (3) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12

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students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(3) HEALTH ISSUES.—

(d) *Reproductive health and disease education.*—A public school student whose parent makes written request to the school principal shall be exempted from the teaching of reproductive health or any disease, including HIV/AIDS, in accordance with s. 1003.42(5) ~~s. 1003.42(3)~~. Each school district shall, on the district's website homepage, notify parents of this right and the process to request an exemption. The homepage must include a link for a student's parent to access and review the instructional materials, as defined in s. 1006.29(2), used to teach the curriculum.

Section 7. Paragraph (b) of subsection (4) of section 1006.40, Florida Statutes, is amended to read:

1006.40 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—

(4) Each district school board is responsible for the content of all materials used in a classroom or otherwise made available to students. Each district school board shall adopt rules, and each district school superintendent shall implement procedures, that:

(b) Provide a process for public review of, public comment on, and the adoption of instructional materials, including

instructional materials used to teach reproductive health or any disease, including HIV/AIDS, under ss. 1003.42(5) and 1003.46 ~~ss. 1003.42(3) and 1003.46~~, which satisfies the requirements of s. 1006.283(2)(b)8., 9., and 11.

Section 8. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

HB 7 / & SB 148
Bill Number or Topic

Amendment Barcode (if applicable)

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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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

substitute for waiver

The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

HB 7 Individual Freedom
Bill Number or Topic

Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

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03/01/2022
Meeting Date

Rules 412K
Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

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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 PTA

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)

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The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

HB 7
~~SB 1088~~
Bill Number or Topic

Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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The Florida Senate

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3-1-22
Meeting Date

Rules
Committee

7
Bill Number or Topic

Amendment Barcode (if applicable)

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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:

FL National Organization for Women

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3/1/22
Meeting Date

Senate Rules
Committee

HB7
Bill Number or Topic

Amendment Barcode (if applicable)

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Orlando 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:

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The Florida Senate

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3/1/22
Meeting Date

RULES
Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

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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:

League Women Voters Florida

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RULES
Committee

HB7
Bill Number or Topic

Amendment Barcode (if applicable)

Name KATHY WINN Phone

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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:

LWV Florida

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)

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The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kaylee Sandell

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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:

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The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

7
Bill Number or Topic

Amendment Barcode (if applicable)

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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 Rising
Florida Immigrant Coalition

☐ 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)

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The Florida Senate

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3/1/22
Meeting Date

HB 7
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

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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. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

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3/1/22
Meeting Date

S. Rules
Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

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Email

TLH 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:
Equality 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. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

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March 1, 2022
Meeting Date

Rules
Committee

CS/HB 7 Individual Freedom
Bill Number or Topic

Amendment Barcode (if applicable)

Name Roslyn Carter

Phone (772) 777-2091

Address 1966 SW Logan St
Street
Port St Lucie FL 34953
City State Zip

Email elcuthera-Rahaa@mbgy.net

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Rules
Committee

HB7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elizabeth Gilbert

Phone 386-214-9710

Address
Street

Email Egilbert@FloridaRising.org

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 Student Power Network

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)

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Rules
Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ana Guevara

Phone 561 215 1062

Address
Street

Email ana@floridansing.org

Lake Worth FL 33461
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 Student Power

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)

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Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lakey Love - Florida Coalition for Transgender Liberation Phone 850-345-4018

Address 1571 Melvin St. Email butterflylake@gmail.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:

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

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HB 7
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Zaria Barnes

Phone 2107-307-5481

Address 1748 Crarcona Rd
Street

Email barneszaria@yahoo.com

Apopka FL 32703
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:

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Rules
Committee

SB HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ishana Dauphin

Phone 4078600694

Address 1505 W Thorpe ST
Street

Email JD20FN@my.fsu.edu

Tallahassee FL 32303
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:

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HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aaron G. DiPietro

Phone 904-608-4471

Address 4853 S. Orange Ave
Street

Email aarond@flfamily.org

Orlando FL 32806
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 Family Policy Council

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

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Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Rev. James T. Golden

Phone 941-773-4031

Address 4815 11th Ave Cir E
Street

Email jamesthegold@aol.com

Bradenton, FL 34208
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:

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3.1.22
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Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kara Gross

Phone 786-363-4436

Address 4343 West Flagler St
Street

Email kgross@aclufl.org

Miami FL 33134
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:
ACLU of Florida

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

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Rules
Committee

HB 0007
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nicole Morse

Phone 8029895705

Address 1575 Springharbor Dr Apt I
Street

Email nikkimorse@gmail.com

Delray Beach FL 33445
City State Zip

asked to speak

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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3-1-22
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HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Genesis Robinson

Phone 386-341-6346

Address 424 E Central Blvd
Street

Email Genesis@equal-Ground

Orlando FL 32801
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:
Equal Ground

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)

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S-001 (08/10/2021)

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March 1 2022
Meeting Date

Rules
Committee

CS/HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Marie-Claire Leman
with Fund Education Now

Phone 850 728-7514

Address 1911 Wahalaw Court
Street

Email marieclaireleman@gmail.com

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

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Rules
Committee

CS/HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall

Phone

Address 579 E. Call St.
Street

Email fcfep1@yahoo.com

Tallahassee, FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Center for Fiscal & Economic Policy

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

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3/1/22
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Rules
Committee

HB 7
~~SB 148~~
Bill Number or Topic

Amendment Barcode (if applicable)

Name Cecily Kushner

Phone 813-360-0747

Address 6107 Adamsville Rd
Street

Email

Gibsonton FL 33534
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:

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S-001 (08/10/2021)

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Rules
Committee

HB 7
~~SB 148~~
Bill Number or Topic

Amendment Barcode (if applicable)

Name Danny Kushmer

Phone 813-360-0747

Address 6107 Adamsville Rd.
Street

Email danny@dannykushner.com

Gibsenton FL 33534
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:

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Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Reesa Levy

Phone 917-952-0904

Address 120 N. River Dr. W
Street

Email Levyreesa@gmail.com

Jupiter, FL 33458
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:

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HB 7
Bill Number or Topic

rules
Committee

Amendment Barcode (if applicable)

Name Will Larkins - President Queer Student Union Phone 7145771186

Address 2809 bower rd Email puffyguard@wallow9@gmail.com
Street

Winter Park FL 32792
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:

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Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jessica Brason

Phone 561-815-2881

Address 12031 COROZO COURT
Street

PBG FL 33418
City State Zip

Email JBrason@gmail.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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Committee

CS/HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Deborah Baker-Rian Phone 850.499.0198

Address 3926 Balsam Dr. Email deborah.bakerrian@gmail.com
Street

Niceville FL 32578
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:

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Committee

CS/HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ellen Baker, PBC Teacher Phone 561-801-0383

Address 5673 Whirlaway Rd Email bakeret@hotmail.com
Street

Palm Beach Gardens, FL 33418
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:

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S-001 (08/10/2021)

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Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patty Farley

Phone 321-794-1955

Address 107 Bay Views Drive
Street

Email pfarley_101@hotmail.com

Indian Harbar Fl. 32937
City State

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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CS/HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Avelia Perkins

Phone 909-262-8407

Address 9470 SW 99th Ct.
Street

Ocala FL 34481
City State Zip

Email perky8913@gmail.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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CS/HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Francine Julius Edwards

Phone 352-562-0547

Address 9825 SE 140th Street
Street

Email Khamilah50@gmail.com

Summerfield FL 34491
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:

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HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Rindala Alajaji

Phone 917 972-6153

Address
Street

Email Rindala.alajaji@equalityflorida.org

City State 32801 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: Equality Florida

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

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The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

CS/ HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name ELAINE MORRISON

Phone 352 282-3495

Address 8518 SW 93rd Circle
Street

Email elmo72434@gmail.com

Ocala FL. 34481
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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3.1.22
Meeting Date

Rules
Committee

HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shirley Y. Herman

Phone 561-596-7780

Address 2600 N. Flagler Dr. Apt 207
Street

West Palm Beach, FL 33407
City State Zip

Email shirleyyherman@aol.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

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3/1/2022
Meeting Date

Rules
Committee

CS/HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Donn Scott, Jr. Phone

Address P.O. Box 10788 Email donn.scottjr.9splcenter.org
Street

Tallahassee FL 32302
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: SPLCenter.org

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules (Senate)
Committee

HB-7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sylvia Moffett

Phone 561-319-6279

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Email sylvia.s.moffett@gmail.com

West Palm Beach FL 33407
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/1/22
Meeting Date

Rules
Committee

HB7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Catarina Fernandez

Phone (305) 300 4727

Address
Street

Email cat@ourclimate.us

Tallahassee FL 32304
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:

Floridastudent power network

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3.1.2022
Meeting Date

Rules
Committee

CS/HB 7
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sonia Palmer

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Address 2 Spruce Run
Street

Email groundhoglady2@yahoo.com

Ocala FL 34472
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3.1.22
Meeting Date

RULES
Committee

HB7 INDIVIDUAL FREEDOM
Bill Number or Topic

—
Amendment Barcode (if applicable)

Name BILL BUNKLEY

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Street

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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.

This information not read into the record by the Chair

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:	CS/HM 43
INTRODUCER:	Rules Committee and Representative Fabricio and others
SUBJECT:	Atrocities and Genocide in Cuba
DATE:	February 25, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ravelo	Phelps	RC	**Favorable**

I. Summary:

CS/HM 43 urges the federal government to take action to address the atrocities and genocide in Cuba and formally request an emergency meeting of the United Nations Security Council to address the same issues.

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:

Cuba

On January 1, 1959, Fidel Castro led an overthrow of the Batista regime and gained control of Cuba.[1] On April 16, 1961, Cuba officially began the transition to a one-party communist system. Under Castro's leadership, Cuba engaged in military and economic relations with the Soviet Union.[2] Following the collapse of the Soviet Union in 1991, the Cuban economy faltered; Soviet economic subsidies to Cuba ceased, and without Soviet support, Cuba fell into an economic crisis.[3] As a result, Cuba's gross national product fell by nearly one-half by 1993, exports fell by 79 percent, and imports fell by 75 percent. The standard of living of the population also declined significantly.[4] Castro ruled Cuba until July 31, 2006, when he shifted power to his brother, Raul Castro. In February of 2008, Fidel Castro officially relinquished the presidency to Raul Castro.[5] Raul Castro maintained the presidency until 2018, when Miguel Diaz-Canel succeeded him.

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[1] History.com, *Communism Timeline* (July 9, 2019), https://www.history.com/topics/russia/communism-timeline (last visited Jan. 10, 2022).
[2] *Fidel Castro Biography*, https://www.biography.com/dictator/fidel-castro (last visited Jan. 10, 2022).
[3] One World Nations Online, *History of Cuba*, https://www.nationsonline.org/oneworld/History/Cuba-history.htm (last visited Jan. 10, 2022).
[4] *Id*.
[5] *Fidel Castro Biography*, https://www.biography.com/dictator/fidel-castro (last visited Jan. 10, 2022).

The United States and Cuba

The United States' long and strained history with Cuba dates back to Fidel Castro's overthrow of the U.S.-backed Cuban government.[6] Following Fidel Castro's revolution, and in opposition to Cuba's strong relationship with the Soviet Union, the U.S. government began imposing economic penalties and instituted a ban on nearly all U.S. exports to Cuba.[7] In 1961, President John F. Kennedy expanded the sanctions and export ban into a full economic embargo, which included strict travel restrictions into Cuba.[8]

Following the Bay of Pigs invasion in 1962, President Kennedy demanded that the Soviets remove nuclear weapons from Cuba and ordered the Navy to impose a maritime quarantine of Cuba to prevent additional weapons from reaching the island.[9] In 1982, President Ronald Reagan labeled Cuba a state sponsor of terrorism due to its ties to international terrorism and support of terrorist groups in Latin America.[10]

In more recent years, the United States has shown continued support for the embargo against and strict disapproval of Castro's Cuba. In 1992, President George H.W. Bush signed into law the Cuban Democracy Act of 1992, which stated[11] that Cuba had repeatedly demonstrated consistent disregard for internationally-accepted standards of human rights and democratic values.[12] The Act noted that the Cuban government restricted the Cuban people's freedoms of speech, press, assembly, and other rights recognized by the UN's Universal Declaration of Human Rights.[13] Showing continued support of the embargo between the U.S. and Cuba, President Bill Clinton signed the Cuban Liberty and Solidarity Act of 1996 into law.[14] On December 17, 2014, under President Barack Obama, trade restrictions and sanctions were lessened with Obama's Presidential Policy Directive on United States-Cuba Normalization.[15] However, President Donald Trump reversed President Obama's efforts and re-classified Cuba as a state sponsor of terrorism on January 11, 2021. President Trump cited Cuba's repeated provision of support for acts of international terrorism by harboring U.S. fugitives and Colombian rebel leaders as well as Cuba's support for Venezuelan President Nicolas Maduro.[16]

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[6] Council on Foreign Relations, U.S.-Cuba Relations (July 13, 2021), https://www.cfr.org/backgrounder/us-cuba-relations (last visited Jan. 10, 2022).
[7] *Id*.
[8] *Id*.
[9] *Id*.
[10] Mark P. Sullivan, *CRS Report for Congress: Cuba and the State Sponsors of Terrorism List* (Updated May 13, 2005), https://sgp.fas.org/crs/row/RL32251.pdf (last visited Jan. 10, 2022).
[11] H.R.5323 - 102nd Congress (1991-1992): Cuban Democracy Act of 1992, H.R.5323, 102nd Cong. (1992), https://www.congress.gov/bill/102nd-congress/house-bill/5323 (last visited Jan. 10, 2022).
[12] *Id*.
[13] *Id*.
[14] H.R.927 - 104th Congress (1995-1996): Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, H.R.927, 104th Cong. (1996), https://www.congress.gov/bill/104th-congress/house-bill/927 (last visited Jan. 10, 2022).
[15] Presidential Policy Directive: United States-Cuba Normalization (October 14, 2016), https://obamawhitehouse.archives.gov/the-press-office/2016/10/14/presidential-policy-directive-united-states-cuba-normalization (last visited Jan. 10, 2022).
[16] Matt Spetalnick, Trump Returns Cuba to U.S. List of State Sponsors of Terrorism (January 11, 2021), https://www.reuters.com/article/us-usa-cuba-terrorism-list/trump-returns-cuba-to-u-s-list-of-state-sponsors-of-terrorism-idUSKBN29G1Y9 l(last visited Jan. 10, 2022).

July 11, 2021 Protests

Spurred by a steep increase in COVID-19 cases, significant lack of medical care and supplies, scarce resources, and a weakened tourist economy, thousands of Cuban citizens took to the streets in protest of the government on July 11, 2021.[17] The protesters displayed discontent with the current dictatorship and pleaded for access to food, water, medicine, and electricity. In response to the protests, hundreds were detained, and the police staked out the homes of participants and activists, sparking widespread fear.[18] President Diaz-Canel called on government supporters to take back the streets and explicitly issued a "call to combat."[19] Protesters reported that the Cuban government had shut down internet access and electricity to citizens and sent police to beat and arrest protesters.[20]

In a July 15, 2021 news release, Governor Ron DeSantis, along with the FCC Commissioner Brendan Carr, urged President Biden to assist the Cuban people by providing internet access. Governor Desantis stated that "[w]e are seeing on the island of Cuba people fighting against a communist dictatorship. . . . The one thing that communist regimes fear the most is truth, and if we are able to help Cubans communicate with one another and with the outside world, that truth is going to matter."[21]

United Nations

The United Nations (UN) was founded in 1945 and currently consists of 193 member states.[22] The UN is governed by the UN Charter, an international treaty binding all UN member states.[23] The United States and Cuba have been members of the UN since it was founded on October 24, 1945.

The UN Security Council is a council organized under the umbrella of the UN member states. The Security Council serves to maintain international peace and security and operates as the investigatory and enforcement mechanisms of the UN.[24] Among other responsibilities, the Security Council has the power to investigate any dispute that may lead to international friction,

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[17] Lioman Lima, Cuba Protests: Three Key Issues That Explain the Rare Unrest (July 12, 2021), https://www.bbc.com/news/world-latin-america-57802170 (last visited Jan. 10, 2022).
[18] Ernesto Londono and Daniel Politi, 'Terror': Crackdown After Protests in Cuba Sends a Chilling Message (July 28, 2021), https://www.nytimes.com/2021/07/28/world/americas/cuba-protests-crackdown-arrests.html (last visited Jan. 10, 2022); see also Human Rights Watch, Case Descriptions of Protestors Detained by the Cuban Government, July 2021 (Oct. 19, 2021), https://www.hrw.org/video-photos/interactive/2021/10/19/case-descriptions-protestors-detained-cuban-government-july (last visited Jan. 10, 2022).
[19] *Id*.
[20] NBC Miami, 'We Need Intervention': South Florida Leaders Call on US to Support Cuban Protesters (July 12, 2021), https://www.nbcmiami.com/news/local/south-florida-leaders-call-on-federal-government-to-support-cuban-protesters/2493048/ (last visited Jan. 10, 2022).
[21] Executive Office of the Governor, *Governor Ron DeSantis and State and Federal Leaders Urge the Biden Administration to Immediately Provide Internet Access to the People of Cuba* (July 15, 2021), https://www.flgov.com/2021/07/15/governor-ron-desantis-and-state-and-federal-leaders-urge-the-biden-administration-to-immediately-provide-internet-access-to-the-people-of-cuba/ (last visited Jan. 10, 2022).
[22] United Nations, *About Us*, https://www.un.org/en/about-us (last visited Jan. 10, 2022). A full list of the 193 member states can be found at https://www.un.org/en/about-us/member-states.
[23] United Nations, *United Nations Charter*, https://www.un.org/en/about-us/un-charter (last visited Jan. 10, 2022).
[24] United Nations Security Council, *Functions and Powers*, https://www.un.org/securitycouncil/content/functions-and-powers (last visited Jan. 10, 2022).

determine the existence of a threat to peace or act of aggression, call on members to apply economic sanctions and other non-forcible measures to prevent or stop aggression, and take military action against an aggressor.[25] The Security Council is made up of 15 member states, five of which are permanent members (China, France, Russia, the United Kingdom, and the United States of America) and ten of which are non-permanent members selected for two-year terms by the UN General Assembly.[26]

Article 54

Chapter 8 (Articles 52-54) of the UN Charter provides for regional arrangements or agencies to deal with matters relating to the maintenance of international peace and security if the following conditions are met:

- The arrangements and their activities are consistent with the Purposes and Principals of the UN Charter.
- The matter being dealt with is "local."
- The matter is appropriate for regional action.
- The regional arrangement obtains authorization from the Security Council before taking action.
- The Security Council is kept fully informed of contemplated actions or actions taken (Article 54).[27]

Communism

Karl Marx proposed his ideology of Communism in his *Communist Manifesto* in 1848.[28] Communism is a political ideology and form of government by which the state owns the major resources in a society, including property, production, education, agriculture, and transportation.[29] Communism seeks to eliminate the class system through redistribution of income[30] and envisions a world without private property; all property is communally owned and each person receives a portion of the property based on what he or she needs.[31] A strong central government controls all aspects of economic production and provides citizens with food, housing, health care, and education.[32]

Communist regimes throughout history typically promise a utopian society in which the working class will enjoy unprecedented prosperity. However, Communist regimes have historically been

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[25] *Id*.
[26] United Nations Security Council, *Current Members*, https://www.un.org/securitycouncil/content/current-members (last visited Jan. 10, 2022).
[27] The UN Security Council Handbook: A User's Guide to Practice and Procedure (2019), https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/the-un-security-council-handbook-by-scr-1.pdf (last visited Jan. 10, 2022).
[28] Communism, https://www.britannica.com/topic/communism (last visited Jan. 10, 2022).
[29] The University of North Carolina at Chapel Hill, Center for European Studies, *Communism: Karl Marx to Joseph Stalin*, https://europe.unc.edu/iron-curtain/history/communism-karl-marx-to-joseph-stalin/ (last visited Jan. 10, 2022).
[30] *Id*.
[31] Sarah Pruitt, *How are Socialism and Communism Different?* (November 4, 2020), https://www.history.com/news/socialism-communism-differences (last visited Jan. 10, 2022).
[32] *Id*.

correlated with massive poverty and repression.[33] Documented historical injustices of communist regimes include mass murder, repression, deprivations of freedoms, loss of property, and criminalization of ordinary economic activity.[34] Joseph Stalin and Vladimir Lenin (Soviet Union), Mao Zedong (China), and Fidel Castro (Cuba) are among the most notorious communist leaders.[35]

Communist governments currently exist in China, Cuba, North Korea, Vietnam, and Laos.[36]

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.

III. Effect of Proposed Changes:

The bill is a memorial addressed to the President and Congress of the United States showing the Florida Legislature's support for the Cuban people and urging the federal government to address the atrocities and genocide in Cuba and formally request an emergency meeting of the United Nations Security Council to address the same issues.

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

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[33] Ilya Somin, *Lessons from a Century of Communism* (November 7, 2017), https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/11/07/lessons-from-a-century-of-communism/ (last visited Jan. 10, 2022).
[34] *Id*.
[35] *Communism Timeline* (July 9, 2019), https://www.history.com/topics/russia/communism-timeline (last visited Jan. 10, 2022).
[36] Sarah Pruitt, *How are Socialism and Communism Different?* (November 4, 2020), https://www.history.com/news/socialism-communism-differences (last visited Jan. 10, 2022).

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

None.

B. Amendments:

None.

House Memorial

A memorial to the President and Congress of the United States, urging the President and Congress to take action to address the atrocities and genocide in Cuba.

WHEREAS, Cuba has been under a communist dictatorship for 62 years, and

WHEREAS, the Cuban government continues to repress all peaceful attempts by the Cuban people to bring democratic change to the island by denying universally recognized liberties, and

WHEREAS, the Cuban government arbitrarily searched homes and arrested and killed its citizens, torturing and silencing the will of its people, and

WHEREAS, thousands of Cubans have taken to the streets across the country in momentous demonstrations protesting longstanding restrictions on rights, and

WHEREAS, the Cuban government has partaken in human trafficking, child labor, indoctrination, harboring terrorists, and terrorist activities, and

WHEREAS, the Cuban government has diplomatic relations with authoritarian regimes, such as Venezuela, China, Russia, and Nicaragua, and is using their support to continue to suppress the Cuban people, and

WHEREAS, the Cuban regime is using torture, violence, and intimidation, and is withholding food, water, medicine,

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FLORIDA HOUSE OF REPRESENTATIVES

CS/HM 43 2022

electricity, education, and communication to the outside world, in order to strangle the population into submission, NOW, THEREFORE,

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

That the President and Congress of the United States are urged to take action to address the atrocities and genocide in Cuba and to enact Article 54 of the United Nations Charter to reconvene the Security Council for an emergency meeting on the issue.

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

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hm0043-01-c1

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/HB 1467, 1st Eng.
INTRODUCER:	Appropriations Committee, and Representative Garrison and others
SUBJECT:	K-12 Education
DATE:	March 2, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazesi	Phelps	RC	**Fav/1 Amendment**

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

CS/HB 1467 establishes 12 year term limits for district school board members. The bill also provides specific requirements for school districts in selecting instructional materials and materials used in school libraries and media centers. Specifically, the bill requires:

- Certain school district instructional material review committee meetings be noticed and open to the public.
- School district personnel who are involved in reviewing and selecting certain instructional materials and library materials to complete training developed by the Department of Education (DOE) on selecting quality, age-appropriate books, prior to making selections.
- School districts to adopt and post procedures for developing library media center collections.
- Each elementary school to post on its website a list of all materials maintained in the school library or required in a classroom booklist.
- Material in a school library or school- or grade-level reading list to be selected by a certified educational media specialist.
- School districts to provide access to all materials for public inspection and to publish in a searchable format a list of all materials available to students on the school website.
- School districts to provide a public review process for the adoption of all materials and to select, approve, adopt, or purchase materials as a separate line item on a board meeting agenda and provide reasonable opportunity for public comment.
- School districts to annually submit to the Commissioner of Education a report identifying materials for which the school district received an objection, and the DOE to publish a list of removed or discontinued materials as a result of an objection.
- School principals to oversee compliance with school library media center materials selection procedures at the school to which they are assigned.

- Superintendents to identify, in their annual certification to the Commissioner of Education for the release of funds for instructional materials, any material that received an objection and the grade-level and course for which a removed or discontinued material was used.

The bill is effective July 1, 2022.

II. Present Situation:

District School Board Member Term Limits

The Florida Constitution provides that "[i]n each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law."[1] This provision has been interpreted to allow qualifications to be established by statute.[2] Each district school board must operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within constitutional limits.[3] There is currently no limit on the number of terms a school board member may serve.[4]

Florida's Constitution establishes term limits for the following elected officials:[5]
- Florida Governor;
- Florida representatives;
- Florida senators;
- Florida Lieutenant Governor;
- Florida Cabinet members;
- U.S. representatives from Florida; and
- U.S. senators from Florida.

The Florida Constitution states that none of these officials, except for the office of Governor which is governed by a slightly different provision, may appear on a ballot for reelection if, by the end of the current term of office, the person will have served or, but for resignation, would have served in that office for eight consecutive years.[6] These term limits became effective in 1992 and were prospective, so that officials reelected to a consecutive term in 1992 could serve another consecutive eight years before reaching the term limit.[7]

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[1] Art. IX, s. 4(a), Fla. Const.
[2] *Askew v. Thomas*, 293 So. 2d 40, 42 (Fla. 1974) upholding residency requirements for district school board members and holding that section 4(a) of article IX "does NOT address itself to Qualifications of the school district members" and, therefore, statutes imposing qualifications "remain intact and viable, unaffected by this new constitutional provision." *See also Telli v. Broward County*, 94 So. 3d 504 (Fla. 2012) receding from prior opinions which held that article VI, section 4(b), Florida Constitution, listing the state elected offices with mandatory term limits, prohibited the imposition of term limits on other officials. The court held that "[i]nterpreting Florida's Constitution to find implied restrictions on powers otherwise authorized is unsound in principle" and that "express restrictions must be found not implied." *Id.* at 513.
[3] Art. IX, s. 4(b), Fla. Const.
[4] Art. IX, s. 4(a), Fla. Const.
[5] Art. VI, s. 4(c), Fla. Const.
[6] Art. VI, s. 4(c), Fla. Const.
[7] *See* Art. VI, s. 4, Fla. Const. (1992); Billy Buzzett and Steven J. Uhlfelder, *Constitution Revision Commission: A Retrospective and Prospective Sketch*, The Florida Bar Journal (April 1997), https://www.floridabar.org/the-florida-bar-journal/constitution-revision-commission-a-retrospective-and-prospective-sketch (last visited April 12, 2021).

Instructional Materials and Library Materials in Florida Public Schools

Instructional Materials Adoption

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.[8] "Adequate instructional materials" are defined by law as a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for students.[9]

State Instructional Materials Adoption

The Florida Department of Education (DOE) facilitates the statewide instructional materials adoption process through evaluation of materials submitted by publishers and manufacturers.[10] Expert reviewers chosen by the DOE must objectively evaluate materials based on alignment to Florida's state-adopted standards, accuracy, and appropriateness for age and grade level.[11] Based on reviewer recommendations of materials that are "suitable, usable, and desirable," the Commissioner of Education (commissioner) then selects and adopts instructional materials for each grade and subject under consideration.[12] The DOE must provide training to instructional materials reviewers on competencies for making valid, culturally sensitive, and objective recommendations regarding the content and rigor of instructional materials prior to the beginning of the review and selection process.[13]

After adoption, the DOE must make the final report of instructional materials available at all times for public inspection. The DOE Office of Instructional Materials announces the adoption by publicly posting the list on its website, as well as emailing district instructional materials contacts with the newly approved materials.[14]

School District Instructional Materials Adoption

A district school board or consortium of school districts may implement an instructional materials program that includes the review, recommendation, adoption, and purchase of instructional materials. The district school superintendent must certify to the DOE by March 31 of each year that all instructional materials for core courses used by the district are aligned with

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[8] Section 1006.40(2), F.S.
[9] Section 1006.28(1), F.S. Digital and instructional materials, including software applications, must be provided by each school board, in consultation with the district school superintendent, to students with disabilities in prekindergarten through grade 12. Section 1003.4203(2), F.S.
[10] Section 1006.34(1), F.S.
[11] Section 1006.31, F.S.
[12] Section 1006.34(2)(a), F.S. Generally, the commissioner adopts instructional materials according to a 5-year rotating schedule. The commissioner may approve a shorter schedule if the content area requires more frequent revision. Section 1006.36(1), F.S.
[13] Section 1006.29(5), F.S.
[14] Florida Department of Education, Instructional Materials, *Archive*, https://www.fldoe.org/academics/standards/instructional-materials/archive/ (last visited Jan. 18, 2022). The DOE website has all adopted instructional materials lists from 2005 to present.

applicable state standards.[15] School districts receive an allocation of state funds each year for instructional materials, library books, and reference books.[16] Unless a school district has implemented its own instructional materials review process,[17] at least 50 percent of the allocation of funds must be used to purchase instructional materials on the state-adopted list.[18] The remaining 50 percent of the annual allocation may be used for the purchase of library and reference books, nonprint materials, and the repair and renovation of materials; however, such materials are not subject to the same school-district adoption procedures as instructional materials.[19] Each district school board is required to maintain a list of all purchased instructional materials, by grade level, on its website.[20]

District school boards or a consortium of school districts who choose to implement an instructional materials program must adopt rules for the instructional materials program. The school district instructional materials review program must include processes criteria, and requirements for the following:[21]

- Selection of reviewers, one or more of whom must be parents with children in public schools;
- Review of instructional materials;
- Selection of instructional materials, including a thorough review of curriculum content;
- Reviewer recommendations;
- District school board adoption; and
- Purchase of instructional materials.

The process by which instructional materials are adopted by the district school board must include:[22]

- A process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the school board hearing and public meeting as specified in this subparagraph. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption;
- An open, noticed school board hearing to receive public comment on the recommended instructional materials;
- An open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased through the district school board instructional materials review process pursuant to this section. This public meeting must be held on a different date than the school board hearing; and
- Notice requirements for the school board hearing and the public meeting that must specifically state which instructional materials are being reviewed and the manner in which the instructional materials can be accessed for public review. The hearing must allow the

[15] Section 1006.283(1), F.S.
[16] Specific Appropriation 7 and 90, section 2, ch. 2021-36, L.O.F.
[17] Section s. 1006.283, F.S.
[18] Section 1006.34, F.S. All adopted materials are posted on the DOE Instructional Materials webpage. Florida Department of Education, *Instructional Materials*, https://www.fldoe.org/academics/standards/instructional-materials/ (last visited January 20, 2022).
[19] Section 1006.40(3)(b), F.S.
[20] Section 1006.28(2)(a)(1), F.S.
[21] Section 1006.283(2)(a)1.-6., F.S.
[22] Section 1006.283(2)(b)8.a.-d., F.S.

parent of a public school student or a resident of the county to proffer evidence that a recommended instructional material.

School districts are also required to establish the processes by which the district school board must receive public comment on the recommended instructional materials and how parents can access their children's instructional materials through the district's local instructional improvement system.[23]

In September 2021, the Second District Court of Appeal held that when a district school board delegates decision-making authority to an instructional materials review committee, any meeting in which the committee exercises the authority to rank, eliminate, and select materials for final approval by the school board must be noticed and open in accordance with the Sunshine Law.[24]

Selection Processes of Library Media Materials

In addition to instructional materials, each district school board is responsible for the content of any other materials used in the classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program, or otherwise purchased or made available.[25] The selection of instructional materials, library media, and other reading materials used in the public-school system must include consideration of the age of the students who normally could be expected to have access to the material, the educational purpose to be served by the material, the degree to which the material would be supplemented and explained by classroom programs, and the consideration of the diversity of the students in Florida.[26]

Best practices for developing a school library collection include research on potential books and basing selections on the goals and objectives of the school and the students' personal interests and learning. Materials should be appropriate for the subject area and age, emotional development, ability level, learning styles, and development of the students for whom the materials are selected.[27] Resources such as Association for Library Service to Children, Booklist, School Library Journal, Kirkus, and Young Adult Library Services Association are commonly recommended review sources for school librarians.[28]

For the 2021-2022 fiscal year, the legislature allocated $12,733,273 to school districts for the purchase of library media materials.[29] The library media categorical funds are intended for a specific purpose – the purchase of library media resources to be checked out by students and

[23] Section 1006.283(2)(b) 9., 11., F.S.
[24] *Florida Citizens Alliance, Inc. v. School Bd. of Collier Cnty*., 328 So.3d 22 (Fla. 2d DCA 2021). Florida's Sunshine Law is established in s. 286.011, F.S.
[25] Section 1006.28(2)(a)1., F.S.
[26] Section 1006.34(2)(b), F.S.
[27] American Library Association, Selection Criteria, *School Library Selection Criteria,* https://www.ala.org/tools/challengesupport/selectionpolicytoolkit/criteria (last visited Jan. 17, 2022).
[28] *Id.*
[29] Specific Appropriation 7 and 90, section 2, ch. 2021-36, L.O.F.

teachers through the school library. Specifically, library media materials include those items normally purchased under Instructional Media Resources.[30]

Librarians/Media Specialists

Librarians/media specialists are defined as staff members responsible for evaluating, selecting, organizing, and managing media and technology resources, equipment, and related systems. They are also responsible for working with teachers and students to make resources available in instructional programs, media productions, and location and use of information resources.[31] Educators in Florida may become certified educational media specialists through the DOE certification process, but Florida schools are not required to employ a certified educational media specialist. In the 2021-22 school year, there were 3,682 certified media specialists working in Florida's school districts with every school district employing at least one certified media specialist.[32] Of the 3,682 certified media specialists, 1,779 were employed as a media specialist and 1,903 were employed in another position within the district.[33]

To become a certified educational media specialist in grades prekindergarten through 12, an individual must complete one of the following pathways:[34]

- A bachelor's degree or higher with an undergraduate or graduate major in educational media or library science; or
- A bachelor's degree or higher with thirty semester hours in educational media or library science to include credit in management of library media programs, collection development, library media resources, reference sources and services, organization of collections, and design and production of educational media.

Each school district must provide training to school librarians and media specialists regarding the prohibition against distributing harmful materials to minors, and best practices for providing students access to age-appropriate materials and library resources.[35]

Objection to Materials

Each district school board is required to establish a process by which a parent or resident of the county may contest the district school board's adoption of a specific material.[36] Parents must file a petition, on a form provided by the district school board, within 30 calendar days after the adoption of the material. The school board is required to conduct at least one open public hearing before an unbiased and qualified hearing officer that is not an employee or agent of the school district. Following the hearing, the school board's decision is final and not subject to further petition or review.[37]

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[30] Florida Department of Education, Memo to School District Superintendents, *Specific Appropriations 7 and 90 – Library Media Allocation, 2021, available at* https://info.fldoe.org/docushare/dsweb/Get/Document-9189/dps-2021-92.pdf.
[31] Section 1012.01(2)(c), F.S.
[32] Email, Florida Department of Education, Jessica Fowler, Deputy Director of Governmental Relations (Jan. 24, 2022).
[33] *Id.*
[34] Rule 6A-4.0251, F.A.C.
[35] Section 1006.28(2)(d), F.S.
[36] Section 1006.28(2)(a)3., F.S.
[37] *Id.*

Required Instruction

Florida law requires certain topics to be taught in kindergarten through grade 12 public schools annually to ensure coverage of all State Board of Education adopted standards in reading and language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.[38] Instructional personnel must teach these topics efficiently and faithfully, utilizing materials that meet the highest standards for professionalism and historical accuracy.[39]

School districts must submit a report to the commissioner annually describing how instruction was provided during the previous school year, including specific courses in which instruction was delivered, a description of materials and resources utilized to deliver instruction, and the professional qualifications of the person delivering instruction for specified topics.[40]

Required instruction topics are not correlated with the instructional materials adoption process at the DOE; therefore, instructional materials that are purchased by a school district to teach these topics may not go through a public adoption process as with instructional materials for core courses.[41] For example, the most recent state instructional materials adoption that included a call for health and physical education materials was in the 2015-2016 adoption; however, no materials were adopted for health and physical education for kindergarten through grade 8.[42] The previous year's adoption, in 2014-2015, adopted three instructional materials for health and physical education courses in high school grade levels.[43]

III. Effect of Proposed Changes:

CS/HB 1467 provides 12 year terms limits for school board members, and modifies school district requirements for instructional materials, including instructional materials in school libraries and media centers to provide increased oversight over and public access to all materials used in instruction.

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[38] Section 1003.42(1), F.S.

[39] Section 1003.42(2), F.S. Required instruction includes, for example, the history and content of the Declaration of Independence, the arguments in support of adopting our republican form of government, flag education, the history of the Holocaust, the history of African Americans, and kindness to animals.

[40] Rule 6A-1.094124, F.A.C. The DOE provides the Required Instruction Portal website for districts to annually submit information on required topics. Florida Department of Education, *Florida Required Instruction Portal,* https://www.flrequiredinstruction.org/ (last visited Jan. 18, 2022).

[41] Instructional materials adoption at the state level focuses on one or more related subject areas per year, on 5-year rotating basis. Florida Department of Education, Instructional Materials, *FLORIDA INSTRUCTIONAL MATERIALS ADOPTION SCHEDULE FOR ADOPTION YEARS 2020-2021 THROUGH 2023-2024* (2020), *available at* https://www.fldoe.org/core/fileparse.php/5574/urlt/AdoptionCycle.pdf. The DOE posts the instructional materials adoption cycle for 5 years. K-12 Mathematics is the subject area in the 2021-2022 year.

[42] Florida Department of Education, Instructional Materials, *2015-2016 Florida Department of Education 6-12 Career and Technical Education, K-8 Physical and Health Education, K-12 Visual and Performing Arts, and K-12 World Languages: Chinese, German, Italian and Latin Adopted Instructional Materials* (July 12, 2016), *available at* https://www.fldoe.org/core/fileparse.php/5574/urlt/2015-2016AdoptedIMUpdate.pdf.

[43] Florida Department of Education, Instructional Materials, *2014-2015 Florida Department of Education Adopted Instructional Materials* (Jan. 28, 2016), *available at* https://www.fldoe.org/core/fileparse.php/5574/urlt/1415AIMDec2015.pdf. Instructional materials used to teach reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment, must be annually approved by a district school board in an open, noticed public meeting. Section 1003.42(1)(b), F.S.

School Board Member Term Limits

The bill establishes term limits of 12 years for school board members. The bill provides that a person may not appear on the ballot for reelection to the office of school board member if, by the end of his or her current term of office, the person will have served, or but for resignation would have served, in that office for eight consecutive years. The term limits would begin on or after the November 8, 2022, election, allowing current school board members to serve an additional 12 years.

Public Participation in the Instructional Materials Review Process

The bill requires that district school boards that hold meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public, and must include parents of district students. Additionally, the bill requires school districts to publish on their website, in a searchable format prescribed by the Department of Education (DOE), a list of all instructional materials, include those used for specified required instruction.

District school boards must also:

- Provide access to all materials, excluding teacher editions, 20 calendar days before the district school board[44] takes any official action on such materials. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption;
- Select, approve, adopt or purchase materials as a separate line item on the agenda and must provide a reasonable opportunity for public comment. The materials may not be selected, approved, or adopted as part of a consent agenda; and
- Submit to the Commissioner of Education, beginning June 30, 2023, an annual report that identifies:
  - Each material which the school district received an objection for the school year and the specific objections;
  - Each material that was removed or discontinued as a result of an objection; and
  - The grade level and course for which a removed or discontinued material was used, as applicable.

The bill requires the DOE to publish and update a list of materials that were removed or discontinued by district school boards as a result of an objection and disseminate the list to school districts for consideration in their instructional materials selection.

The bill requires superintendents to identify, in their annual certification to the Commissioner of Education for the release of funds for instructional materials, any material that received an objection and the grade-level and course for which a removed or discontinued material was used.

[44] The process by which instructional materials are adopted by a district school board is established in s. 1006.283(2)(b)8., F.S.

Materials in School District Libraries and Media Centers

The bill requires school librarians, media specialists, and other personnel involved in the selection of school district library materials to complete the training program developed by the DOE, which must also include training on materials for required instruction and materials in school library media centers and reading lists. The bill requires the DOE to develop an online training programs for librarians and media specialists to be made available no later than January 1, 2023. Beginning January 1, 2023, such individuals must complete the training prior to reviewing and selecting materials and library resources. Additionally, the bill requires superintendents, beginning July 1, 2023, to certify to the commissioner that all school librarians and media center specialists have completed the online training program.

The bill also requires that each book made available to students through a school district library media center or included in a recommended or assigned school or grade-level reading list must be selected by a school district employee who holds a valid educational media specialist certificate. All public elementary schools will be required to publish on its website a list of all materials maintained in the school library or required as part of a booklist used in a classroom.

District school boards are required in the bill to adopt and post on the website procedures for developing library media center collections. At a minimum, the procedures must:

- Require book selections to selections be free of pornography and prohibited materials harmful to minors, suited to student needs, and appropriate for the grade level and age group;
- Require consultation of reputable, professionally recognized sources and school community stakeholders for each selection;
- Provide for library media center collections based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty; and
- Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and materials that were removed because of an objection by a parent or resident of the county.

The bill provides that school principals are responsible for overseeing compliance with school library media center materials selection procedures at the school in which they are assigned.

The bill is effective 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:

The fiscal impact to the state is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.35, 1006.28, 1006.29, 1006.40.

IX. Additional Information:

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

None.

B. Amendments:

Barcode 745288 by Rules on March 1, 2022:

The amendment changes the district school board member term limits established in the bill from 8 years to 12 years. The amendment made the following changes to the instructional materials provisions in the bill:

- Requires a DOE-created training program for librarians and media specialists to be made available no later than January 1, 2023; requires after that date specified personnel must complete the training prior to reviewing and selecting materials; and requires that individuals must complete the training by July 1, 2023.
- Clarifies that school principals' oversight for compliance with district procedures for media center materials is at the school to which they are assigned.
- Requires that the report of materials objected to or removed established in the bill must include both local- and state-adopted materials.
- Adds the identification of materials objected to or removed as a part of the current annual superintendent certification of compliance with instructional materials requirements.

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

745288

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/02/2022	.	
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The Committee on Rules (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 43 - 290
and insert:
for 12 consecutive years. Service of a term of office which commenced before November 8, 2022, will not be counted toward the limitation imposed by this section.

Section 2. Paragraphs (a) and (d) of subsection (2) and subsection (4) of section 1006.28, Florida Statutes, are amended, and paragraph (e) is added to subsection (2) of that section, to read:



1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—

(2) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The district school board also has the following specific duties and responsibilities:

(a) *Courses of study; adoption.*—Adopt courses of study, including instructional materials, for use in the schools of the district.

1. Each district school board is responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s. 1006.283, or otherwise purchased or made available. ~~Each district school board shall maintain on its website a current list of instructional materials, by grade level, purchased by the district.~~

2. Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific ~~instructional~~ material, which clearly describes a process to handle all objections and provides for resolution. The process must provide the parent or resident the opportunity to proffer evidence to the district school board that:

a. An instructional material does not meet the criteria of s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in



a course or otherwise made available to students in the school district but was not subject to the public notice, review, comment, and hearing procedures under s. 1006.283(2)(b)8., 9., and 11.

b. Any material used in a classroom, made available in a school library, or included on a reading list contains content that is pornographic or prohibited under s. 847.012, is not suited to student needs and their ability to comprehend the material presented, or is inappropriate for the grade level and age group for which the material is used.

If the district school board finds that an instructional material does not meet the criteria under sub-subparagraph a. or that any other material contains prohibited content under sub-subparagraph b., the school district shall discontinue use of the material for any grade level or age group for which such use is inappropriate or unsuitable.

3. Each district school board must establish a process by which the parent of a public school student or a resident of the county may contest the district school board's adoption of a specific instructional material. The parent or resident must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the instructional material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria of s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days



after the 30-day period has expired, the school board must, for all petitions timely received, conduct at least one open public hearing before an unbiased and qualified hearing officer. The hearing officer may not be an employee or agent of the school district. The hearing is not subject to the provisions of chapter 120; however, the hearing must provide sufficient procedural protections to allow each petitioner an adequate and fair opportunity to be heard and present evidence to the hearing officer. The school board's decision after convening a hearing is final and not subject to further petition or review.

4. Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purposes must include parents of district students.

(d) *School library media services; establishment and maintenance.*—Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system. Beginning January 1, 2023, ~~Each school district shall provide training to~~ school librarians, ~~and~~ media specialists, and other personnel involved in the selection of school district library materials must complete the training program developed pursuant to s. 1006.29(6) before reviewing and selecting ~~regarding the prohibition against distributing harmful materials to minors under s. 847.012 and applicable case law,~~



~~and best practices for providing students access to~~ age-appropriate materials and library resources. Upon written request, a school district shall provide access to any material or book specified in the request that is maintained in a district school system library and is available for review.

1. Each book made available to students through a school district library media center or included in a recommended or assigned school or grade-level reading list must be selected by a school district employee who holds a valid educational media specialist certificate, regardless of whether the book is purchased, donated, or otherwise made available to students.

2. Each district school board shall adopt procedures for developing library media center collections and post the procedures on the website for each school within the district. The procedures must:

a. Require that book selections meet the criteria in s. 1006.40(3)(d).

b. Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.

c. Provide for library media center collections based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.

d. Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and required removal pursuant to subparagraph (a)2.

3. Each elementary school must publish on its website, in a


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searchable format prescribed by the department, a list of all materials maintained in the school library media center or required as part of a school or grade-level reading list.

(e) *Public participation.*—Publish on its website, in a searchable format prescribed by the department, a list of all instructional materials, including those used to provide instruction required by s. 1003.42. Each district school board must:

1. Provide access to all materials, excluding teacher editions, in accordance with s. 1006.283(2)(b)8.a. before the district school board takes any official action on such materials. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption.

2. Select, approve, adopt, or purchase all materials as a separate line item on the agenda and must provide a reasonable opportunity for public comment. The use of materials described in this paragraph may not be selected, approved, or adopted as part of a consent agenda.

3. Annually, beginning June 30, 2023, submit to the Commissioner of Education a report that identifies:

a. Each material for which the school district received an objection pursuant to subparagraph (a)2. for the school year and the specific objections thereto.

b. Each material that was removed or discontinued as a result of an objection.

c. The grade level and course for which a removed or discontinued material was used, as applicable.



The department shall publish and regularly update a list of materials that were removed or discontinued as a result of an objection and disseminate the list to school districts for consideration in their selection procedures.

(4) SCHOOL PRINCIPAL.—The school principal has the following duties for the management and care of ~~instructional~~ materials at the school:

(a) *Proper use of instructional materials.*—The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school.

(b) *Money collected for lost or damaged instructional materials; enforcement.*—The school principal shall collect from each student or the student's parent the purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged and to report and transmit the money collected to the district school superintendent. The failure to collect such sum upon reasonable effort by the school principal may result in the suspension of the student from participation in extracurricular activities or satisfaction of the debt by the student through community service activities at the school site as determined by the school principal, pursuant to policies adopted by district school board rule.

(c) *Sale of instructional materials.*—The school principal, upon request of the parent of a student in the school, shall



sell to the parent any instructional materials used in the school. All such sales shall be made pursuant to rule adopted by the district school board, and the principal shall annually provide information to parents that they may purchase instructional materials and how to purchase the materials.

(d) *Disposition of funds.*—All money collected from the sale, exchange, loss, or damage of instructional materials shall be transmitted to the district school superintendent to be deposited in the district school board fund and added to the district appropriation for instructional materials.

(e) *Accounting for instructional materials.*—Principals shall see that all instructional materials are fully and properly accounted for as prescribed by adopted rules of the district school board.

(f) *Selection of library media center materials.*—School principals are responsible for overseeing compliance with school district procedures for selecting school library media center materials at the school to which they are assigned.

Section 3. Subsection (2) of section 1006.29, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

1006.29 State instructional materials reviewers.—

(2) For purposes of this part ~~state adoption~~, the term "instructional materials" means items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives,



electronic media, and computer courseware or software. A publisher or manufacturer providing instructional materials as a single bundle shall also make the instructional materials available as separate and unbundled items, each priced individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers.

(6) The department shall develop an online training program for school librarians, media specialists, and other personnel involved in the selection and maintenance of library media and collections or materials maintained on a reading list. This training must assist reviewers in complying with the requirements of s. 1006.31(2). The department shall make this training available no later than January 1, 2023. No later than July 1, 2023, and annually thereafter, each superintendent must certify to the department that all school librarians and media specialists employed by the district have completed the online training program.

Section 4. Paragraph (b) of subsection (4) of section 1006.40, Florida Statutes, is amended to read:

1006.40 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—

(4) Each district school board is responsible for the content of all materials used in a classroom or otherwise made available to students. Each district school board shall adopt rules, and each district school superintendent shall implement procedures, that:

(b) Provide a process for public review of, public comment



on, and the adoption of ~~instructional~~ materials, including those ~~instructional materials~~ used to provide instruction required by s. 1003.42 ~~teach reproductive health or any disease, including HIV/AIDS, under ss. 1003.42(3) and 1003.46~~, which satisfies the requirements of s. 1006.283(2)(b)8., 9., and 11.

Section 5. Subsection (2) of section 1011.67, Florida Statutes, is amended to read:

1011.67 Funds for instructional materials.—

(2) Annually by July 1 and before the release of instructional materials funds, each district school superintendent shall certify to the Commissioner of Education that the district school board has approved a comprehensive staff development plan that supports fidelity of implementation of instructional materials programs, including verification that training was provided; that the materials are being implemented as designed; and, beginning July 1, 2021, for core reading materials and reading intervention materials used in kindergarten through grade 5, that the materials meet the requirements of s. 1001.215(8). Such instructional materials, as evaluated and identified pursuant to s. 1001.215(4), may be purchased by the school district with funds under this section without undergoing the adoption procedures under s. 1006.40(4)(b). The certification must identify any material that received an objection pursuant to s. 1006.28 for the school year and the specific objections thereto, each material that was removed or discontinued as a result of an objection, and the grade level and course for which a removed or discontinued material was used, as applicable. This subsection does not preclude school districts from purchasing or using other



materials to supplement reading instruction and provide additional skills practice.

Section 6. This act shall take effect July 1, 2022.

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

And the title is amended as follows:

Delete lines 12 - 31

and insert:

specified training by a certain date; requiring certain materials to be selected by employees who meet specified criteria; requiring district school boards to adopt procedures for developing library media center collections; providing requirements for such procedures; requiring elementary schools, district school boards, and the Department of Education to post on their websites specified information relating to instructional materials and other materials in certain formats; providing district school board requirements; providing that school principals are responsible for overseeing compliance with specified procedures relating to library media center materials; amending s. 1006.29, F.S.; requiring the department to develop a training program for the selection of materials used in schools and library media centers by a certain date; amending s. 1006.40, F.S.; revising district school board requirements for the selection and adoption of certain materials; amending s. 1011.67, F.S.; requiring that the certification by district school superintendents to the Commissioner of



Education identifies instructional materials that are the subject of an objection and provides specified information related to the objection; providing an effective date.

801336

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/02/2022	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete line 96
and insert:
is inappropriate or unsuitable. School districts may not destroy any material discontinued pursuant to this paragraph and shall make a good faith effort to either return the material to the entity that provided the material or, if unable to return the material, inform local libraries and nonprofit book depositories of the material's availability and transfer the material upon a local library or nonprofit book depository's request.

801336

12
13 ================ T I T L E A M E N D M E N T ================
14 And the title is amended as follows:
15 Delete line 6
16 and insert:
17 specified list on their websites; prohibiting school
18 districts from destroying certain discontinued
19 materials; specifying how school districts must return
20 or transfer such materials; requiring certain

745288

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/02/2022	.	
	.	
	.	
	.	

The Committee on Rules (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 43 - 290
and insert:
for 12 consecutive years. Service of a term of office which commenced before November 8, 2022, will not be counted toward the limitation imposed by this section.

Section 2. Paragraphs (a) and (d) of subsection (2) and subsection (4) of section 1006.28, Florida Statutes, are amended, and paragraph (e) is added to subsection (2) of that section, to read:



1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—

(2) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The district school board also has the following specific duties and responsibilities:

(a) *Courses of study; adoption.*—Adopt courses of study, including instructional materials, for use in the schools of the district.

1. Each district school board is responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s. 1006.283, or otherwise purchased or made available. ~~Each district school board shall maintain on its website a current list of instructional materials, by grade level, purchased by the district.~~

2. Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific ~~instructional~~ material, which clearly describes a process to handle all objections and provides for resolution. The process must provide the parent or resident the opportunity to proffer evidence to the district school board that:

a. An instructional material does not meet the criteria of s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in



a course or otherwise made available to students in the school district but was not subject to the public notice, review, comment, and hearing procedures under s. 1006.283(2)(b)8., 9., and 11.

b. Any material used in a classroom, made available in a school library, or included on a reading list contains content that is pornographic or prohibited under s. 847.012, is not suited to student needs and their ability to comprehend the material presented, or is inappropriate for the grade level and age group for which the material is used.

If the district school board finds that an instructional material does not meet the criteria under sub-subparagraph a. or that any other material contains prohibited content under sub-subparagraph b., the school district shall discontinue use of the material for any grade level or age group for which such use is inappropriate or unsuitable.

3. Each district school board must establish a process by which the parent of a public school student or a resident of the county may contest the district school board's adoption of a specific instructional material. The parent or resident must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the instructional material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria of s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days



after the 30-day period has expired, the school board must, for all petitions timely received, conduct at least one open public hearing before an unbiased and qualified hearing officer. The hearing officer may not be an employee or agent of the school district. The hearing is not subject to the provisions of chapter 120; however, the hearing must provide sufficient procedural protections to allow each petitioner an adequate and fair opportunity to be heard and present evidence to the hearing officer. The school board's decision after convening a hearing is final and not subject to further petition or review.

4. Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purposes must include parents of district students.

(d) *School library media services; establishment and maintenance.*—Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system. Beginning January 1, 2023, ~~Each school district shall provide training to~~ school librarians, ~~and~~ media specialists, and other personnel involved in the selection of school district library materials must complete the training program developed pursuant to s. 1006.29(6) before reviewing and selecting ~~regarding the prohibition against distributing harmful materials to minors under s. 847.012 and applicable case law,~~



~~and best practices for providing students access to~~ age-appropriate materials and library resources. Upon written request, a school district shall provide access to any material or book specified in the request that is maintained in a district school system library and is available for review.

1. Each book made available to students through a school district library media center or included in a recommended or assigned school or grade-level reading list must be selected by a school district employee who holds a valid educational media specialist certificate, regardless of whether the book is purchased, donated, or otherwise made available to students.

2. Each district school board shall adopt procedures for developing library media center collections and post the procedures on the website for each school within the district. The procedures must:

a. Require that book selections meet the criteria in s. 1006.40(3)(d).

b. Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.

c. Provide for library media center collections based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.

d. Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and required removal pursuant to subparagraph (a)2.

3. Each elementary school must publish on its website, in a


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searchable format prescribed by the department, a list of all materials maintained in the school library media center or required as part of a school or grade-level reading list.

(e) *Public participation.*—Publish on its website, in a searchable format prescribed by the department, a list of all instructional materials, including those used to provide instruction required by s. 1003.42. Each district school board must:

1. Provide access to all materials, excluding teacher editions, in accordance with s. 1006.283(2)(b)8.a. before the district school board takes any official action on such materials. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption.

2. Select, approve, adopt, or purchase all materials as a separate line item on the agenda and must provide a reasonable opportunity for public comment. The use of materials described in this paragraph may not be selected, approved, or adopted as part of a consent agenda.

3. Annually, beginning June 30, 2023, submit to the Commissioner of Education a report that identifies:

a. Each material for which the school district received an objection pursuant to subparagraph (a)2. for the school year and the specific objections thereto.

b. Each material that was removed or discontinued as a result of an objection.

c. The grade level and course for which a removed or discontinued material was used, as applicable.



The department shall publish and regularly update a list of materials that were removed or discontinued as a result of an objection and disseminate the list to school districts for consideration in their selection procedures.

(4) SCHOOL PRINCIPAL.—The school principal has the following duties for the management and care of ~~instructional~~ materials at the school:

(a) *Proper use of instructional materials.*—The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school.

(b) *Money collected for lost or damaged instructional materials; enforcement.*—The school principal shall collect from each student or the student's parent the purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged and to report and transmit the money collected to the district school superintendent. The failure to collect such sum upon reasonable effort by the school principal may result in the suspension of the student from participation in extracurricular activities or satisfaction of the debt by the student through community service activities at the school site as determined by the school principal, pursuant to policies adopted by district school board rule.

(c) *Sale of instructional materials.*—The school principal, upon request of the parent of a student in the school, shall



sell to the parent any instructional materials used in the school. All such sales shall be made pursuant to rule adopted by the district school board, and the principal shall annually provide information to parents that they may purchase instructional materials and how to purchase the materials.

(d) *Disposition of funds.*—All money collected from the sale, exchange, loss, or damage of instructional materials shall be transmitted to the district school superintendent to be deposited in the district school board fund and added to the district appropriation for instructional materials.

(e) *Accounting for instructional materials.*—Principals shall see that all instructional materials are fully and properly accounted for as prescribed by adopted rules of the district school board.

(f) *Selection of library media center materials.*—School principals are responsible for overseeing compliance with school district procedures for selecting school library media center materials at the school to which they are assigned.

Section 3. Subsection (2) of section 1006.29, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

1006.29 State instructional materials reviewers.—

(2) For purposes of this part ~~state adoption~~, the term "instructional materials" means items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives,



electronic media, and computer courseware or software. A publisher or manufacturer providing instructional materials as a single bundle shall also make the instructional materials available as separate and unbundled items, each priced individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers.

(6) The department shall develop an online training program for school librarians, media specialists, and other personnel involved in the selection and maintenance of library media and collections or materials maintained on a reading list. This training must assist reviewers in complying with the requirements of s. 1006.31(2). The department shall make this training available no later than January 1, 2023. No later than July 1, 2023, and annually thereafter, each superintendent must certify to the department that all school librarians and media specialists employed by the district have completed the online training program.

Section 4. Paragraph (b) of subsection (4) of section 1006.40, Florida Statutes, is amended to read:

1006.40 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—

(4) Each district school board is responsible for the content of all materials used in a classroom or otherwise made available to students. Each district school board shall adopt rules, and each district school superintendent shall implement procedures, that:

(b) Provide a process for public review of, public comment



on, and the adoption of ~~instructional~~ materials, including those ~~instructional materials~~ used to provide instruction required by s. 1003.42 ~~teach reproductive health or any disease, including HIV/AIDS, under ss. 1003.42(3) and 1003.46~~, which satisfies the requirements of s. 1006.283(2)(b)8., 9., and 11.

Section 5. Subsection (2) of section 1011.67, Florida Statutes, is amended to read:

1011.67 Funds for instructional materials.—

(2) Annually by July 1 and before the release of instructional materials funds, each district school superintendent shall certify to the Commissioner of Education that the district school board has approved a comprehensive staff development plan that supports fidelity of implementation of instructional materials programs, including verification that training was provided; that the materials are being implemented as designed; and, beginning July 1, 2021, for core reading materials and reading intervention materials used in kindergarten through grade 5, that the materials meet the requirements of s. 1001.215(8). Such instructional materials, as evaluated and identified pursuant to s. 1001.215(4), may be purchased by the school district with funds under this section without undergoing the adoption procedures under s. 1006.40(4)(b). The certification must identify any material that received an objection pursuant to s. 1006.28 for the school year and the specific objections thereto, each material that was removed or discontinued as a result of an objection, and the grade level and course for which a removed or discontinued material was used, as applicable. This subsection does not preclude school districts from purchasing or using other



materials to supplement reading instruction and provide additional skills practice.

Section 6. This act shall take effect July 1, 2022.

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

And the title is amended as follows:

Delete lines 12 - 31

and insert:

specified training by a certain date; requiring certain materials to be selected by employees who meet specified criteria; requiring district school boards to adopt procedures for developing library media center collections; providing requirements for such procedures; requiring elementary schools, district school boards, and the Department of Education to post on their websites specified information relating to instructional materials and other materials in certain formats; providing district school board requirements; providing that school principals are responsible for overseeing compliance with specified procedures relating to library media center materials; amending s. 1006.29, F.S.; requiring the department to develop a training program for the selection of materials used in schools and library media centers by a certain date; amending s. 1006.40, F.S.; revising district school board requirements for the selection and adoption of certain materials; amending s. 1011.67, F.S.; requiring that the certification by district school superintendents to the Commissioner of



Education identifies instructional materials that are the subject of an objection and provides specified information related to the objection; providing an effective date.

A bill to be entitled

An act relating to K-12 education; amending s. 1001.35, F.S.; establishing term limits for school board members; amending s. 1006.28, F.S.; deleting a requirement that district school boards maintain a specified list on their websites; requiring certain meetings relating to instructional materials to be noticed and open to the public; providing requirements for the membership of committees related to instructional materials; requiring certain individuals involved in selecting library materials to complete a specified training; requiring certain materials to be selected by employees who meet specified criteria; requiring district school boards to adopt procedures for developing library media center collections; providing requirements for such procedures; requiring elementary schools, district school boards, and the Department of Education to post on their websites specified information relating to instructional materials and other materials in certain formats; providing district school board requirements; providing school principals are responsible for overseeing compliance with specified procedures relating to library media center materials; amending s. 1006.29, F.S.; revising requirements for the

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department relating to the development of training programs for the selection of materials used in schools and library media centers; amending s. 1006.40, F.S.; revising district school board requirements for the selection and adoption of certain materials; providing an effective date.

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

Section 1. Section 1001.35, Florida Statutes, is amended to read:

1001.35 Term of office.—District school board members shall be elected at the general election in November for terms of 4 years except that a person may not appear on the ballot for reelection to the office of school board member if, by the end of his or her current term of office, the person will have served, or but for resignation would have served, in that office for 8 consecutive years. Service of a term of office which commenced before November 8, 2022, will not be counted toward the limitation imposed by this section.

Section 2. Paragraphs (a) and (d) of subsection (2) and subsection (4) of section 1006.28, Florida Statutes, are amended, and paragraph (e) is added to subsection (2) of that section, to read:

1006.28 Duties of district school board, district school

superintendent; and school principal regarding K-12 instructional materials.—

(2) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The district school board also has the following specific duties and responsibilities:

(a) Courses of study; adoption.—Adopt courses of study, including instructional materials, for use in the schools of the district.

1. Each district school board is responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s. 1006.283, or otherwise purchased or made available. ~~Each district school board shall maintain on its website a current list of instructional materials, by grade level, purchased by the district.~~

2. Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific ~~instructional~~ material, which clearly describes a process to handle all objections and provides for resolution. The process must provide the parent or resident the

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opportunity to proffer evidence to the district school board that:

a. An instructional material does not meet the criteria of s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in a course or otherwise made available to students in the school district but was not subject to the public notice, review, comment, and hearing procedures under s. 1006.283(2)(b)8., 9., and 11.

b. Any material used in a classroom, made available in a school library, or included on a reading list contains content that is pornographic or prohibited under s. 847.012, is not suited to student needs and their ability to comprehend the material presented, or is inappropriate for the grade level and age group for which the material is used.

If the district school board finds that an instructional material does not meet the criteria under sub-subparagraph a. or that any other material contains prohibited content under sub-subparagraph b., the school district shall discontinue use of the material for any grade level or age group for which such use is inappropriate or unsuitable.

3. Each district school board must establish a process by which the parent of a public school student or a resident of the county may contest the district school board's adoption of a specific instructional material. The parent or resident must

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file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the instructional material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria of s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-day period has expired, the school board must, for all petitions timely received, conduct at least one open public hearing before an unbiased and qualified hearing officer. The hearing officer may not be an employee or agent of the school district. The hearing is not subject to the provisions of chapter 120; however, the hearing must provide sufficient procedural protections to allow each petitioner an adequate and fair opportunity to be heard and present evidence to the hearing officer. The school board's decision after convening a hearing is final and not subject to further petition or review.

4. Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purposes must include parents of district students.

(d) School library media services; establishment and

maintenance.—Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system. ~~Each school district shall provide training to~~ School librarians, ~~and~~ media specialists, and other personnel involved in the selection of school district library materials must complete the training program developed pursuant to s. 1006.29(5) before reviewing and selecting ~~regarding the prohibition against distributing harmful materials to minors under s. 847.012 and applicable case law, and best practices for providing students access to~~ age-appropriate materials and library resources. Upon written request, a school district shall provide access to any material or book specified in the request that is maintained in a district school system library and is available for review.

1. Each book made available to students through a school district library media center or included in a recommended or assigned school or grade-level reading list must be selected by a school district employee who holds a valid educational media specialist certificate, regardless of whether the book is purchased, donated, or otherwise made available to students.

2. Each district school board shall adopt procedures for developing library media center collections and post the

procedures on the website for each school within the district. The procedures must:

a. Require that book selections meet the criteria in s. 1006.40(3)(d).

b. Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.

c. Provide for library media center collections based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.

d. Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and required removal pursuant to subparagraph (a)2.

3. Each elementary school must publish on its website, in a searchable format prescribed by the department, a list of all materials maintained in the school library media center or required as part of a school or grade-level reading list.

(e) Public participation.—Publish on its website, in a searchable format prescribed by the department, a list of all instructional materials, including those used to provide instruction required by s. 1003.42. Each district school board must:

1. Provide access to all materials, excluding teacher

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editions, in accordance with s. 1006.283(2)(b)8.a. before the district school board takes any official action on such materials. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption.

2. Select, approve, adopt, or purchase all materials as a separate line item on the agenda and must provide a reasonable opportunity for public comment. The use of materials described in this paragraph may not be selected, approved, or adopted as part of a consent agenda.

3. Annually, beginning June 30, 2023, submit to the Commissioner of Education a report that identifies:

a. Each material not purchased from the state-adopted list for which the school district received an objection pursuant to subparagraph (a)2. for the school year and the specific objections thereto.

b. Each material that was removed or discontinued as a result of an objection.

c. The grade level and course for which a removed or discontinued material was used, as applicable.

The department shall publish and regularly update a list of materials that were removed or discontinued as a result of an objection and disseminate the list to school districts for consideration in their selection procedures.

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

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(4) SCHOOL PRINCIPAL.—The school principal has the following duties for the management and care of ~~instructional~~ materials at the school:

(a) Proper use of instructional materials.—The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school.

(b) Money collected for lost or damaged instructional materials; enforcement.—The school principal shall collect from each student or the student's parent the purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged and to report and transmit the money collected to the district school superintendent. The failure to collect such sum upon reasonable effort by the school principal may result in the suspension of the student from participation in extracurricular activities or satisfaction of the debt by the student through community service activities at the school site as determined by the school principal, pursuant to policies adopted by district school board rule.

(c) Sale of instructional materials.—The school principal, upon request of the parent of a student in the school, shall

sell to the parent any instructional materials used in the school. All such sales shall be made pursuant to rule adopted by the district school board, and the principal shall annually provide information to parents that they may purchase instructional materials and how to purchase the materials.

(d) Disposition of funds.—All money collected from the sale, exchange, loss, or damage of instructional materials shall be transmitted to the district school superintendent to be deposited in the district school board fund and added to the district appropriation for instructional materials.

(e) Accounting for instructional materials.—Principals shall see that all instructional materials are fully and properly accounted for as prescribed by adopted rules of the district school board.

(f) Selection of library media center materials.—School principals are responsible for overseeing compliance with school district procedures for selecting school library media center materials.

Section 3. Subsections (2) and (5) of section 1006.29, Florida Statutes, are amended to read:

1006.29 State instructional materials reviewers.—

(2) For purposes of this part ~~state adoption~~, the term "instructional materials" means items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be

available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. A publisher or manufacturer providing instructional materials as a single bundle shall also make the instructional materials available as separate and unbundled items, each priced individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers.

(5) The department shall develop ~~a~~ training programs ~~program~~ for persons selected as state instructional materials reviewers and school district reviewers of instructional materials, including those used to provide instruction required by s. 1003.42, and any materials maintained in the district school library media centers or included on a reading list. The programs ~~program~~ shall be structured to assist reviewers in complying with the requirements of s. 1006.31(2) ~~developing the skills necessary to make valid, culturally sensitive, and objective decisions regarding the content and rigor of instructional materials~~. All persons serving as ~~instructional materials~~ reviewers must complete a ~~the~~ training program before ~~prior to~~ beginning the review and selection process.

Section 4. Paragraph (b) of subsection (4) of section 1006.40, Florida Statutes, is amended to read:

1006.40 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—

(4) Each district school board is responsible for the content of all materials used in a classroom or otherwise made available to students. Each district school board shall adopt rules, and each district school superintendent shall implement procedures, that:

(b) Provide a process for public review of, public comment on, and the adoption of ~~instructional~~ materials, including those ~~instructional materials~~ used to provide instruction required by s. 1003.42 ~~teach reproductive health or any disease, including HIV/AIDS, under ss. 1003.42(3) and 1003.46~~, which satisfies the requirements of s. 1006.283(2)(b)8., 9., and 11.

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

The Florida Senate

APPEARANCE RECORD

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

3/1/2022
Meeting Date

Senate Rules
Committee

HB 1467
Bill Number or Topic

801336
Amendment Barcode (if applicable)

Name Lakey Love - Florida Coalition for Transgender Liberation Phone 850-345-0018

Address 1511 Melvin St Email butterflylake@gmail.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.

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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

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3/1/22
Meeting Date

Rules
Committee

SB 1467
Bill Number or Topic

801336
Amendment Barcode (if applicable)

Name Akshutosh Pyakurel Phone

Address Email

Street

Orlando 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:

FL Student Power

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3/1/22
Meeting Date

Rules
Committee

SB 1467
Bill Number or Topic

801336
Amendment Barcode (if applicable)

Name Ana Guvara

Phone 561 215 1062

Address
Street

Email ana@floridastudentpower.org

Lake Worth FL 33461
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 Student Power.

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)

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
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Rules
Committee

SB 1467
Bill Number or Topic

801336
Amendment Barcode (if applicable)

Name Elizabeth Gilbert

Phone 386-214-9710

Address
Street

Email Egilbert@floridansing.org

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 Student Power Network

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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March 1, 2022
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nancy Lawther, Ph.D. Phone 407-855-7604

Address 1747 Orlando Central Pkwy Email legislation@floridapta.org
Street

Orlando FL 32809
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 PTA

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

AB1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Danielle Thomas

Phone 850 414 2578

Address 203 S Monroe St
Street

Email thomas@fsba.org

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:
FSBA

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

RULES
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name TRISH NEELY Phone

Address 2024 SHANGRI LA LANE Email
Street

TALLY FL 32303
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:

League Women Voters Florida

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

RULES
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name KATHY WINN

Phone

Address 10006 BROOKWOOD
Street

Email

TALLY 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:

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

LWV FLORIDA

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/2022
Meeting Date

Rules
Committee

1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall

Phone

Address 579 E. Call St.
Street

Email fcfep@yahoo.com

Tallahassee, FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Center for Fiscal & Economic Policy

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

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3-1-22
Meeting Date

Rules
Committee

1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Doolin

Phone 850-508-5492

Address 1018 Thomasville Rd. 102B
Street

Email cdoolin@doolinandassoc.com

Tallahassee, Fla 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:

SMALL SCHOOL DISTRICTS

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

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S-001 (08/10/2021)

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APPEARANCE RECORD

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3/1/22
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Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Rica Templin

Phone

Address 135 S. Monroe
Street

Email

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 AFL-CIO

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/2022
Meeting Date

Rules
Committee

CS/HB 1467 K-12 Education
Bill Number or Topic

[redacted]
Amendment Barcode (if applicable)

Name Roslyn Carter

Phone (772) 777-2091

Address 1966 S.W Logan St
Street

Ft. St Lucie FL 34953
City State Zip

Email eleuthera-mra@prodigy.net

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

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3/1/2022
Meeting Date

Senate Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lakey Love - Florida Coalition for Transgender Liberation

Phone 850-345-0018

Address 157 N Melvin St
Street

Email butterflylake@gmail.com

Tallahassee, FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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The Florida Senate

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3/1/22
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Senate Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Rev. James T. Golden

Phone 941-773-4031

Address 4815 11th Ave Cir E.
Street

Email jamethegold@aol.com

Bradenton, FL 34208
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:

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Rules
Committee

CS/HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Francine Julius Edwards

Phone 352-562-0514

Address 9825 SE 140th Street
Street

Email Khamilah50@gmail.com

Summerfield 34491
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:

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3/1/22
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Rules
Committee

CSHB1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elaine Morrison

Phone 352 282 3495

Address 8518 SW 93rd Circle
Street

Email elmo72434@gmail.com

Ocala FL. 34481
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:

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S-001 (08/10/2021)

The Florida Senate

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3/1/2022
Meeting Date

HB 1467
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name John W Mahaffy

Phone 989 709 0574

Address 10110 88 st
Street

Email JMahaffy45@live.com

Seminole FL 33777
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-1-2022
Meeting Date

H.B. 1467
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Pamela D. Mahaffy

Phone 989 709 0573

Address 10110 88th St.
Street

Email pmahaffy8@gmail.com

Seminole FL 33777
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:

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The Florida Senate

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Senate professional staff conducting the meeting

3/1/2022
Meeting Date

HB 1467
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Sylvia Arnold

Phone (352) 562-1883

Address 114 Lakeview Trail
Street

Email sylvia.r.arnold@gmail.com

Melrose FL 32666
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

03/01/2022
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Richard A Starling

Phone 352-318-5410

Address 6851 NE CR 337
Street

Email

Bronson FL 32621
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
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Rules committee
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brett Farrell

Phone 352-615-4886

Address 504 SW Bucchi Glen
Street

Email BrettbtiFarrell@gmail.com

Fort White FL 32038
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:

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

RULES
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name GLENDA ABICHT

Phone 786-376-1181

Address 4305 SW 98 AVENUE
Street

Email GLENDA.ABICHT@GMAIL.COM

MIAMI FL 33165
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:

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The Florida Senate

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3/1/22
Meeting Date

RULES
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name O.D. ELLIOTT

Phone 727-608-6027

Address 101-75th AVE NE
Street

Email odeb1477@aol.com

ST. PETE., FL 33702
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:

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The Florida Senate

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3-1-2022
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Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Adam Campbell

Phone (561) 452-7748

Address 13800 87th St. North
Street

Email

W.P.B FL 33412
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3-01-22
Meeting Date

Rules
Committee

H.B 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bryon Porter

Phone 386-682-8243

Address 24961 N.E. 135th St.
Street

Email BP1795@yahoo.com

Salt Springs FL 32134
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:

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S-001 (08/10/2021)

3/1/22

Meeting Date

Rules

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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K-12 Education

HB1467

Bill Number or Topic

Amendment Barcode (if applicable)

Name H Joan Waitkevicz MD

Phone 561 307 3478

Address 2600 N. Flagler Dr #207

Street

West Palm Beach FL 33407

City State Zip

Email dwcjoan@gmail.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Senate Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sylvia Moffett

Phone 561-319-6279

Address 513 35th St.
Street

Email Sylvia.S.moffette gmail.com

West Palm Beach FL 33407
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:

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S-001 (08/10/2021)

3/1/22
Meeting Date

Rules
Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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HB1467K-12
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shirley Y. Herman

Phone 561-596-7780

Address 7600 N. Flagler Dr Apt 207
Street

West Palm Beach, FL 33407
City State Zip

Email Shirleyyherman@AOL.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Senate Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aashutosh Pyakurel Phone

Address Email

Street

Orlando 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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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March 1, 2022
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patty Farley

Phone 321-794-1955

Address 101 Bay View Drive
Street

Email pfarley_181@hotmail.com

Indian Harbour FL. 32...
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aileen G. Daniels

Phone 561-352-4790

Address 6269 SW Village Pkwy #203
Street
Port St Lucie FL 34987
City State Zip

Email RLNDANIELS@GMAIL.COM

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3/1/22
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Cicely Henderson

Phone 561-983-5802

Address 130 NW 9th AVE
Street

Email Cths0673@gmail.com

South Bay FL 33493
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

SB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Reesa Levy

Phone 917-952-0900

Address 120 N. River Dr W
Street

Email Levyreesa@gmail.com

Jupiter FL 33458
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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March 5, 2022
Meeting Date

HB1467
Bill Number or Topic

Rules
Committee

Union
Amendment Barcode (if applicable)

Name Will Larkins-president QueerStudent

Phone 7144577186

Address 2809 bower rd
Street

Email putfygmarshmallow@gmail.com

Winter Park FL 32792
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3/1/22
Meeting Date

Rules
Committee

CS/HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ellen Baker, PBC Teachers Phone 561-801-0383

Address 5673 Whirlaway Rd Email bakeret@hotmail.com
Street

Palm Beach Gardens, FL 33418
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-1-2022
Meeting Date

Rules
Committee

CS/HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Deborah Baker-Rian

Phone 850.494.0148

Address 3926 Balsam Dr
Street

Email deborah.bakerrian@gmail.com

Niceville FL 32578
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jessica Brason

Phone 561-815-2681

Address 12031 Colico Court
Street

Email JBrason@gmail.com

FBG FL 33418
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/22
Meeting Date

Rules
Committee

1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone

Address 134 E. Wonder Dr
Street

Email

Orlando FL 32801
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 Rising

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/1/2022
Meeting Date

Rules
Committee

CS/HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Avelia Perkins

Phone 909-262-8407

Address 9470 SW 99th Ct.
Street

Email perky8913@gmail.com

Ocala FL 34481
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:

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

HB1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joanne Cannon

Phone 941-812-7113

Address 3410 - 50th St W
Street

Email jcann24@aol.com

Bradenton FL 34209
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-1-22
Meeting Date

Rules
Committee

SB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Frank Morinaca

Phone 386-846-1625

Address 1167 Sawgrass Road
Street

Email

Daytona Beach FL 32114
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-1-2022
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Austin Flanagan

Phone 727-504-0034

Address 2080 19th Ave SW
Street

Email FlanymanS30@icloud.com

Largo FL 33774
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3/1/2022
Meeting Date

RULES
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name ARTHUR FRANCO

Phone 407-600-7048

Address 3008 SANTA MARTA AVE.
Street

Email LAWFLSTATECAPCHAIR@gmail.com

Clermont FL 34714
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1 Mar 2022
Meeting Date

Rules
Committee

HB1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name James Totten

Phone 727-641-0171

Address 644 Northwest Blvd
Street

Email tottenj2011@gmail.com

St. Petersburg, FL 33702
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3.1.22
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Niclos Mathis

Phone 904-608-0440

Address 5663 Bryan Drive.
Street

Email nick_mathis@hotmail.com

Jax FL 32244
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/1/22
Meeting Date

S. Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jon Harris Maurer

Phone 850-681-0980

Address 201 E. Park Ave, Ste. 200A
Street

Email

TLH 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:
Equality 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3-1-2022
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Frank Parker

Phone 330-885-0972

Address 10770 S.E. 110Th ST Rd.
Street

Email goofyfrank31@gmail.com

Belle View FL. 34420
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3.1.2022
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lynn Ann Matley-Tobin

Phone 954.214.7036

Address 501 NE 28th Court
Street

Email LMTobin@Gmail.com

Ocala FL 34470
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

03/01/2022
Meeting Date

RULES
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name ROBERT CHAPMAN Phone

Address 3622 WILLIAM RAY ROAD Email
Street

PLANT CITY FLORIDA 33565
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3. 1. 2022
Meeting Date

Rules
Committee

HB 1467 H-12
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sonia Palmer

Phone 352 804 5162

Address 29 Spruce Run
Street

Email groundhoglady2@yahoo.com

Ocala FL 34472
City State Zip

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

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3-1-22
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Gerry Showers

Phone 863-244-3751

Address 1335 S. Virginia Ave
Street

Email gshowers@de78.org

Bartow FL 33830
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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3.1.22
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kinsey Doerr

Phone (563) 581-2176

Address 4560 Corsa Ln.
Street

Email Kinsey.Doerr13@gmail.com

Kissimmee FL. 34746
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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3/1/22
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tara L. Marano

Phone (386) 384-2121

Address 312 Sears Avenue
Street

Email Tara.Reyes@yahoo.com

Daytona Beach Sch. FL 32118
City State Zip

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

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☐ I am a registered lobbyist, representing:

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

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The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name R. JOHNSON Phone 347 265 6414

Address 8021 Leeland Archer BND Email
Street

ORLANDO FL 32836
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:

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S-001 (08/10/2021)

3-1-22
Meeting Date

Rules
Committee

The Florida Senate
APPEARANCE RECORD

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HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Rick Hoyle Phone

Address 3730 N. Pine Island Email
Street

Sunrise FL 33351
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

HB1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elizabeth Gilbert

Phone 386-214-9710

Address
Street

Email Egilbert@floridarising.org

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 Student Power Network

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)

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S-001 (08/10/2021)

The Florida Senate

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3/1/22
Meeting Date

Rules
Committee

HB1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ana Guevara

Phone 561 215 1062

Address
Street

Email ana@floridastudentpower.org

Lake Worth FL 33461
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 Student Power

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3.1.22	Senate Rules	HB 1467	
Meeting Date	Committee	Bill Number or Topic	Amendment Barcode (if applicable)

Name Kara Gross

Phone 786-363-4436

Address 4343 West Flagler St
Street

Email kgross@aclufl.org

Miami | FL | 33134
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:
ACLU of Florida

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

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S-001 (08/10/2021)

3/1/22
Meeting Date

Rules
Committee

The Florida Senate

APPEARANCE RECORD

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HB 1467
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nicole Morse

Phone 8029895705

Address 1575 Spring Harbor Dr Apt I
Street

Email nikkimorse@gmail.com

Delray Beach FL 33445
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:

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S-001 (08/10/2021)

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Rules Committee **Judge:**

Started: 3/1/2022 1:33:28 PM
Ends: 3/1/2022 9:04:39 PM Length: 07:31:12

1:33:27 PM Meeting called to order by Chair
1:33:35 PM Roll call by CAA
1:33:40 PM Quorum announced
1:34:08 PM CS/SJR 1412 is TP'd
1:34:13 PM Chair with opening comments
1:34:32 PM Tab 3 SB 538
1:34:51 PM Senator Hooper explains the bill
1:35:17 PM Amendment Barcode 822046
1:35:19 PM Senator Hooper explains the amendment
1:35:39 PM Senator Hooper waives close
1:35:45 PM Amendment is adopted
1:35:54 PM Appearance Form
1:36:00 PM Dr. Steve Coleman, Florida Association for Behavior Analysis waives in support
1:36:08 PM Jennifer Ungru, Positive Behavior Supports, waives in support
1:36:13 PM Senator Hooper waives close
1:36:18 PM Roll call on CS/SB 538
1:36:24 PM CS/SB 538 is reported favorably
1:36:51 PM Tab 1 SB 228
1:37:00 PM Senator Rodriguez explains the bill
1:37:47 PM Amendment Barcode 475236
1:37:53 PM Senator Brandes explains the amendment
1:38:39 PM Appearance Forms
1:38:43 PM Anthony DiMarco, Florida Bankers Association speaks for
1:39:42 PM Brad Burleson, Renew Financial form against
1:40:00 PM Eddie Metzger waives against the amendment
1:40:12 PM Senator Rodriguez with comments
1:40:38 PM Senator Brandes closes on amendment
1:41:42 PM Amendment is not adopted
1:41:56 PM Appearance Forms
1:42:03 PM Zayne Smith, AARP waives against
1:42:06 PM Karen Woodall, Florida Center for Fiscal & Economic Policy waives in support
1:42:13 PM Anthony DiMarco, Florida Bankers Association, waives against
1:42:20 PM Brad Burleson, Renew Financial, waives in support
1:42:29 PM Senator Rodriguez waives close
1:42:33 PM Roll call on CS/SB 228
1:42:36 PM CS/SB 228 is reported favorably
1:43:06 PM Tab 10 CS/CS/SB 1374
1:43:17 PM Senator Rodriguez explains the bill
1:43:41 PM Appearance Forms
1:43:46 PM Steve Ecenia, HCA, waives in support
1:43:50 PM Adam Basford, Associated Industries of Florida, waives in support
1:43:55 PM Allison Kinney, HCA, waives in support
1:44:05 PM Roll call on CS/CS/SB 1374
1:44:11 PM CS/CS/SB 1374 is reported favorably
1:44:42 PM Tab 4 CS/SB 718
1:44:50 PM Senator Bradley explains the bill
1:45:33 PM Amendment Barcode 736208
1:45:40 PM Senator Bradley explains the amendment
1:46:01 PM Senator Bradley waives close
1:46:05 PM Amendment is adopted
1:46:11 PM Appearance Form
1:46:20 PM Jennifer Ungru, Home Care Association of America, waives in support

1:46:25 PM Zayne Smith, AARP, waives in support
1:46:36 PM Senator Bradley waives close
1:46:42 PM Roll call on CS/CS/SB 718
1:46:44 PM CS/CS/SB 718 is reported favorably
1:47:11 PM Tab 8 CS/CS/SB 1024
1:47:22 PM Senator Bradley explains the bill
1:47:31 PM SA Barcode 655702
1:47:47 PM Senator Bradley explains the amendment
1:49:49 PM Senator Brandes with question
1:49:54 PM Senator Bradley responds
1:50:12 PM Senator Brandes with comments
1:50:20 PM Senator Bradley responds
1:50:34 PM Senator Farmer with question
1:50:40 PM Senator Bradley responds
1:51:44 PM Senator Farmer with question
1:51:47 PM Senator Bradley responds
1:52:20 PM Senator Farmer with question
1:52:25 PM Senator Bradley responds
1:53:27 PM Senator Farmer with question
1:53:34 PM Senator Bradley responds
1:54:54 PM Senator Garcia with question
1:55:10 PM Senator Bradley responds
1:56:29 PM Senator Garcia with question
1:56:36 PM Senator Bradley responds
1:58:05 PM Senator Powell with question
1:58:13 PM Senator Bradley responds
1:59:22 PM Senator Powell with follow-up
1:59:27 PM Senator Bradley responds
2:00:29 PM Senator Powell with question
2:00:34 PM Senator Bradley responds
2:01:13 PM Senator Powell with follow-up
2:01:16 PM Senator Bradley responds
2:01:41 PM Senator Bracy with question
2:01:45 PM Senator Bradley responds
2:02:48 PM Senator Bracy with question
2:02:51 PM Senator Bradley responds
2:03:09 PM Appearance Form
2:03:13 PM Richard Pinsky, Florida Solar and Storage Association, speaks against
2:07:02 PM Senator Bradley closes on SA
2:07:53 PM SA is adopted
2:08:04 PM Senator Brandes with question
2:08:14 PM Senator Bradley responds
2:08:45 PM Senator Brandes with follow-up
2:08:51 PM Senator Bradley responds
2:09:19 PM Senator Brandes with question
2:09:22 PM Senator Bradley responds
2:09:31 PM Senator Brandes with question
2:09:34 PM Senator Bradley responds
2:10:15 PM Senator Brandes with follow-up
2:10:20 PM Senator Bradley responds
2:11:58 PM Senator Gruters with question
2:12:03 PM Senator Bradley responds
2:13:08 PM Senator Gibson with question
2:14:01 PM Senator Bradley responds
2:15:13 PM Senator Farmer with question
2:15:19 PM Senator Bradley responds
2:16:24 PM Senator Farmer with follow-up
2:16:31 PM Senator Bradley responds
2:17:14 PM Senator Farmer with follow-up
2:17:19 PM Senator Bradley responds
2:17:51 PM Senator Powell with question
2:18:01 PM Senator Bradley responds

2:18:50 PM Appearance Forms
2:19:15 PM Ennis Jacobs Speaks Against
2:20:55 PM Caterina Fernandez, Florida Student Power Network, speaks against
2:22:12 PM Elizabeth Gilbert, Florida Student Power Network, speaks against
2:24:10 PM Roslyn Carter waives against
2:25:12 PM Jim Purekal speaks against
2:27:11 PM Tyson Grinstead, Sun Run, speaks against
2:29:33 PM Senator Farmer with question
2:30:33 PM Mr. Grinstead responds
2:31:14 PM Linda Beauport speaks against
2:31:44 PM Kim Ross speaks against
2:33:48 PM David Cullen, Sierra Club Florida, speaks against
2:35:36 PM Jodi James speaks against
2:36:59 PM Lindsay Cross, Florida Conservation Voters speaks against
2:39:33 PM Senator Garcia with question
2:40:35 PM Ms. Cross responds
2:41:02 PM Senator Garcia with question
2:41:07 PM Ms. Cross responds
2:41:32 PM Senator Garcia with question
2:41:35 PM Ms. Cross responds
2:41:44 PM Senator Garcia with question
2:41:48 PM Ms. Cross responds
2:42:28 PM Senator Garcia with question
2:42:31 PM Ms. Cross responds
2:42:46 PM Lisa Edger speaks for
2:44:27 PM Senator Gibson with question
2:44:39 PM Ms. Edger responds
2:45:19 PM Meta Calder, Florida League of Women Voters, speaks against
2:46:38 PM John Grant speaks for
2:48:58 PM Senator Gibson with question
2:49:06 PM Mr. Grant responds
2:50:11 PM Shirley Herman waives against
2:50:21 PM Ana Guevara, Florida Student Power, waives against
2:50:27 PM Beth Alvi, Audubon Florida, waives against
2:50:32 PM Sylvia Moffett waives against
2:50:38 PM H. Joan Waitkevicz, MD waives against
2:50:52 PM Karen Woodall, Earth Justice, waives against
2:50:55 PM Cody Rogers, The CLEO Institute, waives against
2:50:59 PM Avelia Perkins waives against
2:51:03 PM Francine Julius Edwards waives against
2:51:06 PM Elaine Morrison waives against
2:51:09 PM Barbara DeVane, Florida NOW and Florida Alliance for Retired Americans, waives against
2:51:57 PM Ida Eskamani, Florida Rising, waives against
2:52:05 PM Aashutosh Pyakurgel waives against
2:52:12 PM Reese Levy waives against
2:52:14 PM Patty Farley waives against
2:52:17 PM Anna Grace Lewis, Florida Chamber of Commerce, in support
2:52:24 PM Deborah Baker -Rian waives against
2:52:28 PM Adam Basford, Associated Industries of Florida, waives in support
2:52:32 PM Kevin Doyle, Consumer Energy Alliance Florida, waives in support
2:52:37 PM Ellen Baker waives against
2:52:43 PM Jessica Brason waives against
2:52:47 PM Devin West, Broward County, waives against
2:52:52 PM Sonya Palmer waives against
2:52:56 PM Ken Kniepmann, Florida Conference of Catholic Bishops, waives against
2:53:09 PM Senator Brandes in debate
2:56:40 PM Senator Farmer in debate
3:03:33 PM Senator Bracy in debate
3:04:17 PM Senator Powell in debate
3:05:53 PM Senator Bradley closes on bill
3:07:00 PM Roll call on CS/CS/CS/SB 1024
3:08:02 PM CS/CS/CS/SB 1024 is reported favorably

3:08:44 PM Tab 12 CS/SB 1710
3:08:51 PM Senator Bradley explains the bill
3:10:35 PM Appearance Forms
3:10:37 PM John Grant waives in support
3:10:43 PM Ken Burke, Pinellas Clerk of Court, waives in support
3:10:46 PM Greg Black, Elder Law Section Florida Bar, waives in support
3:10:50 PM Buddy Jacobs, Florida Prosecuting Attorneys Association, waives in support
3:10:59 PM Zayne Smith, AARP, waives in support
3:11:06 PM Rey Contreras speaks
3:14:29 PM Senator Bradley waives close
3:14:34 PM Roll call on CS/CS/SB 1710
3:14:36 PM CS/CS/SB 1710 is reported favorably
3:15:11 PM Tab 9 CS/SB 1060
3:15:40 PM Senator Hutson explains the bill
3:16:04 PM Senator Powell with question
3:16:12 PM Senator Hutson responds
3:17:01 PM Appearance Form
3:17:03 PM Karen Mazzola, Florida PTA, waives in support
3:17:12 PM Senator Hutson waives close
3:17:16 PM Roll call on CS/SB 1060
3:17:22 PM CS/SB 1060 is reported favorably
3:17:50 PM Tab 16 CS/HB 1467
3:18:01 PM Senator Gruters explains the bill
3:19:27 PM Amendment Barcode 745288
3:19:34 PM Senator Gruters explains the amendment
3:20:30 PM Senator Powell with question
3:20:36 PM Senator Gruters responds
3:20:59 PM Senator Powell with follow-up
3:21:05 PM Senator Gruters responds
3:21:30 PM Senator Powell with follow-up
3:21:34 PM Senator Gruters responds
3:21:46 PM Senator Powell with follow-up
3:21:51 PM Senator Gruters responds
3:22:02 PM Senator Brandes with question
3:22:08 PM Senator Gruters responds
3:22:40 PM Senator Brandes with follow-up
3:22:45 PM Senator Gruters responds
3:22:52 PM Senator Brandes with question
3:22:56 PM Senator Gruters responds
3:23:18 PM Senator Powell in debate
3:24:14 PM Senator Brandes in debate
3:25:17 PM Senator Gruters waives close
3:25:25 PM Amendment is adopted
3:25:31 PM Amendment Barcode 801336
3:25:46 PM Senator Farmer explains the amendment
3:26:33 PM Appearance Forms
3:26:36 PM Lakey Love, Florida Coalition for Transgender Liberation, speaks for
3:27:54 PM Aashutosh Pyakurgel waives in support
3:28:03 PM Ana Guavara waives in support
3:28:13 PM Elizabeth Gilbert waives in support
3:28:26 PM Senator Gruters in debate
3:28:38 PM Senator Farmer closes on amendment
3:33:09 PM Amendment not adopted
3:34:15 PM Senator Powell with question
3:34:21 PM Senator Gruters responds
3:34:53 PM Senator Powell with follow-up
3:34:59 PM Senator Gruters responds
3:35:34 PM Senator Powell with follow-up
3:35:39 PM Senator Gruters responds
3:36:37 PM Senator Powell with follow-up
3:36:45 PM Senator Gruters responds
3:37:01 PM Senator Powell with follow-up

3:37:07 PM Senator Gruters responds
3:37:47 PM Senator Powell with follow-up
3:37:53 PM Senator Gruters responds
3:38:19 PM Senator Gibson with question
3:38:27 PM Senator Gruters responds
3:38:55 PM Senator Gibson with follow-up
3:39:01 PM Senator Gruters responds
3:39:37 PM Senator Gibson with question
3:39:42 PM Senator Gruters responds
3:39:53 PM Senator Gibson with question
3:40:00 PM Senator Gruters responds
3:40:31 PM Senator Gibson with question
3:40:38 PM Senator Gruters responds
3:40:54 PM Senator Gibson with question
3:41:00 PM Senator Gruters responds
3:41:15 PM Senator Gibson with follow-up
3:41:20 PM Senator Gruters responds
3:41:26 PM Senator Gibson with question
3:41:28 PM Senator Gruters responds
3:41:51 PM Senator Gibson with question
3:41:53 PM Senator Gruters responds
3:42:03 PM Senator Gibson with question
3:42:10 PM Senator Gruters responds
3:42:35 PM Senator Gibson with question
3:42:38 PM Senator Gruters responds
3:42:54 PM Senator Gibson with question
3:43:00 PM Senator Gruters responds
3:43:39 PM Senator Gibson with question
3:43:41 PM Senator Gruters responds
3:44:07 PM Senator Gibson with question
3:44:09 PM Senator Gruters responds
3:44:21 PM Senator Gibson with follow-up
3:44:26 PM Senator Gruters responds
3:44:40 PM Senator Gibson with follow-up
3:44:55 PM Senator Gruters responds
3:45:34 PM Senator Gibson with question
3:45:37 PM Senator Gruters responds
3:46:08 PM Senator Gibson with question
3:46:13 PM Senator Gruters responds
3:46:25 PM Senator Gibson with question
3:46:30 PM Senator Gruters responds
3:46:53 PM Senator Gibson with question
3:46:56 PM Senator Gruters responds
3:47:35 PM Senator Gibson with question
3:47:37 PM Senator Gruters responds
3:48:16 PM Senator Gibson with question
3:48:19 PM Senator Gruters responds
3:48:58 PM Senator Gibson with question
3:49:05 PM Senator Gruters responds
3:49:50 PM Senator Gibson with question
3:49:53 PM Senator Gruters responds
3:50:23 PM Senator Brandes with question
3:50:47 PM Senator Gruters responds
3:51:07 PM Senator Brandes with question
3:51:09 PM Senator Gruters responds
3:51:32 PM Senator Brandes with follow-up
3:51:43 PM Senator Gruters responds
3:52:26 PM Senator Farmer with question
3:52:44 PM Senator Gruters responds
3:52:57 PM Senator Farmer with follow-up
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3:53:40 PM Senator Gibson with question

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3:54:27 PM Senator Gruters responds
3:54:42 PM Senator Gibson with question
3:54:45 PM Senator Gruters responds
3:55:00 PM Senator Gibson with question
3:55:12 PM Senator Gruters responds
3:55:25 PM Senator Gibson with question
3:55:29 PM Senator Gruters responds
3:56:04 PM Senator Gibson with question
3:56:07 PM Senator Gruters responds
3:56:22 PM Senator Gibson with question
3:56:25 PM Senator Gruters responds
3:56:44 PM Senator Powell with question
3:56:51 PM Senator Gruters responds
3:58:15 PM Senator Book with question
3:58:21 PM Senator Gruters responds
3:58:44 PM Senator Book with question
3:58:49 PM Senator Gruters responds
3:58:57 PM Senator Book with question
3:59:00 PM Senator Gruters responds
3:59:13 PM Senator Book with question
3:59:16 PM Senator Gruters responds
3:59:47 PM Senator Bracy with question
3:59:56 PM Senator Gruters responds
4:00:03 PM Senator Bracy with question
4:00:21 PM Senator Gruters responds
4:00:50 PM Senator Bracy with question
4:00:53 PM Senator Gruters responds
4:01:12 PM Appearance Forms
4:01:16 PM Dr. Nancy Lawther, Florida PTA, speaks against
4:04:44 PM Dr. Danielle Thomas, FSBA, speaks against
4:06:35 PM Trish Neely, League of Women Voters Florida, waives against
4:07:35 PM Kathy Winn, League of Women Voters Florida, speaks against
4:09:08 PM Karen Woodall, Florida Center for Fiscal & Economic Policy, speaks against
4:10:06 PM Chris Doolin, Small School Districts, speaks against
4:12:50 PM Dr. Rich Templin, Florida AFL-CIO, speaks against
4:15:04 PM Roslyn Carter waives in opposition
4:15:29 PM Lakey Love, Florida Coalition for Transgender Liberation, speaks against
4:16:47 PM Rev. James Golden speaks against
4:19:12 PM Francine Julius Edwards waives against
4:19:16 PM Elaine Morrison waives against
4:19:18 PM John Mahaffy waives against
4:19:24 PM Pamela Mahaffy waives against
4:19:28 PM Sylvia Arnold waives against
4:19:30 PM Richard Starling waives against
4:19:34 PM Brett Farrell waives against
4:19:37 PM Glenda Abicht waives against
4:19:41 PM O. D. Elliott waives against
4:19:45 PM Adam Campbell waives against
4:19:47 PM Bryan Porter waives against
4:19:53 PM H. Joan Waitkericz, MD waives against
4:20:01 PM Sylvia Moffett waives against
4:20:05 PM Shirley Herman waives against
4:20:14 PM Aashutosh Pyakurgel waives against
4:20:20 PM Patty Farley waives against
4:20:22 PM Aileen Daniels waives against
4:20:27 PM Cicely Henderson waives against
4:20:34 PM John Mahaffy waives against
4:20:36 PM Reece Levy waives against
4:20:37 PM Will Larkins, President, Queer Student Union, waives against
4:20:40 PM Ellen Baker, PBC Teacher, waives against

4:20:45 PM Deborah Baker-Rian waives against
4:20:49 PM Jessica Brason waives against
4:20:52 PM Ida Eskamani waives against
4:20:59 PM Avelia Perkins waives against
4:21:03 PM Joanne Cannon waives against
4:21:06 PM Frank M. waives against
4:21:17 PM Austin Flanagan waives against
4:21:21 PM Arthur Franco waives against
4:21:25 PM James Totten waives against
4:21:33 PM Jon Harris Maurer, waives against
4:21:33 PM Niclos Mathis waives against
4:21:34 PM Frank Parker waives against
4:21:37 PM Lynn Ann Matley-Tobin waives against
4:21:42 PM Robert Chapman waives against
4:21:47 PM Sonia Palmer waives against
4:21:53 PM Gerry Showers waives against
4:21:56 PM Kinsey Doerr waives against
4:22:00 PM Taina Morano waives against
4:22:04 PM R. Johnson waives against
4:22:09 PM Richard Hoye waives against
4:22:12 PM Elizabeth Gilbert waives against
4:22:15 PM Anna Guevara waives against
4:22:19 PM Kara Gross waives against
4:22:28 PM Nicole Morse waives against
4:22:30 PM Rick Hoye waives against
4:22:33 PM Chair calls for debate
4:22:41 PM Senator Gibson in debate
4:26:35 PM Senator Book in debate
4:26:55 PM Senator Farmer in debate
4:33:39 PM Senator Powell in debate
4:37:21 PM Senator Bracy in debate
4:38:37 PM Senator Gruters closes on bill
4:39:15 PM Roll call on CS/CS/HB 1467
4:40:43 PM CS/CS/HB 1467 is reported favorably
4:41:22 PM Tab 13 CS/SB 1796
4:41:33 PM Senator Gruters explains the bill
4:45:17 PM Appearance Forms
4:46:23 PM Carla McAuliffe asks question
4:46:30 PM Senator Gruters responds
4:47:48 PM Ms. McAuliffe speaks against
4:49:49 PM Shelly Moxon speaks against
4:52:40 PM Natalie Willis speaks for
4:54:14 PM Barbara DeVane, Florida National Organization for Women speaks against
4:56:50 PM Vernon Askegard waives in support
4:57:12 PM Alan Frischer, CDFA, Ch.FC, CLU, speaks for
4:59:11 PM Cynthia Lus speaks against
5:00:52 PM Roslyn Carter waives against
5:01:53 PM Michael Buhler speaks for
5:03:29 PM Senator Farmer with question
5:04:30 PM Mr. Buhler responds
5:04:32 PM Senator Farmer with question
5:04:35 PM Mr. Buhler responds
5:04:47 PM Senator Farmer with question
5:04:50 PM Mr. Buhler responds
5:04:51 PM Senator Farmer with question
5:04:56 PM Mr. Buhler responds
5:05:11 PM Senator Farmer with comments
5:05:17 PM Murielle Fournier speaks against
5:07:44 PM Murielle Fournier for David Schultz
5:07:48 PM Next speakers to be Deborah Gray followed by Camille Fiveash
5:08:31 PM Deborah Gray speaks against
5:09:55 PM Andrea Reid speaks against

5:12:45 PM Sebastian Alexsander, representing Jonathan Frantz, waives in support
5:12:48 PM Sonia Palmer waives against
5:12:50 PM Shirley Herman waives against
5:12:53 PM Elaine Morrison waives against
5:12:56 PM Francine Edwards waives against
5:13:00 PM Patty Farley waives against
5:13:02 PM Avelia Perkins waives against
5:13:05 PM Jessica Brason waives against
5:13:10 PM Ellen Baker waives against
5:13:12 PM Reesa Levy waives against
5:13:15 PM Trish Neely waives against
5:13:17 PM Karen Woodall waives against
5:13:19 PM Sylvia Moffett waives against
5:13:23 PM Shannon Novey waives against
5:13:27 PM H. Joan Waitkevicz waives against
5:13:32 PM Sarah Holmes waives against
5:13:41 PM Senator Farmer in debate
5:15:01 PM Senator Gruters closes on the bill
5:17:15 PM Roll call on CS/SB 1796
5:18:17 PM CS/SB 1796 is reported favorably
5:19:06 PM TB 14, HB 7
5:19:26 PM Senator Diaz explains the bill
5:22:29 PM Senator Bracy with question
5:22:34 PM Senator Diaz responds
5:23:34 PM Senator Bracy with question
5:23:41 PM Senator Diaz responds
5:24:09 PM Senator Powell with question
5:24:20 PM Senator Diaz responds
5:25:32 PM Senator Powell with follow-up
5:25:40 PM Senator Diaz responds
5:27:05 PM Senator Powell with question
5:27:10 PM Senator Diaz responds
5:28:53 PM Senator Powell with question
5:28:59 PM Senator Diaz responds
5:29:41 PM Senator Powell with question
5:29:47 PM Senator Diaz responds
5:31:01 PM Senator Powell with follow-up
5:31:07 PM Senator Diaz responds
5:31:57 PM Senator Powell with follow-up
5:32:03 PM Senator Diaz responds
5:32:50 PM Senator Powell with follow-up
5:32:56 PM Senator Diaz responds
5:34:27 PM Senator Powell with question
5:34:33 PM Senator Diaz responds
5:35:11 PM Senator Powell with follow-up
5:35:20 PM Senator Diaz responds
5:36:36 PM Approval of meeting extension
5:36:40 PM Senator Powell with follow-up
5:36:47 PM Senator Diaz responds
5:37:26 PM Senator Powell with follow-up
5:37:34 PM Senator Diaz responds
5:38:52 PM Senator Gibson with question
5:39:20 PM Senator Diaz responds
5:39:29 PM Senator Gibson with question
5:40:10 PM Senator Diaz responds
5:41:34 PM Senator Gibson with follow-up
5:41:46 PM Senator Diaz responds
5:42:48 PM Senator Gibson with follow-up
5:42:57 PM Senator Diaz responds
5:43:23 PM Senator Gibson with follow-up
5:43:44 PM Senator Diaz responds
5:44:09 PM Senator Gibson with follow-up

5:44:34 PM Senator Diaz responds
5:45:10 PM Senator Gibson with follow-up
5:45:40 PM Senator Diaz responds
5:46:50 PM Senator Gibson with follow-up
5:46:57 PM Senator Diaz responds
5:47:38 PM Senator Gibson with question
5:47:55 PM Senator Diaz responds
5:48:49 PM Senator Gibson with follow-up
5:49:24 PM Senator Diaz responds
5:49:32 PM Senator Gibson with comments
5:49:36 PM Senator Gibson with follow-up
5:49:42 PM Senator Diaz responds
5:50:19 PM Senator Gibson with question
5:50:36 PM Senator Diaz responds
5:51:07 PM Senator Gibson with question
5:51:10 PM Senator Diaz responds
5:51:37 PM Senator Gibson with question
5:51:40 PM Senator Diaz responds
5:51:49 PM Senator Gibson with question
5:52:04 PM Senator Diaz responds
5:52:48 PM Senator Gibson with question
5:52:51 PM Senator Diaz responds
5:53:36 PM Senator Bracy with question
5:53:57 PM Senator Diaz responds
5:54:21 PM Senator Bracy with question
5:54:26 PM Senator Diaz responds
5:55:47 PM Senator Bracy with question
5:55:52 PM Senator Diaz responds
5:56:38 PM Senator Bracy with question
5:56:44 PM Senator Diaz responds
5:57:25 PM Senator Bracy with question
5:57:31 PM Senator Diaz responds
5:58:38 PM Senator Bracy with question
5:58:43 PM Senator Diaz responds
5:59:11 PM Senator Bracy with question
5:59:16 PM Senator Diaz responds
6:00:08 PM Senator Bracy with question
6:00:39 PM Senator Diaz responds
6:01:05 PM Senator Bracy with question
6:01:13 PM Senator Diaz responds
6:02:54 PM Senator Bracy with question
6:03:00 PM Senator Diaz responds
6:03:38 PM Senator Powell with question
6:03:52 PM Senator Diaz responds
6:05:16 PM Senator Powell with follow-up
6:05:24 PM Senator Diaz responds
6:06:20 PM Senator Powell with question
6:06:25 PM Senator Diaz responds
6:06:45 PM Senator Powell with question
6:06:50 PM Senator Diaz responds
6:07:57 PM Senator Powell with question
6:08:03 PM Senator Diaz responds
6:08:57 PM Senator Powell with question
6:09:03 PM Senator Diaz responds
6:09:30 PM Senator Powell with follow-up
6:09:38 PM Senator Diaz responds
6:10:32 PM Senator Powell with question
6:10:39 PM Senator Diaz responds
6:12:12 PM Senator Powell with follow-up
6:12:15 PM Senator Diaz responds
6:13:36 PM Senator Powell with follow-up
6:13:43 PM Senator Diaz responds

6:14:11 PM Senator Powell with follow-up
6:14:55 PM Senator Diaz responds
6:15:02 PM Senator Powell with follow-up
6:15:20 PM Senator Diaz responds
6:16:08 PM Senator Powell with question
6:16:14 PM Senator Diaz responds
6:16:24 PM Senator Bracy with question
6:16:29 PM Senator Diaz responds
6:17:14 PM Senator Bracy with question
6:17:20 PM Senator Diaz responds
6:17:30 PM Senator Bracy with question
6:17:32 PM Senator Diaz responds
6:18:07 PM Senator Gibson with question
6:18:12 PM Senator Diaz responds
6:19:23 PM Senator Gibson with follow-up
6:19:28 PM Senator Diaz responds
6:20:58 PM Senator Gibson with question
6:21:01 PM Senator Diaz responds
6:21:19 PM Senator Gibson with question
6:21:25 PM Senator Diaz responds
6:22:07 PM Senator Gibson with question
6:22:10 PM Senator Diaz responds
6:24:07 PM Senator Gibson with question
6:24:11 PM Senator Diaz responds
6:25:24 PM Senator Gibson with question
6:25:28 PM Senator Diaz responds
6:25:46 PM Appearance Forms
6:25:57 PM Kenneth Woodard speaks for
6:29:03 PM Senator Powell with question
6:29:09 PM Mr. Woodard responds
6:29:24 PM H. Joan Waitkovicz speaks against
6:30:25 PM Karen Mazzola, FL PTA, speaks against
6:32:22 PM Taconya Martin speaks for
6:33:24 PM Barbara DeVane, FL National Organization for Women speaks against
6:34:45 PM Aashutosh Pykurgal speaks against
6:37:38 PM Trish Neely speaks against
6:40:03 PM Kathy Winn waives against
6:40:12 PM Kaylee Sandell speaks against
6:42:38 PM Senator Farmer with question
6:42:52 PM Ms. Sandell responds
6:42:55 PM Senator Farmer with question
6:42:58 PM Ms. Sandell responds
6:43:06 PM Ida Eskamani, Florida Rising, Florida Immigrant Coalition speaks against
6:45:29 PM Susan Maurer speaks against
6:47:59 PM Jon Harris Maurer, Equality Florida, speaks against
6:49:52 PM Roslyn Carter form against
6:50:52 PM Elizabeth Gilbert speaks against
6:53:31 PM Anna Guevara speaks against
6:56:37 PM Lakey Love speaks against
6:58:49 PM Zaria Barnes speaks against
6:59:50 PM Johana Dauphin speaks against
7:01:59 PM Aaron DiPietro, Florida Family Policy Council, speaks for
7:05:27 PM Rev. James Golden speaks against
7:07:08 PM Kara Gross, ACLU of Florida, speaks against
7:09:56 PM Nicole Morse speaking against
7:11:06 PM Genesis Robinson, Equal Ground, speaks against
7:14:09 PM Marie-Claire Leman, Fund Education Now, speaks against
7:17:22 PM Karen Woodall waives against
7:17:25 PM Cally Kushner waives in support
7:17:29 PM Danny Kushner waives in support
7:17:33 PM Reese Levy waives against
7:17:38 PM Will Larkins waives against

7:17:41 PM Jessica Brason waives against
7:17:43 PM Deborah Baker-Rian waives against
7:17:46 PM Ellen Baker waives against
7:17:49 PM Patty Farley waives against
7:17:54 PM Avelia Perkins waives against
7:17:58 PM Francine Julius Edwards waives against
7:18:03 PM Rindala Alajaji waives against
7:18:06 PM Elaine Morrison waives against
7:18:08 PM Shirley Herman waives against
7:18:13 PM Donn Scott waives against
7:18:16 PM Sylvia Moffett waives against
7:18:18 PM Caterina Fernandez waives against
7:18:20 PM Sonia Palmer waives against
7:18:29 PM Senator Gibson in debate
7:23:52 PM Senator Bracy in debate
7:26:05 PM Senator Powell in debate
7:33:58 PM Senator Farmer in debate
7:37:19 PM Senator Diaz closes on bill
7:40:13 PM Roll call on CS/HB 7
7:41:15 PM CS/HB 7 is reported favorably
7:41:55 PM Tab15 CS/HM 43
7:42:07 PM Senator Garcia explains the bill
7:44:30 PM Senator Garcia waives close
7:44:35 PM Roll call on CS/HM 43
7:44:41 PM CS/HM 43 is reported favorably
7:45:10 PM Tab 7 CS/SB 990
7:45:23 PM Senator Diaz explains the bill
7:45:48 PM Senator Garcia with question
7:45:55 PM Senator Diaz responds
7:46:21 PM Senator Garcia with question
7:46:26 PM Senator Diaz responds
7:47:31 PM Senator Brandes with question
7:47:37 PM Senator Diaz responds
7:48:19 PM Senator Brandes
7:48:22 PM Senator Diaz responds
7:48:46 PM Appearance Forms
7:48:50 PM David Custin, Beach Towing, Inc. waives in support
7:48:54 PM Jose Diaz, Professional Wrecker Operators of Florida waives in support
7:49:04 PM Senator Diaz waives close
7:49:10 PM Roll call on CS/SB 990
7:49:16 PM CS/SB 990 is reported favorably
7:49:49 PM Tab 2 SB 536
7:50:04 PM Senator Diaz explains the bill
7:50:10 PM AA Barcode 290252
7:50:48 PM Senator Diaz explains the amendment
7:51:17 PM Amendment is adopted
7:51:26 PM Amendment Barcode 734958
7:51:35 PM Amendment is adopted
7:51:39 PM Appearance Form
7:51:44 PM Christian Camara, Institute for Justice, waives in support
7:51:53 PM Senator Diaz waives close
7:51:55 PM Roll call on CS/SB 536
7:51:58 PM CS/SB 536 is reported favorably
7:52:34 PM Tab 6 SB 944
7:52:42 PM Senator Baxley explains the bill
7:53:06 PM Amendment Barcode 569968
7:53:42 PM Senator Baxley explains the amendment
7:53:50 PM AA 380838
7:54:12 PM Senator Brandes explains the amendment
7:55:39 PM Chair with comments
7:56:26 PM Senator Baxley withdraws Amendment 569968
7:56:41 PM Amendment Barcode 920832

7:57:11 PM Senator Brandes explains AA 136974
7:57:46 PM Appearance Forms
7:57:51 PM Grace Lovett, Florida Retail Federation, speaks against
7:58:34 PM Tim Nungesser, NFIB, speaks for
8:00:18 PM Senator Baxley in debate
8:00:38 PM Senator Brandes closes on amendment
8:00:58 PM Amendment is not adopted
8:01:39 PM AA Barcode 200492
8:01:47 PM Senator Brandes explains the amendment
8:02:09 PM Appearance Forms
8:02:12 PM Robert McKinnon, Alliance of Resellers and Online Entrepreneurs, waives in support
8:02:20 PM Grace Lovett speaks against
8:02:55 PM Tim Nungesser speaks for
8:03:52 PM Senator Baxley in debate
8:04:02 PM Senator Brandes closes on amendment
8:04:34 PM Amendment is not adopted
8:04:58 PM Amendment Barcode 920832
8:05:05 PM Appearance Forms
8:05:09 PM Grace Lovett in support
8:05:16 PM Senator Baxley waives close
8:05:20 PM Amendment is adopted
8:05:38 PM Appearance Forms
8:05:42 PM Grace Lovett speaks for
8:05:49 PM Tim Nungesser speaks against
8:07:16 PM Rob Johnson, The Home Depot waives in support
8:07:22 PM Greg Black, ICSC waives in support
8:07:27 PM Jake Farmer, Walgreens waives in support
8:07:32 PM Robert McKinnon, Alliance of Resellers and Online Entrepreneurs waives against
8:07:37 PM Chris Hansen, Consumer Healthcare Products Association waives in support
8:07:45 PM Senator Baxley waives close
8:07:51 PM Roll call on CS/SB 944
8:07:58 PM CS/SB 944 is reported favorably
8:08:28 PM Tab 5 CS/SB 804
8:08:39 PM Senator Albritton explains the bill
8:08:54 PM Amendment Barcode 308330
8:09:34 PM Senator Albritton explains the amendment
8:12:20 PM AA Barcode 615290
8:12:30 PM Senator Gibson explains the amendment
8:14:11 PM Amendment 615290 is withdrawn
8:14:21 PM AA 612826
8:14:32 PM Senator Albritton explains the amendment
8:15:19 PM Appearance Form
8:15:26 PM Toby Philpot, Florida Healthcare Association waives in support
8:15:37 PM Senator Albritton waives close
8:15:40 PM Amendment is adopted
8:15:51 PM Amendment Barcode 308330
8:15:57 PM Appearance Forms
8:16:02 PM Geoffrey Moore speaks for
8:18:29 PM Senator Garcia with question
8:18:34 PM Mr. Moore responds
8:18:43 PM Senator Garcia with question
8:18:47 PM Mr. Moore responds
8:19:19 PM Amina Dubisson, Florida Healthcare Association in support
8:19:34 PM Deborah Franklin, Florida Hospital Association speaks for
8:21:06 PM Senator Gibson with question
8:21:12 PM Ms. Franklin responds
8:21:14 PM Senator Gibson with question
8:21:20 PM Ms. Franklin responds
8:21:46 PM Senator Gibson with question
8:21:52 PM Ms. Franklin responds
8:23:02 PM Steve Bahmer, Leading Age Florida speaks for
8:24:04 PM Kelvin Joseph, RiverChase Health & Rehab Center, waives in support

8:24:12 PM Joanne Watson, Miracle Hill Nursing & Rehab Center waives in support
8:24:24 PM Senator Albritton waives close
8:24:30 PM Amendment adopted
8:24:39 PM Senator Boyd with question
8:24:45 PM Senator Albritton responds
8:25:07 PM Senator Book with question
8:25:18 PM Senator Gibson with comment
8:26:32 PM Appearance Forms
8:26:38 PM Dale Ewart, SEIU1199 speaks against
8:29:38 PM Senator Garcia with question
8:29:43 PM Mr. Ewart responds
8:30:51 PM Tanya Jackson, SEIU1199 Healthcare Workers speaks against
8:33:17 PM Barbara DeVane, FL NOW, speaks against
8:34:39 PM Lynn Hearn, Florida Long-Term Care Ombudsman Program, speaks against
8:37:59 PM Senator Garcia with question
8:38:32 PM Ms. Hearn responds
8:40:01 PM Shirley Herman form against
8:40:13 PM Jacquelin Bruno speaks against
8:40:42 PM Senator Farmer with question
8:42:38 PM Suzie Cherenfant speaks against
8:46:30 PM Senator Farmer with question
8:46:41 PM Ms. Cherenfant responds
8:46:58 PM Roslyn Carter waives against
8:47:58 PM Sonia Palmer waives against
8:48:02 PM Dr. Joan Waitkevicz waives against
8:48:11 PM Zayne Smith, AARP waives against
8:48:15 PM Sylvia Moffett waives against
8:48:19 PM Elaine Morrison waives against
8:48:23 PM Francine Edwards waives against
8:48:27 PM Jason Morales waives against
8:48:30 PM Avelia Perkins waives against
8:48:34 PM Adam Basford waives in support
8:48:38 PM Deborah Baker-Rian waives against
8:48:41 PM Ellen Baker waives against
8:48:45 PM Jessica Brason waives against
8:48:47 PM Patty Farley waives against
8:48:51 PM Reese Levy waives against
8:48:56 PM Senator Gibson in debate
8:53:35 PM Senator Farmer in debate
8:57:14 PM Senator Albritton closes on bill
9:00:00 PM Roll call on CS/CS/SB 804
9:01:00 PM CS/CS/SB 804 is reported favorably
9:01:34 PM Senator Gruters with vote motion for Tab 3
9:01:45 PM Senator Garcia with vote motions for Tabs 1,2
9:01:52 PM Senator Bracy with vote motions for Tabs 2,7,15
9:02:09 PM Senator Powell with vote motions for Tabs 1,2,3,7,10,15
9:02:22 PM Senator Stargel with vote motions for Tabs, 1,2,3,6,7,8,9,12,13,14,15,16
9:02:34 PM Senator Farmer with vote motion for Tab 3
9:02:45 PM Chair with comments
9:03:51 PM Senator Gibson with comments
9:04:26 PM Senator Stargel moves to adjourn
9:04:28 PM Meeting adjourned