

Tab 2 CS/SB 352 by JU, Bradley; (Compare to CS/CS/H 0225) Self-authentication of Documents							
699538	A	S		GO, Ring	Delete L.30 - 102:		01/15 02:29 PM
Tab 3 CS/SB 578 by RI, Hutson; (Identical to H 0381) Public Records/Florida State Boxing Commission							
707920	A	S	RCS	GO, Latvala	Delete L.30 - 39:		01/19 05:42 PM
Tab 4 SB 592 by Hutson; (Similar to CS/CS/H 0463) Public Records/Department of Financial Services							
259364	A	S	RCS	GO, Latvala	Delete L.50 - 287:		01/19 05:42 PM
Tab 5 SB 724 by Joyner; (Identical to H 0857) Public Records							
Tab 6 SB 752 by Abruzzo; (Identical to H 0587) Public Records/Office of Inspector General Identifying and Location Information							
920924	A	S	RCS	GO, Latvala	Delete L.241 - 298:		01/19 05:42 PM
Tab 7 SB 606 by Margolis; State Symbols							
Tab 8 SB 598 by Brandes; (Similar to CS/CS/H 0181) Public Works Projects							
846642	D	S		GO, Hays	Delete everything after		01/15 02:29 PM
Tab 9 SR 1184 by Diaz de la Portilla; (Similar to H 1001) Anti-Israel Boycott, Divestment, and Sanctions Campaigns							
Tab 10 SPB 7050 by GO; Information Technology Security							
Tab 11 SPB 7052 by GO; Government Efficiency							
Tab 12 SB 582 by Gaetz; (Compare to H 0593) Public Corruption							
401016	D	S	RS	GO, Ring	Delete everything after		01/19 05:42 PM
248166	SA	S	RCS	GO, Latvala	Delete everything after		01/19 05:42 PM
637486	ASA	S	L RCS	GO, Latvala	Delete L.146 - 152.		01/19 05:42 PM
313064	D	S	WD	GO, Latvala	Delete everything after		01/19 05:42 PM
929576	AA	S	L WD	GO, Latvala	Delete L.145 - 151.		01/19 05:42 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Ring, Chair
Senator Hays, Vice Chair

MEETING DATE: Tuesday, January 19, 2016
TIME: 4:00—6:00 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Ring, Chair; Senator Hays, Vice Chair; Senators Bullard, Latvala, and Legg

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Secretary of Management Services

1	Poppell, Patterson Chad ()	Pleasure of Governor	Recommend Confirm Yeas 4 Nays 0
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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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2	CS/SB 352 Judiciary / Bradley (Similar CS/H 225)	Self-authentication of Documents; Allowing certified copies of official public documents to be filed electronically; providing a method for authenticating public documents other than by certified copies, etc.	Not Considered
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JU 11/17/2015 Fav/CS
GO 01/19/2016 Not Considered
RC

3	CS/SB 578 Regulated Industries / Hutson (Identical H 381)	Public Records/Florida State Boxing Commission; Providing an exemption from public records requirements with respect to certain proprietary confidential business information obtained by the Florida State Boxing Commission; extending the period for legislative review and repeal of the exemption; providing a statement of public necessity, etc.	Fav/CS Yeas 3 Nays 0
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RI 11/18/2015 Fav/CS
GO 01/19/2016 Fav/CS
RC

4	SB 592 Hutson (Similar CS/CS/H 463)	Public Records/Department of Financial Services; Providing an exemption from public records requirements for the personal identifying and location information of certain nonsworn investigative personnel of the Department of Financial Services and the names and personal identifying and location information of the spouses and children of such personnel; providing for future review and repeal of the exemption; providing a statement of public necessity, etc.	Fav/CS Yeas 4 Nays 0
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BI 11/17/2015 Favorable
GO 01/19/2016 Fav/CS
RC

COMMITTEE MEETING EXPANDED AGENDAGovernmental Oversight and Accountability
Tuesday, January 19, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 724 Joyner (Identical H 857)	Public Records; Authorizing a court to hold a custodian of a public record personally liable for the reasonable costs of enforcement, including attorney fees, in a civil action to enforce ch, 119, F.S., if certain conditions exist, etc. GO 01/19/2016 Temporarily Postponed ACJ AP	Temporarily Postponed
6	SB 752 Abruzzo (Identical H 587)	Public Records/Office of Inspector General Identifying and Location Information; Providing an exemption from public records requirements for certain identifying and location information of current or former personnel of an agency's office of inspector general and those whose duties include conducting internal audits, and the spouses and children thereof; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. GO 01/19/2016 Fav/CS RC	Fav/CS Yeas 4 Nays 0
7	SB 606 Margolis	State Symbols; Designating the Big Orange as the official state symbol for New Year's Eve celebrations, etc. GO 01/19/2016 Favorable RC	Favorable Yeas 4 Nays 0
8	SB 598 Brandes (Similar CS/CS/H 181)	Public Works Projects; Prohibiting the state and political subdivisions that contract for the construction, maintenance, repair, or improvement of public works from imposing restrictive conditions on contractors, subcontractors, or material suppliers or carriers; prohibiting the state and political subdivisions from restricting qualified bidders from submitting bids, etc. GO 01/19/2016 Not Considered CA AP	Not Considered
9	SR 1184 Diaz de la Portilla (Similar HR 1001)	Anti-Israel Boycott, Divestment, and Sanctions Campaigns; Condemning the Boycott, Divestment and Sanctions movement and the increasing incidence of acts of anti-Semitism, etc. GO 01/19/2016 Favorable RC	Favorable Yeas 3 Nays 1

Consideration of proposed bill:

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Tuesday, January 19, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SPB 7050	Information Technology Security; Revising the membership of the Technology Advisory Council to include a cybersecurity expert; requiring the council, in coordination with the Florida Center for Cybersecurity, to identify and recommend STEM training opportunities; providing for the establishment of computer security incident response teams within state agencies; revising entities directed to adopt a unified state plan for K-20 STEM education to include the Technology Advisory Council, etc.	Submitted as Committee Bill Yeas 4 Nays 0
Consideration of proposed bill:			
11	SPB 7052	Government Efficiency; Requiring the Governor to develop government efficiency recommendations on an annual basis; requiring submission of recommendations to the Legislature; requiring state agencies to report quarterly regarding implemented recommendations and any cost impacts for a specified period of time, etc.	Submitted as Committee Bill Yeas 4 Nays 0
Pending Reconsideration:			
12	SB 582 Gaetz (Compare H 593, H 7071, CS/S 686)	Public Corruption; Deleting the definition of the term "corruptly" or "with corrupt intent"; redefining the term "bribery" to include knowing and intentional, rather than corrupt, acts; revising the prohibition against unlawful compensation or reward for official behavior to conform to changes made by the act; revising the prohibition against official misconduct to conform to changes made by the act; revising the prohibition against bid tampering to conform to changes made by the act, etc.	Fav/CS Yeas 4 Nays 0
		GO 12/01/2015 Temporarily Postponed GO 01/11/2016 Unfavorable CJ RC	
Other Related Meeting Documents			

1425

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Patterson Chad Poppell

is duly appointed

**Secretary,
Department of Management Services**

for a term beginning on the
Fourth day of May, A.D., 2015,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Seventh day of May, A.D., 2015.*



Ken Detzner

Secretary of State

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

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



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE
2015 MAY -8 PM 4:17
DIVISION OF ELECTIONS

May 4, 2015

Secretary Kenneth W. Detzner
Department of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 20.22, Florida Statutes:

Secretary Chad Poppell

as Secretary of the Department of Management Services, subject to confirmation by the Senate. This appointment is effective May 4, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to be "R Scott".

Rick Scott
Governor

RS/vh

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Patterson Chad Poppell
Secretary of Management Services

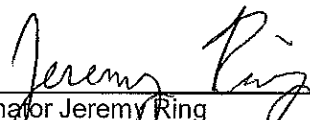
NOTICE OF HEARING

TO: Mr. Patterson Chad Poppell

YOU ARE HEREBY NOTIFIED that the Committee on Governmental Oversight and Accountability of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, January 19, 2016, in the James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 14th day of January, 2016

Committee on Governmental Oversight and
Accountability



Senator Jeremy Ring
As Chair and by authority of the committee

cc: Members, Committee on Governmental Oversight and Accountability
Office of the Sergeant at Arms

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

RECEIVED
DEPARTMENT OF STATE

2015 MAY 27 AM 10:26

UNIVERSITY OF FLORIDA
TALLAHASSEE, FL

STATE OF FLORIDA

County of Leon

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

Secretary, Florida Department of Management Services

(Title of Office)

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

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

[Signature]
Signature

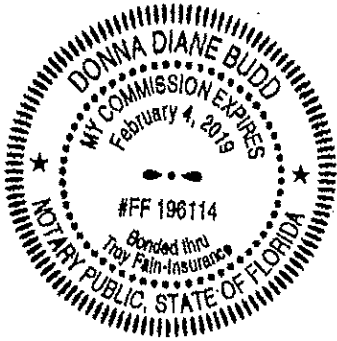
Sworn to and subscribed before me this 19 day of May, 2015.

Donna Diane Budd
Signature of Officer Administering Oath or of Notary Public

Donna Diane Budd
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____



ACCEPTANCE

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

Mailing Address: Home Office

Street or Post Office Box

City, State, Zip Code

Patterson Chad Poppell

Print name as you desire commission issued

[Signature]
Signature

THE FLORIDA SENATE
APPEARANCE RECORD

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

01/19/2016

Meeting Date

N/A

Bill Number (if applicable)

N/A

Amendment Barcode (if applicable)

Topic Senate Confirmation Hearing

Name Chad Poppell

Job Title Secretary

Address 4050 Esplanade Way

Street

Tallahassee

City

Florida

State

32399-0950

Zip

Phone 850-414-8521

Email Chad.Poppell@dms.myflorida.com

Speaking: For Against Information

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

Representing Department of Management Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 Governmental Oversight and Accountability

BILL: CS/SB 352

INTRODUCER: Judiciary Committee and Senator Bradley

SUBJECT: Self-authentication of Documents

DATE: January 15, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Maida	Cibula	JU	Fav/CS
2.	Kim	McVaney	GO	Pre-meeting
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 352 authorizes a person to electronically file with a court a certified copy of a public or official records during legal proceedings. Under existing law and despite requirements that most documents be electronically filed, some court clerks require that self-authenticating records be filed in physical form.¹ Accordingly, the bill minimizes the need to file physical documents.

The bill provides that court filings and other public documents found on government approved websites may be submitted to a court. The bill provides a procedure for authentication of such a record.

This bill goes into effect upon becoming law.

II. Present Situation:

Authentication of Evidence

Under the Florida Evidence Code, evidence offered at trial must be authenticated or identified before it can be admitted.² Thus, the code recognizes a principle that evidence is inadmissible

¹ Real Property, Probate, and Trust Law Section of The Florida Bar, *White Paper: Proposed Changes to Fla. Stat. 90.202, Concerning Authentication of Electronic Records* (Sept. 3, 2015) (on file with the Senate Committee on Judiciary).

² Section 90.901, F.S.

unless accompanied by some showing of its genuineness—that is, there must be a showing that the evidence is, in fact, what the proponent says it is.³ Certain types of evidence, however, need no additional authenticating evidence as a condition precedent to admissibility; they are considered authentic as a matter of law.⁴ This evidence includes a copy of an “official public record, report, or entry or of a document authorized by law to be recorded or filed and actually recorded in a public office” if the copy of the record is certified by the custodian of the record or other specified authority.⁵

Electronic Filing of Court Documents

The Florida Rules of Judicial Administration require all court documents to be served and filed electronically.⁶ Facilitating this rule, all clerks of court are required to implement an electronic filing process.⁷ Nevertheless, service and filing of court documents may be made physically in addition to, and not in lieu of, electronic service.⁸ Given the requirement that documents be served and filed electronically, some clerks of court may be ill-equipped or unwilling to accept original paper certified copies of public records, rendering such records difficult to authenticate.⁹

Electronic Access to Official Records

Pursuant to s. 28.2221, F.S., the Legislature required all county recorders to place on a public website an index and location of documents recorded in the official records of the county. The index must have statewide search capabilities and contain the following: grantor and grantee names, party names, dates, book and page number, comments and type of public record. The Legislature required clerks of court and county recorders to provide electronic access to indexed documents by January 1, 2006.¹⁰ Information retrieved electronically from a public website is inadmissible in court as an authenticated document unless otherwise provided by law.¹¹

III. Effect of Proposed Changes:

This bill does four things:

- Provides that certified copies of official public records may be filed electronically;
- Expands the list of documents that are self-authenticating to include court filings or any document maintained on a government website;
- Provides process by which electronically filed copies of self-authenticating documents may be submitted to a court; and
- Provides a process for challenging the authenticity of electronically filed self-authenticating documents.

³ See, e.g., *Gosciminski v. State*, 132 So. 3d 678, 700 (Fla. 2013); *DeLong v. Williams*, 232 So. 2d 246 (Fla. 4th DCA 1970).

⁴ Section 90.902, F.S.

⁵ *Id.*

⁶ Rules 2.516, 2.520 and 2.525 Fla. R. Jud. Admin.

⁷ Section 28.22205, F.S.

⁸ Rules 2.516, 2.525(d) Fla. R. Jud. Admin.

⁹ Although a clerk may not refuse to file a document because it has not been electronically filed, a clerk may request that a document be resubmitted electronically according to Fla. R. Jud. Admin. 2.520(f).

¹⁰ Section 28.2221(5)(e), F.S.

¹¹ Section 28.2221(4), F.S. provides “[u]nless otherwise provided by law, no information retrieved electronically pursuant to this section shall be admissible in court as an authenticated document.”

First, the bill provides that copies of official public records, recorded or filed with a public office may be filed electronically with a clerk of court. The bill provides that an electronically filed copy of a public document must be certified as correct and the document will have the same admissibility as if it were an original official public record.

Second, the bill amends an existing section of law dealing with self-authenticating official public records. The bill creates a new subsection of law that provides that a copy of the following documents are self-authenticating if they are available on a public website:

- Filings of a court sitting within the U.S. or US territory; and
- Document or record entry filed with the U.S. government or any other domestic governmental unit.

The document must come from a public website operated by a governmental agency or operated by someone authorized by a governmental agency.

Third, the bill provides a method by which court filings or documents taken from public website must be authenticated. A party seeking authentication of an internet document must file a copy of the document and the document's web address with the court. The party may then request a hearing on the authenticity of the internet document. The court is authorized to dispense with the hearing altogether.

Under the bill, the authenticity of an internet document can be challenged in two ways. First, the opposing party may provide the court with a different version of the document and claim that their alternative document is the "true," or authentic document. Second, the opposing party may file an affidavit stating the electronically-filed document does not exist on the website or web address provided.

Following this initial step, the court will review the internet document and deem it authentic unless 1) the document is not filed in conformance with the requirements set out in the bill, 2) the court sustains the opposing party's objection, 3) the internet document is materially different from how it appears on the website as claimed by the filing party, or 4) the court otherwise determines the document is inauthentic.

The bill does not prohibit a party from authenticating a document using other means of proof which are permitted as an electronic filing according to this the bill or as provided by s. 90.901, F.S. Section 90.901, F.S., provides that authentication or identification of evidence is required before evidence may be admitted and that the party offering the evidence may authenticate or identify an item offering evidence to show that the item is what the party says it is.

The bill reenacts s. 90.901, F.S., in order to incorporate the changes made by this bill.

The bill takes effect upon becoming a law.

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

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

By authorizing the electronic filing of self-authenticating documents with a court, the bill appears likely to reduce costs for attorneys and their clients.¹²

C. Government Sector Impact:

The Office of the State Courts Administrator estimates that this bill will not impact revenues and is unable to provide an estimate on expenditures.¹³

The Florida Court Clerk and Comptrollers estimate that this bill will result in a loss of revenue of more than \$700,000 annually.¹⁴ Clerk staff may be required to attend more hearings when authenticity is challenged, however this will result in a minimal or insignificant increase in duties.¹⁵

VI. Technical Deficiencies:

None.

¹² See Real Property Probate and Trust Law Section of The Florida Bar, *supra* note 1.

¹³ 2016 Judicial Impact Statement, Bill Number CS/SB 352, Office of the State Court Administrator.

¹⁴ 2016 CCOC Legislative Bill Analysis for HB 225, Florida Clerks of Court Operations Corporation.

¹⁵ *Id.*

VII. Related Issues:

It is unclear why an affidavit would be necessary to support a challenge to an authentication of internet document, when a motion may be sufficient. It is also not clear who would be the most appropriate person qualified to make such an attestation.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 90.902 and 90.803.

IX. Additional Information:

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

CS by Judiciary on November 17, 2015:

The committee substitute primarily simplifies and clarifies the language in the bill as originally filed. However, the CS provides additional leeway for a court to determine that a challenged electronically-filed document is inauthentic.

- B. **Amendments:**

None.



699538

LEGISLATIVE ACTION

Senate

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. .
. .
. .
. .

House

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

Senate Amendment (with directory and title amendments)

Delete lines 30 - 102

and insert:
original.

===== **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 13 - 15

and insert:



699538

11 Statutes, is amended

12

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

14 And the title is amended as follows:

15 Delete lines 5 - 7

16 and insert:

17 providing an

By the Committee on Judiciary; and Senator Bradley

590-01327-16

2016352c1

A bill to be entitled

An act relating to self-authentication of documents; amending s. 90.902, F.S.; allowing certified copies of official public documents to be filed electronically; providing a method for authenticating public documents other than by certified copies; amending s. 90.803, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Subsection (4) of section 90.902, Florida Statutes, is amended, subsections (5) through (11) of that section are renumbered as subsections (6) through (12), respectively, and a new subsection (5) is added to that section, to read:

90.902 Self-authentication.—Extrinsic evidence of authenticity as a condition precedent to admissibility is not required for:

(4) A copy of an official public record, report, or entry, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification by certificate complying with subsection (1), subsection (2), or subsection (3) or complying with any act of the Legislature or rule adopted by the Supreme Court, which certified copy may be filed electronically pursuant to s. 28.22205. An electronically filed certified copy is admissible to the same extent as the

Page 1 of 4

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

590-01327-16

2016352c1

original would be if it complies with this subsection.

(5) A copy of any pleading, order, or other filing in any court sitting in the United States or a United States territory, or a document or record entry filed with or retained by the United States or any state, municipality, district, commonwealth, territory, or governmental department or agency of such an entity which is available to the public from a website operated by a governmental agency or authorized by a governmental agency.

(a) The party seeking authentication of a document pursuant to this subsection must:

1. File a Notice of Reliance on Electronic Records which attaches a copy of the document to be authenticated and discloses the website and web address where the document can be located.

2. Serve the written Notice of Reliance on Electronic Records at least 20 days before a hearing at which the authenticity of the document or its acceptance by a court as an authentic document is at issue. The court may waive or shorten the time period for filing the notice set forth in this subparagraph.

(b) A party may object to the authenticity of a document that is the subject of a Notice of Reliance on Electronic Records by filing and serving an affidavit on all other parties at least 5 days before a hearing, unless such time period is waived or shortened by the court. The affidavit must do one of the following:

1. Challenge the authenticity of the document by detailing in writing the portion of the document which is not authentic. A

Page 2 of 4

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

590-01327-16

2016352c1

59 copy of what the challenging party asserts is the true, correct,
60 and authentic document must be attached to the affidavit.

61 2. Assert that the document does not exist on the website
62 or web address as specified in the Notice of Reliance on
63 Electronic Records.

64 (c) After review and consideration by the court, the court
65 shall deem authentic the document that is the subject of the
66 Notice of Reliance on Electronic Records unless:

67 1. The party seeking authentication of the document does
68 not satisfy the requirements of paragraph (a);

69 2. An affidavit objecting to the authenticity of the
70 document is filed pursuant to paragraph (b) and the court
71 sustains the objection;

72 3. The document does not have the same content or text, in
73 all material respects, as the document that appears on the
74 website identified in the Notice of Reliance on Electronic
75 Records; or

76 4. The court otherwise determines that the document is not
77 authentic.

78
79 This subsection does not prohibit a party from authenticating a
80 document using the alternative methods of authentication under
81 subsection (4) or s. 90.901.

82 Section 2. Paragraph (a) of subsection (6) of section
83 90.803, Florida Statutes, is amended to read:

84 90.803 Hearsay exceptions; availability of declarant
85 immaterial.—The provision of s. 90.802 to the contrary
86 notwithstanding, the following are not inadmissible as evidence,
87 even though the declarant is available as a witness:

590-01327-16

2016352c1

88 (6) RECORDS OF REGULARLY CONDUCTED BUSINESS ACTIVITY.—

89 (a) A memorandum, report, record, or data compilation, in
90 any form, of acts, events, conditions, opinion, or diagnosis,
91 made at or near the time by, or from information transmitted by,
92 a person with knowledge, if kept in the course of a regularly
93 conducted business activity and if it was the regular practice
94 of that business activity to make such memorandum, report,
95 record, or data compilation, all as shown by the testimony of
96 the custodian or other qualified witness, or as shown by a
97 certification or declaration that complies with paragraph (c)
98 and s. 90.902(12) ~~90.902(11)~~, unless the sources of information
99 or other circumstances show lack of trustworthiness. The term
100 "business" as used in this paragraph includes a business,
101 institution, association, profession, occupation, and calling of
102 every kind, whether or not conducted for profit.

103 Section 3. This act shall take effect upon becoming a law.
104



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: November 20, 2015

I respectfully request that **Senate Bill # 352**, relating to Self-authentication of Documents, be placed on the:

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

A handwritten signature in black ink, appearing to read "Rob Bradley", written over a horizontal line.

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/19/16

Meeting Date

SB 352

Bill Number (if applicable)

699538

Amendment Barcode (if applicable)

Topic

Name Stacy Scott

Job Title Public Defender, 8th Circuit

Address 35 N main

Street

Gainesville FL

32601

City

State

Zip

Phone

Email

Speaking: For Against Information

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

Representing Florida Public Defender Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 578

INTRODUCER: Governmental Oversight and Accountability Committee, Regulated Industries Committee and Senator Hutson

SUBJECT: Public Records/Florida State Boxing Commission

DATE: January 20, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 578 amends the current public records exemption in s. 548.062(2), F.S., related to propriety confidential business information maintained by the Florida State Boxing Commission (commission) within the Department of Business and Professional Regulation. The bill provides that propriety confidential business information provided by a promoter to the commission or obtained through an audit is confidential and exempt from public inspection and disclosure. The bill expands the public records exemption to include all proprietary confidential business information provided by the promoter to the commission by deleting the provision that the exemption applies only to the promoter's written report required to be filed with the commission after a match.

This bill requires a two-thirds vote of each chamber to pass. The bill will go into effect on July 1, 2016.

II. Present Situation:

Florida's Public Records Law

Florida has a long history of providing public access to the records of governmental and other public entities. The first law affording access to public records was enacted by the Florida Legislature in 1909.

In 1992, Floridians voted to adopt an amendment to the Florida Constitution that raised the statutory right of public access to public records to a constitutional level. Article I, s. 24(a), of the State Constitution provides:

Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the Florida Constitution, the Public Records Law,¹ which predates the constitutional provisions, specifies conditions under which public access must be provided to governmental records of the executive branch and other governmental agencies. Section 119.07(1)(a), F.S., states:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.

Unless specifically exempted, all agency² records are available for public inspection. The term “public records” is defined in s. 119.011(12), F.S., to include:

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

This definition of “public records” has been interpreted by the Florida Supreme Court to include all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.³

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other

¹Chapter 119, F.S.

²The term “agency” is defined in s. 119.011(2), F.S., as “any state, county district, authority, or municipal officer, department, division, board, bureau, commission or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

³ *Shevin v. Byron, Harless, Schaffer, Reid, and Associates, Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

than to the persons or entities designated in the statute.⁴ If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.⁵

Only the Legislature is authorized to create exemptions to open government requirements.⁶ Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.⁷ A bill enacting an exemption⁸ may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.⁹

Open Government Sunset Review Act

The Open Government Sunset Review Act (the act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁰ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature, reenacts the exemption prior to that time.¹¹

The act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹² An exemption serves an identifiable purpose if it meets one of the following purposes and the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- It protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- It protects trade or business secrets.¹³

The act also requires specified questions to be considered during the review process.¹⁴

⁴ Attorney General Opinion 85-62.

⁵ *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So. 2d 289 (Fla. 1991).

⁶ FLA. CONST. art. I, s. 24(c).

⁷ FLA. CONST. art. I, s. 24(c).

⁸ Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records pursuant to s. 119.15(4)(b), F.S. The requirements of the act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(6)(b), F.S.

¹³ *Id.*

¹⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?

If the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.¹⁵ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

Florida State Boxing Commission

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing, and mixed martial arts by the Florida State Boxing Commission (commission) within the Department of Business and Professional Regulation (department).

Section 548.006(3), F.S., provides the commission with exclusive jurisdiction over every professional boxing match and professional mixed martial arts and kickboxing matches. Professional matches held in this state must meet the requirements for holding the match pursuant to ch. 548, F.S., and the rules adopted by the commission.

The commission's jurisdiction over amateur matches is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for boxing and kickboxing matches held in the state.¹⁶ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.¹⁷ This jurisdiction does not extend to amateur sanctioning organizations for mixed martial arts.

Public Records Exemption – Proprietary Confidential Business Information

Section 548.062, F.S., provides that the proprietary confidential business information provided in the written report after a match or obtained by the commission in an audit of the promoter's books and records, is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

Section 548.062, F.S., defines "proprietary confidential business information" as information that is owned and controlled by the promoter, which a promoter intends to be and treats as private, and the disclosure of the information would cause harm to the promoter or its business operations. If a promoter discloses information pursuant to a statutory provision or an order of a court or administrative body, the disclosed information is still considered proprietary confidential business information. In addition, a private agreement providing that information will not be released to the public will give it proprietary confidential business information status.

Proprietary confidential business information includes any of the following information:

-
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
 - Is the record or meeting protected by another exemption?
 - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹⁵ FLA. CONTS. art. I, s. 24(c). An existing exemption may be treated as a new exemption (and subject to a new OGSR) if the exemption is expanded to cover additional records (s. 119.15(4), F.S.).

¹⁶ Section 548.006(3), F.S.

¹⁷ Section 548.002(2), F.S.

- (a) The number of ticket sales for a match.
- (b) The amount of gross receipts after a match.
- (c) Trade secrets as defined by s. 688.002, F.S.
- (d) Business plans.
- (e) Internal auditing controls and reports of internal auditors.
- (f) External auditors' reports.

Information made confidential and exempt by this subsection may be disclosed to another governmental entity in the performance of its duties and responsibilities.

The public records exemption in s. 548.062, F.S., is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and is repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 548.062, F.S., was enacted in s. 1, ch. 2014-129, L.O.F., which expressed the required Statement of Public Necessity for the public records exemption.

The public necessity statement provides that the disclosure of proprietary confidential business information that could injure a promoter in the marketplace by giving the promoter's competitors insight into its financial status and business plan, thereby putting the promoter at a competitive disadvantage. The bill also provides that the Legislature's finding that the harm to a promoter in disclosing proprietary confidential business information significantly outweighs any public benefit derived from disclosure of the information.

Bill Proponent

Ultimate Fighting Championship (UFC),¹⁸ a promotion company for professional mixed martial arts, produces a reality television series called "The Ultimate Fighter" in which participants compete in a series of matches until the ultimate champion is determined. Although this program has been produced in Las Vegas, Nevada for its first 20 seasons (two seasons per year),¹⁹ in 2015 the 21st season of the series was filmed in Coconut Creek and Boca Raton, Florida. As professional mixed martial arts matches, these events are attended by representatives of the commission and a public record of the event is maintained by the commission. This record includes the identity of the match participants and results of the match. The matches for the program were filmed in January and February 2015, but the first match for the program did not air until April 2015, and subsequent matches were aired over the following weeks. According to a representative for UFC, the public records exemption for proprietary confidential business information is needed because of the delay between the actual matches and the airing of the matches. The UFC is concerned that a public records request for the information may harm promoter's financial interests by prematurely revealing the results of the matches.

¹⁸ See Ultimate Fighting Championship at: <http://www.ufc.com/discover/ufc> (last visited November 10, 2015).

¹⁹ See https://en.wikipedia.org/wiki/The_Ultimate_Fighter (last visited November 10, 2015).

Currently, there are no reality series being filmed in Florida by the UFC or any other organization.²⁰

III. Effect of Proposed Changes:

The bill amends s. 548.062(2), F.S., to provide that any propriety confidential business information provided by a promoter to the commission or obtained through an audit is confidential and exempt from public inspection and disclosure. The bill expands the public records exemption to include all proprietary confidential business information provided by the promoter to the commission and deletes the provision that the exemption applies only to the promoter's written report required to be filed with the commission after a match. The exemption is subject to Open Government Sunset Review Act and stands repealed on October 2, 2021.

Section 2 of the bill provides that it is a public necessity to protect proprietary confidential business information from public disclosure to protect the interests of the promoter. The public necessity statement provides that without this exemption, a promoter's competitors could gain insights into the promoter's financial status and business plans and put the promoter at a competitive disadvantage. In addition, this section of the bill provides that the harm to a promoter in disclosing proprietary confidential business information significantly outweighs any public benefit derived from the disclosure of such information. Finally, the public necessity statement explains that all proprietary business information, regardless of the form of the information, should be protected so that the purpose of the exemption will not be undermined.

The bill takes effect on July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement - Section 24(c), Art. I, of the State Constitution requires a two-thirds vote of each house of the Legislature for passage of a newly created or expanded public-records or public-meetings exemption. Because this bill expands a public records exemption, the bill will require a two-thirds vote of each house of the Legislature for passage.

Statement of Public Necessity - The bill broadens the exemption to include any proprietary business information provided by a promoter to the commission, regardless of

²⁰ Email from Paul Waters, Executive Director of Florida State Boxing Commission. On file with the Committee on Governmental Oversight and Accountability.

whether it is in a written report, or when it is provided to the commission. The public necessity statement supports the expanded exemption.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. Since more records will be exempt, records custodians will have to make more redactions. The costs of more redactions will have to be absorbed within existing resources.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 548.062 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 Governmental Oversight on January 19, 2016:

The CS/CS revises the public necessity statement to clarify that the information is being provided by the promoter to the State Boxing Commission and expressly provides that extending the exemption to proprietary confidential business information, even if it is not in a report, ensures that the purpose of the exemption is not undermined. The CS/CS provides more comprehensive justification for the exemption.

CS by Regulated Industries Committee on November 18, 2015:

The committee substitute (CS) revises the statement of public necessity in section 2 of the bill to delete the reference to proprietary confidential business information provided to the commission by a promoter after the match or obtained by the commission through an audit of the promoter's books and records. Instead the CS amends to the statement of public necessity to reference any proprietary confidential information provided by the promoter to the commission.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 30 - 39
and insert:
necessity that proprietary confidential business information
provided by a promoter to the Florida State Boxing Commission be
made confidential and exempt from s. 119.07(1), Florida
Statutes, and s. 24(a), Article I of the State Constitution. The
disclosure of proprietary confidential business information
could injure a promoter in the marketplace by giving the



707920

11 promoter's competitors insights into the promoter's financial
12 status and business plan, thereby putting the promoter at a
13 competitive disadvantage. The Legislature also finds that the
14 harm to a promoter in disclosing proprietary confidential
15 business information significantly outweighs any public benefit
16 derived from the disclosure of such information. Therefore,
17 extending the public records exemption to proprietary
18 confidential business information provided by a promoter to the
19 commission, no matter if the information is provided in a report
20 or otherwise, ensures that the public records exemption is
21 maintained and not undermined. For these reasons, the
22 Legislature declares that

By the Committee on Regulated Industries; and Senator Hutson

580-01406-16

2016578c1

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 548.062, F.S.; providing an exemption from public
 4 records requirements with respect to certain
 5 proprietary confidential business information obtained
 6 by the Florida State Boxing Commission; extending the
 7 period for legislative review and repeal of the
 8 exemption; providing a statement of public necessity;
 9 providing an effective date.

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

11 Section 1. Subsections (2) and (3) of section 548.062,
 12 Florida Statutes, are amended to read:

13 548.062 Public records exemption.—

14 (2) Proprietary confidential business information provided
 15 ~~by a promoter in the written report required to be filed with~~
 16 ~~the commission after a match~~ or obtained by the commission
 17 through an audit of the promoter's books and records pursuant to
 18 s. 548.06 is confidential and exempt from s. 119.07(1) and s.
 19 24(a), Art. I of the State Constitution. Information made
 20 confidential and exempt by this subsection may be disclosed to
 21 another governmental entity in the performance of its duties and
 22 responsibilities.

23 (3) This section is subject to the Open Government Sunset
 24 Review Act in accordance with s. 119.15 and shall stand repealed
 25 on October 2, 2021 ~~2019~~, unless reviewed and saved from repeal
 26 through reenactment by the Legislature.

27 Section 2. The Legislature finds that it is a public
 28

29 Page 1 of 2

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

580-01406-16

2016578c1

30 necessity that proprietary confidential business information be
 31 protected from disclosure. The disclosure of proprietary
 32 confidential business information could injure a promoter in the
 33 marketplace by giving the promoter's competitors insights into
 34 the promoter's financial status and business plan, thereby
 35 putting the promoter at a competitive disadvantage. The
 36 Legislature also finds that the harm to a promoter in disclosing
 37 proprietary confidential business information significantly
 38 outweighs any public benefit derived from the disclosure of such
 39 information. For these reasons, the Legislature declares that
 40 any proprietary confidential business information provided by a
 41 promoter to the Florida State Boxing Commission is confidential
 42 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 43 Article I of the State Constitution.

44 Section 3. This act shall take effect July 1, 2016.
 45

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: December 3, 2015

I respectfully request that **Senate Bill #578**, relating to Public Records/Florida State Boxing Commission, be placed on the:

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

A handwritten signature in black ink, appearing to read "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 6

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 592

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hutson

SUBJECT: Public Records/Department of Financial Services

DATE: January 20, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 592 exempts from public inspection and disclosure the home addresses, telephone numbers, dates of birth, and photographs of current and former nonsworn investigative personnel of the Department of Financial Services. The bill also exempts from public inspection and disclosure the names, home addresses, telephone numbers, dates of birth, and places of employment, locations of schools and day care facilities of the spouses and children of such personnel.

The bill specifies that the exemptions are subject to the Open Government Sunset Review Act and provides a statement of public necessity for the exemptions.

This bill creates a new exemption and is subject to a two-thirds vote in both the Senate and the House, pursuant to Article I, s. 24(c) of the State Constitution.

The bill goes into effect upon becoming law.

II. Present Situation:

Public Records Law

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

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:¹⁷

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(a), F.S.

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁸ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.¹⁹

Department of Financial Services

In 2002 the Florida Legislature merged the Department of Insurance, Treasury and State Fire Marshal and the Department of Banking and Finance into the Department of Financial Services (DFS). The Chief Financial Officer (CFO) is a statewide elected official who is a member of the Cabinet²⁰ and serves as the agency head of the DFS.²¹ The DFS is organized in fourteen divisions and some specialized offices. The divisions are:

- The Division of Accounting and Auditing, which includes the Bureau of Unclaimed Property and the Office of Fiscal Integrity;
- The Division of State Fire Marshal;
- The Division of Risk Management;
- The Division of Treasury;
- The Division of Insurance Fraud;
- The Division of Rehabilitation and Liquidation;
- The Division of Insurance Agent and Agency Services;
- The Division of Consumer Services;
- The Division of Workers' Compensation;
- The Division of Administration;
- The Division of Legal Services;
- The Division of Information Systems;
- The Division of Funeral, Cemetery, and Consumer Services; and
- The Division of Public Assistance Fraud.²²

According to the DFS, a total of 206 positions within five divisions are nonsworn investigative personnel. These positions are located in the following divisions:

- Five positions in the Division of Accounting and Auditing who investigate suspicion of theft, attempted theft, or the misappropriation of state funds.
- 59 positions in the Division of Agent and Agency Services who investigate misconduct of licensees. Investigators often go into the offices and homes of licensees and consumers to gather evidence and take sworn statements.
- 74 positions in the Division of Workers Compensation who investigate enforcement of workers compensation requirements of employers. Investigators often visit employer worksites and have the power to issue Stop-Work Orders that immediately cease all the business operations of the employer.

¹⁸ FLA. CONST., art. I, s. 24(c).

¹⁹ Section 119.15(7), F.S.

²⁰ See Art. IV, s. 4, Fla. Const.

²¹ See s. 20.121(1), F.S.

²² See s. 20.121(2), F.S.

- 15 positions in the Division of Funeral, Cemetery, and Consumer Services who investigate fraudulent activities of licensees as well as improper handling of human remains. Investigators often go to the business address of the license to conduct much of their investigation.
- 53 positions in the Division of Public Assistance Fraud who investigate suspected fraud within the various public assistance programs administered by the state. Such investigations can result in prosecution by the state attorney's office.

III. Effect of Proposed Changes:

The bill amends s. 119.071, F.S., to exempt from public inspection and disclosure the home addresses, telephone numbers, dates of birth, and photographs of certain current and former nonsworn investigative DFS personnel. The exemption applies to DFS personnel who investigate fraud, theft, workers' compensation cases, related criminal cases or regulatory violations.

The bill also exempts from public inspection and disclosure the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel, as well as the names and locations of schools and day care facilities attended by their children.

The exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and provides that the public-records exemptions will stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Justification of public necessity for the exemptions is also provided, stating that release of the information might place the investigators or the family members of these investigators in danger of physical and emotional harm from disgruntled individuals who have contentious reactions to actions taken by such personnel, or whose business or professional practices have come under the scrutiny of such personnel. The efforts of such personnel can lead to criminal prosecution, the loss of commerce and property, fines, and the loss of professional licensure. DFS has documented examples of personnel having weapons brandished at them, verbal threats made against them and their families, as well as personnel being subject to harassment and intimidation. Therefore, the harm that would result from the release of the information outweighs any public benefit that might result from the disclosure.

The bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

Pursuant to Article I, s. 24(c) of the State Constitution all public records exemptions requires a two-thirds vote by both the Senate and the House.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill protects nonsworn investigative personnel and their families from potential harassment or harm when fulfilling their duties while working for DFS.

Governmental entities will have to redact the information outlined in this bill, however, this costs will probably be absorbed within current resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

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

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

CS by Governmental Oversight on January 19, 2016:

- Removes social security numbers from the exemption since social security number are already exempt from public records.
- Removes the reference to the photographs of the families of DFS personnel since the DFS does not keep family members' photographs as public records.

- The public necessity statement was enhanced to include specific examples of the dangers DFS personnel have experienced in the course of carrying out their duties.
- Includes former personnel, to clarify that the exemption is applicable to former personnel as well as current personnel who leave DFS in the future.
- Narrows and clarifies that investigation of “other criminal activities” are related to investigations of fraud, theft and workers compensation cases, rather than any type of criminal activity.
- Changes ‘child care’ to ‘day care’ in order to conform with the rest of the section.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 50 - 287

and insert:

(IV) The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the



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11 names, home addresses, telephone numbers, dates of birth, and
12 places of employment of the spouses and children of such
13 personnel; and the names and locations of schools and day care
14 facilities attended by the children of such personnel are exempt
15 from s. 119.07(1) and s. 24(a), Art. I of the State
16 Constitution. This sub-sub-subparagraph is subject to the Open
17 Government Sunset Review Act in accordance with s. 119.15 and
18 shall stand repealed on October 2, 2021, unless reviewed and
19 saved from repeal through reenactment by the Legislature.

20 b. The home addresses, telephone numbers, dates of birth,
21 and photographs of firefighters certified in compliance with s.
22 633.408; the home addresses, telephone numbers, photographs,
23 dates of birth, and places of employment of the spouses and
24 children of such firefighters; and the names and locations of
25 schools and day care facilities attended by the children of such
26 firefighters are exempt from s. 119.07(1).

27 c. The home addresses, dates of birth, and telephone
28 numbers of current or former justices of the Supreme Court,
29 district court of appeal judges, circuit court judges, and
30 county court judges; the home addresses, telephone numbers,
31 dates of birth, and places of employment of the spouses and
32 children of current or former justices and judges; and the names
33 and locations of schools and day care facilities attended by the
34 children of current or former justices and judges are exempt
35 from s. 119.07(1).

36 d.(I) The home addresses, telephone numbers, social
37 security numbers, dates of birth, and photographs of current or
38 former state attorneys, assistant state attorneys, statewide
39 prosecutors, or assistant statewide prosecutors; the home



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40 addresses, telephone numbers, social security numbers,
41 photographs, dates of birth, and places of employment of the
42 spouses and children of current or former state attorneys,
43 assistant state attorneys, statewide prosecutors, or assistant
44 statewide prosecutors; and the names and locations of schools
45 and day care facilities attended by the children of current or
46 former state attorneys, assistant state attorneys, statewide
47 prosecutors, or assistant statewide prosecutors are exempt from
48 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

49 (II) The names of the spouses and children of current or
50 former state attorneys, assistant state attorneys, statewide
51 prosecutors, or assistant statewide prosecutors are exempt from
52 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

53 (III) Sub-sub-subparagraph (II) is subject to the Open
54 Government Sunset Review Act in accordance with s. 119.15, and
55 shall stand repealed on October 2, 2018, unless reviewed and
56 saved from repeal through reenactment by the Legislature.

57 e. The home addresses, dates of birth, and telephone
58 numbers of general magistrates, special magistrates, judges of
59 compensation claims, administrative law judges of the Division
60 of Administrative Hearings, and child support enforcement
61 hearing officers; the home addresses, telephone numbers, dates
62 of birth, and places of employment of the spouses and children
63 of general magistrates, special magistrates, judges of
64 compensation claims, administrative law judges of the Division
65 of Administrative Hearings, and child support enforcement
66 hearing officers; and the names and locations of schools and day
67 care facilities attended by the children of general magistrates,
68 special magistrates, judges of compensation claims,



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69 administrative law judges of the Division of Administrative
70 Hearings, and child support enforcement hearing officers are
71 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
72 Constitution if the general magistrate, special magistrate,
73 judge of compensation claims, administrative law judge of the
74 Division of Administrative Hearings, or child support hearing
75 officer provides a written statement that the general
76 magistrate, special magistrate, judge of compensation claims,
77 administrative law judge of the Division of Administrative
78 Hearings, or child support hearing officer has made reasonable
79 efforts to protect such information from being accessible
80 through other means available to the public.

81 f. The home addresses, telephone numbers, dates of birth,
82 and photographs of current or former human resource, labor
83 relations, or employee relations directors, assistant directors,
84 managers, or assistant managers of any local government agency
85 or water management district whose duties include hiring and
86 firing employees, labor contract negotiation, administration, or
87 other personnel-related duties; the names, home addresses,
88 telephone numbers, dates of birth, and places of employment of
89 the spouses and children of such personnel; and the names and
90 locations of schools and day care facilities attended by the
91 children of such personnel are exempt from s. 119.07(1) and s.
92 24(a), Art. I of the State Constitution.

93 g. The home addresses, telephone numbers, dates of birth,
94 and photographs of current or former code enforcement officers;
95 the names, home addresses, telephone numbers, dates of birth,
96 and places of employment of the spouses and children of such
97 personnel; and the names and locations of schools and day care



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98 facilities attended by the children of such personnel are exempt
99 from s. 119.07(1) and s. 24(a), Art. I of the State
100 Constitution.

101 h. The home addresses, telephone numbers, places of
102 employment, dates of birth, and photographs of current or former
103 guardians ad litem, as defined in s. 39.820; the names, home
104 addresses, telephone numbers, dates of birth, and places of
105 employment of the spouses and children of such persons; and the
106 names and locations of schools and day care facilities attended
107 by the children of such persons are exempt from s. 119.07(1) and
108 s. 24(a), Art. I of the State Constitution, if the guardian ad
109 litem provides a written statement that the guardian ad litem
110 has made reasonable efforts to protect such information from
111 being accessible through other means available to the public.

112 i. The home addresses, telephone numbers, dates of birth,
113 and photographs of current or former juvenile probation
114 officers, juvenile probation supervisors, detention
115 superintendents, assistant detention superintendents, juvenile
116 justice detention officers I and II, juvenile justice detention
117 officer supervisors, juvenile justice residential officers,
118 juvenile justice residential officer supervisors I and II,
119 juvenile justice counselors, juvenile justice counselor
120 supervisors, human services counselor administrators, senior
121 human services counselor administrators, rehabilitation
122 therapists, and social services counselors of the Department of
123 Juvenile Justice; the names, home addresses, telephone numbers,
124 dates of birth, and places of employment of spouses and children
125 of such personnel; and the names and locations of schools and
126 day care facilities attended by the children of such personnel



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127 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
128 Constitution.

129 j.(I) The home addresses, telephone numbers, dates of
130 birth, and photographs of current or former public defenders,
131 assistant public defenders, criminal conflict and civil regional
132 counsel, and assistant criminal conflict and civil regional
133 counsel; the home addresses, telephone numbers, dates of birth,
134 and places of employment of the spouses and children of such
135 defenders or counsel; and the names and locations of schools and
136 day care facilities attended by the children of such defenders
137 or counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of
138 the State Constitution.

139 (II) The names of the spouses and children of the specified
140 agency personnel identified in sub-sub-subparagraph (I) are
141 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
142 Constitution. This sub-sub-subparagraph is subject to the Open
143 Government Sunset Review Act in accordance with s. 119.15 and
144 shall stand repealed on October 2, 2019, unless reviewed and
145 saved from repeal through reenactment by the Legislature.

146 k. The home addresses, telephone numbers, and photographs
147 of current or former investigators or inspectors of the
148 Department of Business and Professional Regulation; the names,
149 home addresses, telephone numbers, and places of employment of
150 the spouses and children of such current or former investigators
151 and inspectors; and the names and locations of schools and day
152 care facilities attended by the children of such current or
153 former investigators and inspectors are exempt from s. 119.07(1)
154 and s. 24(a), Art. I of the State Constitution if the
155 investigator or inspector has made reasonable efforts to protect



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156 such information from being accessible through other means
157 available to the public. This sub-subparagraph is subject to the
158 Open Government Sunset Review Act in accordance with s. 119.15
159 and shall stand repealed on October 2, 2017, unless reviewed and
160 saved from repeal through reenactment by the Legislature.

161 1. The home addresses and telephone numbers of county tax
162 collectors; the names, home addresses, telephone numbers, and
163 places of employment of the spouses and children of such tax
164 collectors; and the names and locations of schools and day care
165 facilities attended by the children of such tax collectors are
166 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
167 Constitution if the county tax collector has made reasonable
168 efforts to protect such information from being accessible
169 through other means available to the public. This sub-
170 subparagraph is subject to the Open Government Sunset Review Act
171 in accordance with s. 119.15 and shall stand repealed on October
172 2, 2017, unless reviewed and saved from repeal through
173 reenactment by the Legislature.

174 m. The home addresses, telephone numbers, dates of birth,
175 and photographs of current or former personnel of the Department
176 of Health whose duties include, or result in, the determination
177 or adjudication of eligibility for social security disability
178 benefits, the investigation or prosecution of complaints filed
179 against health care practitioners, or the inspection of health
180 care practitioners or health care facilities licensed by the
181 Department of Health; the names, home addresses, telephone
182 numbers, dates of birth, and places of employment of the spouses
183 and children of such personnel; and the names and locations of
184 schools and day care facilities attended by the children of such



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185 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
186 the State Constitution if the personnel have made reasonable
187 efforts to protect such information from being accessible
188 through other means available to the public. This sub-
189 subparagraph is subject to the Open Government Sunset Review Act
190 in accordance with s. 119.15 and shall stand repealed on October
191 2, 2019, unless reviewed and saved from repeal through
192 reenactment by the Legislature.

193 n. The home addresses, telephone numbers, dates of birth,
194 and photographs of current or former impaired practitioner
195 consultants who are retained by an agency or current or former
196 employees of an impaired practitioner consultant whose duties
197 result in a determination of a person's skill and safety to
198 practice a licensed profession; the names, home addresses,
199 telephone numbers, dates of birth, and places of employment of
200 the spouses and children of such consultants or their employees;
201 and the names and locations of schools and day care facilities
202 attended by the children of such consultants or employees are
203 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
204 Constitution if a consultant or employee has made reasonable
205 efforts to protect such information from being accessible
206 through other means available to the public. This sub-
207 subparagraph is subject to the Open Government Sunset Review Act
208 in accordance with s. 119.15 and shall stand repealed on October
209 2, 2020, unless reviewed and saved from repeal through
210 reenactment by the Legislature.

211 3. An agency that is the custodian of the information
212 specified in subparagraph 2. and that is not the employer of the
213 officer, employee, justice, judge, or other person specified in



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214 subparagraph 2. shall maintain the exempt status of that
215 information only if the officer, employee, justice, judge, other
216 person, or employing agency of the designated employee submits a
217 written request for maintenance of the exemption to the
218 custodial agency.

219 4. The exemptions in this paragraph apply to information
220 held by an agency before, on, or after the effective date of the
221 exemption.

222 5. Except as otherwise expressly provided in this
223 paragraph, this paragraph is subject to the Open Government
224 Sunset Review Act in accordance with s. 119.15, and shall stand
225 repealed on October 2, 2017, unless reviewed and saved from
226 repeal through reenactment by the Legislature.

227 Section 2. The Legislature finds that it is a public
228 necessity to exempt from public records requirements the home
229 addresses, telephone numbers, dates of birth, and photographs of
230 current or former nonsworn investigative personnel of the
231 Department of Financial Services whose duties include the
232 investigation of fraud, theft, workers' compensation coverage
233 requirements and compliance, other related criminal activities,
234 or state regulatory requirement violations; the names, home
235 addresses, telephone numbers, dates of birth, and places of
236 employment of the spouses and children of such personnel; and
237 the names and locations of schools and day care facilities
238 attended by the children of such personnel. The efforts of such
239 personnel can lead to arrests and prosecutions for crimes up to
240 and including first degree felony violations and can also result
241 in the loss of commerce and property, the assessment of monetary
242 finances, or the suspension or loss of professional licenses. The



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243 department has documented numerous instances of personnel who
244 have been threatened and who have feared repercussions as a
245 result of carrying out their duties. These threats have included
246 weapons being brandished, verbal threats made to harm them or
247 their family members, harassment, and intimidation. The
248 Legislature

By Senator Hutson

6-00524-16

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for the personal identifying and
 5 location information of certain nonsworn investigative
 6 personnel of the Department of Financial Services and
 7 the names and personal identifying and location
 8 information of the spouses and children of such
 9 personnel; providing for future review and repeal of
 10 the exemption; providing a statement of public
 11 necessity; providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (d) of subsection (4) of section
 16 119.071, Florida Statutes, is amended to read:
 17 119.071 General exemptions from inspection or copying of
 18 public records.—
 19 (4) AGENCY PERSONNEL INFORMATION.—
 20 (d)1. For purposes of this paragraph, the term “telephone
 21 numbers” includes home telephone numbers, personal cellular
 22 telephone numbers, personal pager telephone numbers, and
 23 telephone numbers associated with personal communications
 24 devices.
 25 2.a.(I) The home addresses, telephone numbers, social
 26 security numbers, dates of birth, and photographs of active or
 27 former sworn or civilian law enforcement personnel, including
 28 correctional and correctional probation officers, personnel of
 29 the Department of Children and Families whose duties include the

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30 investigation of abuse, neglect, exploitation, fraud, theft, or
 31 other criminal activities, personnel of the Department of Health
 32 whose duties are to support the investigation of child abuse or
 33 neglect, and personnel of the Department of Revenue or local
 34 governments whose responsibilities include revenue collection
 35 and enforcement or child support enforcement; the home
 36 addresses, telephone numbers, social security numbers,
 37 photographs, dates of birth, and places of employment of the
 38 spouses and children of such personnel; and the names and
 39 locations of schools and day care facilities attended by the
 40 children of such personnel are exempt from s. 119.07(1).
 41 (II) The names of the spouses and children of active or
 42 former sworn or civilian law enforcement personnel and the other
 43 specified agency personnel identified in sub-sub-subparagraph
 44 (I) are exempt from s. 119.07(1) and s. 24(a), Art. I of the
 45 State Constitution.
 46 (III) Sub-sub-subparagraph (II) is subject to the Open
 47 Government Sunset Review Act in accordance with s. 119.15, and
 48 shall stand repealed on October 2, 2018, unless reviewed and
 49 saved from repeal through reenactment by the Legislature.
 50 (IV) The home addresses, telephone numbers, social security
 51 numbers, dates of birth, and photographs of nonsworn
 52 investigative personnel of the Department of Financial Services
 53 whose duties include the investigation of fraud, theft, workers'
 54 compensation coverage requirements and compliance, other
 55 criminal activities, or state regulatory requirement violations;
 56 the names, home addresses, telephone numbers, social security
 57 numbers, photographs, dates of birth, and places of employment
 58 of the spouses and children of such personnel; and the names and

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 59 locations of schools and child care facilities attended by the
 60 children of such personnel are exempt from s. 119.07(1) and s.
 61 24(a), Art. I of the State Constitution. This sub-sub-
 62 subparagraph is subject to the Open Government Sunset Review Act
 63 in accordance with s. 119.15 and shall stand repealed on October
 64 2, 2021, unless reviewed and saved from repeal through
 65 reenactment by the Legislature.

b. The home addresses, telephone numbers, dates of birth,
 and photographs of firefighters certified in compliance with s.
 633.408; the home addresses, telephone numbers, photographs,
 dates of birth, and places of employment of the spouses and
 children of such firefighters; and the names and locations of
 schools and day care facilities attended by the children of such
 firefighters are exempt from s. 119.07(1).

c. The home addresses, dates of birth, and telephone
 numbers of current or former justices of the Supreme Court,
 district court of appeal judges, circuit court judges, and
 county court judges; the home addresses, telephone numbers,
 dates of birth, and places of employment of the spouses and
 children of current or former justices and judges; and the names
 and locations of schools and day care facilities attended by the
 children of current or former justices and judges are exempt
 from s. 119.07(1).

d.(I) The home addresses, telephone numbers, social
 security numbers, dates of birth, and photographs of current or
 former state attorneys, assistant state attorneys, statewide
 prosecutors, or assistant statewide prosecutors; the home
 addresses, telephone numbers, social security numbers,
 photographs, dates of birth, and places of employment of the

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 88 spouses and children of current or former state attorneys,
 89 assistant state attorneys, statewide prosecutors, or assistant
 90 statewide prosecutors; and the names and locations of schools
 91 and day care facilities attended by the children of current or
 92 former state attorneys, assistant state attorneys, statewide
 93 prosecutors, or assistant statewide prosecutors are exempt from
 94 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(II) The names of the spouses and children of current or
 former state attorneys, assistant state attorneys, statewide
 prosecutors, or assistant statewide prosecutors are exempt from
 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(III) Sub-sub-subparagraph (II) is subject to the Open
 Government Sunset Review Act in accordance with s. 119.15, and
 shall stand repealed on October 2, 2018, unless reviewed and
 saved from repeal through reenactment by the Legislature.

e. The home addresses, dates of birth, and telephone
 numbers of general magistrates, special magistrates, judges of
 compensation claims, administrative law judges of the Division
 of Administrative Hearings, and child support enforcement
 hearing officers; the home addresses, telephone numbers, dates
 of birth, and places of employment of the spouses and children
 of general magistrates, special magistrates, judges of
 compensation claims, administrative law judges of the Division
 of Administrative Hearings, and child support enforcement
 hearing officers; and the names and locations of schools and day
 care facilities attended by the children of general magistrates,
 special magistrates, judges of compensation claims,
 administrative law judges of the Division of Administrative
 Hearings, and child support enforcement hearing officers are

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117 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 118 Constitution if the general magistrate, special magistrate,
 119 judge of compensation claims, administrative law judge of the
 120 Division of Administrative Hearings, or child support hearing
 121 officer provides a written statement that the general
 122 magistrate, special magistrate, judge of compensation claims,
 123 administrative law judge of the Division of Administrative
 124 Hearings, or child support hearing officer has made reasonable
 125 efforts to protect such information from being accessible
 126 through other means available to the public.

127 f. The home addresses, telephone numbers, dates of birth,
 128 and photographs of current or former human resource, labor
 129 relations, or employee relations directors, assistant directors,
 130 managers, or assistant managers of any local government agency
 131 or water management district whose duties include hiring and
 132 firing employees, labor contract negotiation, administration, or
 133 other personnel-related duties; the names, home addresses,
 134 telephone numbers, dates of birth, and places of employment of
 135 the spouses and children of such personnel; and the names and
 136 locations of schools and day care facilities attended by the
 137 children of such personnel are exempt from s. 119.07(1) and s.
 138 24(a), Art. I of the State Constitution.

139 g. The home addresses, telephone numbers, dates of birth,
 140 and photographs of current or former code enforcement officers;
 141 the names, home addresses, telephone numbers, dates of birth,
 142 and places of employment of the spouses and children of such
 143 personnel; and the names and locations of schools and day care
 144 facilities attended by the children of such personnel are exempt
 145 from s. 119.07(1) and s. 24(a), Art. I of the State

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146 Constitution.

147 h. The home addresses, telephone numbers, places of
 148 employment, dates of birth, and photographs of current or former
 149 guardians ad litem, as defined in s. 39.820; the names, home
 150 addresses, telephone numbers, dates of birth, and places of
 151 employment of the spouses and children of such persons; and the
 152 names and locations of schools and day care facilities attended
 153 by the children of such persons are exempt from s. 119.07(1) and
 154 s. 24(a), Art. I of the State Constitution, if the guardian ad
 155 litem provides a written statement that the guardian ad litem
 156 has made reasonable efforts to protect such information from
 157 being accessible through other means available to the public.

158 i. The home addresses, telephone numbers, dates of birth,
 159 and photographs of current or former juvenile probation
 160 officers, juvenile probation supervisors, detention
 161 superintendents, assistant detention superintendents, juvenile
 162 justice detention officers I and II, juvenile justice detention
 163 officer supervisors, juvenile justice residential officers,
 164 juvenile justice residential officer supervisors I and II,
 165 juvenile justice counselors, juvenile justice counselor
 166 supervisors, human services counselor administrators, senior
 167 human services counselor administrators, rehabilitation
 168 therapists, and social services counselors of the Department of
 169 Juvenile Justice; the names, home addresses, telephone numbers,
 170 dates of birth, and places of employment of spouses and children
 171 of such personnel; and the names and locations of schools and
 172 day care facilities attended by the children of such personnel
 173 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 174 Constitution.

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175 j.(I) The home addresses, telephone numbers, dates of
 176 birth, and photographs of current or former public defenders,
 177 assistant public defenders, criminal conflict and civil regional
 178 counsel, and assistant criminal conflict and civil regional
 179 counsel; the home addresses, telephone numbers, dates of birth,
 180 and places of employment of the spouses and children of such
 181 defenders or counsel; and the names and locations of schools and
 182 day care facilities attended by the children of such defenders
 183 or counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 184 the State Constitution.

185 (II) The names of the spouses and children of the specified
 186 agency personnel identified in sub-sub-subparagraph (I) are
 187 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 188 Constitution. This sub-sub-subparagraph is subject to the Open
 189 Government Sunset Review Act in accordance with s. 119.15 and
 190 shall stand repealed on October 2, 2019, unless reviewed and
 191 saved from repeal through reenactment by the Legislature.

192 k. The home addresses, telephone numbers, and photographs
 193 of current or former investigators or inspectors of the
 194 Department of Business and Professional Regulation; the names,
 195 home addresses, telephone numbers, and places of employment of
 196 the spouses and children of such current or former investigators
 197 and inspectors; and the names and locations of schools and day
 198 care facilities attended by the children of such current or
 199 former investigators and inspectors are exempt from s. 119.07(1)
 200 and s. 24(a), Art. I of the State Constitution if the
 201 investigator or inspector has made reasonable efforts to protect
 202 such information from being accessible through other means
 203 available to the public. This sub-subparagraph is subject to the

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204 Open Government Sunset Review Act in accordance with s. 119.15
 205 and shall stand repealed on October 2, 2017, unless reviewed and
 206 saved from repeal through reenactment by the Legislature.

207 l. The home addresses and telephone numbers of county tax
 208 collectors; the names, home addresses, telephone numbers, and
 209 places of employment of the spouses and children of such tax
 210 collectors; and the names and locations of schools and day care
 211 facilities attended by the children of such tax collectors are
 212 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 213 Constitution if the county tax collector has made reasonable
 214 efforts to protect such information from being accessible
 215 through other means available to the public. This sub-
 216 subparagraph is subject to the Open Government Sunset Review Act
 217 in accordance with s. 119.15 and shall stand repealed on October
 218 2, 2017, unless reviewed and saved from repeal through
 219 reenactment by the Legislature.

220 m. The home addresses, telephone numbers, dates of birth,
 221 and photographs of current or former personnel of the Department
 222 of Health whose duties include, or result in, the determination
 223 or adjudication of eligibility for social security disability
 224 benefits, the investigation or prosecution of complaints filed
 225 against health care practitioners, or the inspection of health
 226 care practitioners or health care facilities licensed by the
 227 Department of Health; the names, home addresses, telephone
 228 numbers, dates of birth, and places of employment of the spouses
 229 and children of such personnel; and the names and locations of
 230 schools and day care facilities attended by the children of such
 231 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 232 the State Constitution if the personnel have made reasonable

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233 efforts to protect such information from being accessible
 234 through other means available to the public. This sub-
 235 subparagraph is subject to the Open Government Sunset Review Act
 236 in accordance with s. 119.15 and shall stand repealed on October
 237 2, 2019, unless reviewed and saved from repeal through
 238 reenactment by the Legislature.

239 n. The home addresses, telephone numbers, dates of birth,
 240 and photographs of current or former impaired practitioner
 241 consultants who are retained by an agency or current or former
 242 employees of an impaired practitioner consultant whose duties
 243 result in a determination of a person's skill and safety to
 244 practice a licensed profession; the names, home addresses,
 245 telephone numbers, dates of birth, and places of employment of
 246 the spouses and children of such consultants or their employees;
 247 and the names and locations of schools and day care facilities
 248 attended by the children of such consultants or employees are
 249 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 250 Constitution if a consultant or employee has made reasonable
 251 efforts to protect such information from being accessible
 252 through other means available to the public. This sub-
 253 subparagraph is subject to the Open Government Sunset Review Act
 254 in accordance with s. 119.15 and shall stand repealed on October
 255 2, 2020, unless reviewed and saved from repeal through
 256 reenactment by the Legislature.

257 3. An agency that is the custodian of the information
 258 specified in subparagraph 2. and that is not the employer of the
 259 officer, employee, justice, judge, or other person specified in
 260 subparagraph 2. shall maintain the exempt status of that
 261 information only if the officer, employee, justice, judge, other

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262 person, or employing agency of the designated employee submits a
 263 written request for maintenance of the exemption to the
 264 custodial agency.

265 4. The exemptions in this paragraph apply to information
 266 held by an agency before, on, or after the effective date of the
 267 exemption.

268 5. Except as otherwise expressly provided in this
 269 paragraph, this paragraph is subject to the Open Government
 270 Sunset Review Act in accordance with s. 119.15, and shall stand
 271 repealed on October 2, 2017, unless reviewed and saved from
 272 repeal through reenactment by the Legislature.

273 Section 2. The Legislature finds that it is a public
 274 necessity to exempt from public records requirements the home
 275 addresses, telephone numbers, social security numbers, dates of
 276 birth, and photographs of nonsworn investigative personnel of
 277 the Department of Financial Services whose duties include, or
 278 result in, a determination or adjudication of public assistance
 279 fraud, insurance fraud, failure to comply with workers'
 280 compensation law requirements, failure to comply with licensure
 281 or registration requirements for industries regulated by the
 282 department, and other instances of administrative and criminal
 283 misconduct; the names, home addresses, telephone numbers, social
 284 security numbers, photographs, dates of birth, and places of
 285 employment of the spouses and children of such personnel; and
 286 the names and locations of schools and child care facilities
 287 attended by the children of such personnel. The Legislature
 288 finds that the release of such personal identifying and location
 289 information might place these nonsworn investigative personnel
 290 of the department and their family members in danger of physical

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291 and emotional harm from disgruntled individuals who have
292 contentious reactions to actions taken by such personnel, or
293 whose business or professional practices have come under the
294 scrutiny of such personnel. The Legislature further finds that
295 the harm that may result from the release of such personal
296 identifying and location information outweighs any public
297 benefit that may be derived from the disclosure of the
298 information.

299 Section 3. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: December 3, 2015

I respectfully request that **Senate Bill #592**, relating to Public Records/Department of Financial Services, be placed on the:

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

A handwritten signature in black ink, appearing to read "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 6

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/14

Meeting Date

592

~~702~~

Bill Number (if applicable)

Topic DFS - Public Records Exemption - Investigative Personnel Amendment Barcode (if applicable)

Name B.G. Murphy

Job Title Deputy Legislative Affairs Director

Address _____
Street

Phone 413-2890

City _____ State _____ Zip _____

Email BG.Murphy@nyflorida.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 724

INTRODUCER: Senator Joyner

SUBJECT: Public Records

DATE: January 15, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kim	McVaney	GO	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 724 makes the public records custodian, including the elected or appointed officer heading the agency, personally liable for the reasonable costs of enforcement, including attorney fees, if a court finds the agency or custodian:

- Unlawfully refused to permit a public record to be inspected or copied; and
- Knowingly asserted a claim or defense that was not supported by facts.

The bill becomes law on July 1, 2016.

II. Present Situation:

Public Records

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

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷

Custodian of Public Records

Pursuant to s. 119.011(5), F.S., a custodian of public records is “the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.”

A custodian of public records is required to perform statutorily required duties such as maintaining records in fireproof vaults, repairing records and comply with retention schedules set by the Department of State.⁸ In addition, s. 119.07, F.S., provides that public records custodian has additional duties which include:

- Acknowledging a public records request and responding to those requests in good faith;⁹
- Producing records after redacting exempt information or provide the statutory citation for an exemption if the entire document is exempt;¹⁰
- Maintaining records which are the subject of public records litigation;¹¹
- If public records are provided by remote electronic means, a records custodian must ensure that those records are secure;¹²
- Provide supervision if someone wishes to photograph records;¹³ and
- Provide certified copies of public records upon payment of a fee.¹⁴

Public records custodians are also responsible for supervising the production of records by all agency personnel. Section 119.07(1)(a), F.S., provides that that “[e]very person who has custody of a public record shall permit the record to be inspected and copied ... at any reasonable time, under reasonable conditions, and under reasonable supervision by the custodian of the public records.”

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.021, F.S.

⁹ Section 119.07(1)(c), F.S.

¹⁰ Section 119.07(1)(d)-(f), F.S.

¹¹ Section 119.07(1)(g)-(i), F.S.

¹² Section 119.07(2), F.S.

¹³ Section 119.07(3), F.S.

¹⁴ Section 119.07(4), F.S.

An agency may not place any conditions upon responding to a public records request other than what is specifically laid out in the law. For example, an agency may not require a person seeking a public record reveal his or her background.¹⁵ Nor may an agency require an individual to put his or her request in writing as a condition of production.¹⁶ In addition, a request must be honored whether it is made by phone, in writing, or in person.¹⁷

Enforcing Public Records Laws and Attorney Fees

Section 119.11, F.S., provides that a court may award a plaintiff attorney fees if a plaintiff files a civil suit to enforce the provisions of ch. 119, F.S., and the court determines that the agency refused to permit inspection or copying of a public record.

Whenever an action is filed to enforce the provisions of ch. 119, F.S., the court must set an immediate hearing, giving the case priority over other pending cases.¹⁸ If the court finds that the agency unlawfully refused access to a public record, the court will order the public agency to pay the plaintiff's costs and attorney fees.¹⁹ A delay in turning over public records is considered an unlawful refusal, and a court will award attorney fees even if the delay was not willful or was due to incompetence.²⁰

Enforcement lawsuits are composed of two parts: the request for production of a record and the assessment of fees. The assessment of attorney fees is a legal consequence independent of the public records request.²¹ Once an enforcement action has been filed, a court will require a public agency to pay the plaintiff's attorney fees even after the agency has produced the records.²²

The public policy behind awarding attorney fees is to encourage people to pursue their right to access government records after an initial denial.²³ In addition, granting attorney fees also makes it more likely that public agencies will comply with public records laws and deters improper denials of requests.²⁴

Personal Liability for Violating the Public Records Act

Violation of the Public Records Act may result in civil and criminal liability pursuant to s. 119.10, F.S. A public officer who violates any provision of the Public Records Act commits a

¹⁵ *Bevan v. Wanichka*, 505 So. 2d 1116, 1118 (Fla. 2d DCA Fla. 1987).

¹⁶ *Dade Aviation Consultants v. Knight Ridder, Inc.*, 800 So. 2d 302 n.1 (Fla. 3d DCA 2001). Op. Att'y Gen. Informal Opinion dated December 16, 2003.

¹⁷ Op. Att'y Gen. Fla. 80-57 (1980).

¹⁸ Section 119.11(1), F.S.

¹⁹ Section 119.12, F.S.

²⁰ *Lilker v. Suwannee Valley Transit Authority*, 133 So. 3d 654 (Fla. 1st DCA 2014). *Barfield v. Town of Eatonville*, 675 So. 2d 223, 225 (Fla. 5th DCA 1996).

²¹ *Mazer v. Orange County*, 811 So. 2d 857, 859 (Fla. 5th DCA 2002). *Lilker v. Suwannee Valley Transit Authority*, 133 So. 3d 654 (Fla. 1st DCA 2014).

²² *Mazer v. Orange County*, 811 So. 2d 857, 860 (Fla. 5th DCA 2002). *Barfield v. Town of Eatonville*, 675 So. 2d 223, 224 (Fla. 5th DCA 1996). *Althouse v. Palm Beach County Sheriff's Office*, 92 So. 3d 899, 902 (Fla. 4th DCA 2012). Attorney fee provisions for violation of open meetings laws can be found in s. 286.011(4), F.S.

²³ *New York Times Co. v. PHH Mental Health Services, Inc.*, 616 So. 2d 27, 29 (Fla. 1993).

²⁴ *Id.*

civil infraction and may be fined up to \$500.²⁵ A public officer who violates a provision of s. 119.071(1), F.S., which addresses the rights of the public to inspect and copy public records, is may be suspended, removed from office or impeached. In addition a public officer who violates s. 119.07(1), F.S., commits a first degree misdemeanor.

The punishment for a first degree misdemeanor includes imprisonment for up to one year²⁶ and a \$1000 fine.²⁷ A court may sentence an individual to pay a fine in addition to or in lieu of imprisonment.²⁸

Section 119.10, F.S., also provides that any person, not just public officers, can be held liable for violating the Public Records Act. Section 119.10(2), F.S. states that any person who willfully and knowingly violates any provision of the Public Records Act commits a first degree misdemeanor. In addition, any person who willfully and knowingly violates s. 119.105, F.S., commits a third degree felony. Section 119.105, F.S., provides confidential or exempt information contained in police reports may not be used for commercial solicitation of victims or their relatives of crimes or accidents.

A third degree felony is punishable by imprisonment for up to five years²⁹ or a fine of up to \$5000.³⁰ A court may sentence an individual to pay the fine in addition to or in lieu of imprisonment.³¹

Limitations of Liability of Governmental Employees

Governmental employees cannot be held personally liable for tort action, or named as defendants “in any action for any injury or damage suffered as a result of any act, event or omission of action in the scope of her or his employment or function” unless the employee acted in bad faith, malicious purpose or with wanton and willful disregard of human rights, safety or property, pursuant to s. 768.28(9)(a), F.S. Instead, a plaintiff must sue the employing governmental entity.³²

III. Effect of Proposed Changes:

The bill allows a court to hold the public records custodian, including the elected or appointed officer heading the agency, personally liable for the reasonable costs of enforcement, including reasonable attorney fees. Attorney fees may be awarded if the following conditions are met:

- The agency or the custodian unlawfully refused to permit a public record to be inspected or copied; and
- The agency or the custodian knowingly asserted a claim or defense which the agency or the custodian knew was not supported by material facts.

²⁵ Section 119.10(1)(a), F.S.

²⁶ Section 775.082(4)(a), F.S.

²⁷ Section 775.083(1)(d), F.S.

²⁸ Section 775.083(1), F.S.

²⁹ Section 775.082(3)(e), F.S.

³⁰ Section 775.083(1)(c), F.S.

³¹ Section 775.083(1), F.S.

³² Section 768.28(9)(a), F.S.

The bill will take effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Unknown.

C. Government Sector Impact:

Unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Usually, an employing agency will defend the agency (and therefore the employee or officer) in a public records case and the associated attorney fee lawsuit. This bill may create a situation where the interest of the agency and the interests of the public records custodian may conflict, and independent attorneys may be required. If independent attorneys are required, it is not clear who will pay those costs.

VIII. Statutes Affected:

This bill substantially amends section 119.12 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Joyner

19-00715-16

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1 A bill to be entitled
2 An act relating to public records; amending s. 119.12,
3 F.S.; authorizing a court to hold a custodian of a
4 public record personally liable for the reasonable
5 costs of enforcement, including attorney fees, in a
6 civil action to enforce ch. 119, F.S., if certain
7 conditions exist; providing an effective date.
8

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

10 Section 1. Section 119.12, Florida Statutes, is amended to
11 read:

12 119.12 ~~Attorney~~ Attorney's fees.—

13 (1) If a civil action is filed against an agency to enforce
14 the provisions of this chapter and ~~if~~ the court determines that
15 ~~the such~~ agency unlawfully refused to permit a public record to
16 be inspected or copied, the court shall assess and award,
17 against such agency ~~the agency responsible,~~ the reasonable costs
18 of enforcement, including reasonable attorney ~~attorneys'~~ fees.
19

20 (2) The court, on motion by the party who filed the civil
21 action or in its own discretion, may hold the custodian of the
22 public record that is the subject matter of such civil action
23 personally liable for the reasonable costs of enforcement,
24 including reasonable attorney fees, if the court finds that:

25 (a) The agency or the custodian of the public record
26 unlawfully refused to permit a public record to be inspected or
27 copied; and

28 (b) The agency or the custodian of the public record has
29 asserted any claim or defense during the pendency of the civil

Page 1 of 2

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

19-00715-16

2016724__

30 action which the agency or the custodian knew was not supported
31 by the material facts necessary to establish such a claim or
32 defense.

33 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Appropriations
Health Policy
Higher Education
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR ARTHENIA L. JOYNER

Democratic Leader
19th District

November 18, 2015

Senator Jeremy Ring, Chair
Senate Committee on Governmental Oversight and Accountability
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chair:

This is to request that Senate Bill 724, Public Records, be placed on the agenda for the Committee on Governmental Oversight and Accountability. Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Arthenia L. Joyner".

Arthenia L. Joyner
State Senator, District 19

REPLY TO:

- 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/16
Meeting Date

SB 724
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Grey Pound

Job Title _____

Address 9166 SUMMIT DR

Phone _____

Street

Largo
City

Fl.
State

33773
Zip

Email _____

Speaking: For Against Information

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

Representing Saving Florida Families

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/2016
Meeting Date

SB 724
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name MARK HERRON

Job Title Attorney

Address Post Office Box 1701

Phone (850) 547-4878

Street

Tallahassee
City

FL
State

32302
Zip

Email mherron@lawfirm.com

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/2016
Meeting Date

SB 724
Bill Number (if applicable)

~~XXXXXXXXXXXXXXXXXXXX~~
Amendment Barcode (if applicable)

Topic _____

Name Kraig Conn

Job Title _____

Address 301 S. Broadway
Street

Phone 222 9684

Tall FL 32301
City State Zip

Email Kconn@flcitizens.com

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 752

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Abruzzo

SUBJECT: Public Records/Office of Inspector General Identifying and Location Information

DATE: January 20, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kim	McVaney	GO	Fav/CS
2.			RC	

I. Summary:

CS/SB 752 exempts from public inspection and disclosure certain personal identifying information of an agency employee whose duties include conducting internal audits. The exemption applies to all current or former employees as well as their spouses and children. The exemption also covers an agency employee's spouse's place of employment and his or her child's school or daycare facility.

The bill states that it is a public necessity to protect such information because their activities can result in termination of, and criminal sanctions against, other persons. Agency personnel have been subject to threats, and agencies have had to institute safety measures.

The provisions of the bill are subject to the Open Government Sunset Review Act and will be repealed on October 2, 2021, unless reenacted by the Legislature. The bill goes into effect upon becoming law.

A two-thirds vote of each house is required for the passage of the bill.

II. Present Situation:

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

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

It is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as 'exempt' may be released at the discretion of the records custodian.¹⁴

State Agency Office of Inspector General

Section 20.055(2), F.S., establishes an office of inspector general in each state agency, which is charged with promoting accountability, integrity, and efficiency in government. The office of an inspector general at an agency is also required to coordinate audits, investigations, and management reviews pursuant to s. 20.055(2)(d), F.S., and coordinate efforts to prevent and detect fraud and abuse in programs pursuant to s. 20.055(2)(e), F.S.

III. Effect of Proposed Changes:

SB 752 amends s. 119.071, F.S., to exempt from public inspection and disclosure the home address, telephone numbers, dates of birth, and photographs of any current or former employee of an agency personnel whose duties include conducting internal audits.

The bill also exempts from public inspection and disclosure the spouse's and children's home address, telephone numbers, dates of birth, photographs. A spouse's place of employment as well as the school or daycare of an employee's children are also exempt.

The bill requires that the employee must have made a reasonable effort to protect such information from being accessible through other public means for such information to qualify for the exemption.

The bill states that it is a public necessity to protect such information because these employees and their families may be subject to revenge perpetrated by people who have been investigated or audited. The bill states that internal audits can lead to termination, wage garnishment and criminal prosecution. Agency personnel whose duties include conducting internal audits have been threatened by the public, and agencies have had to institute safety measures such as posting pictures of individuals who have made threats, installing security cameras, and calling law enforcement. Agency personnel and their families may be targets of revenge and their identification and location information should be exempt from public inspection and copying.

The provisions of the bill are subject to the Open Government Sunset Review Act and will be automatically repealed on October 2, 2021, unless reenacted by the Legislature.

The bill goes in to effect upon becoming law.

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

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

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

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

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for passage of a newly-created or expanded public records or public meetings exemption. Because this bill creates a new public records exemption, it requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly-created or expanded public records or public meetings exemption. The public necessity statement supports the breadth of the exemption.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. Governmental entities will have to redact more information if this exemption passes. The costs associated with these redactions will be absorbed by the respective governmental entities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 119.071 of the Florida Statutes.

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

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

CS by Government Oversight on January 19, 2016:

- Narrows the public records exemption to only agency staff who perform internal audits rather than all staff members of an agency's office of the inspector general.
- Removes references to social security numbers since that information is confidential and exempt under current law.
- Enhances and strengthens the public necessity statement with examples of how and why internal auditing staff have been threatened.

B. Amendments:

None.



920924

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 241 - 298

and insert:

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former agency personnel whose duties include conducting internal audits; the names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities



920924

11 attended by the children of such personnel are exempt from s.
12 119.07(1) and s. 24(a), Art. I of the State Constitution if the
13 personnel have made reasonable efforts to protect such
14 information from being accessible through other means available
15 to the public. This sub-subparagraph is subject to the Open
16 Government Sunset Review Act in accordance with s. 119.15 and
17 shall stand repealed on October 2, 2021, unless reviewed and
18 saved from repeal through reenactment by the Legislature.

19 3. An agency that is the custodian of the information
20 specified in subparagraph 2. and that is not the employer of the
21 officer, employee, justice, judge, or other person specified in
22 subparagraph 2. shall maintain the exempt status of that
23 information only if the officer, employee, justice, judge, other
24 person, or employing agency of the designated employee submits a
25 written request for maintenance of the exemption to the
26 custodial agency.

27 4. The exemptions in this paragraph apply to information
28 held by an agency before, on, or after the effective date of the
29 exemption.

30 5. Except as otherwise expressly provided in this
31 paragraph, this paragraph is subject to the Open Government
32 Sunset Review Act in accordance with s. 119.15, and shall stand
33 repealed on October 2, 2017, unless reviewed and saved from
34 repeal through reenactment by the Legislature.

35 Section 2. (1) The Legislature finds that it is a public
36 necessity that the following identifying and location
37 information be exempt from public records requirements if
38 current or former agency personnel whose duties include
39 conducting internal audits have made reasonable efforts to



920924

40 protect such information from being accessible through other
41 means available to the public:

42 (a) The home addresses, telephone numbers, dates of birth,
43 and photographs of current or former agency personnel whose
44 duties include conducting internal audits;

45 (b) The names, home addresses, telephone numbers, dates of
46 birth, photographs, and places of employment of spouses and
47 children of such personnel; and

48 (c) The names and locations of schools and day care
49 facilities attended by the children of such personnel.

50 (2) The Legislature finds that the release of such
51 identifying and location information might place such personnel
52 and their family members in danger of physical and emotional
53 harm from disgruntled individuals who may react inappropriately
54 to investigations, audits, and other actions carried out by such
55 personnel, or to scrutiny of their businesses or professional
56 practices. Internal audits can lead to termination, wage
57 garnishment, and criminal prosecution. Disturbed members of the
58 public have threatened personnel and performed Internet searches
59 of them. Because of threats made against internal auditing
60 personnel, agencies have had to institute security measures such
61 as posting pictures of individuals who have made threats against
62 personnel, placing security cameras, and calling law
63 enforcement. As a result, such personnel and their

64
65 ===== T I T L E A M E N D M E N T =====

66 And the title is amended as follows:

67 Delete lines 5 - 7

68 and insert:



920924

69 | location information of current or former agency
70 | personnel whose duties include conducting internal
71 | audits, and

By Senator Abruzzo

25-00784-16

2016752__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for certain identifying and
 5 location information of current or former personnel of
 6 an agency's office of inspector general and those
 7 whose duties include conducting internal audits, and
 8 the spouses and children thereof; providing for future
 9 legislative review and repeal of the exemption;
 10 providing a statement of public necessity; providing
 11 an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (d) of subsection (4) of section
 16 119.071, Florida Statutes, is amended to read:
 17 119.071 General exemptions from inspection or copying of
 18 public records.—
 19 (4) AGENCY PERSONNEL INFORMATION.—
 20 (d)1. For purposes of this paragraph, the term "telephone
 21 numbers" includes home telephone numbers, personal cellular
 22 telephone numbers, personal pager telephone numbers, and
 23 telephone numbers associated with personal communications
 24 devices.
 25 2.a.(I) The home addresses, telephone numbers, social
 26 security numbers, dates of birth, and photographs of active or
 27 former sworn or civilian law enforcement personnel, including
 28 correctional and correctional probation officers, personnel of
 29 the Department of Children and Families whose duties include the

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30 investigation of abuse, neglect, exploitation, fraud, theft, or
 31 other criminal activities, personnel of the Department of Health
 32 whose duties are to support the investigation of child abuse or
 33 neglect, and personnel of the Department of Revenue or local
 34 governments whose responsibilities include revenue collection
 35 and enforcement or child support enforcement; the home
 36 addresses, telephone numbers, social security numbers,
 37 photographs, dates of birth, and places of employment of the
 38 spouses and children of such personnel; and the names and
 39 locations of schools and day care facilities attended by the
 40 children of such personnel are exempt from s. 119.07(1).
 41 (II) The names of the spouses and children of active or
 42 former sworn or civilian law enforcement personnel and the other
 43 specified agency personnel identified in sub-sub-subparagraph
 44 (I) are exempt from s. 119.07(1) and s. 24(a), Art. I of the
 45 State Constitution.
 46 (III) Sub-sub-subparagraph (II) is subject to the Open
 47 Government Sunset Review Act in accordance with s. 119.15, and
 48 shall stand repealed on October 2, 2018, unless reviewed and
 49 saved from repeal through reenactment by the Legislature.
 50 b. The home addresses, telephone numbers, dates of birth,
 51 and photographs of firefighters certified in compliance with s.
 52 633.408; the home addresses, telephone numbers, photographs,
 53 dates of birth, and places of employment of the spouses and
 54 children of such firefighters; and the names and locations of
 55 schools and day care facilities attended by the children of such
 56 firefighters are exempt from s. 119.07(1).
 57 c. The home addresses, dates of birth, and telephone
 58 numbers of current or former justices of the Supreme Court,

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59 district court of appeal judges, circuit court judges, and
 60 county court judges; the home addresses, telephone numbers,
 61 dates of birth, and places of employment of the spouses and
 62 children of current or former justices and judges; and the names
 63 and locations of schools and day care facilities attended by the
 64 children of current or former justices and judges are exempt
 65 from s. 119.07(1).

66 d.(I) The home addresses, telephone numbers, social
 67 security numbers, dates of birth, and photographs of current or
 68 former state attorneys, assistant state attorneys, statewide
 69 prosecutors, or assistant statewide prosecutors; the home
 70 addresses, telephone numbers, social security numbers,
 71 photographs, dates of birth, and places of employment of the
 72 spouses and children of current or former state attorneys,
 73 assistant state attorneys, statewide prosecutors, or assistant
 74 statewide prosecutors; and the names and locations of schools
 75 and day care facilities attended by the children of current or
 76 former state attorneys, assistant state attorneys, statewide
 77 prosecutors, or assistant statewide prosecutors are exempt from
 78 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

79 (II) The names of the spouses and children of current or
 80 former state attorneys, assistant state attorneys, statewide
 81 prosecutors, or assistant statewide prosecutors are exempt from
 82 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

83 (III) Sub-sub-subparagraph (II) is subject to the Open
 84 Government Sunset Review Act in accordance with s. 119.15, and
 85 shall stand repealed on October 2, 2018, unless reviewed and
 86 saved from repeal through reenactment by the Legislature.

87 e. The home addresses, dates of birth, and telephone

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88 numbers of general magistrates, special magistrates, judges of
 89 compensation claims, administrative law judges of the Division
 90 of Administrative Hearings, and child support enforcement
 91 hearing officers; the home addresses, telephone numbers, dates
 92 of birth, and places of employment of the spouses and children
 93 of general magistrates, special magistrates, judges of
 94 compensation claims, administrative law judges of the Division
 95 of Administrative Hearings, and child support enforcement
 96 hearing officers; and the names and locations of schools and day
 97 care facilities attended by the children of general magistrates,
 98 special magistrates, judges of compensation claims,
 99 administrative law judges of the Division of Administrative
 100 Hearings, and child support enforcement hearing officers are
 101 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 102 Constitution if the general magistrate, special magistrate,
 103 judge of compensation claims, administrative law judge of the
 104 Division of Administrative Hearings, or child support hearing
 105 officer provides a written statement that the general
 106 magistrate, special magistrate, judge of compensation claims,
 107 administrative law judge of the Division of Administrative
 108 Hearings, or child support hearing officer has made reasonable
 109 efforts to protect such information from being accessible
 110 through other means available to the public.

111 f. The home addresses, telephone numbers, dates of birth,
 112 and photographs of current or former human resource, labor
 113 relations, or employee relations directors, assistant directors,
 114 managers, or assistant managers of any local government agency
 115 or water management district whose duties include hiring and
 116 firing employees, labor contract negotiation, administration, or

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117 other personnel-related duties; the names, home addresses,
 118 telephone numbers, dates of birth, and places of employment of
 119 the spouses and children of such personnel; and the names and
 120 locations of schools and day care facilities attended by the
 121 children of such personnel are exempt from s. 119.07(1) and s.
 122 24(a), Art. I of the State Constitution.

123 g. The home addresses, telephone numbers, dates of birth,
 124 and photographs of current or former code enforcement officers;
 125 the names, home addresses, telephone numbers, dates of birth,
 126 and places of employment of the spouses and children of such
 127 personnel; and the names and locations of schools and day care
 128 facilities attended by the children of such personnel are exempt
 129 from s. 119.07(1) and s. 24(a), Art. I of the State
 130 Constitution.

131 h. The home addresses, telephone numbers, places of
 132 employment, dates of birth, and photographs of current or former
 133 guardians ad litem, as defined in s. 39.820; the names, home
 134 addresses, telephone numbers, dates of birth, and places of
 135 employment of the spouses and children of such persons; and the
 136 names and locations of schools and day care facilities attended
 137 by the children of such persons are exempt from s. 119.07(1) and
 138 s. 24(a), Art. I of the State Constitution, if the guardian ad
 139 litem provides a written statement that the guardian ad litem
 140 has made reasonable efforts to protect such information from
 141 being accessible through other means available to the public.

142 i. The home addresses, telephone numbers, dates of birth,
 143 and photographs of current or former juvenile probation
 144 officers, juvenile probation supervisors, detention
 145 superintendents, assistant detention superintendents, juvenile

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146 justice detention officers I and II, juvenile justice detention
 147 officer supervisors, juvenile justice residential officers,
 148 juvenile justice residential officer supervisors I and II,
 149 juvenile justice counselors, juvenile justice counselor
 150 supervisors, human services counselor administrators, senior
 151 human services counselor administrators, rehabilitation
 152 therapists, and social services counselors of the Department of
 153 Juvenile Justice; the names, home addresses, telephone numbers,
 154 dates of birth, and places of employment of spouses and children
 155 of such personnel; and the names and locations of schools and
 156 day care facilities attended by the children of such personnel
 157 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 158 Constitution.

159 j. (I) The home addresses, telephone numbers, dates of
 160 birth, and photographs of current or former public defenders,
 161 assistant public defenders, criminal conflict and civil regional
 162 counsel, and assistant criminal conflict and civil regional
 163 counsel; the home addresses, telephone numbers, dates of birth,
 164 and places of employment of the spouses and children of such
 165 defenders or counsel; and the names and locations of schools and
 166 day care facilities attended by the children of such defenders
 167 or counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 168 the State Constitution.

169 (II) The names of the spouses and children of the specified
 170 agency personnel identified in sub-sub-subparagraph (I) are
 171 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 172 Constitution. This sub-sub-subparagraph is subject to the Open
 173 Government Sunset Review Act in accordance with s. 119.15 and
 174 shall stand repealed on October 2, 2019, unless reviewed and

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175 saved from repeal through reenactment by the Legislature.

176 k. The home addresses, telephone numbers, and photographs
177 of current or former investigators or inspectors of the
178 Department of Business and Professional Regulation; the names,
179 home addresses, telephone numbers, and places of employment of
180 the spouses and children of such current or former investigators
181 and inspectors; and the names and locations of schools and day
182 care facilities attended by the children of such current or
183 former investigators and inspectors are exempt from s. 119.07(1)
184 and s. 24(a), Art. I of the State Constitution if the
185 investigator or inspector has made reasonable efforts to protect
186 such information from being accessible through other means
187 available to the public. This sub-subparagraph is subject to the
188 Open Government Sunset Review Act in accordance with s. 119.15
189 and shall stand repealed on October 2, 2017, unless reviewed and
190 saved from repeal through reenactment by the Legislature.

191 1. The home addresses and telephone numbers of county tax
192 collectors; the names, home addresses, telephone numbers, and
193 places of employment of the spouses and children of such tax
194 collectors; and the names and locations of schools and day care
195 facilities attended by the children of such tax collectors are
196 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
197 Constitution if the county tax collector has made reasonable
198 efforts to protect such information from being accessible
199 through other means available to the public. This sub-
200 subparagraph is subject to the Open Government Sunset Review Act
201 in accordance with s. 119.15 and shall stand repealed on October
202 2, 2017, unless reviewed and saved from repeal through
203 reenactment by the Legislature.

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204 m. The home addresses, telephone numbers, dates of birth,
205 and photographs of current or former personnel of the Department
206 of Health whose duties include, or result in, the determination
207 or adjudication of eligibility for social security disability
208 benefits, the investigation or prosecution of complaints filed
209 against health care practitioners, or the inspection of health
210 care practitioners or health care facilities licensed by the
211 Department of Health; the names, home addresses, telephone
212 numbers, dates of birth, and places of employment of the spouses
213 and children of such personnel; and the names and locations of
214 schools and day care facilities attended by the children of such
215 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
216 the State Constitution if the personnel have made reasonable
217 efforts to protect such information from being accessible
218 through other means available to the public. This sub-
219 subparagraph is subject to the Open Government Sunset Review Act
220 in accordance with s. 119.15 and shall stand repealed on October
221 2, 2019, unless reviewed and saved from repeal through
222 reenactment by the Legislature.

223 n. The home addresses, telephone numbers, dates of birth,
224 and photographs of current or former impaired practitioner
225 consultants who are retained by an agency or current or former
226 employees of an impaired practitioner consultant whose duties
227 result in a determination of a person's skill and safety to
228 practice a licensed profession; the names, home addresses,
229 telephone numbers, dates of birth, and places of employment of
230 the spouses and children of such consultants or their employees;
231 and the names and locations of schools and day care facilities
232 attended by the children of such consultants or employees are

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233 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 234 Constitution if a consultant or employee has made reasonable
 235 efforts to protect such information from being accessible
 236 through other means available to the public. This sub-
 237 subparagraph is subject to the Open Government Sunset Review Act
 238 in accordance with s. 119.15 and shall stand repealed on October
 239 2, 2020, unless reviewed and saved from repeal through
 240 reenactment by the Legislature.

241 o. The home addresses, telephone numbers, social security
 242 numbers, dates of birth, and photographs of current or former
 243 personnel employed in an agency's office of inspector general or
 244 those whose duties include conducting internal audits; the
 245 names, home addresses, telephone numbers, social security
 246 numbers, dates of birth, photographs, and places of employment
 247 of spouses and children of such personnel; and the names and
 248 locations of schools and day care facilities attended by the
 249 children of such personnel are exempt from s. 119.07(1) and s.
 250 24(a), Art. I of the State Constitution if the personnel have
 251 made reasonable efforts to protect such information from being
 252 accessible through other means available to the public. This
 253 sub-subparagraph is subject to the Open Government Sunset Review
 254 Act in accordance with s. 119.15 and shall stand repealed on
 255 October 2, 2021, unless reviewed and saved from repeal through
 256 reenactment by the Legislature.

257 3. An agency that is the custodian of the information
 258 specified in subparagraph 2. and that is not the employer of the
 259 officer, employee, justice, judge, or other person specified in
 260 subparagraph 2. shall maintain the exempt status of that
 261 information only if the officer, employee, justice, judge, other

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262 person, or employing agency of the designated employee submits a
 263 written request for maintenance of the exemption to the
 264 custodial agency.

265 4. The exemptions in this paragraph apply to information
 266 held by an agency before, on, or after the effective date of the
 267 exemption.

268 5. Except as otherwise expressly provided in this
 269 paragraph, this paragraph is subject to the Open Government
 270 Sunset Review Act in accordance with s. 119.15, and shall stand
 271 repealed on October 2, 2017, unless reviewed and saved from
 272 repeal through reenactment by the Legislature.

273 Section 2. (1) The Legislature finds that it is a public
 274 necessity that the following identifying and location
 275 information be exempt from public records requirements if
 276 current or former personnel employed in an agency's office of
 277 inspector general, or those whose duties include conducting
 278 internal audits, have made reasonable efforts to protect such
 279 information from being accessible through other means available
 280 to the public:

281 (a) The home addresses, telephone numbers, social security
 282 numbers, dates of birth, and photographs of current or former
 283 personnel employed in an agency's office of inspector general or
 284 those whose duties include conducting internal audits;

285 (b) The names, home addresses, telephone numbers, social
 286 security numbers, dates of birth, photographs, and places of
 287 employment of spouses and children of such personnel; and

288 (c) The names and locations of schools and day care
 289 facilities attended by the children of such personnel.

290 (2) The Legislature finds that the release of such

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291 identifying and location information might place these current
292 or former personnel of an agency's office of inspector general
293 or other personnel whose duties include conducting internal
294 audits and their family members in danger of physical and
295 emotional harm from disgruntled individuals who may react
296 inappropriately to investigations, audits, and other actions
297 carried out by such personnel, or to scrutiny of their business
298 or professional practices. As a result, such personnel and their
299 family members may become targets for acts of revenge by those
300 who are investigated or audited. The risk continues after such
301 personnel leave employment as a disgruntled individual may wait
302 to commit an act of revenge until the employment of such
303 personnel ends. The Legislature further finds that the harm that
304 may result from the release of such personal identifying and
305 location information outweighs any public benefit that may be
306 derived from the disclosure of the information.

307 Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

Minority Whip
25th District

November 24th, 2015

The Honorable Jeremy Ring

405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Ring:

I respectfully request that Senate Bill 752, Public Records/Office of Inspector General Identifying and Location Information, be considered for placement on the Governmental Oversight and Accountability committee agenda. This piece of legislation provides an exemption from public records requirements for certain identifying and location information of current or former personnel of an agency's office of inspector general as their duty relates to conducting internal audits.

Please feel free to notify me if I can provide you with any additional information. Thank you in advance for your consideration.

Sincerely,

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

Joseph Abruzzo

Cc: Joe McVaney, *Staff Director*

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 606

INTRODUCER: Senator Margolis

SUBJECT: State Symbols

DATE: January 15, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Favorable
2.			RC	

I. Summary:

SB 606 designates the Big Orange as the official state symbol of New Year's Eve celebration in Florida.

The bill becomes effective upon becoming law.

II. Present Situation:

Currently, there is no designated official state symbol of New Year's Eve celebrations.

Chapter 15, F.S., designates official state emblems. To date, there are designations for a state motto, tree, fruit,¹ beverage,² citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal, saltwater mammal, butterfly, reptile, saltwater reptile, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad museums, transportation museum, flagship, soil, fiddle contest, band, sports hall of fame, pie, maritime museum, and horse.

New Year's Eve Celebrations

New Year's Eve is celebrated around the United States by many cities dropping certain objects. New York City is known for its famous ball drop. Other cities celebrate by dropping a great sardine and maple leaf (Eastport, ME), giant shoe (Key West, FL), peach (Atlanta, GA), cherry (Traverse City, MI), giant letter "D"(Detroit, MI), fleur-de-lis (New Orleans, LA), and a music note (Nashville, TN).³

¹ Section 15.0315, F.S., designates the orange as the official fruit of Florida.

² Section 15.032, F.S., designates orange juice as the official beverage of Florida.

³ See <http://www.fly.com/blog/travel-blog/new-years-eve-celebration-whos-dropping/> (last visited on December 4, 2015).

The Big Orange

The Greater Miami Host Committee, Inc. began the Big Orange New Year's Eve Celebration 30 years ago.⁴ The Big Orange is a neon orange sign 35 feet in diameter that rises 400 feet to the top of the Hotel InterContinental on New Year's Eve.⁵ The Big Orange reaches the top of the hotel at midnight amid a fireworks display.⁶ The Big Orange has also been dubbed as "Mr. Neon" as the glowing fruit received a makeover in 2011.⁷

III. Effect of Proposed Changes:

Section 1 creates s. 15.053, F.S., to designate the Big Orange as the official state symbol of New Year's Eve celebration in Florida.

Section 2 provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

⁴ See <http://www.greatermiamihost.com/> (last visited on December 4, 2015).

⁵ See <http://www.wpbf.com/news/south-florida/Big-Orange-celebration-in-Miami-renamed-La-Gran-Naranja/17956660> (last visited on December 4, 2015).

⁶ See <http://www.miamiscapes.com/new-years-eve-miami.html#.VmddnU3ov5o> (last visited on December 4, 2015).

⁷ See http://www.huffingtonpost.com/2012/12/30/the-big-orange-la-gran-na_n_2384121.html (last visited on December 4, 2015).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 15.053 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Margolis

35-00897-16

2016606__

1 A bill to be entitled
 2 An act relating to state symbols; creating s. 15.053,
 3 F.S.; designating the Big Orange as the official state
 4 symbol for New Year's Eve celebrations; providing an
 5 effective date.
 6
 7 WHEREAS, the Greater Miami Host Committee, Inc., chaired by
 8 Monty Trainer, has been recognized by the Florida Senate for
 9 hosting and producing world-class signature events that promote
 10 globalization, tourism, business, industry, trade and commerce,
 11 culture, education, governmental relations, international
 12 affairs, and community and economic development to local,
 13 national, and international markets, and
 14 WHEREAS, these international signature events encourage
 15 hospitality, goodwill, trust, and international exchange, and
 16 WHEREAS, 30 years ago, Rodney Barreto, then executive
 17 director of the Greater Miami Host Committee, Inc., created and
 18 launched the Big Orange New Year's Eve Celebration, hosted by
 19 the City of Miami, commissioning the design and construction of
 20 the Big Orange to ignite the same enthusiasm and anticipation as
 21 New York City's Times Square Big Apple, and
 22 WHEREAS, designed by internationally acclaimed industrial
 23 artist Steve Carpenter, the Big Orange is 35 feet in diameter,
 24 weighs 2,000 pounds, and has become an LED-lighted icon, and
 25 WHEREAS, in 1995, the Big Orange was dubbed the "Times
 26 Square of the South" and simulcast with the Dick Clark's New
 27 Year's Rockin' Eve television broadcast, and
 28 WHEREAS, the Big Orange has been recognized as an official
 29 United States time ball and is linked to the United States Naval

Page 1 of 3

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

35-00897-16

2016606__

30 Observatory Master Clock, and
 31 WHEREAS, the Big Orange and its celebration attract a
 32 diverse audience of 150,000 to 250,000 local revelers and
 33 international visitors annually, as well as a worldwide
 34 television viewership of more than 50 million, and
 35 WHEREAS, the Big Orange New Year's Eve Celebration is
 36 recognized as one of the top 10 New Year's Eve destination
 37 events in the world by MSN-USA Today, and
 38 WHEREAS, in 2013, under the Big Orange banner "La Gran
 39 Naranja," the City of Miami and honorary chair Mayor Tomas P.
 40 Regalado launched Viva Florida 500, the quincentennial
 41 commemoration of the discovery of Florida in 1513 by Spanish
 42 explorer Ponce de Leon, who brought the orange from Spain to
 43 Florida that same year, and
 44 WHEREAS, on December 31, 2014, Miami, as Florida's most
 45 culturally diverse city and the international epicenter of art,
 46 culture, business, music, education, technology, media, sports,
 47 and entertainment, hosted its very first live, family-friendly
 48 New Year's Eve television special, conceived and co-produced by
 49 Latin Grammy Award-winning artist Pitbull, and
 50 WHEREAS, during the 2015 celebration, the Big Orange served
 51 as a symbol of the United Nations World Tourism Organization's
 52 call to increase policies and business practices that promote
 53 gender equality and women's empowerment through tourism and
 54 allied industries, NOW, THEREFORE,
 55
 56 Be It Enacted by the Legislature of the State of Florida:
 57
 58 Section 1. Section 15.053, Florida Statutes, is created to

Page 2 of 3

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

35-00897-16

2016606__

59
60
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62
63

read:

15.053 Official state symbol for New Year's Eve
celebrations.-The Big Orange is designated as the official state
symbol of New Year's Eve celebrations in this state.

Section 2. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Regulated Industries, *Vice Chair*
Appropriations
Appropriations Subcommittee on General Government
Banking and Insurance
Finance and Tax
Fiscal Policy

SENATOR GWEN MARGOLIS

35th District

January 19, 2016

Senator Jeremy Ring, Chairman
Senate Committee on Governmental Oversight and Accountability
Suite 405 Senate Office Building
Tallahassee, Florida 32399-1100

Dear Chairman Ring:

My bill, SB 606 related to State Symbols, is being heard before the Committee on Governmental Oversight and Accountability this afternoon. Unfortunately, I have another bill which I am also scheduled to present in a Committee meeting at the same time. I would like to request that my Legislative Assistant, Ms. Theresa Frederick be given the opportunity to present SB 606 on my behalf.

Your favorable consideration of my request is very much appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Gwen Margolis".

State Senator Gwen Margolis
District 35

cc: Mr. Joe McVaney

REPLY TO:

- 3050 Biscayne Boulevard, Suite 600, Miami, Florida 33137 (305) 571-5777
- 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5035

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 598

INTRODUCER: Senator Brandes

SUBJECT: Public Works Projects

DATE: January 15, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Pre-meeting
2.			CA	
3.			AP	

I. Summary:

SB 598 creates section 255.0992, F.S., relating to public works projects and prohibited governmental actions. The bill defines the terms “political subdivision” and “public works” or “public works project.” The bill prohibits the state and its political subdivisions that contract for construction, maintenance, repair, or improvement of public works from imposing certain conditions on contractors, subcontractors, or material suppliers or carriers, except as otherwise required by federal or state law.

SB 598 also prohibits the state or a political subdivision from restricting a qualified contractor, subcontractor, or material supplier or carrier from submitting a bid on any public works project.

II. Present Situation:

The Consultants’ Competitive Negotiation Act

In 1972, Congress passed the Brooks Act (Public Law 92-582), which codified Qualifications-Based Selection (QBS) as the federal procurement method for design professional services. The QBS process entails first soliciting statements of qualifications from licensed architectural and engineering providers, selecting the most qualified respondent, and then negotiating a fair and reasonable price. The vast majority of states currently require a QBS process when selecting the services of design professionals.

Florida's Consultants' Competitive Negotiation Act (CCNA), was enacted by the Legislature in 1973¹ to specify the procedures to be followed when procuring professional services by an agency.²

Currently, the CCNA, codified in s. 287.055, F.S., specifies the process to be followed when state and local government agencies procure the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper. The CCNA requires that state agencies publicly announce, in a consistent and uniform manner, each occasion when professional services must be purchased for one of the following:³

- A project, when the basic construction cost is estimated by the agency to exceed \$325,000.
- A planning or study activity, when the fee for professional services exceeds \$35,000.

The public notice must provide a general description of the project and describe how the interested consultants may apply for consideration.

The CCNA provides a two-phase selection process.⁴ In the first phase, the "competitive selection," the agency evaluates the qualifications and past performance of no fewer than three bidders. The agency selects the bidders, ranked in order of preference, and considers the most highly qualified to perform the required services. The CCNA requires consideration of several factors in determining the most highly qualified bidders.⁵

The CCNA prohibits the agency from requesting, accepting, and considering, during the selection process, proposals for the compensation to be paid.⁶ Section 287.055(2)(d), F.S., defines the term "compensation" to mean "the amount paid by the agency for professional services regardless of whether stated as compensation" or as other types of rates.

In the second phase, the "competitive negotiation," the agency negotiates compensation with the most qualified of the three selected firms for professional services at compensation which the agency determines is "fair, competitive, and reasonable."⁷ If a satisfactory contract cannot be negotiated, the agency must formally terminate negotiations with that firm and must then negotiate with the second most qualified firm. The agency must negotiate with the third most qualified firm if the negotiation with the second most qualified firm fails to produce a satisfactory contract.⁸ If a satisfactory contract cannot be negotiated with any of the three selected, the agency must select additional firms in order of their competence and qualifications

¹ Chapter 73-19, L.O.F.

² Section 287.055(2)(b), F.S., defines "Agency" as "the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06, F.S., or ss. 163.3220-163.3243, F.S."

³ Section 287.055(3)(a)1., F.S.

⁴ Sections 287.055(4) and (5), F.S.

⁵ The following is a full listing of the factors that s. 287.055(4)(b), F.S., requires agencies to consider: the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and, the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

⁶ Section 287.055(4)(b), F.S.

⁷ Section 287.055(5)(a), F.S.

⁸ Section 287.055(5)(b), F.S.

and continue negotiations until a contract is reached.⁹ Once negotiations with a firm are terminated, the agency cannot resume negotiations with that firm for the project.

In October 2011, the Attorney General opined that local governments could not create a hybrid procurement process for awarding projects but instead are limited to utilizing the statutorily defined procedures.¹⁰

Procurement of Construction Services for Public Property and Publicly Owned Buildings

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. Section 255.29, F.S., requires the Department of Management Services (DMS) to establish, by rule,¹¹ the following construction contract procedures for:

- Determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts, including procedures for the rejection of bidders who are reasonably determined from prior experience to be unqualified or irresponsible to perform the work required by a proposed contract.
- Awarding each state agency construction project to the lowest qualified bidder as well as procedures to be followed in cases in which DMS declares a valid emergency to exist which would necessitate the waiver of the rules governing the award of state construction contracts to the lowest qualified bidder.
- Governing negotiations for construction contracts and modifications to contract documents when such negotiations are determined by the DMS secretary to be in the best interest of the state.
- Entering into performance-based contracts for the development of public facilities when DMS determines the use of such contracts to be in the best interest of the state.

These procedures must include, but are not limited to:¹²

- Prequalification of bidders;
- Criteria to be used in developing requests for proposals which may provide for singular responsibility for design and construction, developer flexibility in material selection, construction techniques, and application of state-of-the-art improvements;
- Accelerated scheduling, including the development of plans, designs, and construction simultaneously; and
- Evaluation of proposals and award of contracts considering such factors as price, quality, and concept of the proposal.

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.¹³ County, municipal, or other political subdivision contracts for construction

⁹ Section 287.055(5)(c), F.S.

¹⁰ Op. Att'y Gen. Fla. 2011-21 (2011).

¹¹ Chapter 60D-5, F.A.C., establishes the procedures for s. 255.29, F.S., which requires procedures be followed in advertising for bids for construction contracts; in determining the eligibility of potential bidders to submit proposals for construction contracts; in awarding construction contracts; for waiver of non-material bid deviations; for rejection of bids; for disqualification of contractors; and in requesting authority to negotiate contracts and in negotiating contracts.

¹² Section 255.29(4)(a)-(d), F.S.

¹³ Section 255.0525(1), F.S. Also, see Rules 60D-5.002(2) and 60D-5.0073, F.A.C.

projects that are projected to cost in excess of \$200,000 must also be competitively bid.¹⁴ Counties, municipalities, special districts,¹⁵ or other political subdivisions seeking to construct or improve a public building must competitively bid the project if the projected cost is in excess of \$300,000.¹⁶

The solicitation of competitive bids or proposals for any state construction project that is projected to cost more than \$200,000 must be publicly advertised in the Florida Administrative Register (FAR) at least 21 days prior to the established bid opening.¹⁷ If the construction project is projected to exceed \$500,000, the advertisement must be published in the FAR at least 30 days prior to the bid opening, and at least once in a newspaper of general circulation in the county where the project is located 30 days prior to the bid opening.¹⁸

Department of Management Services Convicted Vendors and Discriminatory Vendor Lists

DMS is required to keep a convicted vendor list¹⁹ that identifies vendors who have committed a public entity crime.²⁰ If a vendor is included on the convicted vendor list, that vendor is barred from doing business with the state²¹ in excess of \$35,000 as provided in s. 287.017(2), F.S., for a period of 36 months following placement on the list.

DMS also maintains a discriminatory vendor list that identifies vendors where a determination of liability by a state circuit court or a federal district court for a violation of any state or federal law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion.²² Inclusion on the discriminatory vendor list bars a vendor from doing business with the state, and the state is prohibited from accepting any bids or proposals and transacting business with such vendor for a period of 36 months following placement on the list.²³

¹⁴ Section 255.0525(2), F.S.

¹⁵ Section 255.20(1), F.S. (Special district as defined in ch. 189, F.S.).

¹⁶ *Id.* For electrical work, local governments must competitively bid projects estimated to cost more than \$75,000.

¹⁷ Section 255.0525(1), F.S.

¹⁸ *Id.* Similar publishing provisions apply to construction projects projected to cost more than \$200,000 for counties, municipalities, and political subdivisions. *See* Section 255.0525(2), F.S.

¹⁹ Section 287.133, F.S., and Rule 60A-1.006(5), F.A.C.

²⁰ Section 287.133(1)(g), F.S., defines “public entity crime” as a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

²¹ Section 287.135(2)(a), F.S. A vendor placed on the list may not submit bids or proposals to a public entity on a contract to provide goods and services, a contract for construction or repair of a public building or work, leases of real property. The vendor may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant with a public entity, and may not transact business with any public entity.

²² Section 287.134, F.S.

²³ Section 287.134(2), F.S.

Preference for Employment of State Residents in Construction Contracts Funded By State Funds

Florida law provides a preference for the employment of state residents in construction contracts funded by state funds.²⁴ Such contracts must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work if state residents have substantially equal qualifications²⁵ to those of non-residents.²⁶ If a construction contract is funded by local funds, the contract may contain such a provision.²⁷ In addition, a contractor required to employ state residents must contact the Department of Economic Opportunity to post the contractor's employment needs in the state's job bank system.²⁸

Department of Transportation Construction Projects

Chapter 337, F.S., governs contracting by the Department of Transportation (DOT). Any person who wants to bid for a construction contract in excess of \$250,000 must be certified by DOT as qualified.²⁹ Certification is also required to bid on road, bridge, or public transportation construction projects of more than \$250,000.³⁰ The purpose of certification is to ensure professional and financial competence relating to the performance of construction contracts by evaluating bidders "with respect to equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification."³¹

Each application for certification of qualification must be accompanied by the latest annual financial statement of the applicant completed within the last 12 months.³² If the application or the annual financial statement shows the financial condition of the applicant more than 4 months prior to the date on which the application is received by DOT, then an audited interim financial statement must be submitted and accompanied by an updated application.³³ If the applicant meets the qualifications, DOT issues a certificate of qualification that is valid for 18 months after the date of the applicant's financial statement, or shorter time period as DOT prescribes.³⁴ Such certificate of qualification may be revoked by DOT for a contractor who is deemed delinquent on a previously awarded contract.³⁵

DOT does not prohibit a qualified, licensed or certified contractor from bidding; however, a contract may not be awarded if the bid is determined to be irregular or non-responsive. DOT

²⁴ Section 255.099(1), F.S.

²⁵ Section 255.099(1)(a), F.S., defines "substantially equal qualifications" as the "qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons."

²⁶ Section 255.099(1), F.S.

²⁷ *Id.*

²⁸ Section 255.099(1)(b), F.S.

²⁹ Section 337.14(1), F.S. and ch. 14-22, F.A.C.

³⁰ Section 337.14(2), F.S.

³¹ Section 337.14(1), F.S.

³² *Id.*

³³ *Id.*

³⁴ Section 337.14(4), F.S.

³⁵ Section 337.16, F.S.

does require training for certain work categories, such as bridge work and other technical road and bridge areas.

Federal Labor and Wage Laws

The National Labor Relations Act of 1935³⁶ and the Labor Management Relations Act of 1947³⁷ constitute a comprehensive scheme of regulations guaranteeing employees the right to organize, to bargain collectively through chosen representatives, and to engage in concerted activities to secure their rights in industries involved in or affected by interstate commerce.

The Fair Labor Standards Act (FLSA) establishes a federal minimum wage, which is the lowest hourly wage that can be paid in the United States.³⁸ A state may set the rate higher than the federal minimum, but not lower.³⁹ It also requires employers to pay time and a half to its employees for overtime hours worked,⁴⁰ and establishes standards for recordkeeping⁴¹ and child labor.⁴² Over 135 million workers are covered under the act;⁴³ most jobs are covered by the FLSA, but not all jobs are covered. In addition, some jobs are covered, but are considered “exempt” from the FLSA overtime requirements.⁴⁴

On February 12, 2014, President Obama signed Executive Order 13658, which establishes a minimum wage for certain federal contractors.⁴⁵ The Executive Order requires parties who contract with the federal government to pay workers performing work on or in connection with covered federal contracts at least \$10.10 per hour beginning on January 1, 2015. Beginning January 1, 2016, and annually thereafter, such workers must be paid an amount determined by the Secretary of Labor in accordance with the Executive Order. The order stated that “[r]aising the pay of low-wage workers increases their morale and the productivity and quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs.”⁴⁶

State Labor and Wage Regulations

Article I, Section 6 of the State Constitution creates a constitutional right to collectively bargain for public sector employees. It provides, in pertinent part, that “[t]he right of persons to work

³⁶ 29 U.S.C. ss. 151 to 169 (encouraging the practice and procedure of collective bargaining and protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection).

³⁷ 29 U.S.C. ss. 141 to 187 (prescribing the rights of both employees and employers in their relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the rights of the other, to protect the rights of individual employees in their relations with labor organizations whose activities affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce).

³⁸ 29 U.S.C. s. 206.

³⁹ 29 U.S.C. s. 218(a).

⁴⁰ 29 U.S.C. s. 207.

⁴¹ 29 U.S.C. s. 211.

⁴² 29 U.S.C. s. 212.

⁴³ <http://www.dol.gov/whd/workers.htm> (last visited December 4, 2015).

⁴⁴ 29 U.S.C. s. 213; http://www.dol.gov/whd/overtime_pay.htm (last visited December 4, 2015).

⁴⁵ A copy of the Executive Order can be found online at: <http://www.whitehouse.gov/the-press-office/2014/02/12/executive-order-minimum-wage-contractors> (last visited December 4, 2015).

⁴⁶ *Id.*

shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.” The Florida Supreme Court has held that public employees maintain the same rights to collectively bargain as do private employees.⁴⁷

In addition, the State Constitution provides that “[a]ll working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.”⁴⁸ The State Constitution requires that employers pay employees no less than the minimum wage for all hours worked in Florida.⁴⁹ The current state minimum wage is \$8.05 per hour,⁵⁰ which is higher than the federal rate.⁵¹

Federal Project Labor Agreements

In 2009, President Barack Obama signed Executive Order 13502 authorizing the use of project labor agreements for federal construction projects.⁵² The Executive Order defines the term “project labor agreement” as “a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(f).” The Executive Order provides that executive agencies may, on a project-by-project basis, require the use of a project labor agreement by a contractor where such an agreement will advance the federal government’s goal of achieving economy and efficiency in procurement, produce labor-management stability, and ensure compliance with laws and regulations concerning safety, health, equal employment opportunity, and labor and employment standards.

Federal Prevailing Wage Requirements

The Davis-Bacon Act applies to contractors and subcontractors performing work on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public works projects or public buildings.⁵³ The United States Department of Labor, Wage and Hour Division, issues two types of wage determinations: general determinations (also known as area determinations) and project determinations. The wage and fringe benefits⁵⁴ in the applicable

⁴⁷ See *Hillsborough Cnty. Gov’tl Emps. Ass’n, Inc. v. Hillsborough Cnty. Aviation Auth.*, 522 So.2d 358 (Fla. 1988); *City of Tallahassee v. Public Employees Relations Comm’n*, 410 So.2d 487 (Fla. 1981); *Dade Cnty. Classroom Teachers Ass’n v. Legislature of Fla.*, 269 So.2d 684 (Fla. 1972).

⁴⁸ Article X, s. 24(a), FLA. CONST. and s. 448.110, F.S.

⁴⁹ Article X, s. 24(c), FLA. CONST.

⁵⁰ <http://www.floridajobs.org/business-growth-and-partnerships/for-employers/display-posters-and-required-notice> (last visited December 4, 2015).

⁵¹ The federal minimum wage is \$7.25 per hour. For more information about federal minimum wage provisions, see <http://www.dol.gov/whd/minimumwage.htm> (last visited December 4, 2015).

⁵² A copy of the Executive Order can be found online at:

http://www.whitehouse.gov/the_press_office/ExecutiveOrderUseofProjectLaborAgreementsforFederalConstructionProjects (last visited December 4, 2015); the Executive Order is codified in subpart 22.5 of the Federal Acquisition Regulation.

⁵³ 40 U.S.C. s. 3142(a).

⁵⁴ Examples of fringe benefits include life insurance, health insurance, pension, vacation, holidays, sick leave, and other “bona fide” fringe benefits. <http://www.dol.gov/whd/programs/dbra/faqs/fringes.htm#Fringe> (last visited December 4, 2015).

Davis-Bacon wage determination must be the minimum paid by contractors and subcontractors to laborers and mechanics.⁵⁵

III. Effect of Proposed Changes:

Section 1 creates s. 255.0992, F.S., relating to public works projects and prohibited governmental actions. The following terms are defined:

- “Political subdivision” means a separate agency or unit of local government created or established by law or ordinance and the officers thereof⁵⁶ and is authorized to expend public funds for construction, maintenance, repair, or improvement of public works.
- “Public works” or “public works project” means a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof, including repair, renovation, or remodeling, owned, in whole or in part, by any political subdivision for which a project for construction, maintenance, repair, or improvement of public works is to be paid for, in whole or in part, with state funds.

Except as required by federal or state law, this section prohibits the state or any political subdivision from requiring a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair, or improvement of public works to:

- Pay employees a predetermined amount of wages or prescribe any wage rate;
- Provide employees a specified type, amount, or rate of employee benefits;
- Control, limit, or expand staffing; or
- Recruit, train, or hire employees from a designated, restricted, or single source.

Also, the bill provides that the state or a political subdivision that contracts for a public works project may not prohibit a contractor, subcontractor, or material supplier or carrier who is qualified, licensed, or certified as required by state law from submitting a bid on any public works project.

Section 2 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

⁵⁵ 40 U.S.C. s. 3142(b).

⁵⁶ The bill notes that the term “political subdivision” includes, but is not limited to, a county; municipality; or an authority, board, commission, department, institution of higher education, public corporation, school district, taxing district, water management district, or other public agency or body.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

The provision in the bill that prevents the state or a political subdivision from prohibiting qualified, licensed and certified vendors from submitting bids on public works projects may conflict with ss. 287.133 and 287.34, F.S., regarding the convicted vendor and discriminatory vendor lists maintained by DMS.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 255.0992 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.)

None.

B. Amendments:

None.



846642

LEGISLATIVE ACTION

Senate

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. .
. .

House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 255.0992, Florida Statutes, is created
to read:

255.0992 Public works projects; prohibited governmental
actions.—

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

(a) "Political subdivision" means a separate agency or unit



846642

11 of local government created or established by law or ordinance
12 and the officers thereof. The term includes, but is not limited
13 to, a county; a city, town, or other municipality; or a
14 department, commission, authority, school district, taxing
15 district, water management district, board, public corporation,
16 institution of higher education, or other public agency or body
17 thereof authorized to expend public funds for construction,
18 maintenance, repair, or improvement of public works.

19 (b) "Public works project" means an activity that is paid
20 for in whole or in part with state funds and that consists of
21 the construction, maintenance, repair, renovation, remodeling,
22 or improvement of a building, road, street, sewer, storm drain,
23 water system, site development, irrigation system, reclamation
24 project, gas or electrical distribution system, gas or
25 electrical substation, or other facility, project, or portion
26 thereof that is owned in whole or in part by any political
27 subdivision.

28 (2) (a) Except as required by federal or state law, the
29 state or any political subdivision that contracts for a public
30 works project may not require that a contractor, subcontractor,
31 or material supplier or carrier engaged in such project:

32 1. Pay employees a predetermined amount of wages or
33 prescribe any wage rate;

34 2. Provide employees a specified type, amount, or rate of
35 employee benefits;

36 3. Control, limit, or expand staffing; or

37 4. Recruit, train, or hire employees from a designated,
38 restricted, or single source.

39 (b) The state or any political subdivision that contracts



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40 for a public works project may not prohibit any contractor,
41 subcontractor, or material supplier or carrier able to perform
42 such work who is qualified, licensed, or certified as required
43 by state law to perform such work from submitting a bid on the
44 public works project or being awarded any contract, subcontract,
45 material order, or carrying order.

46 (3) This section does not apply to contracts executed under
47 chapter 337.

48 Section 2. This act shall take effect July 1, 2016.

49
50 ===== T I T L E A M E N D M E N T =====

51 And the title is amended as follows:

52 Delete everything before the enacting clause
53 and insert:

54 A bill to be entitled
55 An act relating to public works projects; creating s.
56 255.0992, F.S.; providing definitions; prohibiting the
57 state and political subdivisions that contract for
58 public works projects from imposing restrictive
59 conditions on certain contractors, subcontractors, or
60 material suppliers or carriers; prohibiting the state
61 and political subdivisions from restricting qualified
62 bidders from submitting bids or being awarded
63 contracts; providing applicability; providing an
64 effective date.

By Senator Brandes

22-00262A-16

2016598__

A bill to be entitled

An act relating to public works projects; creating s. 255.0992, F.S.; providing definitions; prohibiting the state and political subdivisions that contract for the construction, maintenance, repair, or improvement of public works from imposing restrictive conditions on contractors, subcontractors, or material suppliers or carriers; prohibiting the state and political subdivisions from restricting qualified bidders from submitting bids; providing an effective date.

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

Section 1. Section 255.0992, Florida Statutes, is created to read:

255.0992 Public works projects; prohibited governmental actions.—

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

(a) "Political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term includes, but is not limited to, a county; a municipality; or an authority, board, commission, department, institution of higher education, public corporation, school district, taxing district, water management district, or other public agency or body authorized to expend public funds for construction, maintenance, repair, or improvement of public works.

(b) "Public works" or "public works project" means a building, road, street, sewer, storm drain, water system, site

Page 1 of 2

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

22-00262A-16

2016598__

development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof, including repair, renovation, or remodeling, owned, in whole or in part, by any political subdivision for which a project for construction, maintenance, repair, or improvement of public works is to be paid for, in whole or in part, with state funds.

(2) Except as required by federal or state law, the state or any political subdivision that contracts for the construction, maintenance, repair, or improvement of public works may not require that a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair, or improvement of public works:

(a) Pay employees a predetermined amount of wages or prescribe any wage rate;

(b) Provide employees a specified type, amount, or rate of employee benefits;

(c) Control, limit, or expand staffing; or

(d) Recruit, train, or hire employees from a designated, restricted, or single source.

(3) The state or any political subdivision that contracts for any construction, maintenance, repair, or improvement of public works may not prohibit any contractor, subcontractor, or material supplier or carrier able to perform construction, maintenance, repair, or improvement of public works who is qualified, licensed, or certified as required by state law to perform such work from submitting a bid on any public works project.

Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: November 4, 2015

I respectfully request that **Senate Bill #598**, relating to **Public Works Projects**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal line extending to the right.

Senator Jeff Brandes
Florida Senate, District 22

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/2016
Meeting Date

SB 598
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Casey Cook

Job Title _____

Address 301 S. Brrough

Phone 222 9684

Tall FL 32301
City State Zip

Email ccook@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

01/19/2016

598

Meeting Date

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone 8502059000

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Associated General Contractors Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/16
Meeting Date

SB598
Bill Number (if applicable)

Topic SB 598

Amendment Barcode (if applicable)

Name Lee Beville

Job Title School Bus Driver Pasco

Address 32301 MANDARIN AVE
Street

Phone 813 987 6729

Zephyr Hills FL 33541
City State Zip

Email beville88@yahoo.com

Speaking: For Against Information

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

Representing United School Employees of Pasco & CLC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

1-19-16

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

598

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1st St 2810

Phone 305-979-7110

Street MIAMI 33128

Email JMM2@MIAMIDADE.GOV

City State Zip

Speaking: For Against Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/19/16

Meeting Date

SB 598

Bill Number (if applicable)

Topic Public Construction

Amendment Barcode (if applicable)

Name Bruce Kershner

Job Title

Address 231 West Bay Ave

Phone 407 830 1882

Street

Longwood, FL 32750

City

State

Zip

Email RBKershner@att.net

Speaking: For Against Information

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

Representing NUCA of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/16

Meeting Date

598

Bill Number (if applicable)

Topic Preemptions

Amendment Barcode (if applicable)

Name Rich Templin

Job Title _____

Address 135 S. Monroe

Phone 850-824-6926

Street

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-19-2016

Meeting Date

SB 598

Bill Number (if applicable)

Topic Public works Project

Amendment Barcode (if applicable)

Name Kevin Barber

Job Title President Ironworkers Local 397 Tampa

Address 6646 Ravenwood St

Phone 813-390-8930

Street

Wesley chapel

City

FL

State

33544

Zip

Email Kevin@Iwl397.com

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1-19-2016

Meeting Date

5598

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Gregory "Jack" Jarrell

Job Title Business Manager Ironworkers Tampa, President FL Gulf Coast Building Trades

Address 2198 sunset cir

Phone 813-748-5272

Street

Largo

City

FL

State

33774

Zip

Email JACK@IWL397.COM

Speaking: [] For [X] Against [] Information

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

Representing MYSELF

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/2016
Meeting Date

SB 598
Bill Number (if applicable)

Topic Public Works

Amendment Barcode (if applicable)

Name Dave Singer

Job Title Treasurer CWA 3112 - West Palm Bch

Address 17326 133rd Trail N
Street

Phone 561-601-1225

Jupiter FL 33478
City State Zip

Email SEC 3112@bellsouth.net

Speaking: For Against Information

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

Representing Self / Membership of Local 3112 - CWA 620 members Palm Bch County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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1/19/2016

Meeting Date

SB 598

Bill Number (if applicable)

Topic Public Works Project

Amendment Barcode (if applicable)

Name Shawn Britton

Job Title DRIVER

Address Street

Phone 407-637-6744

City State Zip

Email

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-19-16

Meeting Date

SB 598

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Michael B. Stovall, JR

Job Title Secretary, North Florida Central Labor Council

Address 916 N. Liberty St.
Street

Phone 904-401-4825

Jacksonville FL. 32206
City State Zip

Email mstovall@flafci.org

Speaking: For Against Information

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

Representing North Florida Central Labor Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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01/19/2016

Meeting Date

513 598

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Enrique Aboy Jr.

Job Title Truck Driver

Address 154 Pinewood Cir.

Phone 407 591 9755

Street

Kissimmee

City

Fl.

State

34743

Zip

Email Tennessee2@live.com

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-19-2016
Meeting Date

SB 598
Bill Number (if applicable)

Topic PUBLIC WORKS PROJECTS

Amendment Barcode (if applicable)

Name FRANK ANGEL

Job Title _____

Address 21180 VIA EDEN
Street

Phone 708-955-6254

BOCA RATON FL. 33433
City State Zip

Email FANGEL54@GMAIL.COM

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/19/2016

Meeting Date

SB 598

Bill Number (if applicable)

Topic

PUBLIC WORKS PROJECT

Amendment Barcode (if applicable)

Name

PAMELA (PAM) T. PERRY

Job Title

UNITED SCHOOLS EMPLOYEES OF PASCO - RETIRED
(USEP-R)

Address

LAKE PATIENCE ROAD

Phone

813 956-4203 - cell

Street

City

LAND O' LAKES FL 34638

State

Zip

Email

PTK5221947@gmail.com

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

WORKING FOR FAMILIES LOBBY CORP.

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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1/19/16
Meeting Date

SB 598
Bill Number (if applicable)

Topic PUBLIC WORKS PROJECTS

Amendment Barcode (if applicable)

Name CARL WALDRON

Job Title RETIRED

Address 33221 DARBY TRAIL
Street

Phone 352-678-2056

DADE CITY FL 33574
City State Zip

Email WALDRON.CARL@GMAIL.COM

Speaking: For Against Information

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

Representing WORKING FAMILY LOBBY BOARD

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

JANUARY 19, 2016
Meeting Date

SB-598
Bill Number (if applicable)

Topic PUBLIC WORKS

Amendment Barcode (if applicable)

Name J. B. CLARK

Job Title DIRECTOR, LEG. & POLITICAL AFFAIRS

Address 2091 CYNTHIA DRIVE
Street

Phone 850-556-8143

TALLAHASSEE, FL 32303
City State Zip

Email JBCCLARK@FLSENATE.GOV

Speaking: For Against Information

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

Representing FLORIDA ELECTRICAL WORKERS ASSN.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/16
Meeting Date

598
Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Arthur Rosenberg

Job Title Attorney

Address 3000 Biscayne Boulevard

Phone 850-509-2085

Miami FL 33137
City State Zip

Email arthur@floridalegal.org

Speaking: For Against Information

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

Representing Florida Legal Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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1/19/16
Meeting Date

SB598
Bill Number (if applicable)

Topic Public Works Project

Amendment Barcode (if applicable)

Name Cindy Carson

Job Title GED Teacher (Adult Ed.)

Address 1914 Kenosha Dr. #206

Phone 7272710174

Street Trinity
City Trinity State FL Zip 34655

Email ccarson

Speaking: For Against Information

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

Representing Working Families Lobby Corps

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/18/16
Meeting Date

598
Bill Number (if applicable)

Topic Public Construction

Amendment Barcode (if applicable)

Name ERIC POOLE

Job Title ASST. LEG. DIRECTOR

Address 100 Monroe St
Street
TALL FL
City State Zip

Phone _____

Email _____

Speaking: For Against Information

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

Representing Florida Assoc. Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-19-16
Meeting Date

SB 598
Bill Number (if applicable)

Topic Public Works Project

Amendment Barcode (if applicable)

Name Theresa King

Job Title President

Address P.O. Box 10888
Street

Phone 850-228-8940

Tallahassee FL 32302
City State Zip

Email: fbt.tking@gmail.com

Speaking: For Against Information

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

Representing Florida Building and Construction Trades

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SR 1184

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Anti-Israel Boycott, Divestment, and Sanctions Campaigns

DATE: January 15, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Favorable
2.			RC	

I. Summary:

SR 1184 condemns the international Boycott, Divestment and Sanctions movement against the State of Israel and the increasing incidence of acts of anti-Semitism.

II. Present Situation:

Resolutions

A resolution is a “bill that is not subject to action by the Governor, is not subject to the constitutional one-subject limitation or to the constitutional title requirements, and, except for certain uses of joint resolutions and concurrent resolutions, does not have the effect of law. When adopted by both houses, it is signed by the legislative officers and presented to the Secretary of State.”¹

A Senate resolution (SR), such as this current resolution, or House resolution (HR) is “[a] one-house document used for matters not involving the other house. It is often ceremonial or congratulatory in nature.”²

Boycott, Divestment and Sanctions Movement

The Boycott, Divestment and Sanctions (BDS) movement is a global campaign ostensibly linked to Israel’s treatment of Palestinians and attempts to create economic and political pressure on Israel.³ The BDS movement began in July 2005 when various Palestinian civil society groups

¹ The Florida Senate, *Glossary*, <http://www.flsenate.gov/Reference/Glossary#resolution> (last visited January 12, 2016).

² *Id.*

³ See Jim Zanotti, Martin A. Weiss, and Kathleen Ann Ruane, *Israel and the Boycott, Divestment, and Sanctions (BDS) Movement*, CRS Report No. R44281 (2015). Also, see Jim Zanotti, *Israel: Background and U.S. Relations*, CRS Report No. RL33476 (2015).

issued a call for BDS.⁴ The call seeks “non-violent punitive measures”⁵ against Israel unless it changes its policies by:

- Ending its occupation and colonization of all Arab lands and dismantling the Wall;⁶
- Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
- Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in United Nations Resolution 195.⁷

III. Effect of Proposed Changes:

SR 1184 “condemns the international Boycott, Divestment and Sanctions movement against the State of Israel and calls upon the governmental institutions of this state to denounce hatred and discrimination whenever they appear.”⁸

Also, SR 1184 requires copies of this resolution be presented to the President of the U.S., the President and Secretary of the U.S. Senate, the Speaker and Clerk of the U.S. House of Representatives, and to the Embassy of Israel in Washington, D.C., for transmission to proper authorities of the State of Israel.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁴ See <http://www.bdsmovement.net/call>.

⁵ *Id.*

⁶ The “Wall” is a term commonly used by Palestinians to describe the separation barrier that Israel has built in various areas roughly tracking the 1949-1967 Israel-Jordan (West Bank) armistice line, also known as the “Green Line.” See Jim Zanotti, Martin A. Weiss, and Kathleen Ann Ruane, *Israel and the Boycott, Divestment, and Sanctions (BDS) Movement*, CRS Report No. R44281 (2015).

⁷ *Id.*

⁸ SR 1184, lines 46-49 (2016 Reg. Session).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The Senate Resolution does not amend, create, or repeal any provisions of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/16

Meeting Date

SR 1184

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Dominique Spadavecchia

Job Title Student

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing _____

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 (10/11/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

51184

1-19-2016

Meeting Date

Bill Number (if applicable)

Topic Israel

Amendment Barcode (if applicable)

Name Derek Silver

Job Title Student

Address 750 A west St. Augustine Street

Phone 407-666-1627

Street

Tallahassee

FL

32304

City

State

Zip

Email Derek ~~PTN~~PTN@gmail.com

Speaking: For Against Information

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

Representing N/A

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/16
Meeting Date

SR1184
Bill Number (if applicable)

Topic Boycott Divestment + Sanctions Legislation

Amendment Barcode (if applicable)

Name Aaron Ellis

Job Title PhD student, School of Theatre, FSU

Address 450 W. Carolina St. #2
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing Students for Justice in Palestine, Jewish Voice for Peace

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7050

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Information Technology Security

DATE: January 15, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Peacock	McVaney		Go Submitted as Committee Bill
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____

I. Summary:

SPB 7050 revises duties of the Agency for State Technology (AST) and requires AST to develop guidelines and policies for state agencies regarding information technology and cybersecurity.

Subject to an annual appropriation, state agencies are required to:

- Conduct risk assessments administered by a third party,
- Establish computer security incident response teams and procedures to respond to suspected technology security incidents, and
- Provide cyber security training to employees.

The AST's Technology Advisory Council is required to collaborate with the State Board of Education in adopting a unified state plan on STEM education and the Florida Center for Cybersecurity on various goals related to cybersecurity.

For Fiscal Year 2016-2017, the sums of \$650,000 in nonrecurring funds and \$50,000 in recurring funds from the General Revenue Fund is appropriated to the AST to conduct training exercises in coordination with the Florida National Guard. Also, the sum of \$12,000,000 from the General Revenue Fund is appropriated to the AST to implement this act for Fiscal Year 2016-2017.

The bill is effective July 1, 2016.

II. Present Situation:

Agency for State Technology

AST was created on July 1, 2014.¹ The executive director of AST is appointed by the Governor and confirmed by the Senate. The duties and responsibilities of AST include:²

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards.
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects.
- Performing project oversight on all state IT projects with total costs of \$10 million or more.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions and operations.
- Establishing best practices for procurement of IT products in collaboration with DMS.
- Participating with DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with DMS in IT resource acquisition planning.
- Developing standards for IT reports and updates.
- Upon request, assisting state agencies in development of IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine compliance with IT standards and guidelines developed by AST.
- Providing operational management and oversight of the state data center.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.
- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- In consultation with state agencies, proposing methodology for identifying and collecting current and planned IT expenditure data at the state agency level.
- Performing project oversight on any cabinet agency IT project that has a total project cost of \$25 million or more and impacts one or more other agencies.
- Consulting with departments regarding risks and other effects for IT projects implemented by an agency that must be connected to or accommodated by an IT system administered by a cabinet agency.
- Reporting annually to the Governor, the President of the Senate and the Speaker of the House regarding state IT standards or policies that conflict with federal regulations or requirements.

Technology Advisory Council

The Technology Advisory Council,³ consisting of seven members, is established within the AST: four members of the council are appointed by the Governor, two members must be from the

¹ Chapter 2014-221, Laws of Florida.

² Section 282.0051, F.S.

³ Section 20.61(3), F.S.

private sector. The President of the Senate and the Speaker of the House of Representatives each appoint one member of the council. The Attorney General, the Commissioner of Agriculture and Consumer Services, and the Chief Financial Officer jointly appoint one member by agreement of a majority of these officers.

The Technology Advisory Council considers and makes recommendations to the Executive Director on such matters as enterprise information technology policies, standards, services, and architecture.⁴ The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.⁵ The Executive Director consults with the council with regard to executing the duties and responsibilities of the agency related to statewide information technology strategic planning and policy.⁶

Cybercrime Office of the Department of Law Enforcement

The Cybercrime Office of the Department of Law Enforcement (FDLE) was established in 2011 when the functions and personnel of the Department of Legal Affairs Cybercrime Office was transferred to FDLE.⁷ A cybercrime office has existed within FDLE since 1998.⁸

Some of the Cybercrime Office duties include:

- Monitoring state information technology resources and providing analysis on information technology security incidents, threats, and breaches;
- Investigating violations of state law pertaining to information technology security incidents and assisting in incident response and recovery;
- Providing security awareness training and information to state agency employees concerning cybersecurity, online sexual exploitation of children, and security risks, and the responsibility of employees to comply with policies, standards, guidelines, and operating procedures adopted by the AST; and
- Consulting with the AST in the adoption of rules relating to the information technology security provisions.⁹

Unified State Plan for Science, Technology, Engineering, and Mathematics

Section 1001.03(17), F.S., requires the State Board of Education, in consultation with the Board of Governors and the Department of Economic Opportunity, to adopt a unified state plan to improve K-20 Science, Technology, Engineering, and Mathematics (STEM) education and prepare students for high-skill, high-wage, and high-demand employment in STEM and STEM-related fields.

⁴ Section 20.61(3)(a), F.S.

⁵ *Id.*

⁶ Section 20.61(3)(b), F.S.

⁷ Chapter 2011-132, Laws of Florida.

⁸ Analysis for HB 5401 by the House Appropriations Committee (July 6, 2011)(copy on file with the Governmental Oversight and Accountability Committee). .

⁹ Section 943.0415, F.S.

Florida Center for Cybersecurity

The Florida Center for Cybersecurity was established in 2013 when the Legislature required the Board of Governors to submit a report to the Legislature and the Governor that provided a plan for the creation of a Florida Center for Cybersecurity to be located at the University of South Florida.¹⁰

The goals of the Florida Center for Cybersecurity are to:

- Position Florida as the national leader in cybersecurity and its related workforce through education, research, and community engagement;
- Assist in the creation of jobs in the state's cybersecurity industry and enhance the existing cybersecurity workforce;
- Act as a cooperative facilitator for state business and higher education communities to share cybersecurity knowledge, resources, and training;
- Seek out partnerships with major military installations to assist, when possible, in homeland cybersecurity defense initiatives; and
- Attract cybersecurity companies to the state with an emphasis on defense, finance, health care, transportation, and utility sectors.¹¹

III. Effect of Proposed Changes:

Section 1 amends s. 20.61, F.S., to revise the membership of the Technology Advisory Council to include a cybersecurity expert and to require the Technology Advisory Council, in coordination with the Florida Center for Cybersecurity, to identify and recommend STEM training opportunities for establishing cutting-edge educational and training programs for students consistent with the unified state STEM plan, to increase the cybersecurity workforce in the state, and to prepare cybersecurity professionals to possess a wide range of expertise.

Section 2 amends s. 282.318, F.S., to require the AST to establish standards and processes consistent with best practices for both information technology security and cybersecurity and to adopt rules that mitigate risks.

This section requires the AST to develop and publish guidelines and processes in its information technology security framework provided to state agencies for:

- Completing risk assessments administered by a third party and submitting completed assessments to the AST;
- Establishing a computer security incident response team to respond to suspected information technology security incidents and the timeframe for convening team to determine appropriate response;
- Establishing an information technology security incident report process, to include a procedure for notification of the AST and Cybercrime Office of the Department of Law Enforcement. Such notification procedure must provide for a tiered reporting framework with incidents of critical impact reported upon discovery, incidents of high impact reported within

¹⁰ Chapter 2013-41, Laws of Florida. *Also, see* s. 1004.444, F.S.

¹¹ Section 1004.444(2), F.S.

four hours of discovery, and incidents of low impact reported within five business days of discovery;

- Incorporating lessons learned through detection and response activities into agency response plans to continuously improve organizational response activities; and
- Providing all state agency employees with information technology security and cybersecurity awareness education and training within 30 days after commencing employment.

Also, in collaboration with the Cybercrime Office of the Department of Law Enforcement, the AST's training requirements are revised to require training, at least annual, on cybersecurity threats, trends, and best practices for state agency information security managers and computer security incident response team members.

Additionally, this section requires the AST, in collaboration with relevant partners, and the Florida Center for Cybersecurity, to develop and establish a cutting-edge internship or work-study program in STEM to produce a more cybersecurity skilled state workforce.

This section further requires that each state agency's information security manager establish a computer security incident response team to respond to suspected computer security incidents. The computer security incident response team members must convene as soon as practicable upon notice of a suspected security incident and determine an appropriate response. The response would include taking action to prevent the expansion or recurrence of an incident, mitigating the effects of an incident, and eradicating an incident. The newly identified risks must be mitigated or documented as an accepted risk by computer security incident response team members.

The bill requires state agencies to:

- Conduct a risk assessment, subject to an annual legislative appropriation, by July 31, 2017, that is administered by a third party consistent with guidelines and processes prescribed by the AST. Additional risk assessments must be completed periodically;
- Develop and update written internal policies and procedures for reporting information technology security incidents and breaches to the Cybercrime Office of the Department of Law Enforcement and the AST to include notification procedures and reporting timeframes for information technology security incidents and breaches;
- Provide information technology security and cybersecurity awareness training to all state agency employees in the first 30 days after commencing employment for attainment of an appropriate level of cyber literacy. State agencies must ensure that privileged users, third-party stakeholders, senior executives, and physical and information security personnel understand their roles and responsibilities;
- Provide training, in collaboration with the Cybercrime Office of the Department of Law Enforcement, at least annually on cybersecurity threats, trends, and best practices to computer security incident response team members;
- Develop notification procedures for reporting information technology security incidents; and
- Improve organizational response activities by incorporating lessons learned from current and previous detection and response activities into response plans.

Section 3 amends s. 1001.03, F.S., to include the Technology Advisory Council as one of the entities that consults with the State Board of Education in the adoption of a unified state plan to

improve K-20 STEM education and prepare students for employment in STEM and STEM-related fields.

Section 4 amends s. 1004.444, F.S., to require the Florida Center for Cybersecurity to coordinate with the Technology Advisory Council in pursuit of certain goals.

Section 5 appropriates for Fiscal Year 2016-2017, the sums of \$650,000 in nonrecurring funds and \$50,000 in recurring funds from the General Revenue Fund to the AST to conduct training exercises in coordination with the Florida National Guard.

Section 6 appropriates for Fiscal Year 2016-2017, the sum of \$12,000,000 from the General Revenue Fund to the AST to implement this act.

Section 7 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Firms providing third party risk assessments to state agencies will see an increase in revenues.

C. Government Sector Impact:

The bill appropriates the following amounts for FY 2016-17:

- \$650,000 nor-recurring from the General Revenue Fund to the AST to conduct training exercises with the Florida National Guard;
- \$50,000 recurring from the General Revenue Fund to the AST to conduct training exercises with the Florida National Guard;

- \$12 million from the General Revenue Fund to the AST to implement the provisions of this bill (presumably the risk assessments conducted for the state agencies).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 20.61, 282.318, 1001.03, and 1004.444 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

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1 A bill to be entitled
 2 An act relating to information technology security;
 3 amending s. 20.61, F.S.; revising the membership of
 4 the Technology Advisory Council to include a
 5 cybersecurity expert; requiring the council, in
 6 coordination with the Florida Center for
 7 Cybersecurity, to identify and recommend STEM training
 8 opportunities; amending s. 282.318, F.S.; revising
 9 duties of the Agency for State Technology; providing
 10 for administration of a third-party risk assessment;
 11 providing for the establishment of computer security
 12 incident response teams within state agencies;
 13 establishing procedures for reporting information
 14 technology security incidents; providing for
 15 continuously updated agency incident response plans;
 16 providing for information technology security and
 17 cybersecurity awareness training; providing for the
 18 establishment of a collaborative STEM program for
 19 cybersecurity workforce development; establishing
 20 computer security incident response team
 21 responsibilities; requiring each state agency head to
 22 conduct a third-party administered risk assessment;
 23 establishing notification procedures and reporting
 24 timelines for an information technology security
 25 incident or breach; amending s. 1001.03, F.S.;
 26 revising entities directed to adopt a unified state
 27 plan for K-20 STEM education to include the Technology
 28 Advisory Council; amending s. 1004.444, F.S.;
 29 requiring the Florida Center for Cybersecurity to
 30 coordinate with the Technology Advisory Council;
 31 providing appropriations; providing an effective date.

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32
 33 Be It Enacted by the Legislature of the State of Florida:
 34

35 Section 1. Subsection (3) of section 20.61, Florida
 36 Statutes, is amended to read:

37 20.61 Agency for State Technology.—The Agency for State
 38 Technology is created within the Department of Management
 39 Services. The agency is a separate budget program and is not
 40 subject to control, supervision, or direction by the Department
 41 of Management Services, including, but not limited to,
 42 purchasing, transactions involving real or personal property,
 43 personnel, or budgetary matters.

44 (3) The Technology Advisory Council, consisting of seven
 45 members, is established within the Agency for State Technology
 46 and shall be maintained pursuant to s. 20.052. Four members ~~of~~
 47 ~~the council~~ shall be appointed by the Governor, two of whom must
 48 be from the private sector and one of whom must be a
 49 cybersecurity expert. The President of the Senate and the
 50 Speaker of the House of Representatives shall each appoint one
 51 member ~~of the council~~. The Attorney General, the Commissioner of
 52 Agriculture ~~and Consumer Services~~, and the Chief Financial
 53 Officer shall jointly appoint one member by agreement of a
 54 majority of these officers. Upon initial establishment of the
 55 council, two of the Governor's appointments shall be for 2-year
 56 terms. Thereafter, all appointments shall be for 4-year terms.

57 (a) The council shall consider and make recommendations to
 58 the executive director on such matters as enterprise information
 59 technology policies, standards, services, and architecture. The
 60 council may also identify and recommend opportunities for the

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61 establishment of public-private partnerships when considering
62 technology infrastructure and services in order to accelerate
63 project delivery and provide a source of new or increased
64 project funding.

65 (b) The executive director shall consult with the council
66 with regard to executing the duties and responsibilities of the
67 agency related to statewide information technology strategic
68 planning and policy.

69 (c) The council shall coordinate with the Florida Center
70 for Cybersecurity to identify and recommend opportunities for
71 establishing cutting-edge educational and training programs in
72 science, technology, engineering, and mathematics (STEM) for
73 students, consistent with the unified state plan adopted
74 pursuant to s. 1001.03(17); increasing the cybersecurity
75 workforce in the state; and preparing cybersecurity
76 professionals to possess a wide range of expertise.

77 (d) (e) The council shall be governed by the Code of Ethics
78 for Public Officers and Employees as set forth in part III of
79 chapter 112, and each member must file a statement of financial
80 interests pursuant to s. 112.3145.

81 Section 2. Section 282.318, Florida Statutes, is amended to
82 read:

83 282.318 Security of data and information technology.—

84 (1) This section may be cited as the "Information
85 Technology Security Act."

86 (2) As used in this section, the term "state agency" has
87 the same meaning as provided in s. 282.0041, except that the
88 term includes the Department of Legal Affairs, the Department of
89 Agriculture and Consumer Services, and the Department of

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90 Financial Services.

91 (3) The Agency for State Technology is responsible for
92 establishing standards and processes consistent with generally
93 accepted best practices for information technology security and
94 cybersecurity and adopting rules that safeguard an agency's
95 data, information, and information technology resources to
96 ensure availability, confidentiality, and integrity and to
97 mitigate risks. The agency shall also:

98 (a) Develop, and annually update by February 1, a statewide
99 information technology security strategic plan that includes
100 security goals and objectives for the strategic issues of
101 information technology security policy, risk management,
102 training, incident management, and disaster recovery planning.

103 (b) Develop and publish for use by state agencies an
104 information technology security framework that, at a minimum,
105 includes guidelines and processes for:

106 1. Establishing asset management procedures to ensure that
107 an agency's information technology resources are identified and
108 managed consistent with their relative importance to the
109 agency's business objectives.

110 2. Using a standard risk assessment methodology that
111 includes the identification of an agency's priorities,
112 constraints, risk tolerances, and assumptions necessary to
113 support operational risk decisions.

114 3. Completing comprehensive risk assessments and
115 information technology security audits and submitting completed
116 assessments and audits to the Agency for State Technology.

117 4. Completing risk assessments administered by a third
118 party and submitting completed assessments to the Agency for

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119 State Technology.

120 ~~5.4-~~ Identifying protection procedures to manage the
121 protection of an agency's information, data, and information
122 technology resources.

123 ~~6.5-~~ Establishing procedures for accessing information and
124 data to ensure the confidentiality, integrity, and availability
125 of such information and data.

126 ~~7.6-~~ Detecting threats through proactive monitoring of
127 events, continuous security monitoring, and defined detection
128 processes.

129 ~~8.7-~~ Establishing a computer security incident response
130 team to respond to suspected ~~Responding to~~ information
131 technology security incidents, including breaches of personal
132 information containing confidential or exempt data. An agency's
133 computer security incident response team must convene as soon as
134 practicable upon notice of a suspected security incident and
135 shall determine the appropriate response.

136 ~~9.8-~~ Recovering information and data in response to an
137 information technology security incident. The recovery may
138 include recommended improvements to the agency processes,
139 policies, or guidelines.

140 10. Establishing an information technology security
141 incident reporting process, which must include a procedure for
142 notification of the Agency for State Technology and the
143 Cybercrime Office of the Department of Law Enforcement. The
144 notification procedure must provide for tiered reporting
145 timeframes, with incidents of critical impact reported
146 immediately upon discovery, incidents of high impact reported
147 within 4 hours of discovery, and incidents of low impact

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148 reported within 5 business days of discovery.

149 11. Incorporating lessons learned through detection and
150 response activities into agency incident response plans to
151 continuously improve organizational response activities.

152 ~~12.9-~~ Developing agency strategic and operational
153 information technology security plans required pursuant to this
154 section.

155 ~~13.10-~~ Establishing the managerial, operational, and
156 technical safeguards for protecting state government data and
157 information technology resources that align with the state
158 agency risk management strategy and that protect the
159 confidentiality, integrity, and availability of information and
160 data.

161 14. Providing all agency employees with information
162 technology security and cybersecurity awareness education and
163 training within 30 days after commencing employment.

164 (c) Assist state agencies in complying with this section.

165 (d) In collaboration with the Cybercrime Office of the
166 Department of Law Enforcement, provide training that must
167 include training on cybersecurity threats, trends, and best
168 practices for state agency information security managers and
169 computer security incident response team members at least
170 annually.

171 (e) Annually review the strategic and operational
172 information technology security plans of executive branch
173 agencies.

174 (f) Develop and establish a cutting-edge internship or
175 work-study program in science, technology, engineering, and
176 mathematics (STEM), which will produce a more skilled

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177 cybersecurity workforce in the state. The program must be a
 178 collaborative effort involving negotiations between the Agency
 179 for State Technology, relevant Agency for State Technology
 180 partners, and the Florida Center for Cybersecurity.

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

182 (a) Designate an information security manager to administer
 183 the information technology security program of the state agency.
 184 This designation must be provided annually in writing to the
 185 Agency for State Technology by January 1. A state agency's
 186 information security manager, for purposes of these information
 187 security duties, shall report directly to the agency head.

188 1. The information security manager shall establish a
 189 computer security incident response team to respond to a
 190 suspected computer security incident.

191 2. Computer security incident response team members shall
 192 convene as soon as practicable upon notice of a suspected
 193 security incident.

194 3. Computer security incident response team members shall
 195 determine the appropriate response for a suspected computer
 196 security incident. An appropriate response includes taking
 197 action to prevent expansion or recurrence of an incident,
 198 mitigating the effects of an incident, and eradicating an
 199 incident. Newly identified risks must be mitigated or documented
 200 as an accepted risk by computer security incident response team
 201 members.

202 (b) Submit to the Agency for State Technology annually by
 203 July 31, the state agency's strategic and operational
 204 information technology security plans developed pursuant to
 205 rules and guidelines established by the Agency for State

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206 Technology.

207 1. The state agency strategic information technology
 208 security plan must cover a 3-year period and, at a minimum,
 209 define security goals, intermediate objectives, and projected
 210 agency costs for the strategic issues of agency information
 211 security policy, risk management, security training, security
 212 incident response, and disaster recovery. The plan must be based
 213 on the statewide information technology security strategic plan
 214 created by the Agency for State Technology and include
 215 performance metrics that can be objectively measured to reflect
 216 the status of the state agency's progress in meeting security
 217 goals and objectives identified in the agency's strategic
 218 information security plan.

219 2. The state agency operational information technology
 220 security plan must include a progress report that objectively
 221 measures progress made towards the prior operational information
 222 technology security plan and a project plan that includes
 223 activities, timelines, and deliverables for security objectives
 224 that the state agency will implement during the current fiscal
 225 year.

226 (c) Conduct, and update every 3 years, a comprehensive risk
 227 assessment to determine the security threats to the data,
 228 information, and information technology resources of the agency.
 229 The risk assessment must comply with the risk assessment
 230 methodology developed by the Agency for State Technology and is
 231 confidential and exempt from s. 119.07(1), except that such
 232 information shall be available to the Auditor General, the
 233 Agency for State Technology, the Cybercrime Office of the
 234 Department of Law Enforcement, and, for state agencies under the

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235 jurisdiction of the Governor, the Chief Inspector General.

236 (d) Subject to annual legislative appropriation, conduct a
 237 risk assessment that must be administered by a third party
 238 consistent with the guidelines and processes prescribed by the
 239 Agency for State Technology. An initial risk assessment must be
 240 completed by July 31, 2017. Additional risk assessments shall be
 241 completed periodically consistent with the guidelines and
 242 processes prescribed by the Agency for State Technology.

243 (e)-(d) Develop, and periodically update, written internal
 244 policies and procedures, which include procedures for reporting
 245 information technology security incidents and breaches to the
 246 Cybercrime Office of the Department of Law Enforcement and the
 247 Agency for State Technology. Procedures for reporting
 248 information technology security incidents and breaches must
 249 include notification procedures and reporting timeframes. Such
 250 policies and procedures must be consistent with the rules,
 251 guidelines, and processes established by the Agency for State
 252 Technology to ensure the security of the data, information, and
 253 information technology resources of the agency. The internal
 254 policies and procedures that, if disclosed, could facilitate the
 255 unauthorized modification, disclosure, or destruction of data or
 256 information technology resources are confidential information
 257 and exempt from s. 119.07(1), except that such information shall
 258 be available to the Auditor General, the Cybercrime Office of
 259 the Department of Law Enforcement, the Agency for State
 260 Technology, and, for state agencies under the jurisdiction of
 261 the Governor, the Chief Inspector General.

262 (f)-(e) Implement managerial, operational, and technical
 263 safeguards established by the Agency for State Technology to

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264 address identified risks to the data, information, and
 265 information technology resources of the agency.

266 (g)-(f) Ensure that periodic internal audits and evaluations
 267 of the agency's information technology security program for the
 268 data, information, and information technology resources of the
 269 agency are conducted. The results of such audits and evaluations
 270 are confidential information and exempt from s. 119.07(1),
 271 except that such information shall be available to the Auditor
 272 General, the Cybercrime Office of the Department of Law
 273 Enforcement, the Agency for State Technology, and, for agencies
 274 under the jurisdiction of the Governor, the Chief Inspector
 275 General.

276 (h)-(g) Include appropriate information technology security
 277 requirements in the written specifications for the solicitation
 278 of information technology and information technology resources
 279 and services, which are consistent with the rules and guidelines
 280 established by the Agency for State Technology in collaboration
 281 with the Department of Management Services.

282 (i)-(h) Provide information technology security and
 283 cybersecurity awareness training to all state agency employees
 284 in the first 30 days after commencing employment concerning
 285 information technology security risks and the responsibility of
 286 employees to comply with policies, standards, guidelines, and
 287 operating procedures adopted by the state agency to attain an
 288 appropriate level of cyber literacy and reduce those risks. The
 289 training may be provided in collaboration with the Cybercrime
 290 Office of the Department of Law Enforcement. Agencies shall
 291 ensure that privileged users, third-party stakeholders, senior
 292 executives, and physical and information security personnel

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293 understand their roles and responsibilities.

294 (j) In collaboration with the Cybercrime Office of the
 295 Department of Law Enforcement, provide training on cybersecurity
 296 threats, trends, and best practices to computer security
 297 incident response team members at least annually.

298 (k)(i) Develop a process for detecting, reporting, and
 299 responding to threats, breaches, or information technology
 300 security incidents that are consistent with the security rules,
 301 guidelines, and processes established by the Agency for State
 302 Technology.

303 1. All information technology security incidents and
 304 breaches must be reported to the Agency for State Technology.
 305 Procedures for reporting information technology security
 306 incidents and breaches must include notification procedures.

307 2. For information technology security breaches, state
 308 agencies shall provide notice in accordance with s. 501.171.

309 (1) Improve organizational response activities by
 310 incorporating lessons learned from current and previous
 311 detection and response activities into response plans.

312 (5) The Agency for State Technology shall adopt rules
 313 relating to information technology security and to administer
 314 this section.

315 Section 3. Subsection (17) of section 1001.03, Florida
 316 Statutes, is amended to read:

317 1001.03 Specific powers of State Board of Education.—

318 (17) UNIFIED STATE PLAN FOR SCIENCE, TECHNOLOGY,
 319 ENGINEERING, AND MATHEMATICS (STEM).—The State Board of
 320 Education, in consultation with the Board of Governors, the
 321 Technology Advisory Council, and the Department of Economic

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322 Opportunity, shall adopt a unified state plan to improve K-20
 323 STEM education and prepare students for high-skill, high-wage,
 324 and high-demand employment in STEM and STEM-related fields.

325 Section 4. Section 1004.444, Florida Statutes, is amended
 326 to read:

327 1004.444 Florida Center for Cybersecurity.—

328 (1) The Florida Center for Cybersecurity is established
 329 within the University of South Florida.

330 (2) The goals of the center are to:

331 (a) Position Florida as the national leader in
 332 cybersecurity and its related workforce through education,
 333 research, and community engagement. The center shall coordinate
 334 with the Technology Advisory Council in pursuit of this goal.

335 (b) Assist in the creation of jobs in the state's
 336 cybersecurity industry and enhance the existing cybersecurity
 337 workforce. The center shall coordinate with the Technology
 338 Advisory Council in pursuit of this goal.

339 (c) Act as a cooperative facilitator for state business and
 340 higher education communities to share cybersecurity knowledge,
 341 resources, and training. The center shall coordinate with the
 342 Technology Advisory Council in pursuit of this goal.

343 (d) Seek out partnerships with major military installations
 344 to assist, when possible, in homeland cybersecurity defense
 345 initiatives.

346 (e) Attract cybersecurity companies to the state with an
 347 emphasis on defense, finance, health care, transportation, and
 348 utility sectors.

349 Section 5. For the 2016-2017 fiscal year, the sums of
 350 \$650,000 in nonrecurring funds and \$50,000 in recurring funds

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351 are appropriated from the General Revenue Fund to the Agency for
352 State Technology to conduct training exercises in coordination
353 with the Florida National Guard.

354 Section 6. For the 2016-2017 fiscal year, the sum of \$12
355 million is appropriated from the General Revenue Fund to the
356 Agency for State Technology for the purpose of implementing this
357 act.

358 Section 7. This act shall take effect July 1, 2016.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7052

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Government Efficiency

DATE: January 15, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	McVaney	McVaney		GO Submitted as Committee Bill
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____

I. Summary:

The bill requires the Governor to submit recommendations relating to improving governmental operations and reducing costs. The recommendations must be submitted within 14 days of the submission of the Governor’s budget recommendations to the Legislature. The bill lists various sources that the Governor may consider in developing the recommendations.

For each recommendation identified by the Governor and implemented by a state agency, the agency must report on the status of its implementation and any demonstrated cost impacts. The reports must be submitted on a quarterly basis for the first two years after implementation.

II. Present Situation:

Section 216.151, F.S., sets out some of the duties of the Executive Office of the Governor. The duty most pertinent to this discussion is the duty to make a detailed study of each state agency to determine:

- The needs of the agency;
- Whether changes should be made in existing organizations, their activities and methods of operation;
- What appropriation should be made for the agency; and
- Whether the operations and activities of different agencies or within the same agency should be combined, consolidated, or integrated or should be regrouped and rearranged;

These tasks are undertaken “to the end of securing greater economy without sacrificing efficiency in the operations of the agencies.”¹

¹ Section 216.151(1), F.S.

Generally, the Governor is required to submit recommendations for a balanced budget to the Legislature at least 30 days prior to the start of the legislative Regular Session.² These recommendations must be based upon the “Governor’s own conclusions and judgment.”³ These recommendations include the Governor’s recommended budget for operating each state agency and the judicial branch.

In addition to the Governor’s budget recommendations, the Governor must submit:

- An appropriations bill;⁴
- An economic impact statement relating to the revenues necessary to fund the budget recommendations;⁵
- Appropriate staff analyses or support materials used to develop the budget and revenue recommendations;⁶
- Any additional legislation in bill form which will be needed to fully implement the budget and revenue recommendations;⁷
- Estimates of the debt service and reserve requirements for any recommended new bond issues and recommended debt service requirements for all outstanding fixed capital outlay bond issues;⁸ and
- A “truth in budgeting” statement which displays in summary form all currently estimated fees, taxes, revenues, or other income which need to be raised to fund the budget recommendations and its annualized costs.⁹

III. Effect of Proposed Changes:

The bill requires the Governor to submit recommendations relating to improving governmental operations and reducing costs. The recommendations must be submitted within 14 days of the submission of the Governor’s budget recommendations to the Legislature. The bill lists various sources of information that the Governor may consider in developing the recommendations.

For each recommendation identified by the Governor and implemented by a state agency, the agency must report on the status of its implementation and any demonstrated cost impacts. The reports must be submitted on a quarterly basis for the first two years after implementation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

² Section 216.162(1), F.S.

³ Id.

⁴ Section 216.164(1)(a), F.S.

⁵ Section 216.166(1)(a), F.S.

⁶ Sections 216.164(1)(a) and 216.166(1)(a), F.S.

⁷ Sections 216.164(1)(b) and 216.166(1)(b), F.S.

⁸ Section 216.167(5)(b), F.S.

⁹ Section 216.176, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

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 creates section 216.169 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-02098-16

20167052pb

A bill to be entitled

An act relating to government efficiency; creating s. 216.169, F.S.; requiring the Governor to develop government efficiency recommendations on an annual basis; requiring submission of recommendations to the Legislature; authorizing the Governor to consider certain materials in developing recommendations; requiring state agencies to report quarterly regarding implemented recommendations and any cost impacts for a specified period of time; providing an effective date.

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

Section 1. Section 216.169, Florida Statutes, is created to read:

216.169 Governor's annual government efficiency recommendations.-

(1) In addition to the recommended budget submitted pursuant to s. 216.162, the Governor shall develop specific recommendations for improving governmental operations and reducing costs. Each recommendation must identify the state agency impacted, the estimated impact on state expenditures and revenues, and any statutory changes necessary to implement the recommendation. The recommendations must be submitted to each senator and representative no later than 14 days after the Governor submits his or her recommended budget to the Legislature.

(2) In developing the recommendations, the Governor may consider reports and recommendations issued by the Auditor General, the Office of Program Policy Analysis and Government Accountability, the Government Efficiency Task Force, and agency

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

585-02098-16

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inspectors general; written government efficiency recommendations provided by state agencies; and recommendations submitted to the Executive Office of the Governor by the general public.

(3) For each recommendation identified by the Governor and implemented by a state agency, the state agency shall, for a 2-year period, submit a quarterly report on the status of its implementation and any demonstrated cost impacts. The reports shall be submitted to the legislative appropriations committees and the Legislative Budget Commission no later than 30 days after the close of the fiscal quarter.

Section 2. This act shall take effect July 1, 2016.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

7052
Bill Number (if applicable)

Meeting Date

Topic Government Efficiency

Amendment Barcode (if applicable)

Name Bob Nave

Job Title Vice President of Research - Florida Tax Watch

Address 106 N. Bronough St

Phone 850.222.5052

Street
Tallahassee FL 32301
City State Zip

Email bnave@florida tax watch.
org

Speaking: For Against Information

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

Representing Florida Tax Watch

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 Governmental Oversight and Accountability

BILL: CS/SB 582

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Gaetz

SUBJECT: Public Corruption

DATE: January 20, 2016

REVISED: 01/08/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Fav/CS
2.			CJ	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 582 amends the laws relating to public corruption. Specifically, the bill:

- Defines “governmental entity” as an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law.
- Defines “public contractor” as any person who has entered into a contract with a governmental entity or any officer or employee of a person who has entered into a contract with a governmental entity.
- Changes the mens rea element for certain public corruption crimes from “corruptly” to “knowingly and intentionally.”
- Expands the application of the official misconduct law in s. 838.022, F.S., to public contractors.
- Expands the application of the bid tampering law in s. 838.22, F.S., to public contractors who contract to assist a governmental entity in a competitive procurement.

The bill has an effective date of October 1, 2016.

II. Present Situation:

Nineteenth Statewide Grand Jury

A statewide grand jury¹ was impaneled in February 2010 upon the petition of Governor Charlie Crist to the Supreme Court of Florida. In the Petition for Order to Impanel a Statewide Grand Jury, Governor Crist requested that the following should be addressed:²

- Examine criminal activity of public officials who have abused their powers via their public office;
- Consider whether Florida’s prosecutors have sufficient resources to effectively combat corruption;
- Address the effectiveness of Florida’s current statutes in fighting public corruption;
- Identify any deficiencies in current laws, punishments or enforcement efforts and make detailed recommendations to improve our anti-corruption initiatives;
- Investigate crimes, return indictments, and make presentations; and
- Examine public policy issues regarding public corruption and develop specific recommendations regarding improving current laws.

The Nineteenth Statewide Grand Jury issued its First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions on December 17, 2010. In its report, the Nineteenth Statewide Grand Jury made several recommendations to the Legislature, including revisions to ch. 838, F.S., regarding the definitions of the terms “public servant” and “corruptly” and “corrupt intent,” and the offenses of bribery, unlawful compensation or reward for official behavior, official misconduct, and bid tampering.

Color of Law

Florida law does not enhance criminal classifications or felony sentencing penalties for criminal acts committed “under color of law” where the enhancements for wrongful conduct are based on public authority or position or the assertion of such that does not form an element of the underlying crime. The Nineteenth Statewide Grand Jury also recommended that the legislature consider reclassification of such offenses.³

Doctrine of Mens Rea and Scienter

The term “mens rea” is defined as “a guilty mind; a guilty or wrongful purpose; a criminal intent.”⁴ Black’s Law Dictionary notes that the term scienter is defined as “knowingly” and frequently used to signify the defendant’s guilty knowledge.⁵ The general rule is that scienter or mens rea is a necessary element in the indictment for every crime.⁶

¹ See ss. 905.31-905.40, F.S., known as the Statewide Grand Jury Act.

² Nineteenth Statewide Grand Jury First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions, December 17, 2010, Case No. SC 09-1910. Available online at: [http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/\\$file/19thSWGJInterimReport.pdf](http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/$file/19thSWGJInterimReport.pdf) (last visited on November 20, 2015).

³ *Id.*

⁴ BLACK’S LAW DICTIONARY 1137 (4th Rev. 1968).

⁵ *Id.* 1512.

⁶ *Chicone v. State*, 684 So.2d 736, 741 (Fla. 1996). Also, see *U.S. v. Balint*, 258 U.S. 250 (1922).

The Nineteenth Statewide Grand Jury found that the use of the word “corruptly” or “with corrupt intent” made prosecutions of offenses under ch. 838, F.S., more difficult and might require additional evidence, such as testimony from persons involved.⁷ The Nineteenth Statewide Grand Jury recommended that the additional element of “corruptly” or “with corrupt intent” be removed from the ch. 838, F.S., offenses of bribery, unlawful compensation, official misconduct, and bid tampering.⁸

Bribery; Misuse of Public Office: Chapter 838, F.S.

Chapter 838, F.S., pertains to bribery and other offenses concerning the misuse of public office.

Section 838.014(4), F.S., defines the term “corruptly” or “with corrupt intent” as acting knowingly and dishonestly for a wrongful purpose.

Section 838.014(6), F.S., defines the term “public servant” as:

- (a) Any officer or employee of a state, county, municipal, or special district agency or entity;
- (b) Any legislative or judicial officer or employee;
- (c) Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or
- (d) A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

Bribery

Section 838.015, F.S., relates to the offense of bribery.⁹ Any individual who violates this section is guilty of a felony of the second degree, which is punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, F.S.¹⁰

Chapter 838, F.S., also contains three other bribery offenses, including bribery in athletic contests,¹¹ commercial bribery receiving,¹² and commercial bribery.¹³ In *Roque v. State*, the Florida Supreme Court held that s. 838.15, F.S., the commercial bribe receiving law, was

⁷ See *supra* note 2, at 24.

⁸ *Id.*

⁹ Section 838.015(1), F.S., defines “bribery” as corruptly to give, offer, or promise to any public servant, or, if a public servant, corruptly to request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.

¹⁰ Section 838.015(3), F.S. Under sections 775.082 and 775.083, Florida Statutes, a second degree felony is punishable by a term of imprisonment not to exceed 15 years, and a maximum fine of \$10,000. Section 775.084, Florida Statutes, relates to habitual felony offenders. If a habitual felony offender is convicted of a second degree felony, such offender may be sentenced for a term not exceeding 30 years.

¹¹ Section 838.12, F.S.

¹² Section 838.15, F.S.

¹³ Section 838.16, F.S.

invalid.¹⁴ The Nineteenth Statewide Grand Jury Report opined that s. 838.16, F.S., commercial bribery, was probably unconstitutionally vague since s. 838.16, F.S., referred to s. 838.15, F.S.¹⁵

Unlawful Compensation or Reward for Official Behavior

Section 838.016, F.S., pertains to unlawful compensation or reward for official behavior. It is a second degree felony¹⁶ for any person corruptly to give, offer, or promise to any public servant any benefit not authorized by law; or for any public servant corruptly to request, solicit, accept or agree to accept any benefit not authorized by law:

- For the past, present, or future performance, nonperformance or violation of
- Any act or omission; or
- For the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission

which the person believes to have been or the public servant represents to have been either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.¹⁷

Official Misconduct

The offense of official misconduct contained in s. 838.022(1), F.S., provides that it “is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another to:

- (a) Falsify, or cause another person to falsify, any official record or official document;
- (b) Conceal, cover up, destroy, mutilate, or alter any official record or official document or cause another person to perform such an act; or
- (c) Obstruct, delay, or prevent the communication of information relating to the commission of a felony that directly involves or affects the public agency or public entity served by the public servant.

Any person who violates this section commits a felony of the third degree, which is punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, F.S.¹⁸

Bid Tampering

Section 838.22, F.S., provides that:

¹⁴ *Roque v. State*, 664 So.2d 928 (Fla. 1995). The Court further noted that s. 838.015, F.S., was impermissibly vague and subject to arbitrary application. *Id.* at 929.

¹⁵ *See supra* note 2, at 34.

¹⁶ Section 838.016(4), F.S. Any person who violates this section commits a second degree felony which is punishable as provided in ss. 775.082, 775.083, or s. 775.084, F.S. *See supra* note 10.

¹⁷ Section 838.016(1) and (2), F.S.

¹⁸ Section 838.022(3), F.S. Under sections 775.082 and 775.083, Florida Statutes, a third degree felony is punishable by a term of imprisonment not to exceed 5 years, and a maximum fine of \$5,000. Section 775.084, Florida Statutes, relates to habitual felony offenders. If a habitual felony offender is convicted of a third degree felony, such offender may be sentenced for a term not exceeding 10 years.

- (1) It is unlawful for a public servant, with corrupt intent to influence or attempt to influence the competitive bidding process undertaken by any state, county, municipal, or special district agency, or any other public entity, for the procurement of commodities or services, to:
- (a) Disclose material information concerning a bid or other aspects of the competitive bidding process when such information is not publicly disclosed.
 - (b) Alter or amend a submitted bid, documents or other materials supporting a submitted bid, or bid results for the purpose of intentionally providing a competitive advantage to any person who submits a bid.
- (2) It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause unlawful harm to another, to circumvent a competitive bidding process required by law or rule by using a sole-source contract for commodities or services.
- (3) It is unlawful for any person to knowingly agree, conspire, combine, or confederate, directly or indirectly, with a public servant to violate subsection (1) or subsection (2).
- (4) It is unlawful for any person to knowingly enter into a contract for commodities or services which was secured by a public servant acting in violation of subsection (1) or subsection (2).
- (5) Any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084¹⁹

Criminal Use of Personal Identification Information

Section 817.568(11), F.S., provides, in part, that any person who willfully and without authorization fraudulently uses personal identification concerning a public servant as defined in s. 838.014, F.S., without first obtaining the consent of that individual commits a felony of the second degree.

III. Effect of Proposed Changes:

Section 1 amends s. 838.014, F.S., to define the term “governmental entity” as an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law. The bill expands the definition of “governmental entity” to include other public entities, such as Citizens Property Insurance Corporation,²⁰ statutorily-created direct support organizations,²¹ and other statutorily-created public entities. The definition of “corruptly” or “with corrupt intent” is eliminated.

This section defines the term “public contractor,” for purposes of the offenses of official misconduct in s. 838.022, F.S., and bid tampering in s. 838.22, F.S., as any person, as defined by s. 1.01(3), F.S.,²² who has entered into a contract with a governmental entity or any officer or employee of a person, as defined in s. 1.01(3), F.S., who has entered into a contract with a governmental entity.

¹⁹ See *supra* note 3.

²⁰ Section 627.351(6), F.S. Citizens Property Insurance Corporation was created in 2002 as a not-for-profit insurer of last resort for home-owners who could not obtain insurance elsewhere.

²¹ A direct support organization is an organization incorporated under ch. 617, F.S., and approved by the Department of State as a Florida corporation not for profit that is approved by a state agency to operate for the benefit of a specific program, such as the Florida Historic Capitol Museum Council’s direct support organization. See s. 272.131(1)(e), F.S.

²² Section 1.01(3), F.S., provides that the term “person” includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

This section revises the definition of the term “public servant” to mean any officer or employee of a governmental entity including executive, legislative, or judicial branch officer or employee and a candidate for election or appointment to any of the officer positions listed in this subsection.

Section 2 amends s. 838.015(1), F.S., relating to bribery, to change the mens rea element of the crime from “corruptly” to “knowingly and intentionally.”

Section 3 amends s. 838.016, F.S., relating to unlawful compensation or reward for official behavior, to redefine the mens rea element of the offense from “corruptly” to “knowingly and intentionally.”

Section 4 amends s. 838.022, F.S., to subject public contractors to the same level of conduct as public servants. The mens rea element of the offense is changed from “with corrupt intent” to “knowingly and intentionally.” The law is clarified so that the harm caused to another must be an “unlawful” harm.” Concealing, covering up, destroying, mutilating, or altering an official record is criminalized unless such action is authorized by law or contract.

Section 5 amends s. 838.22, F.S., to expand the application of the bid tampering laws to public contractors who have contracted with a governmental entity to assist in a competitive procurement. These public contractors are treated similar to public servants for this law. The mens rea element of the offense is changed from “with corrupt intent” to “knowingly and intentionally” influence.

Sections 6 through 10 reenact ss. 112.534(2)(a), 117.01(4)(d), 817.568(11), 921.0022(3)(g), and 921.0022(3)(d), F.S., respectively, to incorporate by reference the revisions made in sections 1 through 5 of the bill.

Section 11 provides that the bill takes effect on October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Indeterminate. In response to request for proposals and solicitation of competitive bids for state services and construction projects, a vendor may increase its bid amounts to account for the potential legal expenses that may result from a violation of public corruption laws.

C. Government Sector Impact:

Indeterminate. To the extent the mens rea element of these crimes relating to misuse of public office has become easier to prove, more public servants may be convicted of such crimes.

Also, costs for services provided by public contractors may increase to the extent public contractors factor into their bids the risk of incurring legal expenses associated with being accused of violating public corruption laws.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 838.014, 838.015, 838.016, 838.022, and 838.22 of the Florida Statutes.

The bill makes technical changes to ss. 112.534(2)(a), 117.01(4)(d), 817.568(11), 921.0022(3)(g), and 921.0022(3)(d) of the Florida Statutes.

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

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

CS by Governmental Oversight and Accountability on January 19, 2016:

- Revises the definition of “governmental entity;”
- Creates a definition of “public contractor;”
- Deletes the provisions of the original bill regarding a nongovernmental entity acting on behalf of a governmental entity;

- Provides that public contractors are subject to the offenses of official misconduct and bid tampering in ss. 838.022 and 838.22, F.S.;
- Deletes the term “improper” in the offenses of official misconduct and bid tampering;
- Provides an exception, as authorized by law or contract, for concealing, covering up, destroying, mutilating, or altering any official record or document in the official misconduct offense; and
- Expands the offense of bid tampering to prohibit the disclosure of material information in the competitive solicitation process, including a vendor’s response and evaluation results, and provides an exception for disclosing such information when otherwise authorized by law.

B. Amendments:

None.



401016

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/19/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 838.014, Florida Statutes, is amended to
read:

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

(1) "Benefit" means gain or advantage, or anything regarded
by the person to be benefited as a gain or advantage, including
the doing of an act beneficial to any person in whose welfare he



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11 or she is interested, including any commission, gift, gratuity,
12 property, commercial interest, or any other thing of economic
13 value not authorized by law.

14 (2) "Bid" includes a response to an "invitation to bid,"
15 "invitation to negotiate," "request for a quote," or "request
16 for proposals" as those terms are defined in s. 287.012.

17 (3) "Commodity" means any goods, merchandise, wares,
18 produce, chose in action, land, article of commerce, or other
19 tangible or intangible property, real, personal, or mixed, for
20 use, consumption, production, enjoyment, or resale.

21 (4) "Governmental entity" means an agency or entity of the
22 state, a county, a municipality, or a special district or any
23 other public entity created or authorized by law ~~"Corruptly" or~~
24 ~~"with corrupt intent" means acting knowingly and dishonestly for~~
25 ~~a wrongful purpose.~~

26 (5) "Harm" means pecuniary or other loss, disadvantage, or
27 injury to the person affected.

28 (6) "Public contractor" means:

29 (a) Any person, as defined in s. 1.01, who has entered into
30 a contract with a governmental entity; or

31 (b) Any officer or employee of a person, as defined in s.
32 1.01, who has entered into a contract with a governmental
33 entity.

34 (7) "Public servant" means:

35 (a) Any officer or employee of a governmental state,
36 ~~county, municipal, or special district agency or entity,~~
37 including:

38 ~~(b) any~~ executive, legislative, or judicial branch officer
39 or employee;



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40 **(b)**~~(e)~~ Any person, except a witness, who acts as a general
41 or special magistrate, receiver, auditor, arbitrator, umpire,
42 referee, consultant, or hearing officer while performing a
43 governmental function; or

44 **(c)**~~(d)~~ A candidate for election or appointment to any of
45 the positions listed in this subsection, or an individual who
46 has been elected to, but has yet to officially assume the
47 responsibilities of, public office.

48 **(8)**~~(7)~~ "Service" means any kind of activity performed in
49 whole or in part for economic benefit.

50 Section 2. Section 838.015, Florida Statutes, is amended to
51 read:

52 838.015 Bribery.—

53 (1) For purposes of this section, "bribery" means:

54 **(a)** ~~corruptly~~ To knowingly and intentionally give, offer,
55 or promise any pecuniary or other benefit not authorized by law
56 to any public servant, which is intended to influence the
57 performance of any act or omission which the person believes to
58 be, or the public servant represents as being, either within the
59 official discretion of the public servant, in violation of a
60 public duty, or in performance of a public duty; or,

61 **(b)** If a public servant, ~~corruptly~~ to knowingly and
62 intentionally request, solicit, accept, or agree to accept for
63 himself or herself or another, ~~any~~ pecuniary or other benefit
64 not authorized by law which is given, offered, or promised with
65 an intent or a purpose to influence the performance of any act
66 or omission which the person believes to be, or the public
67 servant represents as being, either within the official
68 discretion of a public servant, in violation of a public duty,



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69 or in performance of a public duty; or

70 (c) If a public contractor, to knowingly and intentionally
71 request, solicit, accept, or agree to accept for himself or
72 herself or another any pecuniary or other benefit not authorized
73 by law which is given, offered, or promised with an intent or a
74 purpose to influence the performance of any act or omission
75 which the person believes to be, or the public contractor
76 represents as being, either within the official discretion of
77 the public contractor as granted by the contract with the
78 governmental entity, in violation of a duty required by the
79 contract with the governmental entity, or in performance of a
80 duty required by the contract with the governmental entity.

81 (2) Prosecution under this section does ~~shall~~ not require
82 any allegation or proof that the public servant or public
83 contractor who ultimately sought to be unlawfully influenced was
84 qualified to act in the desired way, that the public servant had
85 assumed office, that the matter was properly pending before him
86 or her or might by law properly be brought before him or her,
87 that the public servant or public contractor possessed
88 jurisdiction over the matter, or that his or her official action
89 was necessary to achieve the person's purpose.

90 (3) Any person who commits bribery commits a felony of the
91 second degree, punishable as provided in s. 775.082, s. 775.083,
92 or s. 775.084.

93 Section 3. Section 838.016, Florida Statutes, is amended to
94 read:

95 838.016 Unlawful compensation or reward for official
96 behavior.—

97 (1) It is unlawful for:



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98 (a) Any person ~~corruptly~~ to knowingly and intentionally
99 give, offer, or promise to any public servant, ~~or, if a public~~
100 servant, ~~corruptly to request, solicit, accept, or agree to~~
101 ~~accept,~~ any pecuniary or other benefit not authorized by law,
102 for the past, present, or future performance, nonperformance, or
103 violation of any act or omission which the person believes to
104 have been, or the public servant represents as having been,
105 either within the official discretion of the public servant, in
106 violation of a public duty, or in performance of a public duty.

107 (b) Any public servant to knowingly and intentionally
108 ~~request, solicit, accept, or agree to accept any pecuniary or~~
109 ~~other benefit not authorized by law for the past, present, or~~
110 ~~future performance, nonperformance, or violation of any act or~~
111 ~~omission which the person believes to have been, or the public~~
112 ~~servant represents as having been, either within the official~~
113 ~~discretion of the public servant, in violation of a public duty,~~
114 ~~or in performance of a public duty.~~

115 (c) Any public contractor to knowingly and intentionally
116 ~~request, solicit, accept, or agree to accept any pecuniary or~~
117 ~~other benefit not authorized by law for the past, present, or~~
118 ~~future performance, nonperformance, or violation of any act or~~
119 ~~omission which the person believes to have been, or the public~~
120 ~~contractor represents as having been, either within the official~~
121 ~~discretion of the public contractor as granted by the contract~~
122 ~~with the governmental entity, in violation of a duty required by~~
123 ~~the contract with the governmental entity, or in performance of~~
124 ~~a duty required by the contract with the governmental entity.~~

125
126 This subsection may not ~~Nothing herein shall~~ be construed to



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127 preclude a public servant or public contractor from accepting
128 rewards for services performed in apprehending any criminal.

129 (2) It is unlawful for:

130 (a) Any person ~~corruptly~~ to knowingly and intentionally
131 give, offer, or promise to any public servant, ~~or, if a public~~
132 ~~servant, corruptly to request, solicit, accept, or agree to~~
133 ~~accept,~~ any pecuniary or other benefit not authorized by law for
134 the past, present, or future exertion of any influence upon or
135 with any other public servant regarding any act or omission
136 which the person believes to have been, or which is represented
137 to him or her as having been, either within the official
138 discretion of the other public servant, in violation of a public
139 duty, or in performance of a public duty.

140 (b) Any public servant to request, solicit, accept, or
141 agree to accept any pecuniary or other benefit not authorized by
142 law for the past, present, or future exertion of any influence
143 upon or with any other public servant regarding any act or
144 omission which the person believes to have been, or which is
145 represented to him or her as having been, either within the
146 official discretion of the public servant, in violation of a
147 public duty, or in performance of a public duty.

148 (c) Any public contractor to request, solicit, accept, or
149 agree to accept any pecuniary or other benefit not authorized by
150 law for the past, present, or future exertion of any influence
151 upon or with any other public contractor regarding any act or
152 omission which the person believes to have been, or which is
153 represented to him or her as having been, either within the
154 official discretion of the public contractor as granted by the
155 contract with the governmental entity, in violation of a duty



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156 required by the contract with the governmental entity, or in
157 performance of a duty required by the contract with the
158 governmental entity.

159 (3) Prosecution under this section does ~~shall~~ not require
160 that the exercise of influence or official discretion, ~~or~~
161 violation of a public duty or performance of a public duty, or a
162 public contractor's violation of a duty required by a contract
163 with a governmental entity or performance of a duty required by
164 a contract with a governmental entity for which a pecuniary or
165 other benefit was given, offered, promised, requested, or
166 solicited was accomplished or was within the influence, official
167 discretion, ~~or~~ public duty, or contractual duty of the public
168 servant or public contractor whose action or omission was sought
169 to be rewarded or compensated.

170 (4) Whoever violates the provisions of this section commits
171 a felony of the second degree, punishable as provided in s.
172 775.082, s. 775.083, or s. 775.084.

173 Section 4. Section 838.022, Florida Statutes, is amended to
174 read:

175 838.022 Official misconduct.—

176 (1) It is unlawful for a public servant or a public
177 contractor, with corrupt intent to knowingly and intentionally
178 obtain a benefit for any person or to cause unlawful harm to
179 another, ~~by~~ to:

180 (a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to
181 falsify, any official record or official document;

182 (b) Concealing, covering up, destroying, mutilating, or
183 altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any
184 official record or official document except as authorized by law



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185 or contract or causing ~~cause~~ another person to perform such an
186 act; or

187 (c) Obstructing, delaying, or preventing ~~Obstruct, delay,~~
188 ~~or prevent~~ the communication of information relating to the
189 commission of a felony that directly involves or affects the
190 governmental public agency or public entity served by the public
191 servant or public contractor.

192 (2) For the purposes of this section:

193 (a) The term "public servant" does not include a candidate
194 who does not otherwise qualify as a public servant.

195 (b) An official record or official document includes only
196 public records.

197 (3) Any person who violates this section commits a felony
198 of the third degree, punishable as provided in s. 775.082, s.
199 775.083, or s. 775.084.

200 Section 5. Section 838.22, Florida Statutes, is amended to
201 read:

202 838.22 Unlawful influence of the competitive solicitation
203 process ~~Bid tampering.~~-

204 (1) It is unlawful for a public servant or a public
205 contractor who has contracted with a governmental entity to
206 assist in a competitive procurement, ~~with corrupt intent to~~
207 knowingly and intentionally influence or attempt to influence a
208 the competitive solicitation bidding process undertaken by any
209 governmental state, county, municipal, or special district
210 agency, or any other public entity, for the procurement of
211 commodities or services, by ~~to~~:

212 (a) Disclosing, except as authorized by law, Disclose
213 material information concerning a vendor's response, any



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214 evaluation results, bid or other aspects of the competitive
215 solicitation bidding process when such information is not
216 publicly disclosed.

217 (b) Altering or amending ~~Alter or amend~~ a submitted
218 response bid, documents or other materials supporting a
219 submitted response bid, or any evaluation bid results relating
220 to the competitive solicitation for the purpose of intentionally
221 providing a competitive advantage to any person who submits a
222 response bid.

223 (2) It is unlawful for a public servant or a public
224 contractor who has contracted with a governmental entity to
225 assist in a competitive procurement, with corrupt intent to
226 knowingly and intentionally obtain a benefit for any person or
227 to cause unlawful harm to another by circumventing, to
228 circumvent a competitive solicitation bidding process required
229 by law or rule through the use of ~~by using~~ a sole-source
230 contract for commodities or services.

231 (3) It is unlawful for any person to knowingly agree,
232 conspire, combine, or confederate, directly or indirectly, with
233 a public servant or a public contractor to violate subsection
234 (1) or subsection (2).

235 (4) It is unlawful for any person to knowingly enter into a
236 contract for commodities or services which was secured by a
237 public servant or a public contractor acting in violation of
238 subsection (1) or subsection (2).

239 (5) Any person who violates this section commits a felony
240 of the second degree, punishable as provided in s. 775.082, s.
241 775.083, or s. 775.084.

242 Section 6. Paragraph (g) of subsection (3) of section



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243 921.0022, Florida Statutes, is amended to read:
244 921.0022 Criminal Punishment Code; offense severity ranking
245 chart.—

246 (3) OFFENSE SEVERITY RANKING CHART
247 (g) LEVEL 7
248

Florida Statute	Felony Degree	Description
249 316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
250 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
251 316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
252 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.



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253	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
254	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
255	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
256	456.065 (2)	3rd	Practicing a health care profession without a license.
257	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
258	458.327 (1)	3rd	Practicing medicine without a license.
259	459.013 (1)	3rd	Practicing osteopathic medicine without a



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260			license.
	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
261			
	461.012 (1)	3rd	Practicing podiatric medicine without a license.
262			
	462.17	3rd	Practicing naturopathy without a license.
263			
	463.015 (1)	3rd	Practicing optometry without a license.
264			
	464.016 (1)	3rd	Practicing nursing without a license.
265			
	465.015 (2)	3rd	Practicing pharmacy without a license.
266			
	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
267			
	467.201	3rd	Practicing midwifery without a license.
268			



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269	468.366	3rd	Delivering respiratory care services without a license.
270	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
271	483.901 (9)	3rd	Practicing medical physics without a license.
272	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
273	484.053	3rd	Dispensing hearing aids without a license.
274	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less



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275	560.125 (5) (a)	3rd	than \$20,000 by a money services business.
276	655.50 (10) (b) 1.	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
277	775.21 (10) (a)	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
278	775.21 (10) (b)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
279	775.21 (10) (g)	3rd	Sexual predator working where children regularly congregate.
			Failure to report or providing false information about a sexual predator; harbor or



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280			conceal a sexual predator.
	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
281			
	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
282			
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
283			
	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
284			
	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.



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285	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
286	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
287	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
288	784.048 (7)	3rd	Aggravated stalking; violation of court order.
289	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
290	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
291	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
292	784.081 (1)	1st	Aggravated battery on specified official or employee.



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293	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
294	784.083 (1)	1st	Aggravated battery on code inspector.
295	787.06 (3) (a) 2.	1st	Human trafficking using coercion for labor and services of an adult.
296	787.06 (3) (e) 2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
297	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
298	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
299	790.165 (2)	2nd	Manufacture, sell,



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300

790.165 (3)

2nd

possess, or deliver hoax
bomb.

Possessing, displaying, or
threatening to use any
hoax bomb while committing
or attempting to commit a
felony.

301

790.166 (3)

2nd

Possessing, selling,
using, or attempting to
use a hoax weapon of mass
destruction.

302

790.166 (4)

2nd

Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or
attempting to commit a
felony.

303

790.23

1st, PBL

Possession of a firearm by
a person who qualifies for
the penalty enhancements
provided for in s. 874.04.

304

794.08 (4)

3rd

Female genital mutilation;
consent by a parent,
guardian, or a person in



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custodial authority to a
victim younger than 18
years of age.

305

796.05 (1)

1st

Live on earnings of a
prostitute; 2nd offense.

306

796.05 (1)

1st

Live on earnings of a
prostitute; 3rd and
subsequent offense.

307

800.04 (5) (c) 1.

2nd

Lewd or lascivious
molestation; victim
younger than 12 years of
age; offender younger than
18 years of age.

308

800.04 (5) (c) 2.

2nd

Lewd or lascivious
molestation; victim 12
years of age or older but
younger than 16 years of
age; offender 18 years of
age or older.

309

800.04 (5) (e)

1st

Lewd or lascivious
molestation; victim 12
years of age or older but
younger than 16 years;
offender 18 years or



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310			older; prior conviction for specified sex offense.
311	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
312	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
313	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
314	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
315	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand



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theft.

316

812.014 (2) (b) 2. 2nd Property stolen, cargo
valued at less than
\$50,000, grand theft in
2nd degree.

317

812.014 (2) (b) 3. 2nd Property stolen, emergency
medical equipment; 2nd
degree grand theft.

318

812.014 (2) (b) 4. 2nd Property stolen, law
enforcement equipment from
authorized emergency
vehicle.

319

812.0145 (2) (a) 1st Theft from person 65 years
of age or older; \$50,000
or more.

320

812.019 (2) 1st Stolen property;
initiates, organizes,
plans, etc., the theft of
property and traffics in
stolen property.

321

812.131 (2) (a) 2nd Robbery by sudden
snatching.

322



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323	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
324	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
325	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
326	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
327	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
328	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.



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329	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
330	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
331	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
332	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
333	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.



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334	838.015	2nd	Bribery.
335	838.016	2nd	Unlawful compensation or reward for official behavior.
336	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
337	838.22	2nd	<u>Unlawful influence of the competitive solicitation process</u> Bid tampering.
338	843.0855 (2)	3rd	Impersonation of a public officer or employee.
339	843.0855 (3)	3rd	Unlawful simulation of legal process.
340	843.0855 (4)	3rd	Intimidation of a public officer or employee.
341	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
342	847.0135 (4)	2nd	Traveling to meet a minor



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343			to commit an unlawful sex act.
344	872.06	2nd	Abuse of a dead human body.
345	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
346	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational



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facility or community
center.

347

893.13(1)(e)1.

1st

Sell, manufacture, or
deliver cocaine or other
drug prohibited under s.
893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)4., within 1,000
feet of property used for
religious services or a
specified business site.

348

893.13(4)(a)

1st

Deliver to minor cocaine
(or other s. 893.03(1)(a),
(1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4.
drugs).

349

893.135(1)(a)1.

1st

Trafficking in cannabis,
more than 25 lbs., less
than 2,000 lbs.

350

893.135
(1)(b)1.a.

1st

Trafficking in cocaine,
more than 28 grams, less
than 200 grams.

351

893.135
(1)(c)1.a.

1st

Trafficking in illegal
drugs, more than 4 grams,



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less than 14 grams.

352

893.135 1st Trafficking in
(1) (c) 2.a. hydrocodone, 14 grams or
more, less than 28 grams.

353

893.135 1st Trafficking in
(1) (c) 2.b. hydrocodone, 28 grams or
more, less than 50 grams.

354

893.135 1st Trafficking in oxycodone,
(1) (c) 3.a. 7 grams or more, less than
14 grams.

355

893.135 1st Trafficking in oxycodone,
(1) (c) 3.b. 14 grams or more, less
than 25 grams.

356

893.135 (1) (d) 1. 1st Trafficking in
phencyclidine, more than
28 grams, less than 200
grams.

357

893.135 (1) (e) 1. 1st Trafficking in
methaqualone, more than
200 grams, less than 5
kilograms.

358

893.135 (1) (f) 1. 1st Trafficking in



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359			amphetamine, more than 14 grams, less than 28 grams.
	893.135	1st	Trafficking in
	(1) (g) 1.a.		flunitrazepam, 4 grams or more, less than 14 grams.
360			
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.a.		hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
361			
	893.135	1st	Trafficking in 1,4-
	(1) (j) 1.a.		Butanediol, 1 kilogram or more, less than 5 kilograms.
362			
	893.135	1st	Trafficking in
	(1) (k) 2.a.		Phenethylamines, 10 grams or more, less than 200 grams.
363			
	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
364			
	896.101 (5) (a)	3rd	Money laundering, financial transactions



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365

896.104 (4) (a) 1.

3rd

exceeding \$300 but less than \$20,000.

Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.

366

943.0435 (4) (c)

2nd

Sexual offender vacating permanent residence; failure to comply with reporting requirements.

367

943.0435 (8)

2nd

Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

368

943.0435 (9) (a)

3rd

Sexual offender; failure to comply with reporting requirements.

369

943.0435 (13)

3rd

Failure to report or providing false information about a sexual offender; harbor or



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conceal a sexual offender.

370

943.0435(14)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

371

944.607(9)

3rd

Sexual offender; failure to comply with reporting requirements.

372

944.607(10)(a)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

373

944.607(12)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

374

944.607(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.



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375 985.4815(10) 3rd Sexual offender; failure
to submit to the taking of
a digitized photograph.

376 985.4815(12) 3rd Failure to report or
providing false
information about a sexual
offender; harbor or
conceal a sexual offender.

377 985.4815(13) 3rd Sexual offender; failure
to report and reregister;
failure to respond to
address verification;
providing false
registration information.

378
379
380

381 Section 7. For the purpose of incorporating the amendment
382 made by this act to section 838.014, Florida Statutes, in a
383 reference thereto, subsection (11) of section 817.568, Florida
384 Statutes, is reenacted to read:

385 817.568 Criminal use of personal identification
386 information.—

387 (11) A person who willfully and without authorization
388 fraudulently uses personal identification information concerning
389 an individual who is 60 years of age or older; a disabled adult



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390 as defined in s. 825.101; a public servant as defined in s.
391 838.014; a veteran as defined in s. 1.01; a first responder as
392 defined in s. 125.01045; an individual who is employed by the
393 State of Florida; or an individual who is employed by the
394 Federal Government without first obtaining the consent of that
395 individual commits a felony of the second degree, punishable as
396 provided in s. 775.082, s. 775.083, or s. 775.084.

397 Section 8. This act shall take effect October 1, 2016.

398

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

400 And the title is amended as follows:

401 Delete everything before the enacting clause
402 and insert:

403 A bill to be entitled
404 An act relating to public corruption; amending s.
405 838.014, F.S.; deleting, revising, and providing
406 definitions; amending s. 838.015, F.S.; revising the
407 definition of "bribery"; providing a penalty;
408 conforming a provision to changes made by the act;
409 amending s. 838.016, F.S.; prohibiting a person from
410 knowingly and intentionally giving, offering, or
411 promising unlawful compensation or reward for official
412 behavior to a public servant; prohibiting a public
413 servant or public contractor from knowingly and
414 intentionally procuring unlawful compensation or
415 reward for official behavior; providing a penalty;
416 conforming provisions; amending s. 838.022, F.S.;
417 prohibiting a public servant or public contractor from
418 knowingly and intentionally engaging in specified



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419 activities constituting official misconduct; providing
420 a penalty; amending s. 838.22, F.S.; prohibiting a
421 public servant and certain public contractors from
422 knowingly and intentionally influencing or attempting
423 to influence the competitive solicitation process;
424 prohibiting any person from committing specified acts
425 to influence the competitive solicitation process;
426 providing a penalty; revising terminology; amending s.
427 921.0022, F.S.; conforming a provision; reenacting s.
428 817.568(11), F.S., relating to criminal use of
429 personal identification information, to incorporate
430 the amendment made to s. 838.014, F.S., in a reference
431 thereto; providing an effective date.



248166

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (401016) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsection (7) of section 838.014, Florida
7 Statutes, is renumbered as subsection (8), present subsections
8 (4) and (6) are amended, and a new subsection (6) is added to
9 that section, to read:

10 838.014 Definitions.—As used in this chapter, the term:



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11 (4) "Governmental entity" means an agency or entity of the
12 state, a county, municipality, or special district or any other
13 public entity created or authorized by law ~~"Corruptly" or "with~~
14 ~~corrupt intent" means acting knowingly and dishonestly for a~~
15 ~~wrongful purpose.~~

16 (6) "Public contractor" means, for purposes of ss. 838.022
17 and 838.22 only:

18 (a) Any person, as defined in s. 1.01(3), who has entered
19 into a contract with a governmental entity; or

20 (b) Any officer or employee of a person, as defined in s.
21 1.01(3), who has entered into a contract with a governmental
22 entity.

23 ~~(7)-(6)~~ "Public servant" means:

24 (a) Any officer or employee of a governmental state,
25 ~~county, municipal, or special district agency or entity,~~
26 including

27 ~~(b)~~ any executive, legislative, or judicial branch officer
28 or employee;

29 ~~(b)-(e)~~ Any person, except a witness, who acts as a general
30 or special magistrate, receiver, auditor, arbitrator, umpire,
31 referee, consultant, or hearing officer while performing a
32 governmental function; or

33 ~~(c)-(d)~~ A candidate for election or appointment to any of
34 the officer positions listed in this subsection, or an
35 individual who has been elected to, but has yet to officially
36 assume the responsibilities of, public office.

37 Section 2. Subsection (1) of section 838.015, Florida
38 Statutes, is amended to read:

39 838.015 Bribery.-



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40 (1) "Bribery" means ~~corruptly~~ to knowingly and
41 intentionally give, offer, or promise to any public servant, or,
42 if a public servant, ~~corruptly~~ to knowingly and intentionally
43 request, solicit, accept, or agree to accept for himself or
44 herself or another, any pecuniary or other benefit not
45 authorized by law with an intent or purpose to influence the
46 performance of any act or omission which the person believes to
47 be, or the public servant represents as being, within the
48 official discretion of a public servant, in violation of a
49 public duty, or in performance of a public duty.

50 Section 3. Subsections (1) and (2) of section 838.016,
51 Florida Statutes, are amended to read:

52 838.016 Unlawful compensation or reward for official
53 behavior.—

54 (1) It is unlawful for any person ~~corruptly~~ to knowingly
55 and intentionally give, offer, or promise to any public servant,
56 or, if a public servant, ~~corruptly~~ to knowingly and
57 intentionally request, solicit, accept, or agree to accept, any
58 pecuniary or other benefit not authorized by law, for the past,
59 present, or future performance, nonperformance, or violation of
60 any act or omission which the person believes to have been, or
61 the public servant represents as having been, either within the
62 official discretion of the public servant, in violation of a
63 public duty, or in performance of a public duty. This section
64 does not ~~Nothing herein shall be construed to~~ preclude a public
65 servant from accepting rewards for services performed in
66 apprehending any criminal.

67 (2) It is unlawful for any person ~~corruptly~~ to knowingly
68 and intentionally give, offer, or promise to any public servant,



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69 or, if a public servant, ~~corruptly~~ to knowingly and
70 intentionally request, solicit, accept, or agree to accept, any
71 pecuniary or other benefit not authorized by law for the past,
72 present, or future exertion of any influence upon or with any
73 other public servant regarding any act or omission which the
74 person believes to have been, or which is represented to him or
75 her as having been, either within the official discretion of the
76 other public servant, in violation of a public duty, or in
77 performance of a public duty.

78 Section 4. Subsection (1) of section 838.022, Florida
79 Statutes, is amended, and subsection (2) of that section is
80 republished, to read:

81 838.022 Official misconduct.—

82 (1) It is unlawful for a public servant or public
83 contractor, ~~with corrupt intent~~ to knowingly and intentionally
84 obtain a benefit for any person or to cause unlawful harm to
85 another, by ~~to~~:

86 (a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to
87 falsify, any official record or official document;

88 (b) Concealing, covering up, destroying, mutilating, or
89 altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any
90 official record or official document, except as authorized by
91 law or contract, or causing ~~cause~~ another person to perform such
92 an act; or

93 (c) Obstructing, delaying, or preventing ~~Obstruct, delay,~~
94 ~~or prevent~~ the communication of information relating to the
95 commission of a felony that directly involves or affects the
96 government ~~public agency or public~~ entity served by the public
97 servant or public contractor.



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98 (2) For the purposes of this section:

99 (a) The term "public servant" does not include a candidate
100 who does not otherwise qualify as a public servant.

101 (b) An official record or official document includes only
102 public records.

103 Section 5. Section 838.22, Florida Statutes, is amended to
104 read:

105 838.22 Bid tampering.—

106 (1) It is unlawful for a public servant or a public
107 contractor who has contracted with a governmental entity to
108 assist in a competitive procurement, ~~with corrupt intent to~~
109 knowingly and intentionally influence or attempt to influence
110 the competitive solicitation bidding process undertaken by any
111 governmental state, county, municipal, or special district
112 agency, or any other public entity, for the procurement of
113 commodities or services, by ~~to~~:

114 (a) Disclosing, except as authorized by law, Disclose
115 material information concerning a vendor's response, any
116 evaluation results, bid or other aspects of the competitive
117 solicitation bidding process when such information is not
118 publicly disclosed.

119 (b) Altering or amending ~~Alter or amend~~ a submitted
120 response bid, documents or other materials supporting a
121 submitted response bid, or any evaluation bid results relating
122 to the competitive solicitation for the purpose of intentionally
123 providing a competitive advantage to any person who submits a
124 response bid.

125 (2) It is unlawful for a public servant or a public
126 contractor who has contracted with a governmental entity to



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127 assist in a competitive procurement, ~~with corrupt intent~~ to
128 knowingly and intentionally obtain a benefit for any person or
129 to cause unlawful harm to another by circumventing, ~~to~~
130 ~~circumvent~~ a competitive solicitation bidding process required
131 by law or rule through the use of ~~by using~~ a sole-source
132 contract for commodities or services.

133 (3) It is unlawful for any person to knowingly agree,
134 conspire, combine, or confederate, directly or indirectly, with
135 a public servant or a public contractor who has contracted with
136 a governmental entity to assist in a competitive procurement to
137 violate subsection (1) or subsection (2).

138 (4) It is unlawful for any person to knowingly enter into a
139 contract for commodities or services which was secured by a
140 public servant or a public contractor who has contracted with a
141 governmental entity to assist in a competitive procurement
142 acting in violation of subsection (1) or subsection (2).

143 (5) Any person who violates this section commits a felony
144 of the second degree, punishable as provided in s. 775.082, s.
145 775.083, or s. 775.084.

146 Section 6. Section 838.24, Florida Statutes, is created to
147 read:

148 838.24 Attorney fees.—Public servants and public
149 contractors prosecuted for a violation under this act may
150 recover attorney fees in the same manner as provided by common
151 law for public officers and employees with respect to the
152 enforcement of public corruption laws.

153 Section 7. For the purpose of incorporating the amendment
154 made by this act to section 838.022, Florida Statutes, in a
155 reference thereto, paragraph (a) of subsection (2) of section



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156 112.534, Florida Statutes, is reenacted to read:
157 112.534 Failure to comply; official misconduct.—
158 (2) (a) All the provisions of s. 838.022 shall apply to this
159 part.
160 Section 8. For the purpose of incorporating the amendment
161 made by this act to section 838.022, Florida Statutes, in a
162 reference thereto, paragraph (d) of subsection (4) of section
163 117.01, Florida Statutes, is reenacted to read:
164 117.01 Appointment, application, suspension, revocation,
165 application fee, bond, and oath.—
166 (4) The Governor may suspend a notary public for any of the
167 grounds provided in s. 7, Art. IV of the State Constitution.
168 Grounds constituting malfeasance, misfeasance, or neglect of
169 duty include, but are not limited to, the following:
170 (d) Official misconduct as defined in s. 838.022.
171 Section 9. For the purpose of incorporating the amendment
172 made by this act to section 838.014, Florida Statutes, in a
173 reference thereto, subsection (11) of section 817.568, Florida
174 Statutes, is reenacted to read:
175 817.568 Criminal use of personal identification
176 information.—
177 (11) A person who willfully and without authorization
178 fraudulently uses personal identification information concerning
179 an individual who is 60 years of age or older; a disabled adult
180 as defined in s. 825.101; a public servant as defined in s.
181 838.014; a veteran as defined in s. 1.01; a first responder as
182 defined in s. 125.01045; an individual who is employed by the
183 State of Florida; or an individual who is employed by the
184 Federal Government without first obtaining the consent of that



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185 individual commits a felony of the second degree, punishable as
186 provided in s. 775.082, s. 775.083, or s. 775.084.

187 Section 10. For the purpose of incorporating the amendments
188 made by this act to sections 838.015, 838.016, and 838.22,
189 Florida Statutes, in references thereto, paragraph (g) of
190 subsection (3) of section 921.0022, Florida Statutes, is
191 reenacted to read:

192 921.0022 Criminal Punishment Code; offense severity ranking
193 chart.—

194 (3) OFFENSE SEVERITY RANKING CHART

195 (g) LEVEL 7

196
197

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with

198
199
200



siren and lights activated.

201

327.35(3)(c)2. 3rd Vessel BUI resulting in serious
bodily injury.

202

402.319(2) 2nd Misrepresentation and
negligence or intentional act
resulting in great bodily harm,
permanent disfiguration,
permanent disability, or death.

203

409.920 3rd Medicaid provider fraud;
(2)(b)1.a. \$10,000 or less.

204

409.920 2nd Medicaid provider fraud; more
(2)(b)1.b. than \$10,000, but less than
\$50,000.

205

456.065(2) 3rd Practicing a health care
profession without a license.

206

456.065(2) 2nd Practicing a health care
profession without a license
which results in serious bodily
injury.

207

458.327(1) 3rd Practicing medicine without a
license.

208



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209	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
210	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
211	461.012 (1)	3rd	Practicing podiatric medicine without a license.
212	462.17	3rd	Practicing naturopathy without a license.
213	463.015 (1)	3rd	Practicing optometry without a license.
214	464.016 (1)	3rd	Practicing nursing without a license.
215	465.015 (2)	3rd	Practicing pharmacy without a license.
216	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
217	467.201	3rd	Practicing midwifery without a license.
	468.366	3rd	Delivering respiratory care services without a license.



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218	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
219	483.901 (9)	3rd	Practicing medical physics without a license.
220	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
221	484.053	3rd	Dispensing hearing aids without a license.
222	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
223	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
224	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments



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of court order.

238

784.07(2)(d) 1st Aggravated battery on law enforcement officer.

239

784.074(1)(a) 1st Aggravated battery on sexually violent predators facility staff.

240

784.08(2)(a) 1st Aggravated battery on a person 65 years of age or older.

241

784.081(1) 1st Aggravated battery on specified official or employee.

242

784.082(1) 1st Aggravated battery by detained person on visitor or other detainee.

243

784.083(1) 1st Aggravated battery on code inspector.

244

787.06(3)(a)2. 1st Human trafficking using coercion for labor and services of an adult.

245

787.06(3)(e)2. 1st Human trafficking using coercion for labor and services by the transfer or transport of



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an adult from outside Florida
to within the state.

246

790.07(4) 1st Specified weapons violation
 subsequent to previous
 conviction of s. 790.07(1) or
 (2).

247

790.16(1) 1st Discharge of a machine gun
 under specified circumstances.

248

790.165(2) 2nd Manufacture, sell, possess, or
 deliver hoax bomb.

249

790.165(3) 2nd Possessing, displaying, or
 threatening to use any hoax
 bomb while committing or
 attempting to commit a felony.

250

790.166(3) 2nd Possessing, selling, using, or
 attempting to use a hoax weapon
 of mass destruction.

251

790.166(4) 2nd Possessing, displaying, or
 threatening to use a hoax
 weapon of mass destruction
 while committing or attempting
 to commit a felony.

252



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253	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
254	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
255	796.05 (1)	1st	Live on earnings of a prostitute; 2nd offense.
256	796.05 (1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
257	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
258	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.



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- 259 800.04 (5) (e) 1st Lewd or lascivious molestation;
victim 12 years of age or older
but younger than 16 years;
offender 18 years or older;
prior conviction for specified
sex offense.
- 260 806.01 (2) 2nd Maliciously damage structure by
fire or explosive.
- 261 810.02 (3) (a) 2nd Burglary of occupied dwelling;
unarmed; no assault or battery.
- 262 810.02 (3) (b) 2nd Burglary of unoccupied
dwelling; unarmed; no assault
or battery.
- 263 810.02 (3) (d) 2nd Burglary of occupied
conveyance; unarmed; no assault
or battery.
- 264 810.02 (3) (e) 2nd Burglary of authorized
emergency vehicle.
- 812.014 (2) (a) 1. 1st Property stolen, valued at
\$100,000 or more or a
semitrailer deployed by a law
enforcement officer; property
stolen while causing other



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property damage; 1st degree
grand theft.

265

812.014 (2) (b) 2. 2nd Property stolen, cargo valued
at less than \$50,000, grand
theft in 2nd degree.

266

812.014 (2) (b) 3. 2nd Property stolen, emergency
medical equipment; 2nd degree
grand theft.

267

812.014 (2) (b) 4. 2nd Property stolen, law
enforcement equipment from
authorized emergency vehicle.

268

812.0145 (2) (a) 1st Theft from person 65 years of
age or older; \$50,000 or more.

269

812.019 (2) 1st Stolen property; initiates,
organizes, plans, etc., the
theft of property and traffics
in stolen property.

270

812.131 (2) (a) 2nd Robbery by sudden snatching.

271

812.133 (2) (b) 1st Carjacking; no firearm, deadly
weapon, or other weapon.

272

817.034 (4) (a) 1. 1st Communications fraud, value



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- 280 825.103 (3) (b) 2nd Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
- 281 827.03 (2) (b) 2nd Neglect of a child causing great bodily harm, disability, or disfigurement.
- 282 827.04 (3) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.
- 283 837.05 (2) 3rd Giving false information about alleged capital felony to a law enforcement officer.
- 284 838.015 2nd Bribery.
- 285 838.016 2nd Unlawful compensation or reward for official behavior.
- 286 838.021 (3) (a) 2nd Unlawful harm to a public servant.
- 287 838.22 2nd Bid tampering.
- 843.0855 (2) 3rd Impersonation of a public officer or employee.



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288	843.0855 (3)	3rd	Unlawful simulation of legal process.
289	843.0855 (4)	3rd	Intimidation of a public officer or employee.
290	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
291	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
292	872.06	2nd	Abuse of a dead human body.
293	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
294	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
295	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s.



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893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

296

893.13(1)(e)1. 1st Sell, manufacture, or deliver
cocaine or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.,
within 1,000 feet of property
used for religious services or
a specified business site.

297

893.13(4)(a) 1st Deliver to minor cocaine (or
other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)4. drugs).

298

893.135(1)(a)1. 1st Trafficking in cannabis, more
than 25 lbs., less than 2,000
lbs.

299

893.135(1)(b)1.a. 1st Trafficking in cocaine, more
than 28 grams, less than 200



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grams.

300

893.135(1)(c)1.a. 1st Trafficking in illegal drugs,
more than 4 grams, less than 14
grams.

301

893.135(1)(c)2.a. 1st Trafficking in hydrocodone, 14
grams or more, less than 28
grams.

302

893.135(1)(c)2.b. 1st Trafficking in hydrocodone, 28
grams or more, less than 50
grams.

303

893.135(1)(c)3.a. 1st Trafficking in oxycodone, 7
grams or more, less than 14
grams.

304

893.135(1)(c)3.b. 1st Trafficking in oxycodone, 14
grams or more, less than 25
grams.

305

893.135(1)(d)1. 1st Trafficking in phencyclidine,
more than 28 grams, less than
200 grams.

306

893.135(1)(e)1. 1st Trafficking in methaqualone,
more than 200 grams, less than
5 kilograms.



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307	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
308	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
309	893.135(1)(h)1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
310	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
311	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
312	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
313	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.



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- 314 896.104 (4) (a) 1. 3rd Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
- 315 943.0435 (4) (c) 2nd Sexual offender vacating permanent residence; failure to comply with reporting requirements.
- 316 943.0435 (8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
- 317 943.0435 (9) (a) 3rd Sexual offender; failure to comply with reporting requirements.
- 318 943.0435 (13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
- 319 943.0435 (14) 3rd Sexual offender; failure to report and reregister; failure to respond to address



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verification; providing false
registration information.

320

944.607(9) 3rd Sexual offender; failure to
comply with reporting
requirements.

321

944.607(10) (a) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

322

944.607(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

323

944.607(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

324

985.4815(10) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

325

985.4815(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or



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conceal a sexual offender.

326

985.4815(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

327

328

329

330 Section 11. For the purpose of incorporating the amendment
331 made by this act to section 838.022, Florida Statutes, in a
332 reference thereto, paragraph (d) of subsection (3) of section
333 921.0022, Florida Statutes, is reenacted to read:

334 921.0022 Criminal Punishment Code; offense severity ranking
335 chart.—

336 (3) OFFENSE SEVERITY RANKING CHART

337 (d) LEVEL 4

338

339

Florida Statute	Felony Degree	Description
--------------------	------------------	-------------

340

316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
----------------	-----	---



341	499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
342	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
343	499.0051 (6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
344	517.07 (1)	3rd	Failure to register securities.
345	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
346	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
347	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
348	784.075	3rd	Battery on detention or commitment facility staff.
349	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.



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350	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
351	784.081 (3)	3rd	Battery on specified official or employee.
352	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
353	784.083 (3)	3rd	Battery on code inspector.
354	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
355	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
356	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
357	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at



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custody hearing or delivering
to designated person.

358

787.07 3rd Human smuggling.

359

790.115 (1) 3rd Exhibiting firearm or weapon
within 1,000 feet of a school.

360

790.115 (2) (b) 3rd Possessing electric weapon or
device, destructive device, or
other weapon on school
property.

361

790.115 (2) (c) 3rd Possessing firearm on school
property.

362

800.04 (7) (c) 3rd Lewd or lascivious exhibition;
offender less than 18 years.

363

810.02 (4) (a) 3rd Burglary, or attempted
burglary, of an unoccupied
structure; unarmed; no assault
or battery.

364

810.02 (4) (b) 3rd Burglary, or attempted
burglary, of an unoccupied
conveyance; unarmed; no assault
or battery.

365



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366	810.06	3rd	Burglary; possession of tools.
367	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
368	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
369	812.014(2)(c)4.- 10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
370	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
371	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
372	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
373	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
	828.125(1)	2nd	Kill, maim, or cause great



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bodily harm or permanent
breeding disability to any
registered horse or cattle.

374

837.02 (1) 3rd Perjury in official
proceedings.

375

837.021 (1) 3rd Make contradictory statements
in official proceedings.

376

838.022 3rd Official misconduct.

377

839.13 (2) (a) 3rd Falsifying records of an
individual in the care and
custody of a state agency.

378

839.13 (2) (c) 3rd Falsifying records of the
Department of Children and
Families.

379

843.021 3rd Possession of a concealed
handcuff key by a person in
custody.

380

843.025 3rd Deprive law enforcement,
correctional, or correctional
probation officer of means of
protection or communication.

381



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382	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
383	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
384	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
385	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
386	914.14(2)	3rd	Witnesses accepting bribes.
387	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
388	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
389	918.12	3rd	Tampering with jurors.
	934.215	3rd	Use of two-way communications



248166

device to facilitate commission
of a crime.

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Section 12. This act shall take effect October 1, 2016.

===== 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 public corruption; amending s.
838.014, F.S.; revising and providing definitions;
amending s. 838.015, F.S.; revising the definition of
the term "bribery"; revising requirements for
prosecution; amending s. 838.016, F.S.; revising the
prohibition against unlawful compensation or reward
for official behavior to conform to changes made by
the act; amending s. 838.022, F.S.; revising the
prohibition against official misconduct to conform to
changes made by the act; revising applicability of the
offense to include public contractors; amending s.
838.22, F.S.; revising the prohibition against bid
tampering to conform to changes made by the act;
revising applicability of the offense to include
specified public contractors; creating s. 838.24,
F.S.; authorizing the award of attorney fees to public
servants and public contractors under certain



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417 conditions; reenacting s. 112.534(2)(a), F.S.,
418 relating to official misconduct, and s. 117.01(4)(d),
419 F.S., relating to appointment, application,
420 suspension, revocation, application fee, bond, and
421 oath of notaries public, to incorporate the amendment
422 made by the act to s. 838.022, F.S., in references
423 thereto; reenacting s. 817.568(11), F.S., relating to
424 criminal use of personal identification information,
425 to incorporate the amendment made by the act to s.
426 838.014, F.S., in a reference thereto; reenacting s.
427 921.0022(3)(d) and (g), F.S., relating to the Criminal
428 Punishment Code offense severity ranking chart, to
429 incorporate the amendments made by the act to ss.
430 838.015, 838.016, 838.022, and 838.22, F.S., in
431 references thereto; providing an effective date.



637486

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
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	.	
	.	

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

1 **Senate Amendment to Substitute Amendment (248166) (with**
2 **title amendment)**

3
4 Delete lines 146 - 152.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 414 - 417

9 and insert:

10 specified public contractors; reenacting s.



637486

11

112.534(2)(a), F.S.,



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/19/2016	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (7) of section 838.014, Florida
Statutes, is renumbered as subsection (8), present subsections
(4) and (6) are amended, and a new subsection (6) is added to
that section, to read:

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

(4) "Governmental entity" means an agency or entity of the



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11 state, a county, municipality, or special district or any other
12 public entity created or authorized by law ~~“Corruptly” or “with~~
13 ~~corrupt intent” means acting knowingly and dishonestly for a~~
14 ~~wrongful purpose.~~

15 (6) “Public contractor” means, for purposes of ss. 838.022
16 and 838.22 only:

17 (a) Any person, as defined in s. 1.01(3), who has entered
18 into a contract with a governmental entity; or

19 (b) Any officer or employee of a person, as defined in s.
20 1.01(3), who has entered into a contract with a governmental
21 entity.

22 (7) ~~(6)~~ “Public servant” means:

23 (a) Any officer or employee of a governmental state,
24 county, municipal, or special district agency or entity,
25 including

26 ~~(b)~~ any executive, legislative, or judicial branch officer
27 or employee;

28 (b) ~~(e)~~ Any person, except a witness, who acts as a general
29 or special magistrate, receiver, auditor, arbitrator, umpire,
30 referee, consultant, or hearing officer while performing a
31 governmental function; or

32 (c) ~~(d)~~ A candidate for election or appointment to any of
33 the officer positions listed in this subsection, or an
34 individual who has been elected to, but has yet to officially
35 assume the responsibilities of, public office.

36 Section 2. Subsection (1) of section 838.015, Florida
37 Statutes, is amended to read:

38 838.015 Bribery.—

39 (1) “Bribery” means ~~corruptly~~ to knowingly and



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40 intentionally give, offer, or promise to any public servant, or,
41 if a public servant, ~~corruptly~~ to knowingly and intentionally
42 request, solicit, accept, or agree to accept for himself or
43 herself or another, any pecuniary or other benefit not
44 authorized by law with an intent or purpose to influence the
45 performance of any act or omission which the person believes to
46 be, or the public servant represents as being, within the
47 official discretion of a public servant, in violation of a
48 public duty, or in performance of a public duty.

49 Section 3. Subsections (1) and (2) of section 838.016,
50 Florida Statutes, are amended to read:

51 838.016 Unlawful compensation or reward for official
52 behavior.—

53 (1) It is unlawful for any person ~~corruptly~~ to knowingly
54 and intentionally give, offer, or promise to any public servant,
55 or, if a public servant, ~~corruptly~~ to knowingly and
56 intentionally request, solicit, accept, or agree to accept, any
57 pecuniary or other benefit not authorized by law, for the past,
58 present, or future performance, nonperformance, or violation of
59 any act or omission which the person believes to have been, or
60 the public servant represents as having been, either within the
61 official discretion of the public servant, in violation of a
62 public duty, or in performance of a public duty. This section
63 does not ~~Nothing herein shall be construed to~~ preclude a public
64 servant from accepting rewards for services performed in
65 apprehending any criminal.

66 (2) It is unlawful for any person ~~corruptly~~ to knowingly
67 and intentionally give, offer, or promise to any public servant,
68 or, if a public servant, ~~corruptly~~ to knowingly and



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69 intentionally request, solicit, accept, or agree to accept, any
70 pecuniary or other benefit not authorized by law for the past,
71 present, or future exertion of any influence upon or with any
72 other public servant regarding any act or omission which the
73 person believes to have been, or which is represented to him or
74 her as having been, either within the official discretion of the
75 other public servant, in violation of a public duty, or in
76 performance of a public duty.

77 Section 4. Subsection (1) of section 838.022, Florida
78 Statutes, is amended, and subsection (2) of that section is
79 republished, to read:

80 838.022 Official misconduct.—

81 (1) It is unlawful for a public servant or public
82 contractor, ~~with corrupt intent~~ to knowingly and intentionally
83 obtain a benefit for any person or to cause unlawful harm to
84 another, by ~~to~~:

85 (a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to
86 falsify, any official record or official document;

87 (b) Concealing, covering up, destroying, mutilating, or
88 altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any
89 official record or official document, except as authorized by
90 law or contract, or causing ~~cause~~ another person to perform such
91 an act; or

92 (c) Obstructing, delaying, or preventing ~~Obstruct, delay,~~
93 ~~or prevent~~ the communication of information relating to the
94 commission of a felony that directly involves or affects the
95 government ~~public agency or public~~ entity served by the public
96 servant or public contractor.

97 (2) For the purposes of this section:



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98 (a) The term "public servant" does not include a candidate
99 who does not otherwise qualify as a public servant.

100 (b) An official record or official document includes only
101 public records.

102 Section 5. Section 838.22, Florida Statutes, is amended to
103 read:

104 838.22 Bid tampering.-

105 (1) It is unlawful for a public servant or a public
106 contractor who has contracted with a governmental entity to
107 assist in a competitive procurement, with corrupt intent to
108 knowingly and intentionally influence or attempt to influence
109 the competitive solicitation ~~bidding process~~ undertaken by any
110 governmental state, county, municipal, or special district
111 agency, or any other public entity, for the procurement of
112 commodities or services, by ~~to~~:

113 (a) Disclosing, except as authorized by law, Disclose
114 material information concerning a vendor's response, any
115 evaluation results, ~~bid~~ or other aspects of the competitive
116 solicitation ~~bidding process~~ when such information is not
117 publicly disclosed.

118 (b) Altering or amending Alter or amend a submitted
119 response ~~bid~~, documents or other materials supporting a
120 submitted response ~~bid~~, or any evaluation ~~bid~~ results relating
121 to the competitive solicitation for the purpose of intentionally
122 providing a competitive advantage to any person who submits a
123 response ~~bid~~.

124 (2) It is unlawful for a public servant or a public
125 contractor who has contracted with a governmental entity to
126 assist in a competitive procurement, with corrupt intent to



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127 knowingly and intentionally obtain a benefit for any person or
128 to cause unlawful harm to another by circumventing, ~~to~~
129 ~~circumvent~~ a competitive solicitation bidding process required
130 by law or rule through the use of ~~by using~~ a sole-source
131 contract for commodities or services.

132 (3) It is unlawful for any person to knowingly agree,
133 conspire, combine, or confederate, directly or indirectly, with
134 a public servant or a public contractor who has contracted with
135 a governmental entity to assist in a competitive procurement to
136 violate subsection (1) or subsection (2).

137 (4) It is unlawful for any person to knowingly enter into a
138 contract for commodities or services which was secured by a
139 public servant or a public contractor who has contracted with a
140 governmental entity to assist in a competitive procurement
141 acting in violation of subsection (1) or subsection (2).

142 (5) Any person who violates this section commits a felony
143 of the second degree, punishable as provided in s. 775.082, s.
144 775.083, or s. 775.084.

145 Section 6. Section 838.24, Florida Statutes, is created to
146 read:

147 838.24 Attorney fees.—Public servants and public
148 contractors prosecuted for a violation under this act may
149 recover attorney fees in the same manner as provided by common
150 law for public officers and employees with respect to the
151 enforcement of public corruption laws.

152 Section 7. For the purpose of incorporating the amendment
153 made by this act to section 838.022, Florida Statutes, in a
154 reference thereto, paragraph (a) of subsection (2) of section
155 112.534, Florida Statutes, is reenacted to read:



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156 112.534 Failure to comply; official misconduct.-
157 (2) (a) All the provisions of s. 838.022 shall apply to this
158 part.

159 Section 8. For the purpose of incorporating the amendment
160 made by this act to section 838.022, Florida Statutes, in a
161 reference thereto, paragraph (d) of subsection (4) of section
162 117.01, Florida Statutes, is reenacted to read:

163 117.01 Appointment, application, suspension, revocation,
164 application fee, bond, and oath.-

165 (4) The Governor may suspend a notary public for any of the
166 grounds provided in s. 7, Art. IV of the State Constitution.
167 Grounds constituting malfeasance, misfeasance, or neglect of
168 duty include, but are not limited to, the following:

169 (d) Official misconduct as defined in s. 838.022.

170 Section 9. For the purpose of incorporating the amendment
171 made by this act to section 838.014, Florida Statutes, in a
172 reference thereto, subsection (11) of section 817.568, Florida
173 Statutes, is reenacted to read:

174 817.568 Criminal use of personal identification
175 information.-

176 (11) A person who willfully and without authorization
177 fraudulently uses personal identification information concerning
178 an individual who is 60 years of age or older; a disabled adult
179 as defined in s. 825.101; a public servant as defined in s.
180 838.014; a veteran as defined in s. 1.01; a first responder as
181 defined in s. 125.01045; an individual who is employed by the
182 State of Florida; or an individual who is employed by the
183 Federal Government without first obtaining the consent of that
184 individual commits a felony of the second degree, punishable as



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185 provided in s. 775.082, s. 775.083, or s. 775.084.

186 Section 10. For the purpose of incorporating the amendments
187 made by this act to sections 838.015, 838.016, and 838.22,
188 Florida Statutes, in references thereto, paragraph (g) of
189 subsection (3) of section 921.0022, Florida Statutes, is
190 reenacted to read:

191 921.0022 Criminal Punishment Code; offense severity ranking
192 chart.—

193 (3) OFFENSE SEVERITY RANKING CHART

194 (g) LEVEL 7

195
196

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

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200	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
201	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
202	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
203	409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
204	456.065(2)	3rd	Practicing a health care profession without a license.
205	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
206	458.327(1)	3rd	Practicing medicine without a license.
207	459.013(1)	3rd	Practicing osteopathic medicine



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without a license.

208

460.411(1) 3rd Practicing chiropractic
medicine without a license.

209

461.012(1) 3rd Practicing podiatric medicine
without a license.

210

462.17 3rd Practicing naturopathy without
a license.

211

463.015(1) 3rd Practicing optometry without a
license.

212

464.016(1) 3rd Practicing nursing without a
license.

213

465.015(2) 3rd Practicing pharmacy without a
license.

214

466.026(1) 3rd Practicing dentistry or dental
hygiene without a license.

215

467.201 3rd Practicing midwifery without a
license.

216

468.366 3rd Delivering respiratory care
services without a license.

217



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218	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
219	483.901 (9)	3rd	Practicing medical physics without a license.
220	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
221	484.053	3rd	Dispensing hearing aids without a license.
222	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
223	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than



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\$20,000.

224

655.50(10)(b)1. 3rd Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

225

775.21(10)(a) 3rd Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.

226

775.21(10)(b) 3rd Sexual predator working where children regularly congregate.

227

775.21(10)(g) 3rd Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

228

782.051(3) 2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

229

782.07(1) 2nd Killing of a human being by the act, procurement, or culpable



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237	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
238	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
239	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
240	784.081(1)	1st	Aggravated battery on specified official or employee.
241	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
242	784.083(1)	1st	Aggravated battery on code inspector.
243	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
244	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida



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to within the state.

245

790.07(4) 1st Specified weapons violation
subsequent to previous
conviction of s. 790.07(1) or
(2).

246

790.16(1) 1st Discharge of a machine gun
under specified circumstances.

247

790.165(2) 2nd Manufacture, sell, possess, or
deliver hoax bomb.

248

790.165(3) 2nd Possessing, displaying, or
threatening to use any hoax
bomb while committing or
attempting to commit a felony.

249

790.166(3) 2nd Possessing, selling, using, or
attempting to use a hoax weapon
of mass destruction.

250

790.166(4) 2nd Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or attempting
to commit a felony.

251

790.23 1st,PBL Possession of a firearm by a



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person who qualifies for the
penalty enhancements provided
for in s. 874.04.

252

794.08(4) 3rd Female genital mutilation;
consent by a parent, guardian,
or a person in custodial
authority to a victim younger
than 18 years of age.

253

796.05(1) 1st Live on earnings of a
prostitute; 2nd offense.

254

796.05(1) 1st Live on earnings of a
prostitute; 3rd and subsequent
offense.

255

800.04(5)(c)1. 2nd Lewd or lascivious molestation;
victim younger than 12 years of
age; offender younger than 18
years of age.

256

800.04(5)(c)2. 2nd Lewd or lascivious molestation;
victim 12 years of age or older
but younger than 16 years of
age; offender 18 years of age
or older.

257

800.04(5)(e) 1st Lewd or lascivious molestation;



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victim 12 years of age or older
but younger than 16 years;
offender 18 years or older;
prior conviction for specified
sex offense.

258

806.01 (2) 2nd Maliciously damage structure by
fire or explosive.

259

810.02 (3) (a) 2nd Burglary of occupied dwelling;
unarmed; no assault or battery.

260

810.02 (3) (b) 2nd Burglary of unoccupied
dwelling; unarmed; no assault
or battery.

261

810.02 (3) (d) 2nd Burglary of occupied
conveyance; unarmed; no assault
or battery.

262

810.02 (3) (e) 2nd Burglary of authorized
emergency vehicle.

263

812.014 (2) (a) 1. 1st Property stolen, valued at
\$100,000 or more or a
semitrailer deployed by a law
enforcement officer; property
stolen while causing other
property damage; 1st degree



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grand theft.

264

812.014 (2) (b) 2. 2nd Property stolen, cargo valued
at less than \$50,000, grand
theft in 2nd degree.

265

812.014 (2) (b) 3. 2nd Property stolen, emergency
medical equipment; 2nd degree
grand theft.

266

812.014 (2) (b) 4. 2nd Property stolen, law
enforcement equipment from
authorized emergency vehicle.

267

812.0145 (2) (a) 1st Theft from person 65 years of
age or older; \$50,000 or more.

268

812.019 (2) 1st Stolen property; initiates,
organizes, plans, etc., the
theft of property and traffics
in stolen property.

269

812.131 (2) (a) 2nd Robbery by sudden snatching.

270

812.133 (2) (b) 1st Carjacking; no firearm, deadly
weapon, or other weapon.

271

817.034 (4) (a) 1. 1st Communications fraud, value
greater than \$50,000.



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272	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
273	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
274	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
275	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
276	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
277	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
278	825.103 (3) (b)	2nd	Exploiting an elderly person or



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disabled adult and property is
valued at \$10,000 or more, but
less than \$50,000.

279

827.03(2)(b) 2nd Neglect of a child causing
great bodily harm, disability,
or disfigurement.

280

827.04(3) 3rd Impregnation of a child under
16 years of age by person 21
years of age or older.

281

837.05(2) 3rd Giving false information about
alleged capital felony to a law
enforcement officer.

282

838.015 2nd Bribery.

283

838.016 2nd Unlawful compensation or reward
for official behavior.

284

838.021(3)(a) 2nd Unlawful harm to a public
servant.

285

838.22 2nd Bid tampering.

286

843.0855(2) 3rd Impersonation of a public
officer or employee.

287



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288	843.0855 (3)	3rd	Unlawful simulation of legal process.
289	843.0855 (4)	3rd	Intimidation of a public officer or employee.
290	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
291	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
292	872.06	2nd	Abuse of a dead human body.
293	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
294	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d),



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(2) (a), (2) (b), or (2) (c) 4.)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

295

893.13(1)(e)1. 1st Sell, manufacture, or deliver
cocaine or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c) 4.,
within 1,000 feet of property
used for religious services or
a specified business site.

296

893.13(4)(a) 1st Deliver to minor cocaine (or
other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c) 4. drugs).

297

893.135(1)(a)1. 1st Trafficking in cannabis, more
than 25 lbs., less than 2,000
lbs.

298

893.135(1)(b)1.a. 1st Trafficking in cocaine, more
than 28 grams, less than 200
grams.



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299
893.135(1)(c)1.a. 1st Trafficking in illegal drugs,
more than 4 grams, less than 14
grams.

300
893.135(1)(c)2.a. 1st Trafficking in hydrocodone, 14
grams or more, less than 28
grams.

301
893.135(1)(c)2.b. 1st Trafficking in hydrocodone, 28
grams or more, less than 50
grams.

302
893.135(1)(c)3.a. 1st Trafficking in oxycodone, 7
grams or more, less than 14
grams.

303
893.135(1)(c)3.b. 1st Trafficking in oxycodone, 14
grams or more, less than 25
grams.

304
893.135(1)(d)1. 1st Trafficking in phencyclidine,
more than 28 grams, less than
200 grams.

305
893.135(1)(e)1. 1st Trafficking in methaqualone,
more than 200 grams, less than
5 kilograms.

306



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307	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
308	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
309	893.135(1)(h)1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
310	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
311	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
312	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
313	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.



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- 314 896.104 (4) (a) 1. 3rd Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
- 315 943.0435 (4) (c) 2nd Sexual offender vacating permanent residence; failure to comply with reporting requirements.
- 316 943.0435 (8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
- 317 943.0435 (9) (a) 3rd Sexual offender; failure to comply with reporting requirements.
- 318 943.0435 (13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
- 943.0435 (14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification; providing false



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registration information.

319

944.607(9) 3rd Sexual offender; failure to
comply with reporting
requirements.

320

944.607(10) (a) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

321

944.607(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

322

944.607(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

323

985.4815(10) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

324

985.4815(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.



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325

985.4815(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

326

327

328 Section 11. For the purpose of incorporating the amendment
329 made by this act to section 838.022, Florida Statutes, in a
330 reference thereto, paragraph (d) of subsection (3) of section
331 921.0022, Florida Statutes, is reenacted to read:

332 921.0022 Criminal Punishment Code; offense severity ranking
333 chart.—

334 (3) OFFENSE SEVERITY RANKING CHART

335 (d) LEVEL 4

336

337

Florida Statute	Felony Degree	Description
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338

316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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339

499.0051(1)	3rd	Failure to maintain or deliver
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313064

pedigree papers.

340

499.0051(2) 3rd Failure to authenticate
pedigree papers.

341

499.0051(6) 2nd Knowing sale or delivery, or
possession with intent to sell,
contraband prescription drugs.

342

517.07(1) 3rd Failure to register securities.

343

517.12(1) 3rd Failure of dealer, associated
person, or issuer of securities
to register.

344

784.07(2)(b) 3rd Battery of law enforcement
officer, firefighter, etc.

345

784.074(1)(c) 3rd Battery of sexually violent
predators facility staff.

346

784.075 3rd Battery on detention or
commitment facility staff.

347

784.078 3rd Battery of facility employee by
throwing, tossing, or expelling
certain fluids or materials.

348

784.08(2)(c) 3rd Battery on a person 65 years of



313064

age or older.

349

784.081(3) 3rd Battery on specified official
or employee.

350

784.082(3) 3rd Battery by detained person on
visitor or other detainee.

351

784.083(3) 3rd Battery on code inspector.

352

784.085 3rd Battery of child by throwing,
tossing, projecting, or
expelling certain fluids or
materials.

353

787.03(1) 3rd Interference with custody;
wrongly takes minor from
appointed guardian.

354

787.04(2) 3rd Take, entice, or remove child
beyond state limits with
criminal intent pending custody
proceedings.

355

787.04(3) 3rd Carrying child beyond state
lines with criminal intent to
avoid producing child at
custody hearing or delivering
to designated person.



313064

356	787.07	3rd	Human smuggling.
357	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
358	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
359	790.115(2)(c)	3rd	Possessing firearm on school property.
360	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
361	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
362	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
363	810.06	3rd	Burglary; possession of tools.
364			



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365	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
366	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
367	812.014(2)(c)4.- 10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
368	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
369	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
370	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
371	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any



313064

registered horse or cattle.

372

837.02(1) 3rd Perjury in official
proceedings.

373

837.021(1) 3rd Make contradictory statements
in official proceedings.

374

838.022 3rd Official misconduct.

375

839.13(2)(a) 3rd Falsifying records of an
individual in the care and
custody of a state agency.

376

839.13(2)(c) 3rd Falsifying records of the
Department of Children and
Families.

377

843.021 3rd Possession of a concealed
handcuff key by a person in
custody.

378

843.025 3rd Deprive law enforcement,
correctional, or correctional
probation officer of means of
protection or communication.

379

843.15(1)(a) 3rd Failure to appear while on bail
for felony (bond estreature or



313064

bond jumping).

380

847.0135(5)(c) 3rd Lewd or lascivious exhibition
using computer; offender less
than 18 years.

381

874.05(1)(a) 3rd Encouraging or recruiting
another to join a criminal
gang.

382

893.13(2)(a)1. 2nd Purchase of cocaine (or other
s. 893.03(1)(a), (b), or (d),
(2)(a), (2)(b), or (2)(c)4.
drugs).

383

914.14(2) 3rd Witnesses accepting bribes.

384

914.22(1) 3rd Force, threaten, etc., witness,
victim, or informant.

385

914.23(2) 3rd Retaliation against a witness,
victim, or informant, no bodily
injury.

386

918.12 3rd Tampering with jurors.

387

934.215 3rd Use of two-way communications
device to facilitate commission
of a crime.



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Section 12. This act shall take effect October 1, 2016.

===== 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 public corruption; amending s.
838.014, F.S.; revising and providing definitions;
amending s. 838.015, F.S.; revising the definition of
the term "bribery"; revising requirements for
prosecution; amending s. 838.016, F.S.; revising the
prohibition against unlawful compensation or reward
for official behavior to conform to changes made by
the act; amending s. 838.022, F.S.; revising the
prohibition against official misconduct to conform to
changes made by the act; revising applicability of the
offense to include public contractors; amending s.
838.22, F.S.; revising the prohibition against bid
tampering to conform to changes made by the act;
revising applicability of the offense to include
specified public contractors; creating s. 838.24,
F.S.; authorizing the award of attorney fees to public
servants and public contractors under certain
conditions; reenacting s. 112.534(2)(a), F.S.,
relating to official misconduct, and s. 117.01(4)(d),
F.S., relating to appointment, application,



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417 suspension, revocation, application fee, bond, and
418 oath of notaries public, to incorporate the amendment
419 made by the act to s. 838.022, F.S., in references
420 thereto; reenacting s. 817.568(11), F.S., relating to
421 criminal use of personal identification information,
422 to incorporate the amendment made by the act to s.
423 838.014, F.S., in a reference thereto; reenacting s.
424 921.0022(3)(d) and (g), F.S., relating to the Criminal
425 Punishment Code offense severity ranking chart, to
426 incorporate the amendments made by the act to ss.
427 838.015, 838.016, 838.022, and 838.22, F.S., in
428 references thereto; providing an effective date.



929576

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/19/2016	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (313064) (with title**
2 **amendment)**

3
4 Delete lines 145 - 151.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 411 - 414

9 and insert:

10 specified public contractors; reenacting s.



929576

11

112.534(2)(a), F.S.,

By Senator Gaetz

1-00667A-16

2016582__

1 A bill to be entitled
 2 An act relating to public corruption; amending s.
 3 838.014, F.S.; deleting the definition of the term
 4 "corruptly" or "with corrupt intent"; defining the
 5 term "governmental entity"; expanding the definition
 6 of the term "public servant" to include certain
 7 persons who are acting on behalf of a governmental
 8 entity; amending s. 838.015, F.S.; redefining the term
 9 "bribery" to include knowing and intentional, rather
 10 than corrupt, acts; amending s. 838.016, F.S.;
 11 revising the prohibition against unlawful compensation
 12 or reward for official behavior to conform to changes
 13 made by the act; amending s. 838.022, F.S.; revising
 14 the prohibition against official misconduct to conform
 15 to changes made by the act; amending s. 838.22, F.S.;
 16 revising the prohibition against bid tampering to
 17 conform to changes made by the act; reenacting s.
 18 817.568(11), F.S., relating to criminal use of
 19 personal identification information, to incorporate
 20 the amendment made to s. 838.014, F.S., in a reference
 21 thereto; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 838.014, Florida Statutes, is amended to
 26 read:

27 838.014 Definitions.—As used in this chapter, the term:
 28 (1) "Benefit" means gain or advantage, or anything regarded
 29 by the person to be benefited as a gain or advantage, including

Page 1 of 7

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

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30 the doing of an act beneficial to any person in whose welfare he
 31 or she is interested, including any commission, gift, gratuity,
 32 property, commercial interest, or any other thing of economic
 33 value not authorized by law.

34 (2) "Bid" includes a response to an "invitation to bid,"
 35 "invitation to negotiate," "request for a quote," or "request
 36 for proposals" as those terms are defined in s. 287.012.

37 (3) "Commodity" means any goods, merchandise, wares,
 38 produce, chose in action, land, article of commerce, or other
 39 tangible or intangible property, real, personal, or mixed, for
 40 use, consumption, production, enjoyment, or resale.

41 (4) "Governmental entity" means the state, including any
 42 unit of the executive, legislative, and judicial branches of
 43 government, political subdivisions and any agency or office
 44 thereof, or any other public entity that independently exercises
 45 any type of governmental function "~~Corruptly~~" or "~~with corrupt~~
 46 ~~intent~~" means acting knowingly and dishonestly for a wrongful
 47 purpose.

48 (5) "Harm" means pecuniary or other loss, disadvantage, or
 49 injury to the person affected.

50 (6) "Public servant" means:

51 (a) Any officer or employee of a governmental state,
 52 ~~county, municipal, or special district agency or entity;~~

53 (b) Any legislative or judicial officer or employee;

54 (c) Any person, except a witness, who acts as a general or
 55 special magistrate, receiver, auditor, arbitrator, umpire,
 56 referee, consultant, or hearing officer while performing a
 57 governmental function; ~~or~~

58 (d) A candidate for election or appointment to any of the

Page 2 of 7

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

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59 positions listed in this subsection, or an individual who has
60 been elected to, but has yet to officially assume the
61 responsibilities of, public office; or

62 (e) To the extent that the individual's conduct relates to
63 the performance of a public duty of a governmental entity, any
64 officer, director, partner, manager, representative, or employee
65 of a nongovernmental entity, private corporation, quasi-public
66 corporation, or quasi-public entity, or any person subject to
67 chapter 119 who is acting on behalf of a governmental entity.
68 For purposes of this paragraph, "nongovernmental entity" means a
69 person, association, cooperative, corporation, partnership,
70 organization, or other entity, whether operating for profit or
71 not for profit, which is not a governmental entity.

72 (7) "Service" means any kind of activity performed in whole
73 or in part for economic benefit.

74 Section 2. Subsection (1) of section 838.015, Florida
75 Statutes, is amended to read:

76 838.015 Bribery.—

77 (1) For purposes of this section, "bribery" means ~~corruptly~~
78 to knowingly and intentionally give, offer, or promise to any
79 public servant, or, if a public servant, ~~corruptly~~ to knowingly
80 and intentionally request, solicit, accept, or agree to accept
81 for himself or herself or another, any pecuniary or other
82 benefit not authorized by law with an intent or purpose to
83 influence the performance of any act or omission which the
84 person believes to be, or the public servant represents as
85 being, within the official discretion of a public servant, in
86 violation of a public duty, or in performance of a public duty.

87 Section 3. Subsections (1) and (2) of section 838.016,

1-00667A-16

2016582__

88 Florida Statutes, are amended to read:

89 838.016 Unlawful compensation or reward for official
90 behavior.—

91 (1) It is unlawful for any person ~~corruptly~~ to knowingly
92 and intentionally give, offer, or promise to any public servant,
93 or, if a public servant, ~~corruptly~~ to knowingly and
94 intentionally request, solicit, accept, or agree to accept, any
95 pecuniary or other benefit not authorized by law, for the past,
96 present, or future performance, nonperformance, or violation of
97 any act or omission which the person believes to have been, or
98 the public servant represents as having been, either within the
99 official discretion of the public servant, in violation of a
100 public duty, or in performance of a public duty. This section
101 may not ~~Nothing herein shall~~ be construed to preclude a public
102 servant from accepting rewards for services performed in
103 apprehending any criminal.

104 (2) It is unlawful for any person ~~corruptly~~ to knowingly
105 and intentionally give, offer, or promise to any public servant,
106 or, if a public servant, ~~corruptly~~ to knowingly and
107 intentionally request, solicit, accept, or agree to accept, any
108 pecuniary or other benefit not authorized by law for the past,
109 present, or future exertion of any influence upon or with any
110 other public servant regarding any act or omission which the
111 person believes to have been, or which is represented to him or
112 her as having been, either within the official discretion of the
113 other public servant, in violation of a public duty, or in
114 performance of a public duty.

115 Section 4. Subsection (1) of section 838.022, Florida
116 Statutes, is amended, and subsection (2) of that section is

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117 republished, to read:

118 838.022 Official misconduct.—

119 (1) It is unlawful for a public servant, ~~with corrupt~~
 120 ~~intent~~ to knowingly and intentionally obtain an improper a
 121 benefit for any person or to cause unlawful harm to another, by
 122 ~~te~~:

123 (a) ~~Falsifying~~ Falsify, or causing ~~cause~~ another person to
 124 falsify, any official record or official document;

125 (b) Concealing, covering up, destroying, mutilating, or
 126 altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any
 127 official record or official document or causing ~~cause~~ another
 128 person to perform such an act; or

129 (c) Obstructing, delaying, or preventing ~~Obstruct, delay,~~
 130 ~~or prevent~~ the communication of information relating to the
 131 commission of a felony that directly involves or affects the
 132 governmental ~~public agency or public~~ entity served by the public
 133 servant.

134 (2) For the purposes of this section:

135 (a) The term "public servant" does not include a candidate
 136 who does not otherwise qualify as a public servant.

137 (b) An official record or official document includes only
 138 public records.

139 Section 5. Subsections (1) and (2) of section 838.22,
 140 Florida Statutes, are amended to read:

141 838.22 Bid tampering.—

142 (1) It is unlawful for a public servant, ~~with corrupt~~
 143 ~~intent~~ to knowingly and intentionally influence or attempt to
 144 influence, in an improper manner, the competitive bidding
 145 process undertaken by any governmental ~~state, county, municipal,~~

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146 ~~or special district agency, or any other public entity,~~ for the
 147 procurement of commodities or services, by te:

148 (a) Disclosing ~~Disclose~~ material information concerning a
 149 bid or other aspects of the competitive bidding process when
 150 such information is not publicly disclosed.

151 (b) Altering or amending ~~Alter or amend~~ a submitted bid,
 152 documents or other materials supporting a submitted bid, or bid
 153 results for the purpose of intentionally providing a competitive
 154 advantage to any person who submits a bid.

155 (2) It is unlawful for a public servant, ~~with corrupt~~
 156 ~~intent~~ to knowingly and intentionally obtain an improper a
 157 benefit for any person or to cause unlawful harm to another, to
 158 circumvent a competitive bidding process required by law or rule
 159 by using a sole-source contract for commodities or services.

160 Section 6. For the purpose of incorporating the amendment
 161 made by this act to section 838.014, Florida Statutes, in a
 162 reference thereto, subsection (11) of section 817.568, Florida
 163 Statutes, is reenacted to read:

164 817.568 Criminal use of personal identification
 165 information.—

166 (11) A person who willfully and without authorization
 167 fraudulently uses personal identification information concerning
 168 an individual who is 60 years of age or older; a disabled adult
 169 as defined in s. 825.101; a public servant as defined in s.
 170 838.014; a veteran as defined in s. 1.01; a first responder as
 171 defined in s. 125.01045; an individual who is employed by the
 172 State of Florida; or an individual who is employed by the
 173 Federal Government without first obtaining the consent of that
 174 individual commits a felony of the second degree, punishable as

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2016582__

175 provided in s. 775.082, s. 775.083, or s. 775.084.

176 Section 7. This act shall take effect October 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/19/16

Meeting Date

582

Bill Number (if applicable)

X 637480

Amendment Barcode (if applicable)

Topic

Purdie Corruption

Name

USA Murley

Job Title

100 S. Monroe

Address

Street

Tallahassee FL 32301

City

State

Zip

Phone

850.922.4300

Email

Murley@fl-comber

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Florida Assoc Counties

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/19/16

Meeting Date

SB 572

Bill Number (if applicable)

Topic Public Corruption - Sen. Latvala Amendment

Amendment Barcode (if applicable)

Name Phil Archer

Job Title State Attorney

Address 2725 Judge Fran Jamieson

Phone (321) 637-5575

Street

Viera

Fl.

32940

City

State

Zip

Email parcher@sa18.org

Speaking: For Against Information

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

Representing State Attorney - 10th Cir

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/2016
Meeting Date

SB 582
Bill Number (if applicable)

637486
Amendment Barcode (if applicable)

Topic _____

Name Kraig Conn

Job Title _____

Address 301 S. Brough

Street

Tall FL 32301

City

State

Zip

Phone 2229684

Email Kconn@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-19-16

Meeting Date

SB 582

Bill Number (if applicable)

Topic Public Corruption

Amendment Barcode (if applicable)

Name Debbie HARRISON Rumberger

Job Title Legislative Liaison

Address 540 Beverly Court

Phone 850-224-2545

Street

Tallahassee FL 32301

Email LWVAdvocacy@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida League of Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG

17th District

Legg.John.web@FLSenate.gov

January 18, 2016

The Honorable Jeremy Ring
Committee on Governmental Oversight and Accountability, Chair
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: Excused Absence

Dear Chair Ring:

I am unable to attend the Committee on Governmental Oversight and Accountability on Tuesday, January 19, 2016, and I respectfully request that this absence be excused. My mother has suffered a critical health incident, and I will not be in Tallahassee. Your leadership and consideration are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg", written over a horizontal line.

John Legg
State Senator, District 17

cc: Joe McVaney, Staff Director
Allison Rudd, Administrative Assistant

REPLY TO:

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Chad Poppell

ANSWER: "Yes sir" "I do"

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Governmental Oversight

DATE: 1/19/16

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Governmental Oversight and accountability Committee

Judge:

Started: 1/19/2016 4:11:44 PM

Ends: 1/19/2016 5:03:48 PM

Length: 00:52:05

4:11:50 PM Meeting called to order - Roll call
4:12:39 PM Tab 9 - SR 1184 by Senator Diaz de la Portilla- Anti-Israel Boycott, Divestment, and
4:14:25 PM Aaron Ellis speaks on bill
4:16:58 PM Derek Silver speaks on bill.
4:19:11 PM Senator Diaz de la Portilla closes of SR 1184.
4:20:15 PM Roll call for SR 1184
4:20:53 PM Tab 12 - SB 582 Pending Reconsideration:
4:21:19 PM Amendment Barcode 401016 GO, Senator Ring
4:21:26 PM Senator Gaetz explains the amendment.
4:22:01 PM Amendment Barcode 248166 GO, Senator Latvala
4:22:07 PM Senator Latvala explains the amendment
4:23:26 PM Amendment Barcode 313064 GO, Senator Latvala
4:23:32 PM Senator Latvala explains the amendment
4:25:20 PM Phil Archer, State Attorney - 18th Circuit
4:28:31 PM Back on SB 582
4:30:33 PM Roll call for SB 582
4:31:13 PM Tab 5 - SB 724 by Senator Joyner-Public Records
4:33:00 PM Senator Latvala asked Senator Joyner about turning over public records.
4:37:18 PM Senator Ring asks a question about where the liability lies.
4:39:10 PM Senator Hays asked a question about the bill being necessary.
4:40:00 PM Mark Herron, Attorney speaks on the language of SB 724.
4:45:23 PM Tab 6 - SB 752 by Senator Abruzzo- Public Records/Office of Inspector General Id
4:45:39 PM Senator Abruzzo explains Amendment Barcode 920924 Senator Latvala
4:46:37 PM Roll call for SB 752
4:47:14 PM Tab 7 - SB 606 by Senator Margolis-State Symbols. Theresa Frederick, aide, presents the bill.
4:48:56 PM Roll call for SB 606
4:49:15 PM Tab 3 - CS/SB 578 by Regulated Industries/Senator Hutson- Public Records/Florida
4:49:45 PM Amendment Barcode 707920 Senator Latvala
4:50:01 PM Roll call for SB 578
4:50:21 PM Tab 4 - SB 592 by Senator Hutson- Public Records/Department of Financial Services
4:50:40 PM Amendment Barcode 259364 Senator Latvala, Senator Hutson will explain.
4:51:06 PM Roll call for SB 592
4:51:25 PM Senator Hays take the chair.
4:52:00 PM SPB 7050 by Governmental Oversight and Accountability- Information Technology Security
4:54:33 PM Roll call for SPB 7050
4:54:58 PM Tab 11 - SPB 7052 Government Efficiency
4:56:27 PM Bob Nave, Vice-President of Research - Florida Tax Watch
4:57:46 PM Roll call for SPB 7052
4:58:22 PM Tab 1 - Senate Confirmation Hearing: Secretary of Management Services, Chad Poppell
4:59:02 PM Chad Poppell address the committee.
5:03:05 PM Roll call for confirmation of Chad Poppell
5:03:22 PM Meeting adjourned