

Tab 1	SB 1948 by Bean (CO-INTRODUCERS) Bradley ; (Identical to H 01463) Department of Economic Opportunity					
486480	A	S	RCS	CM, Bean	Delete L.564 - 729:	03/16 02:12 PM
Tab 2	SB 1046 by Bean (CO-INTRODUCERS) Baxley, Bradley ; (Compare to CS/H 00755) Arrest Booking Photographs					
708560	A	S	RCS	CM, Bean	Delete L.50 - 66:	03/16 02:12 PM
Tab 3	SB 572 by Baxley ; (Similar to H 00931) Engineers					
Tab 4	CS/SB 574 by RI, Baxley ; (Identical to H 00933) Fees/Professional Structural Engineer Licensing					
Tab 5	SB 1560 by Ausley ; (Identical to H 01339) Broadband Internet Service					
186496	A	S	RCS	CM, Ausley	Delete L.193 - 275:	03/16 02:14 PM
510320	AA	S	RCS	CM, Ausley	Delete L.97 - 270:	03/16 02:14 PM
138988	AA	S	RCS	CM, Gruters	Delete L.105 - 112:	03/16 02:14 PM
Tab 6	SB 302 by Taddeo ; (Similar to H 00637) Small Business Saturday Sales Tax Holiday					
503806	A	S	RCS	CM, Taddeo	Delete L.41 - 49:	03/16 02:15 PM
Tab 7	SB 616 by Gruters ; (Similar to H 00317) Public Accountancy					
Tab 8	SB 1444 by Wright ; (Identical to H 01161) Florida Small Manufacturing Business Recovery Act					
Tab 9	SM 1544 by Pizzo ; Free Trade Agreement/United States and United Kingdom					
Tab 10	SB 2004 by Burgess ; Broadband Internet					
233844	A	S	RCS	CM, Burgess	btw L.80 - 81:	03/16 02:18 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM

Senator Hooper, Chair
Senator Wright, Vice Chair

MEETING DATE: Monday, March 15, 2021

TIME: 3:30—6:00 p.m.

PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Hooper, Chair; Senator Wright, Vice Chair; Senators Burgess, Diaz, Garcia, Gruters, Hutson, Pizzo, Powell, Taddeo, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	SB 1948 Bean (Identical H 1463, Compare H 1291, S 1640)	Department of Economic Opportunity; Renaming the executive director of the Department of Economic Opportunity as the Secretary of Economic Opportunity; revising the application process and funding for development grants awarded by the department to local governments; requiring the department to implement an integrated modular cloud-based system, rather than an integrated Internet-based system, for the reemployment assistance program; revising the timeline for employers' responses to notices of benefits claims sent by the department, etc. CM 03/15/2021 Fav/CS AP RC	Fav/CS Yeas 11 Nays 0
2	SB 1046 Bean (Compare CS/H 755)	Arrest Booking Photographs; Expanding the applicability of provisions relating to the dissemination of arrest booking photographs to include a person or entity whose primary business model is the publishing or dissemination of such photographs for a commercial purpose or pecuniary gain, etc. CJ 03/02/2021 Favorable CM 03/15/2021 Fav/CS RC	Fav/CS Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, March 15, 2021, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 572 Baxley (Similar H 931, Compare H 933, Linked CS/S 574)	Engineers; Prohibiting a person who is not licensed as an engineer from using a specified name or title; prohibiting, after a specified date, a person who is not a licensed professional structural engineer from using specified names and titles or practicing professional structural engineering; authorizing the Board of Professional Engineers to refuse to certify an applicant for a professional structural engineer license for certain reasons; exempting certain applicants who apply for licensure before a specified date from having to pass a certain national examination, under certain conditions; specifying acts that constitute grounds for disciplinary action, including civil penalties, against a professional structural engineer, etc. RI 03/01/2021 Favorable CM 03/15/2021 Favorable RC	Favorable Yeas 11 Nays 0
4	CS/SB 574 Regulated Industries / Baxley (Identical H 933, Compare H 931, Linked S 572)	Fees/Professional Structural Engineer Licensing; Authorizing the Board of Professional Engineers to establish fees relating to professional structural engineer licensing; requiring applicants to pay a specified fee in order to be eligible to receive a professional structural engineer license, etc. RI 03/01/2021 Fav/CS CM 03/15/2021 Favorable AP	Favorable Yeas 11 Nays 0
5	SB 1560 Ausley (Identical H 1339, Compare CS/H 753)	Broadband Internet Service; Revising the duties of the Florida Office of Broadband within the Department of Economic Opportunity; requiring the office to develop geographic information system maps in collaboration with specified entities and consistent with certain federal reporting standards by a specified date; requiring the department to annually update such maps and establish a mechanism to receive and verify governmental and public input related to broadband Internet service; establishing the Broadband Deployment Task Force within the office for a specified purpose; requiring the office to establish a process to identify eligible households to receive federal Emergency Broadband Benefit Program funds under certain circumstances, etc. CM 03/15/2021 Fav/CS ATD AP	Fav/CS Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, March 15, 2021, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 302 Taddeo (Similar H 637)	Small Business Saturday Sales Tax Holiday; Defining the term "small business"; providing that small businesses are not required to collect the sales and use tax on the retail sale of certain items of tangible personal property during a specified timeframe; authorizing the Department of Revenue to adopt emergency rules, etc. CM 03/15/2021 Fav/CS FT AP	Fav/CS Yeas 11 Nays 0
7	SB 616 Gruters (Similar H 317)	Public Accountancy; Requiring that certain applicants not be licensed in any state or territory in order to be licensed by endorsement; requiring that a majority of the hours required for continuing education include specific content; authorizing certain Florida certified public accountants to apply to the Department of Business and Professional Regulation to have their license placed in a retired status, etc. RI 03/01/2021 Favorable CM 03/15/2021 Favorable RC	Favorable Yeas 11 Nays 0
8	SB 1444 Wright (Identical H 1161)	Florida Small Manufacturing Business Recovery Act; Creating the "Florida Small Manufacturing Business Recovery Act"; requiring the Department of Economic Opportunity to accept applications for certification of relief funds and relief contributions in a specified manner; prohibiting the department from approving more than a specified amount of relief investment authority and relief contributions; authorizing applicants whose applications were denied to provide additional information within a certain timeframe to cure defects in their applications; authorizing nonrefundable tax credits for owners of tax credit certificates issued by the department, etc. CM 03/15/2021 Favorable FT AP	Favorable Yeas 11 Nays 0
9	SM 1544 Pizzo	Free Trade Agreement/United States and United Kingdom ; Commending Congress for granting trade promotion authority to the executive branch, urging the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and urging Congress to ratify such agreement, etc. CM 03/15/2021 Favorable RC	Favorable Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, March 15, 2021, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 2004 Burgess	Broadband Internet; Requiring the Florida Office of Broadband's strategic plan to include short-term and long-term goals for increasing the availability of and access to broadband Internet service in this state; requiring the updated plan to be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislature by a specified date; requiring the office to provide technical and planning assistance related to broadband infrastructure to rural communities, etc. CM 03/15/2021 Fav/CS CA RC	Fav/CS Yeas 11 Nays 0

Other Related Meeting Documents



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: March 4, 2021

I respectfully request that **Senate Bill #1948**, relating to Department of Economic Opportunity, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03/15/2021

Meeting Date

SB 1948

Bill Number (if applicable)

Topic SB 1948 - Department of Economic Opportunity

Amendment Barcode (if applicable)

Name Dane Eagle

Job Title Executive Director

Address 107 E. Madison Street, Caldwell Building

Phone (850) 245-7298

Street

Tallahassee

FL

32399

Email Dane.Eagle@deo.myflorida.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Department of Economic Opportunity

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/15/2021

Meeting Date

1948

Bill Number (if applicable)

Topic Department of Economic Opportunity

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.

Phone 850-321-9386

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Tallahassee

FL

32301

Email fcfep@yahoo.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/15/21
Meeting Date

1948
Bill Number (if applicable)

Topic DEO

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

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 Commerce and Tourism

BILL: CS/SB 1948

INTRODUCER: Commerce and Tourism Committee and Senators Bean and Bradley

SUBJECT: Department of Economic Opportunity

DATE: March 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	Fav/CS
2.			AP	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1948 modifies provisions related to the Department of Economic Opportunity (DEO), including:

- Changing the title for the head of the DEO from “Executive Director” to the “Secretary of Economic Opportunity;”
- Creating the Office of Economic Accountability and Transparency within the DEO;
- Adding the Secretary of Economic Opportunity or his or her designee to the Enterprise Florida Board of Directors and the CareerSource Board of Directors;
- Authorizing local governments applying for grants under the Community Development Block Grant (CDBG) program to participate in more than one grant category;
- Increasing the percentage of CDBG funding that the DEO may set aside annually for use in local government jurisdictions when an emergency or natural disaster has been declared by executive order;
- Removing provisions that limit the number of grant applications a local government may submit during each CDBG application cycle;
- Requiring local governments to expedite the approval of building permits applied for by contractors on behalf of a property owner participating in the CDBG-Disaster Recovery program;
- Allowing regional workforce boards to conduct level 2 background screenings;
- Modifying a provision making domestic violence claimants ineligible for RA benefits if they refuse an employer’s reasonable accommodation;

- Requiring the DEO, for fiscal year 2021-2022, to modernize the RA system as provided in the General Appropriations Act;
- Removing the requirement that RA appeals referees be Florida attorneys; and
- Imposing a 5 year statute of limitations on RA appeals.

The bill takes effect upon becoming a law.

II. Present Situation:

The Department of Economic Opportunity

The DEO was created in 2011 by combining the Agency for Workforce Innovation, the Department of Community Affairs, and the Governor's Office of Tourism, Trade, and Economic Development.¹ The head of the DEO is the executive director, who is appointed by the Governor and confirmed by the Senate.² The purpose of the DEO is to formulate and implement policies designed to promote economic opportunities for Floridians.³

The Community Development Block Grant Program

The Community Development Block Grant (CDBG) Program was created by Title I of the Housing and Community Development Act of 1974.⁴ The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.⁵

Florida Small Cities Community Development Block Grant Program

The DEO administers the Small Cities CDBG program and distributes funds to eligible non-entitlement communities.⁶ To be eligible, a city must have a population under 50,000, and a county's population must be under 200,000.⁷ The program awards subgrants in economic development, neighborhood revitalization, housing rehabilitation, and commercial revitalization.⁸ Currently, the DEO may annually set aside 5 percent of CDBG funds for use in local government jurisdictions for which an emergency or natural disaster has been declared by executive order.⁹

¹ See ch. 2011-142, Laws of Fla.

² Section 20.60(2), F.S.

³ See s. 20.60(4), F.S.

⁴ The Department of Economic Opportunity, *Community Development Block Grant Program*, available at <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/community-development-block-grant-program> (last visited March 16, 2021).

⁵ *Id.* See also s. 290.044, F.S.

⁶ The Department of Economic Opportunity, *Florida Small Cities Development Block Grant Program*, available at <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/florida-small-cities-community-development-block-grant-program> (last visited March 16, 2021).

⁷ The Department of Economic Opportunity, *Community Development Block Grant Program*, available at <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/community-development-block-grant-program> (last visited March 16, 2021).

⁸ *Id.*

⁹ Section 290.044(5), F.S.

Except for applications for economic development, an eligible local government may only submit one application for a grant during each application cycle.¹⁰ Additionally, if economic development funds remain available after the application cycle closes, the remaining funds must be awarded to eligible projects on a first-come, first served basis.¹¹

Disaster Recovery

The Community Development Block Grant – Disaster Recovery (CDBG-DR) program is a federally funded program administered by the U.S. Department of Housing and Urban Development that is designed to address housing, infrastructure, economic development, and mitigation needs that remain after other assistance has been exhausted.¹²

The DEO administers the CDBG-DR program through its Division of Community Development's Office of Long-Term Resiliency.¹³ Currently, single-family residential housing repair and replacement projects are underway for Florida residents whose homes still have unrepaired damage from Hurricanes Hermine, Matthew, Irma, and Michael.¹⁴ These projects must comply with the Florida Building Code Act by applying for and receiving Florida building permits.¹⁵ A building permit for a single-family residential home must be issued within 30 days of application.¹⁶

Enterprise Florida, Inc.

Enterprise Florida, Inc., (EFI) serves as the principle economic development organization for the state.¹⁷ Among its numerous duties, EFI markets the state for business creation, expansion, and retention.¹⁸ Additionally, EFI contracts with the DEO to manage some of the various programs housed in the Division of Strategic Business Development.¹⁹

Workforce Development Boards

Twenty-four local workforce development boards (local boards) deliver Florida's workforce development services through over 100 one-stop service providers.²⁰ The one-stop service providers give Floridians access to available workforce services; including job placement, career

¹⁰See s. 290.046(2)(a), F.S. An eligible local government may apply up to three times in any one annual funding cycle for an economic development grant but may not receive more than one such grant per annual funding cycle. A local government may have more than one open economic development grant.

¹¹ Section 290.046(3)(b), F.S.

¹² The Department of Economic Opportunity, *Office of Disaster Recovery*, available at <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited March 16, 2021).

¹³ *Id.*

¹⁴ *See Id.*

¹⁵ *See* s. 553.79, F.S.

¹⁶ *See* s. 553.79(14), F.S.

¹⁷ Section 288.901(2), F.S.

¹⁸ *Id.*

¹⁹ *Id.* *See also* s. 20.60(a), F.S.

²⁰ Florida Department of Economic Opportunity, *CareerSource Florida Network Directory*, <http://lcd.floridajobs.org/> (last visited March 16, 2021).

counseling, and skills training.²¹ Each local board formulates a local budget and oversees the one-stop delivery system within its local area.²²

Background Screening

An employer²³ may not hire, select, or otherwise allow an employee to have contact with a vulnerable person²⁴ that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment.²⁵ If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency²⁶ as provided under s. 435.07, F.S.²⁷

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening.

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,²⁸ and may include criminal records checks through local law enforcement agencies.²⁹
- Level 2 screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.³⁰

Reemployment Assistance

Florida's unemployment insurance program was created by the Legislature in 1937.³¹ The program was rebranded as the "reemployment assistance (RA) program" in 2012.³² The DEO is responsible for administering the program, and the DEO contracts with the Florida Department

²¹ See s. 445.009, F.S.

²² Section 445.007(12), F.S.

²³ Section 435.02(3), F.S., defines "employer" as any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S.

²⁴ Section 415.102(28), F.S., defines "vulnerable adult" as a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

²⁵ Section 435.06(2)(a), F.S.

²⁶ Section 435.02(1), F.S., defines "agency" as any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer, or is itself an employer, or that otherwise facilitates the screening of employees pursuant to ch. 435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, "agency" means the Department of Children and Families.

²⁷ Section 435.06(2)(a), F.S.

²⁸ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at <https://www.nsopw.gov/> (last visited March 16, 2021).

²⁹ Section 435.03(1), F.S.

³⁰ Section 435.04(1)(a), F.S.

³¹ Chapter 18402, Laws of Fla.

³² Chapter 2012-30, Laws of Fla.

of Revenue (DOR), as the tax collection service provider, for the collection of unemployment taxes.³³

Work Search Requirement

To receive RA benefits, a claimant must meet certain monetary and non-monetary eligibility requirements. Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.³⁴

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment.³⁵ For example, each week an individual is required to contact at least five prospective employers (three prospective employers if the individual resides in a small county) or report to a One-Stop Career Center for reemployment services.³⁶

Domestic Violence³⁷ Victims

Sometimes victims of domestic violence must leave their jobs due to the impact that the violence has had on their lives. Employers are required to permit an employee to request and take up to 3 working days of leave from work in any 12-month period if the employee or a family or household member of an employee is the victim of domestic violence or sexual violence.³⁸

Except in cases of imminent danger to the health or safety of the employee, or a family or household member, an employee seeking leave from work must provide his or her employer with appropriate advance notice of the leave as required by the employer's policy along with sufficient documentation of the act of domestic violence or sexual violence as required by the employer.³⁹ An employer must keep all information relating to an employee's leave confidential.⁴⁰ Additionally, an employer may not fire, demote, suspend, retaliate, or otherwise discriminate against an individual for taking leave.⁴¹

Employees who voluntarily leave their job are not typically qualified to receive RA benefits.⁴² However, an individual will not be disqualified for voluntarily leaving work due to circumstances directly related to domestic violence.⁴³

³³ Section 443.1316, F.S.

³⁴ See s. 443.091, F.S.

³⁵ *Id.*

³⁶ *Id.* For the entire list of requirements and exceptions. A "small county" is defined in s. 120.52(19), F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

³⁷ "'Domestic violence' means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member." s. 741.28, F.S.

³⁸ Section 741.313, F.S.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² See s. 443.101(1)(a), F.S.

⁴³ See s. 443.101(1)(a)2.c., F.S.

An individual who voluntarily leaves work due to domestic violence must:

- Make reasonable efforts to preserve employment, unless the individual establishes that such efforts are likely to be futile or increase the risk of future incidents of domestic violence;⁴⁴
- Provide evidence such as an injunction, a protective order, or other documentation authorized by state law, which reasonably proves that domestic violence has occurred; and
- Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment.⁴⁵

The CONNECT System

Florida's unemployment system is administered by the DEO using the CONNECT system, which was deployed in 2013 to provide a modernized, web-based system and to replace a mainframe system.⁴⁶ According to ISF, an information technology and strategy firm who completed an assessment of the CONNECT system between November 2020 and February 2021, the CONNECT system was not designed to process the volume of claims received during the COVID-19 pandemic.⁴⁷ ISF analyzed ways to improve the delivery of RA benefits, including a phased approach to ensure the DEO can meet current and future demands.⁴⁸ ISF's assessment provides an overview of the current state of the CONNECT system, and recommends the modernization of the RA system, which includes cloud migration.⁴⁹

On May 4, 2020, at the request of Governor DeSantis, the Office of the Chief Inspector General (CIG) initiated a review of the CONNECT system.⁵⁰ The scope of the CIG's review considered available documentation and testimony about the CONNECT system from the period of 2007 to 2020.⁵¹ The CIG's recommendations in the draft report included the following:

- Documenting future Information Technology (IT) system capacity requirements and expected utilization in system testing plans and test results;
- Assessing the proposed level of maturity of any state transfer or commercial off-the-shelf system relied upon for risk and properly document the risk;
- Monitoring what is being provided by the vendor and build in an escape plan and financial penalties for noncompliance;
- Requiring project management to be flat and agile, which may include considering more modular IT projects to accommodate future and rapid technological changes; and

⁴⁴ Efforts to preserve employment may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment. *See Id.*

⁴⁵ An individual who is otherwise eligible for RA benefits under s. 443.101, F.S., is ineligible for each week that he or she no longer meets the qualifying criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit. *See Id.*

⁴⁶ The Florida Department of Economic Opportunity, *Improved Delivery of Reemployment Assistance Benefits – Final Report* at 1 (Feb. 26, 2021), available at <http://floridajobs.org/docs/default-source/communicationsfiles/2021-improved-delivery-of-reemployment-assistance-benefits-final-report-and-cost-benefit-analysis.pdf> (last visited March 16, 2021).

⁴⁷ *Id.* at 2.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Office of the Chief Inspector General, *Review of the Department of Economic Opportunity Florida CONNECT System* at iii (March 4, 2021), available at https://www.flgov.com/wp-content/uploads/2021/03/202005040015-Draft-Report-3.4.21_2.05pm.pdf (last visited March 16, 2021).

⁵¹ *Id.*

- Strengthening administrative and physical infrastructure needs, which may include moving the future CONNECT system to the cloud to allow for greater scalability.⁵²

Appeals Process

The DEO issues determinations and redeterminations on the monetary and non-monetary eligibility requirements of RA benefits.⁵³ Determinations and redeterminations are statements by the DEO regarding the application of law to an individual's eligibility for benefits or the effect of the benefits on an employer's tax account.⁵⁴ A party who believes a determination is inaccurate may request reconsideration and the DEO must review the information on which the request is based and issue a redetermination.⁵⁵

If a party disagrees with either the determination or redetermination, the applicant or employer may request an administrative hearing before an appeals referee.⁵⁶ An appeals referee must be an attorney in good standing with the Florida Bar.⁵⁷ Appeals referees in the DEO's Office of Appeals hold hearings and issue decisions to resolve disputes related to eligibility for RA benefits and the payment and collection of RA taxes.⁵⁸

A decision by an appeals referee can be appealed to the RA Appeals Commission.⁵⁹ The commission may affirm, modify, remand with instructions, or reverse the determination made by the appeals referee based on evidence previously submitted in the case or additional evidence taken at the direction of the commission.⁶⁰ However, the commission may also assume jurisdiction of a case prior to completion of proceedings by an appeals referee.⁶¹

A party to an appeal who disagrees with the commission's order may seek review of the decision in the Florida district courts of appeal.⁶² The notice of appeal should be filed either in the district court of appeal in the appellate district in which a claimant resides or the job separation arose or in the appellate district where the order was issued.⁶³ If the notice of appeal is filed with the commission, then the appeal will be filed in the district court of appeal in the appellate district where the order was issued.⁶⁴

⁵² *Id.*

⁵³ Section 443.151(3), F.S. The Social Security Act requires states to offer "an opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied." 42 U.S.C. 503(a)(3).

⁵⁴ *See* s. 443.151, F.S.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *See* s. 443.151(4), F.S.

⁵⁹ *See* s. 443.151(c), F.S.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *See* s. 443.151(e), F.S.

⁶³ *Id.*

⁶⁴ *Id.*

III. Effect of Proposed Changes:

The Department of Economic Opportunity

Section 1 amends s. 20.60, F.S., to change the title for the head of the DEO from “Executive Director” to the “Secretary of Economic Opportunity.”

The bill provides that the secretary may appoint deputy and assistant secretaries as necessary. The bill establishes the Office of the Secretary and the Office of Economic Accountability and Transparency.

The bill provides that the Office of Economic Accountability and Transparency must do the following:

- Oversee the DEO’s critical objectives and make sure the DEO’s key objectives are clearly communicated to the public;
- Organize the DEO’s resources, expertise, data, and research to focus on and solve the complex economic challenges facing the state;
- Provide leadership for the DEO’s priority issues that require integration of policy, managements, and critical objectives from multiple programs and organizations internal and external to the department;
- Promote and facilitate key DEO initiatives to address priority economic issues and explore data and identify opportunities for innovative approaches to address such economic issues; and
- Promote strategic planning for the DEO.

The bill authorizes the secretary to create offices within the Office of the Secretary and within the divisions established in s. 20.60(3)(a), F.S., to promote efficient and effective operation of the DEO.

The bill provides that the secretary must appoint and oversee a director for each division established in s. 20.60(3)(a), F.S.

Enterprise Florida

Section 2 amends s. 288.901, F.S., to add the secretary or his or her designee to the Enterprise Florida Board of Directors.

Florida Small Cities Community Development Block Grant Program

Section 3 amends s. 290.042, F.S., to provide that the definition of “administrative costs” has the same meaning as defined in the Housing and Community Development Act of 1974.⁶⁵

⁶⁵ See 42 U.S.C. § 5305, which describes activities that are eligible for assistance under the Community Development section of the act. The section provides that reasonable administrative costs related to establishing and administering federally approved enterprise zones and payment of reasonable administrative costs and carrying charges related to administering the HOME program under Title II of the Cranston-Gonzalez National Affordable Housing Act and the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of

Section 4 amends s. 290.044, F.S., to provide that applicants applying for CDBGs are authorized to participate in more than one grant category.⁶⁶

The bill increases the percentage of CDBG funds that the DEO may set aside annually for use in local government jurisdictions for which an emergency or natural disaster has been declared by executive order from 5 percent to 15 percent.

The bill removes the requirement that in the last quarter of the state fiscal year, the DEO must distribute any funds not allocated under the emergency-related set-aside to unfunded applications.

Section 5 amends s. 290.046, F.S., to remove provisions that limit the number of grant applications a local government may submit during each CDBG cycle.

The bill removes the requirement that unused economic development grant funds be awarded on a first come first serve basis.

The bill provides that the DEO may prohibit an applicant from receiving a grant or may penalize an applicant in the rating of a current application if the DEO determines that any applicant has failed to substantially accomplish the results it proposed in previously funded applications.

Section 13 amends s. 553.79, F.S., to require local governments to issue a building permit for a single-family residential home within 15 working days after receipt of the application when the permit is applied for by a contractor licensed in Florida on behalf of a property owner who participates in a CDBG-DR program.

Workforce Development Boards and CareerSource

Section 7 amends s. 435.02, F.S., to change the definition of “specified agency” to include regional workforce boards providing services defined in s. 445.002(3), F.S.,⁶⁷ which will allow regional workforce development boards to conduct level 2 background screenings.

such activities, and including the carrying out of activities as described in section 701(e) of the Housing Act of 1954 are eligible for assistance. *See also* s. 290.047, F.S., which provides that the maximum percentage of block grant funds that can be spent on administrative costs by an eligible local government is 15 percent for the housing rehabilitation program, 8 percent for both the neighborhood and the commercial revitalization program categories, and 8 percent for the economic development program category.

⁶⁶ The bill provides that the applicable grant categories include housing rehabilitation, economic development, neighborhood revitalization, commercial revitalization, and any other activity authorized by federal law.

⁶⁷ Section 445.002(3), F.S., defines “services and one-time payments” or “services,” when used in reference to individuals who are not receiving temporary cash assistance, as meaning nonrecurrent, short-term benefits designed to deal with specific crisis situation or episode of need and other services; work subsidies; supportive services such as child care information referral; transitional services, job retention, job advancement, and other employment-related services; nonmedical treatment for substance abuse or mental health problems; teen pregnancy prevention; two-parent family support, including noncustodial parent employment; court-ordered supervised visitation, and responsible fatherhood services; and any other services that are reasonably calculated to further the purposes of the welfare transition program.

Section 12 amends s. 445.004, F.S., to add the secretary or his or her designee to the CareerSource Florida, Inc. Board of Directors.

Reemployment Assistance

Section 8 amends s. 443.091, F.S., to remove the requirement that RA claimants must include phone numbers of prospective employers in their weekly work search report.

The bill clarifies that the term “address” means a website address, a physical address, or an email address.

Section 9 amends s. 443.101, F.S., to remove a provision providing that a domestic violence claimant is ineligible to receive RA benefits for each week that he or she no longer meets the criteria under s.443.101(1)(a)2.c., F.S., or if they refuse an employer’s reasonable accommodation.

Section 10 amends s. 443.1113, F.S., to require the DEO, for Fiscal Year 2021-2022, to modernize the RA system as provided in the General Appropriations Act.

The bill provides that the system may be cited as the “Reemployment Assistance Claims and Benefits Information System” (system).

The bill establishes that the system must do the following:

- Be accessible through the Internet;
- Be accessible on mobile devices and personal computers;
- Process RA claims;
- Process benefit payment;
- Monitor for and manage the collection of overpayments;
- Perform adjudication functions;
- Process appeals and manage appeal hearings; and
- Manage and process employer charging.

The bill provides that wherever cost effective and operationally feasible, the system must enable and enhance online, self-service capabilities. The DEO must seek input and recommendations on RA system enhancements from the following entities:

- The Florida Digital Service with the Department of Management Services;
- The General Tax Administration Program Office with the Department of Revenue; and
- The Division of Accounting and Auditing within the Department of Financial Services.

The bill requires that by October 1, 2023, the DEO must submit a RA Claims and Benefits Information System report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which must include, a summary of maintenance, enhancement, and modernization efforts over the last fiscal year and a 3-year outlook of recommended enhancements or modernization efforts that includes projected costs and timeframes for completion.

The bill removes obsolete language.

Section 11 amends s. 443.151, F.S., to require an employer⁶⁸ to respond to a notice of claim within 14 days after the mailing date of the notice, or in lieu of mailing, within 14 days after the delivery of the notice.⁶⁹

The bill provides that a RA claimant may file a request for the DEO to reconsider a monetary determination within 20 days after the DEO mails the notice to the claimant's last known address, or in lieu of mailing, within 20 days after delivery of the notice.

The bill provides that a monetary redetermination is final for a claimant unless within 20 days after the mailing of the notice of monetary redetermination to the claimant's last known address, or in lieu of mailing, within 20 days after delivery of the notice, the claimant files an appeal. The monetary determination or monetary redetermination is final for an employer or other party entitled to notice unless within 20 days after the mailing or, in lieu of mailing, within 20 days after delivery of the notice, an appeal is filed by an employer or other party.

The bill removes the requirement that an appeals referee be an attorney in good standing with the Florida bar.

The bill establishes a 5 year statute of limitations on appeals.⁷⁰

Miscellaneous

Section 6 amends s. 331.3081, F.S., to update a cross reference.

Sections 14-52 amends ss. 14.20195, 16.615, 20.04, 213.053, 220.194, 288.005, 288.061, 288.0656, 288.106, 288.1089, 288.1251, 288.8014, 288.955, 288.9604, 288.987, 290.0065, 311.09, 311.105, 334.065, 373.4149, 380.045, 403.0752, 420.0005, 420.0006, 420.101, 420.503, 420.504, 420.506, 420.507, 420.511, 420.602, 420.609, 420.622, 427.012, 443.1116, 446.53, 450.261, 624.5105, 1004.015, F.S., respectively, to make conforming changes to provisions made by the bill.

Effective Date

Section 53 provides that the bill takes effect upon becoming a law.

⁶⁸ "Employer" is referring to the claimant's most recent employing unit and all employers whose employment records are liable for benefits under the monetary determination.

⁶⁹ Currently, under s. 443.151(a), F.S., employers are given 20 days to respond to a notice of claim.

⁷⁰ The bill provides that an appeal may not be filed more than 5 years after the date of the mailing of a determination or, if the determination is not mailed, more than 5 years after the date of the delivery of the determination.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 1 of the bill authorizes the secretary of the DEO to create offices within the Office of the Secretary established in the bill, and offices within the divisions established in s. 20.60(3), F.S. Section 20.04(3), F.S., provides that departments in the executive branch are internally structured as follows: department, division, bureau, section. Section 20.04(7)(b), F.S., provides that new bureaus, sections, and subsections of departments may be initiated by a department and established as recommended by the Department of Management Services and approved by the Executive Office of the Governor, or may be established by specific statutory enactment. Though

some of the new offices are established by specific statutory enactment in the bill, the ability to create other offices may be subject to the provisions of s. 20.04(7)(b), F.S.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 20.60, 288.901, 290.042, 290.044, 290.046, 331.3081, 435.02, 443.091, 443.101, 443.1113, 443.151, 445.004, 553.79, 14.20195, 16.615, 20.04, 213.053, 220.194, 288.005, 288.061, 288.0656, 288.106, 288.1089, 288.1251, 288.8014, 288.955, 288.9604, 288.987, 290.0065, 311.09, 311.105, 334.065, 373.4149, 380.045, 403.0752, 420.0005, 420.0006, 420.101, 420.503, 420.504, 420.506, 420.507, 420.511, 420.602, 420.609, 420.622, 427.012, 443.1116, 446.53, 450.261, 624.5105, 1004.015.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism on March 15, 2021:

The committee substitute requires the DEO, for Fiscal Year 2021-2022, to modernize the reemployment assistance (RA) system as provided in the General Appropriations Act. It clarifies that the RA system must efficiently distribute benefits and effectively manage and operate the RA program, which includes monitoring and managing the collection of overpayments.

The committee substitute clarifies that the DEO must perform an annual review of the RA system and identify ways to improve the delivery of services, and requires a summary of maintenance, enhancement, and modernization efforts over the last fiscal year and a 3-year outlook of recommended changes to be included in the RA Claims and Benefits Information System report. The committee substitute provides that the DEO must seek input and recommendations on RA system enhancements from specified entities.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 564 - 729
and insert:

Section 10. Section 443.1113, Florida Statutes, is amended
to read:

443.1113 Reemployment Assistance Claims and Benefits
Information System.—

(1) The Department of Economic Opportunity shall maintain a
system for the efficient distribution of benefits and the



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11 effective operation and management of the reemployment
12 assistance program. The ~~To the extent that funds are~~
13 ~~appropriated for each phase of the Reemployment Assistance~~
14 ~~Claims and Benefits Information system may be cited by the~~
15 ~~Legislature, the Department of Economic Opportunity shall~~
16 ~~replace and enhance the functionality provided in the following~~
17 ~~systems with an integrated Internet-based system that is known~~
18 ~~as the "Reemployment Assistance Claims and Benefits Information~~
19 ~~System" and must:~~

20 (a) Be accessible through the Internet Claims and benefit
21 ~~mainframe system.~~

22 (b) Be accessible on mobile devices and personal computers
23 ~~Florida unemployment Internet direct.~~

24 (c) Process reemployment assistance claims ~~Florida~~
25 ~~continued claim Internet directory.~~

26 (d) Process benefit payments ~~Call center interactive voice~~
27 ~~response system.~~

28 (e) Monitor for and manage the collection of overpayments
29 ~~Benefit overpayment screening system.~~

30 (f) Perform adjudication functions ~~Internet and Intranet~~
31 ~~appeals system.~~

32 (g) Process appeals and manage appeal hearings.

33 (h) Manage and process employer charging.

34 (2) Wherever cost-effective and operationally feasible, the
35 Reemployment Assistance Claims and Benefits System shall
36 accomplish the following main business objectives:

37 (a) ~~Wherever cost-effective and operationally feasible,~~
38 Eliminate or automate existing paper processes and enhance any
39 existing automated workflows in order to expedite customer



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transactions and eliminate redundancy.

(b) Enable and enhance online, self-service capabilities ~~access~~ to claimant and employer information and federal and state reporting.

(c) Integrate benefit payment control with the adjudication program and collection system in order to improve the detection of fraud.

(d) Comply with all requirements established in federal and state law for reemployment assistance.

(e) Integrate with the Department of Revenue's statewide unified tax system that collects reemployment assistance taxes.

(3) The scope of the Reemployment Assistance Claims and Benefits Information System does not include any of the following functionalities:

(a) Collection of reemployment assistance taxes.

(b) General ledger, financial management, or budgeting capabilities.

(c) Human resource planning or management capabilities.

(4) (a) The Department of Economic Opportunity shall perform an annual review of the system and identify enhancements or modernization efforts that improve the delivery of services to claimants and employers and reporting to state and federal entities.

(b) The Department shall seek input on recommended enhancements from, at a minimum, the following entities:

1. The Florida Digital Service within the Department of Management Services.

2. The General Tax Administration Program Office within the Department of Revenue.



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69 3. The Division of Accounting and Auditing within the
70 Department of Financial Services.

71 (5) By October 1, 2023, and each year thereafter, the
72 Department of Economic Opportunity shall submit a Reemployment
73 Assistance Claims and Benefits Information System report to the
74 Governor, the President of the Senate, and the Speaker of the
75 House of Representatives. The report must, at a minimum,
76 include:

77 (a) A summary of maintenance, enhancement, and
78 modernization efforts over the last fiscal year.

79 (b) A 3-year outlook of recommended enhancements or
80 modernization efforts that includes projected costs and
81 timeframes for completion ~~The project to implement the~~
82 ~~Reemployment Assistance Claims and Benefits Information System~~
83 ~~is comprised of the following phases and corresponding~~
84 ~~implementation timeframes:~~

85 ~~(a) No later than the end of fiscal year 2009-2010~~
86 ~~completion of the business re-engineering analysis and~~
87 ~~documentation of both the detailed system requirements and the~~
88 ~~overall system architecture.~~

89 ~~(b) The Reemployment Assistance Claims and Benefits~~
90 ~~Internet portal that replaces the Florida Unemployment Internet~~
91 ~~Direct and the Florida Continued Claims Internet Directory~~
92 ~~systems, the Call Center Interactive Voice Response System, the~~
93 ~~Benefit Overpayment Screening System, the Internet and Intranet~~
94 ~~Appeals System, and the Claims and Benefits Mainframe System~~
95 ~~shall be deployed to full operational status no later than the~~
96 ~~end of fiscal year 2013-2014.~~

97 ~~(5) The Department of Economic Opportunity shall implement~~



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~~the following project governance structure until such time as
the project is completed, suspended, or terminated:~~

~~(a) The project sponsor for the Reemployment Assistance
Claims and Benefits Information System project is the
department.~~

~~(b) The project shall be governed by an executive steering
committee composed of the following voting members or their
designees:~~

- ~~1. The executive director of the department.~~
- ~~2. The executive director of the Department of Revenue.~~
- ~~3. The director of the Division of Workforce Services
within the department.~~
- ~~4. The program director of the General Tax Administration
Program Office within the Department of Revenue.~~

~~5. The chief information officer of the department.~~

~~(c) The executive steering committee has the overall
responsibility for ensuring that the project meets its primary
objectives and is specifically responsible for:~~

- ~~1. Providing management direction and support to the
project management team.~~
- ~~2. Assessing the project's alignment with the strategic
goals of the department for administering the reemployment
assistance program.~~
- ~~3. Reviewing and approving or disapproving any changes to
the project's scope, schedule, and costs.~~
- ~~4. Reviewing, approving or disapproving, and determining
whether to proceed with any major project deliverables.~~
- ~~5. Recommending suspension or termination of the project to
the Governor, the President of the Senate, and the Speaker of~~



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~~the House of Representatives if it determines that the primary objectives cannot be achieved.~~

~~(d) The project management team shall work under the direction of the executive steering committee and shall be minimally comprised of senior managers and stakeholders from the department and the Department of Revenue. The project management team is responsible for:~~

~~1. Providing daily planning, management, and oversight of the project.~~

~~2. Submitting an operational work plan and providing quarterly updates to that plan to the executive steering committee. The plan must specify project milestones, deliverables, and expenditures.~~

~~3. Submitting written monthly project status reports to the executive steering committee which include:~~

~~a. Planned versus actual project costs;~~

~~b. An assessment of the status of major milestones and deliverables;~~

~~c. Identification of any issues requiring resolution, the proposed resolution for these issues, and information regarding the status of the resolution;~~

~~d. Identification of risks that must be managed; and~~

~~e. Identification of and recommendations regarding necessary changes in the project's scope, schedule, or costs. All recommendations must be reviewed by project stakeholders before submission to the executive steering committee in order to ensure that the recommendations meet required acceptance criteria.~~

Section 11. For the 2021-2022 fiscal year, the Department



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of Economic Opportunity shall take actions to modernize the
Reemployment Assistance Claims and Benefits Information System
as provided in the General Appropriations Act.

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

And the title is amended as follows:

Delete lines 39 - 57

and insert:

circumstances; amending s. 443.1113, F.S.; requiring
the department to maintain an effective and efficient
system relating to the reemployment assistance
program; revising the functions and objectives of the
Reemployment Assistance Claims and Benefits
Information System; requiring the department to
perform an annual review of the system; requiring the
department to seek input from certain state entities
when performing such review; requiring the department
to submit an annual report to the Governor and the
Legislature beginning on a specified date; providing
requirements for such report; deleting obsolete
language; requiring for the 2021-2022 fiscal year that
the department take actions to modernize the system as
directed in the General Appropriations Act; amending
s. 443.151, F.S.; revising the

By Senator Bean

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1 A bill to be entitled
 2 An act relating to the Department of Economic
 3 Opportunity; amending s. 20.60, F.S.; renaming the
 4 executive director of the Department of Economic
 5 Opportunity as the Secretary of Economic Opportunity;
 6 authorizing the secretary to appoint deputy and
 7 assistant secretaries for a specified purpose;
 8 establishing the Office of the Secretary and the
 9 Office of Economic Accountability and Transparency;
 10 providing duties for the Office of Economic
 11 Accountability and Transparency; authorizing the
 12 secretary to create offices within the Office of the
 13 Secretary and within the divisions; requiring the
 14 secretary to appoint division directors; providing
 15 duties for the division directors; conforming
 16 provisions to changes made by the act; amending s.
 17 288.901, F.S.; revising the membership of the board of
 18 directors of Enterprise Florida, Inc.; amending s.
 19 290.042, F.S.; revising the definition of the term
 20 "administrative costs" relating to the Florida Small
 21 Cities Community Development Block Grant Program Act;
 22 amending s. 290.044, F.S.; revising the application
 23 process and funding for the Florida Small Cities
 24 Community Development Block Grant Program Fund;
 25 amending s. 290.046, F.S.; revising the application
 26 process and funding for development grants awarded by
 27 the department to local governments; amending s.
 28 331.3081, F.S.; conforming a cross-reference; amending
 29 s. 435.02, F.S.; revising the definition of the term

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

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30 "specified agency" to include certain regional
 31 workforce boards for the purposes of labor laws;
 32 amending s. 443.091, F.S.; revising the reporting
 33 requirements for reemployment assistance benefit
 34 eligibility; defining the term "address"; amending s.
 35 443.101, F.S.; deleting a provision providing that
 36 individuals who voluntarily leave work as a direct
 37 result of circumstances relating to domestic violence
 38 are ineligible for benefits under certain
 39 circumstances; amending s. 443.1113, F.S.; requiring
 40 the department to implement an integrated modular
 41 cloud-based system, rather than an integrated
 42 Internet-based system, for the reemployment assistance
 43 program; revising the functions and objectives of the
 44 Reemployment Assistance Claims and Benefits
 45 Information System; deleting obsolete language;
 46 requiring the department to maintain a sustainable
 47 culture of continuous modernization and to maintain a
 48 specified reemployment assistance governance
 49 structure; requiring the system to be governed by the
 50 Reemployment Assistance Modernization Strategic
 51 Planning Office; providing duties of the office;
 52 providing reporting requirements; authorizing the
 53 department to implement an emergency reemployment
 54 assistance system under certain circumstances;
 55 providing applicability; deleting provisions relating
 56 to duties of the governance structure of the system
 57 project; amending s. 443.151, F.S.; revising the
 58 timeline for employers' responses to notices of

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

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59 benefits claims sent by the department; authorizing
 60 claimants to request the department to reconsider a
 61 monetary determination; providing requirements for
 62 such request; providing that monetary determinations
 63 and redeterminations are final after a specified
 64 period of time; providing exceptions; deleting a
 65 requirement that appeals referees be attorneys in good
 66 standing with The Florida Bar or be admitted to The
 67 Florida Bar within 8 months after the date of
 68 employment; prohibiting appeals from being filed after
 69 a specified time; amending s. 445.004, F.S.; revising
 70 the membership of the state board, which directs
 71 CareerSource Florida, Inc.; amending s. 553.79, F.S.;
 72 requiring specified building permit applications
 73 applied for by licensed contractors for property
 74 owners under certain programs administered by the
 75 department to be issued within a reduced timeframe;
 76 amending ss. 14.20195, 16.615, 20.04, 213.053,
 77 220.194, 288.005, 288.061, 288.0656, 288.106,
 78 288.1089, 288.1251, 288.8014, 288.955, 288.9604,
 79 288.987, 290.0065, 311.09, 311.105, 334.065, 373.4149,
 80 380.045, 403.0752, 420.0005, 420.0006, 420.101,
 81 420.503, 420.504, 420.506, 420.507, 420.511, 420.602,
 82 420.609, 420.622, 427.012, 443.1116, 446.53, 450.261,
 83 624.5105, and 1004.015, F.S.; conforming provisions to
 84 changes made by the act; providing an effective date.

86 Be It Enacted by the Legislature of the State of Florida:
 87

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88 Section 1. Subsections (2) and (3), paragraph (a) of
 89 subsection (5), paragraph (b) of subsection (6), and subsection
 90 (9) of section 20.60, Florida Statutes, are amended, and
 91 subsection (1) of that section is republished, to read:

92 20.60 Department of Economic Opportunity; creation; powers
 93 and duties.—

94 (1) There is created the Department of Economic
 95 Opportunity.

96 (2) The head of the department is the Secretary of Economic
 97 Opportunity ~~executive director~~, who shall be appointed by the
 98 Governor, subject to confirmation by the Senate. The secretary
 99 ~~executive director~~ shall serve at the pleasure of and report to
 100 the Governor. The secretary may appoint deputy and assistant
 101 secretaries as necessary to aid the secretary in fulfilling his
 102 or her statutory obligations.

103 (3) (a) The following divisions and offices of the
 104 Department of Economic Opportunity are established:

105 1. ~~(a)~~ The Division of Strategic Business Development.

106 2. ~~(b)~~ The Division of Community Development.

107 3. ~~(c)~~ The Division of Workforce Services.

108 4. ~~(d)~~ The Division of Finance and Administration.

109 5. ~~(e)~~ The Division of Information Technology.

110 6. The Office of the Secretary.

111 7. The Office of Economic Accountability and Transparency,
 112 which shall:

113 a. Oversee the department's critical objectives as
 114 determined by the secretary and make sure that the department's
 115 key objectives are clearly communicated to the public.

116 b. Organize department resources, expertise, data, and

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research to focus on and solve the complex economic challenges facing the state.

c. Provide leadership for the department's priority issues that require integration of policy, management, and critical objectives from multiple programs and organizations internal and external to the department; and organize and manage external communication on such priority issues.

d. Promote and facilitate key department initiatives to address priority economic issues and explore data and identify opportunities for innovative approaches to address such economic issues.

e. Promote strategic planning for the department.

(b) The secretary:

1. May create offices within the Office of the Secretary and within the divisions established in paragraph (a) to promote efficient and effective operation of the department.

2. Shall appoint a director for each division, who shall directly administer his or her division and be responsible to the secretary.

(5) The divisions within the department have specific responsibilities to achieve the duties, responsibilities, and goals of the department. Specifically:

(a) The Division of Strategic Business Development shall:

1. Analyze and evaluate business prospects identified by the Governor, the secretary ~~executive director of the department~~, and Enterprise Florida, Inc.

2. Administer certain tax refund, tax credit, and grant programs created in law. Notwithstanding any other provision of law, the department may expend interest earned from the

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investment of program funds deposited in the Grants and Donations Trust Fund to contract for the administration of those programs, or portions of the programs, assigned to the department by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.

3. Develop measurement protocols for the state incentive programs and for the contracted entities which will be used to determine their performance and competitive value to the state. Performance measures, benchmarks, and sanctions must be developed in consultation with the legislative appropriations committees and the appropriate substantive committees, and are subject to the review and approval process provided in s. 216.177. The approved performance measures, standards, and sanctions shall be included and made a part of the strategic plan for contracts entered into for delivery of programs authorized by this section.

4. Develop a 5-year statewide strategic plan. The strategic plan must include, but need not be limited to:

a. Strategies for the promotion of business formation, expansion, recruitment, and retention through aggressive marketing, international development, and export assistance, which lead to more and better jobs and higher wages for all geographic regions, disadvantaged communities, and populations of the state, including rural areas, minority businesses, and urban core areas.

b. The development of realistic policies and programs to further the economic diversity of the state, its regions, and their associated industrial clusters.

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c. Specific provisions for the stimulation of economic development and job creation in rural areas and midsize cities and counties of the state, including strategies for rural marketing and the development of infrastructure in rural areas.

d. Provisions for the promotion of the successful long-term economic development of the state with increased emphasis in market research and information.

e. Plans for the generation of foreign investment in the state which create jobs paying above-average wages and which result in reverse investment in the state, including programs that establish viable overseas markets, assist in meeting the financing requirements of export-ready firms, broaden opportunities for international joint venture relationships, use the resources of academic and other institutions, coordinate trade assistance and facilitation services, and facilitate availability of and access to education and training programs that assure requisite skills and competencies necessary to compete successfully in the global marketplace.

f. The identification of business sectors that are of current or future importance to the state's economy and to the state's global business image, and development of specific strategies to promote the development of such sectors.

g. Strategies for talent development necessary in the state to encourage economic development growth, taking into account factors such as the state's talent supply chain, education and training opportunities, and available workforce.

5. Update the strategic plan every 5 years.

6. Involve Enterprise Florida, Inc.; CareerSource Florida, Inc.; local governments; the general public; local and regional

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economic development organizations; other local, state, and federal economic, international, and workforce development entities; the business community; and educational institutions to assist with the strategic plan.

(6)

(b) The Department of Economic Opportunity shall serve as the designated agency for purposes of each federal workforce development grant assigned to it for administration. The department shall carry out the duties assigned to it by the Governor, under the terms and conditions of each grant. The department shall have the level of authority and autonomy necessary to be the designated recipient of each federal grant assigned to it and shall disburse such grants pursuant to the plans and policies of the state board as defined in s. 445.002. The secretary ~~executive director~~ may, upon delegation from the Governor and pursuant to agreement with the state board, sign contracts, grants, and other instruments as necessary to execute functions assigned to the department. Notwithstanding other provisions of law, the department shall administer other programs funded by federal or state appropriations, as determined by the Legislature in the General Appropriations Act or other law.

(9) The secretary ~~executive director~~ shall:

(a) Manage all activities and responsibilities of the department.

(b) Serve as the manager for the state with respect to contracts with Enterprise Florida, Inc., and all applicable direct-support organizations. To accomplish the provisions of this section and applicable provisions of chapter 288, and

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notwithstanding the provisions of part I of chapter 287, the ~~secretary director~~ shall enter into specific contracts with Enterprise Florida, Inc., and other appropriate direct-support organizations. Such contracts may be for multiyear terms and must include specific performance measures for each year. For purposes of this section, the Florida Tourism Industry Marketing Corporation and the Institute for Commercialization of Florida Technology are not appropriate direct-support organizations.

(c) Serve as a member of the board of directors of the Florida Development Finance Corporation. The ~~secretary executive director~~ may designate an employee of the department to serve in this capacity.

Section 2. Paragraph (a) of subsection (5) of section 288.901, Florida Statutes, is amended to read:

288.901 Enterprise Florida, Inc.—

(5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

(a) In addition to the Governor or his or her designee, the board of directors shall consist of the following appointed members:

1. The Commissioner of Education or his or her designee.
2. The Chief Financial Officer or his or her designee.
3. The Attorney General or his or her designee.
4. The Commissioner of Agriculture or his or her designee.
5. The chairperson of the state board as defined in s.

445.002.

6. The Secretary of State or his or her designee.

7. The Secretary of Economic Opportunity or his or her designee.

8. Twelve members from the private sector, six of whom

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shall be appointed by the Governor, three of whom shall be appointed by the President of the Senate, and three of whom shall be appointed by the Speaker of the House of Representatives. Members appointed by the Governor are subject to Senate confirmation.

All board members shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061. Such expenses must be paid out of funds of Enterprise Florida, Inc.

Section 3. Subsection (2) of section 290.042, Florida Statutes, is amended to read:

290.042 Definitions relating to Florida Small Cities Community Development Block Grant Program Act.—As used in ss. 290.0401-290.048, the term:

(2) "Administrative costs" has the same meaning as defined in the Housing and Community Development Act of 1974, as amended, and applicable federal regulations ~~means the payment of all reasonable costs of management, coordination, monitoring, and evaluation, and similar costs and carrying charges, related to the planning and execution of community development activities which are funded in whole or in part under the Florida Small Cities Community Development Block Grant Program. Administrative costs shall include all costs of administration, including general administration, planning and urban design, and project administration costs.~~

Section 4. Subsections (3), (4), and (5) of section 290.044, Florida Statutes, are amended to read:

290.044 Florida Small Cities Community Development Block

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Grant Program Fund; administration; distribution.-

(3) The department shall require applicants for grants to compete against each other in ~~the following grant program categories that may include one or more of the following:~~

(a) Housing rehabilitation.

(b) Economic development.

(c) Neighborhood revitalization.

(d) Commercial revitalization.

(e) Any other activity authorized by the Housing and Community Development Act of 1974, as amended, and applicable federal regulations.

(4) The department shall define broad community development objectives to be achieved by the activities in ~~each of~~ the grant program categories with the use of funds from the Florida Small Cities Community Development Block Grant Program Fund. Such objectives shall be designed to meet at least one of the national objectives provided in the Housing and Community Development Act of 1974.

(5) The department may set aside an amount of up to 15 ~~5~~ percent of the funds annually for use in any eligible local government jurisdiction for which an emergency or natural disaster has been declared by executive order. Such funds may only be provided to a local government to fund eligible emergency-related activities for which no other source of federal, state, or local disaster funds is available. The department may provide for such set-aside by rule. In the last quarter of the state fiscal year, any funds not allocated under the emergency-related set-aside shall be distributed to unfunded applications ~~from the most recent funding cycle.~~

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Section 5. Subsection (2), paragraph (b) of subsection (3), and subsection (6) of section 290.046, Florida Statutes, are amended to read:

290.046 Applications for grants; procedures; requirements.-

~~(2) (a) Except for applications for economic development grants as provided in subparagraph (b)1., an eligible local government may submit one application for a grant during each application cycle.~~

~~(b)1. An eligible local government may apply up to three times in any one annual funding cycle for an economic development grant but may not receive more than one such grant per annual funding cycle. A local government may have more than one open economic development grant.~~

(2) (a) 2. The department shall establish minimum criteria pertaining to the number of jobs created for persons of low or moderate income, the degree of private sector financial commitment, and the economic feasibility of the proposed project and shall establish any other criteria the department deems appropriate. Assistance to a private, for-profit business may not be provided from a grant award unless sufficient evidence exists to demonstrate that without such public assistance the creation or retention of such jobs would not occur.

(b) (c) 1. A local government with an open housing rehabilitation, neighborhood revitalization, or commercial revitalization contract is not eligible to apply for another housing rehabilitation, neighborhood revitalization, or commercial revitalization grant until administrative closeout of its existing contract. The department shall notify a local government of administrative closeout or of any outstanding

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closeout issues within 45 days after receipt of a closeout package from the local government. A local government with an open housing rehabilitation, neighborhood revitalization, or commercial revitalization community development block grant contract whose activities are on schedule in accordance with the expenditure rates and accomplishments described in the contract may apply for an economic development grant.

(c)2- A local government with an open economic development community development block grant contract whose activities are on schedule in accordance with the expenditure rates and accomplishments described in the contract may apply for a housing rehabilitation, neighborhood revitalization, or commercial revitalization community development block grant. A local government with an open economic development contract whose activities are on schedule in accordance with the expenditure rates and accomplishments described in the contract may receive ~~no~~ more than one additional economic development grant in each fiscal year.

(d) The department may not award a grant until it has conducted a site visit to verify the information contained in the local government's application.

(3)

(b) Funds shall be distributed according to the rankings established in each application cycle. If economic development funds remain available after the application cycle closes, the remaining funds shall be awarded to eligible projects ~~on a first come, first served basis until such funds are fully obligated.~~

(6) The department shall, before approving an application

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for a grant, determine that the applicant has the administrative capacity to carry out the proposed activities and has performed satisfactorily in carrying out past activities funded by community development block grants. The evaluation of past performance shall take into account procedural aspects of previous grants as well as substantive results. If the department determines that any applicant has failed to accomplish substantially the results it proposed in ~~its last~~ previously funded applications ~~application~~, it may prohibit the applicant from receiving a grant or may penalize the applicant in the rating of the current application. An application for grant funds may not be denied solely upon the basis of the past performance of the eligible applicant.

Section 6. Section 331.3081, Florida Statutes, is amended to read:

331.3081 Board of directors.—Space Florida shall be governed by a 13-member independent board of directors that consists of the members appointed to the board of directors of Enterprise Florida, Inc., by the Governor, the President of the Senate, and the Speaker of the House of Representatives pursuant to s. 288.901(5)(a)8. ~~s. 288.901(5)(a)7.~~ and the Governor, who shall serve ex officio, or who may appoint a designee to serve, as the chair and a voting member of the board.

Section 7. Subsection (5) of section 435.02, Florida Statutes, is amended to read:

435.02 Definitions.—For the purposes of this chapter, the term:

(5) "Specified agency" means the Department of Health, the Department of Children and Families, the Division of Vocational

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Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Department of Elderly Affairs, the Department of Juvenile Justice, the Agency for Persons with Disabilities, regional workforce boards providing services as defined in s. 445.002(3), and local licensing agencies approved pursuant to s. 402.307, when these agencies are conducting state and national criminal history background screening on persons who work with children or persons who are elderly or disabled.

Section 8. Paragraph (c) of subsection (1) of section 443.091, Florida Statutes, is amended to read:

443.091 Benefit eligibility conditions.—

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

(c) To make continued claims for benefits, she or he is reporting to the department in accordance with this paragraph and department rules. Department rules may not conflict with s. 443.111(1)(b), which requires that each claimant continue to report regardless of any pending appeal relating to her or his eligibility or disqualification for benefits.

1. For each week of unemployment claimed, each report must, at a minimum, include the name ~~and~~, address, ~~and telephone number~~ of each prospective employer contacted, or the date the claimant reported to a one-stop career center, pursuant to paragraph (d). For the purposes of this subparagraph, the term "address" means a website address, a physical address, or an e-mail address.

2. The department shall offer an online assessment aimed at

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identifying an individual's skills, abilities, and career aptitude. The skills assessment must be voluntary, and the department shall allow a claimant to choose whether to take the skills assessment. The online assessment shall be made available to any person seeking services from a local workforce development board or a one-stop career center.

a. If the claimant chooses to take the online assessment, the outcome of the assessment shall be made available to the claimant, local workforce development board, and one-stop career center. The department, local workforce development board, or one-stop career center shall use the assessment to develop a plan for referring individuals to training and employment opportunities. Aggregate data on assessment outcomes may be made available to CareerSource Florida, Inc., and Enterprise Florida, Inc., for use in the development of policies related to education and training programs that will ensure that businesses in this state have access to a skilled and competent workforce.

b. Individuals shall be informed of and offered services through the one-stop delivery system, including career counseling, the provision of skill match and job market information, and skills upgrade and other training opportunities, and shall be encouraged to participate in such services at no cost to the individuals. The department shall coordinate with CareerSource Florida, Inc., the local workforce development boards, and the one-stop career centers to identify, develop, and use best practices for improving the skills of individuals who choose to participate in skills upgrade and other training opportunities. The department may contract with an entity to create the online assessment in accordance with the

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competitive bidding requirements in s. 287.057. The online assessment must work seamlessly with the Reemployment Assistance Claims and Benefits Information System.

Section 9. Paragraph (a) of subsection (1) and subsection (6) of section 443.101, Florida Statutes, are amended to read:

443.101 Disqualification for benefits.—An individual shall be disqualified for benefits:

(1)(a) For the week in which he or she has voluntarily left work without good cause attributable to his or her employing unit or for the week in which he or she has been discharged by the employing unit for misconduct connected with his or her work, based on a finding by the Department of Economic Opportunity. As used in this paragraph, the term “work” means any work, whether full-time, part-time, or temporary.

1. Disqualification for voluntarily quitting continues for the full period of unemployment next ensuing after the individual has left his or her full-time, part-time, or temporary work voluntarily without good cause and until the individual has earned income equal to or greater than 17 times his or her weekly benefit amount. As used in this subsection, the term “good cause” includes only that cause attributable to the employing unit which would compel a reasonable employee to cease working or attributable to the individual’s illness or disability requiring separation from his or her work. Any other disqualification may not be imposed.

2. An individual is not disqualified under this subsection for:

a. Voluntarily leaving temporary work to return immediately when called to work by the permanent employing unit that

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temporarily terminated his or her work within the previous 6 calendar months;

b. Voluntarily leaving work to relocate as a result of his or her military-connected spouse’s permanent change of station orders, activation orders, or unit deployment orders; or

c. Voluntarily leaving work if he or she proves that his or her discontinued employment is a direct result of circumstances related to domestic violence as defined in s. 741.28. An individual who voluntarily leaves work under this subparagraph must:

(I) Make reasonable efforts to preserve employment, unless the individual establishes that such remedies are likely to be futile or to increase the risk of future incidents of domestic violence. Such efforts may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment;

(II) Provide evidence such as an injunction, a protective order, or other documentation authorized by state law which reasonably proves that domestic violence has occurred; and

(III) Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment. ~~An individual who is otherwise eligible for benefits under this subparagraph is ineligible for each week that he or she no longer meets such criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.~~

3. The employment record of an employing unit may not be charged for the payment of benefits to an individual who has

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voluntarily left work under sub-subparagraph 2.c.

4. Disqualification for being discharged for misconduct connected with his or her work continues for the full period of unemployment next ensuing after having been discharged and until the individual is reemployed and has earned income of at least 17 times his or her weekly benefit amount and for not more than 52 weeks immediately following that week, as determined by the department in each case according to the circumstances or the seriousness of the misconduct, under the department's rules for determining disqualification for benefits for misconduct.

5. If an individual has provided notification to the employing unit of his or her intent to voluntarily leave work and the employing unit discharges the individual for reasons other than misconduct before the date the voluntary quit was to take effect, the individual, if otherwise entitled, shall receive benefits from the date of the employer's discharge until the effective date of his or her voluntary quit.

6. If an individual is notified by the employing unit of the employer's intent to discharge the individual for reasons other than misconduct and the individual quits without good cause before the date the discharge was to take effect, the claimant is ineligible for benefits pursuant to s. 443.091(1)(d) for failing to be available for work for the week or weeks of unemployment occurring before the effective date of the discharge.

(6) For making any false or fraudulent representation for the purpose of obtaining benefits contrary to this chapter, constituting a violation under s. 443.071. The disqualification imposed under this subsection shall begin with the week for ~~in~~

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which the false or fraudulent representation was ~~is~~ made and shall continue for a period not to exceed 1 year after the date the Department of Economic Opportunity discovers the false or fraudulent representation and until any overpayment of benefits resulting from such representation has been repaid in full. This disqualification may be appealed in the same manner as any other disqualification imposed under this section. A conviction by any court of competent jurisdiction in this state of the offense prohibited or punished by s. 443.071 is conclusive upon the appeals referee and the commission of the making of the false or fraudulent representation for which disqualification is imposed under this section.

Section 10. Section 443.1113, Florida Statutes, is amended to read:

443.1113 Reemployment Assistance Claims and Benefits Information System.—

(1) Subject to legislative appropriation, the Department of Economic Opportunity shall implement an integrated modular cloud-based system that is necessary for the efficient distribution of benefits and the effective operation and management of the reemployment assistance program. ~~To The extent that funds are appropriated for each phase of the Reemployment Assistance Claims and Benefits Information system may be cited by the Legislature, the Department of Economic Opportunity shall replace and enhance the functionality provided in the following systems with an integrated Internet-based system that is known as the "Reemployment Assistance Claims and Benefits Information System" and must:~~

(a) Be accessible through the Internet ~~Claims and benefit~~

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581 ~~mainframe system.~~

582 (b) Be accessible on mobile devices and personal computers

583 ~~Florida unemployment Internet direct.~~

584 (c) Process reemployment assistance claims Florida

585 ~~continued claim Internet directory.~~

586 (d) Process benefit payments ~~Call center interactive voice~~

587 ~~response system.~~

588 (e) Process and manage overpayments ~~Benefit overpayment~~

589 ~~screening system.~~

590 (f) Perform adjudication functions ~~Internet and Intranet~~

591 ~~appeals system.~~

592 (g) Process appeals and manage appeal hearings.

593 (h) Manage and process employer charging.

594 (2) Wherever cost-effective and operationally feasible, the

595 Reemployment Assistance Claims and Benefits System shall

596 accomplish the following main ~~business~~ objectives:

597 (a) ~~Wherever cost-effective and operationally feasible,~~

598 Eliminate or automate existing paper processes and enhance any

599 existing automated workflows in order to expedite customer

600 transactions and eliminate redundancy.

601 (b) Enable and enhance online, self-service capabilities

602 ~~access~~ to claimant and employer information and federal and

603 state reporting.

604 (c) Integrate benefit payment control with the adjudication

605 program and collection system in order to improve the detection

606 of fraud.

607 (d) Comply with all requirements established in federal and

608 state law for reemployment assistance.

609 (e) Integrate with the Department of Revenue's statewide

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610 unified tax system that collects reemployment assistance taxes.

611 (3) The scope of the Reemployment Assistance Claims and

612 Benefits Information System does not include any of the

613 following functionalities:

614 (a) Collection of reemployment assistance taxes.

615 (b) General ledger, financial management, or budgeting

616 capabilities.

617 (c) Human resource planning or management capabilities.

618 ~~(4) The project to implement the Reemployment Assistance~~

619 ~~Claims and Benefits Information System is comprised of the~~

620 ~~following phases and corresponding implementation timeframes:~~

621 ~~(a) No later than the end of fiscal year 2009-2010~~

622 ~~completion of the business re engineering analysis and~~

623 ~~documentation of both the detailed system requirements and the~~

624 ~~overall system architecture.~~

625 ~~(b) The Reemployment Assistance Claims and Benefits~~

626 ~~Internet portal that replaces the Florida Unemployment Internet~~

627 ~~Direct and the Florida Continued Claims Internet Directory~~

628 ~~systems, the Call Center Interactive Voice Response System, the~~

629 ~~Benefit Overpayment Screening System, the Internet and Intranet~~

630 ~~Appeals System, and the Claims and Benefits Mainframe System~~

631 ~~shall be deployed to full operational status no later than the~~

632 ~~end of fiscal year 2013-2014.~~

633 ~~(4)-(5)~~ The Department of Economic Opportunity shall

634 maintain a sustainable culture of continuous modernization and

635 shall implement and maintain the following Reemployment

636 Assistance Claims and Benefits Information System project

637 governance structure until such time as the project is

638 completed, suspended, or terminated:

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~~(a) The project sponsor for the Reemployment Assistance Claims and Benefits Information System project is the department.~~

~~(a)(b) The system project shall be governed by an executive steering committee composed of the Reemployment Assistance Modernization Strategic Planning Office.~~

(b) The Reemployment Assistance Modernization Strategic Planning Office shall report directly to the Secretary of Economic Opportunity and is responsible for:

1. Coordinating and seeking input, including, but not limited to, from the following entities voting members or their designees:

1. The executive director of the department.

a.2. The executive director of the Department of Revenue.

b.3. The Department of Management Services, including, but not limited to, the state chief information officer ~~The director of the Division of Workforce Services within the department.~~

4. The program director of the General Tax Administration Program Office within the Department of Revenue.

5. The chief information officer of the department.

~~(c) The executive steering committee has the overall responsibility for ensuring that the project meets its primary objectives and is specifically responsible for:~~

~~1. Providing management direction and support to the project management team.~~

~~2. Assessing the project's alignment with the strategic goals of the department for administering the reemployment assistance program.~~

2. Implementing continuous modernization initiatives for

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the Reemployment Assistance Claims and Benefits Information System. The modernization initiatives must include, but need not be limited to:

a. Infrastructure.

b. Software.

c. Data and analytics.

d. Security.

3. Providing regular updates to the Secretary of Economic Opportunity.

4. Developing and maintaining an enterprise disaster preparedness plan.

(5) By October 1, 2023, and each year thereafter, the Department of Economic Opportunity shall submit a Reemployment Assistance Claims and Benefits Information System report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must, at a minimum, include:

(a) A summary of continuous modernization efforts over the last fiscal year.

(b) A 3-year outlook of recommended modernization projects that include projected costs and timeframes for completion.

(6) In the event of a disaster or an emergency, as declared by the President of the United States or the Governor of this state, which may disrupt or endanger the Department of Economic Opportunity's usual procedures or facilities, the department may implement an emergency reemployment assistance system. Subsection (1) does not apply to an emergency reemployment assistance system.

3. Reviewing and approving or disapproving any changes to

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the project's scope, schedule, and costs.

4. Reviewing, approving or disapproving, and determining whether to proceed with any major project deliverables.

5. ~~Recommending suspension or termination of the project to the Governor, the President of the Senate, and the Speaker of the House of Representatives if it determines that the primary objectives cannot be achieved.~~

~~(d) The project management team shall work under the direction of the executive steering committee and shall be minimally comprised of senior managers and stakeholders from the department and the Department of Revenue. The project management team is responsible for:~~

1. ~~Providing daily planning, management, and oversight of the project.~~

2. ~~Submitting an operational work plan and providing quarterly updates to that plan to the executive steering committee. The plan must specify project milestones, deliverables, and expenditures.~~

3. ~~Submitting written monthly project status reports to the executive steering committee which include:~~

a. ~~Planned versus actual project costs;~~

b. ~~An assessment of the status of major milestones and deliverables;~~

c. ~~Identification of any issues requiring resolution, the proposed resolution for these issues, and information regarding the status of the resolution;~~

d. ~~Identification of risks that must be managed; and~~

e. ~~Identification of and recommendations regarding necessary changes in the project's scope, schedule, or costs.~~

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~~All recommendations must be reviewed by project stakeholders before submission to the executive steering committee in order to ensure that the recommendations meet required acceptance criteria.~~

Section 11. Paragraphs (a) and (b) of subsection (3) and paragraphs (a) and (b) of subsection (4) of section 443.151, Florida Statutes, are amended to read:

443.151 Procedure concerning claims.—

(3) DETERMINATION OF ELIGIBILITY.—

(a) *Notices of claim.*—The Department of Economic Opportunity shall promptly provide a notice of claim to the claimant's most recent employing unit and all employers whose employment records are liable for benefits under the monetary determination. The employer must respond to the notice of claim within 14 ~~20~~ days after the mailing date of the notice, or in lieu of mailing, within 14 ~~20~~ days after the delivery of the notice. If a contributing employer or its agent fails to timely or adequately respond to the notice of claim or request for information, the employer's account may not be relieved of benefit charges as provided in s. 443.131(3)(a), notwithstanding paragraph (5)(b). The department may adopt rules as necessary to implement the processes described in this paragraph relating to notices of claim.

(b) *Monetary determinations.*—In addition to the notice of claim, the department shall also promptly provide an initial monetary determination to the claimant and each base period employer whose account is subject to being charged for its respective share of benefits on the claim. The monetary determination must include a statement of whether and in what

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755 amount the claimant is entitled to benefits, and, in the event
 756 of a denial, must state the reasons for the denial. A monetary
 757 determination for the first week of a benefit year must also
 758 include a statement of whether the claimant was paid the wages
 759 required under s. 443.091(1)(g) and, if so, the first day of the
 760 benefit year, the claimant's weekly benefit amount, and the
 761 maximum total amount of benefits payable to the claimant for a
 762 benefit year. The claimant may file a request for the department
 763 to reconsider a monetary determination within 20 days after the
 764 department mails the notice to the claimant's last known address
 765 or, in lieu of mailing, within 20 days after the delivery of the
 766 notice. A monetary determination is final for a claimant if the
 767 claimant does not file a timely request for the department to
 768 reconsider the monetary determination. A monetary
 769 redetermination is final for a claimant unless within 20 days
 770 after the mailing of the notice of monetary redetermination to
 771 the claimant's last known address or, in lieu of mailing, within
 772 20 days after the delivery of the notice, the claimant files an
 773 appeal. The monetary determination or monetary redetermination
 774 is final for an employer or other party entitled to notice
 775 unless within 20 days after the mailing of the respective notice
 776 to the employer or party to its last known address or, in lieu
 777 of mailing, within 20 days after delivery of the notice, an
 778 appeal is filed by the employer or the party ~~The monetary~~
 779 ~~determination is final unless within 20 days after the mailing~~
 780 ~~of the notices to the parties' last known addresses, or in lieu~~
 781 ~~of mailing, within 20 days after the delivery of the notices, an~~
 782 ~~appeal or written request for reconsideration is filed by the~~
 783 ~~claimant or other party entitled to notice. The department may~~

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784 adopt rules as necessary to implement the processes described in
 785 this paragraph relating to notices of monetary determinations
 786 and the appeals or reconsideration requests filed in response to
 787 such notices.
 788 (4) APPEALS.—
 789 (a) *Appeals referees.*—
 790 1. The Department of Economic Opportunity shall appoint one
 791 or more impartial salaried appeals referees in accordance with
 792 s. 443.171(3) to hear and decide appealed claims.
 793 2. ~~An appeals referee must be an attorney in good standing~~
 794 ~~with The Florida Bar or be successfully admitted to The Florida~~
 795 ~~Bar within 8 months after his or her date of employment. This~~
 796 ~~subparagraph does not apply to an appeals referee appointed~~
 797 ~~before January 1, 2014.~~
 798 3. A person may not participate on behalf of the department
 799 as an appeals referee in any case in which she or he is an
 800 interested party.
 801 3.4. The department may designate alternates to serve in
 802 the absence or disqualification of any appeals referee on a
 803 temporary basis. These alternates must have the same
 804 qualifications required of appeals referees.
 805 4.5. The department shall provide the commission and the
 806 appeals referees with proper facilities and assistance for the
 807 execution of their functions.
 808 (b) *Filing and hearing.*—
 809 1. The claimant or any other party entitled to notice of a
 810 determination may appeal an adverse determination to an appeals
 811 referee within 20 days after the date of mailing of the notice
 812 to her or his last known address or, if the notice is not

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813 mailed, within 20 days after the date of delivering the notice.

814 2. Unless the appeal is untimely or withdrawn or review is
815 initiated by the commission, the appeals referee, after mailing
816 all parties and attorneys of record a notice of hearing at least
817 10 days before the date of hearing, notwithstanding the 14-day
818 notice requirement in s. 120.569(2)(b), may only affirm, modify,
819 or reverse the determination. An appeal may not be withdrawn
820 without the permission of the appeals referee.

821 3. ~~However,~~ If an appeal appears to have been filed after
822 the permissible time limit, the Office of Appeals may issue an
823 order to show cause to the appellant which requires the
824 appellant to show why the appeal should not be dismissed as
825 untimely. If, within 15 days after the mailing date of the order
826 to show cause, the appellant does not provide written evidence
827 of timely filing or good cause for failure to appeal timely, the
828 appeal shall be dismissed. However, an appeal may not be filed
829 more than 5 years after the date of the mailing of the
830 determination or, if the determination is not mailed, more than
831 5 years after the date of the delivery of the determination.

832 4. If an appeal involves a question of whether services
833 were performed by a claimant in employment or for an employer,
834 the referee must give special notice of the question and of the
835 pendency of the appeal to the employing unit and to the
836 department, both of which become parties to the proceeding.

837 5.a. Any part of the evidence may be received in written
838 form, and all testimony of parties and witnesses shall be made
839 under oath.

840 b. Irrelevant, immaterial, or unduly repetitious evidence
841 shall be excluded, but all other evidence of a type commonly

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842 relied upon by reasonably prudent persons in the conduct of
843 their affairs is admissible, whether or not such evidence would
844 be admissible in a trial in state court.

845 c. Hearsay evidence may be used for the purpose of
846 supplementing or explaining other evidence, or to support a
847 finding if it would be admissible over objection in civil
848 actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may
849 support a finding of fact if:

850 (I) The party against whom it is offered has a reasonable
851 opportunity to review such evidence prior to the hearing; and

852 (II) The appeals referee or special deputy determines,
853 after considering all relevant facts and circumstances, that the
854 evidence is trustworthy and probative and that the interests of
855 justice are best served by its admission into evidence.

856 6. The parties must be notified promptly of the referee's
857 decision. The referee's decision is final unless further review
858 is initiated under paragraph (c) within 20 days after the date
859 of mailing notice of the decision to the party's last known
860 address or, in lieu of mailing, within 20 days after the
861 delivery of the notice.

862 Section 12. Paragraph (d) of subsection (3) of section
863 445.004, Florida Statutes, is amended, and subsections (1) and
864 (2) of that section are republished, to read:

865 445.004 CareerSource Florida, Inc., and the state board;
866 creation; purpose; membership; duties and powers.—

867 (1) CareerSource Florida, Inc., is created as a not-for-
868 profit corporation, which shall be registered, incorporated,
869 organized, and operated in compliance with chapter 617 and shall
870 operate at the direction of the state board. CareerSource

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871 Florida, Inc., is not a unit or entity of state government and
 872 is exempt from chapters 120 and 287. CareerSource Florida, Inc.,
 873 shall apply the procurement and expenditure procedures required
 874 by federal law for the expenditure of federal funds.
 875 CareerSource Florida, Inc., shall be administratively housed
 876 within the department and shall operate under agreement with the
 877 department. The Legislature finds that public policy dictates
 878 that CareerSource Florida, Inc., operate in the most open and
 879 accessible manner consistent with its public purpose. To this
 880 end, the Legislature specifically declares that CareerSource
 881 Florida, Inc., its board, councils, and any advisory committees
 882 or similar groups created by CareerSource Florida, Inc., are
 883 subject to the provisions of chapter 119 relating to public
 884 records, and those provisions of chapter 286 relating to public
 885 meetings.

886 (2) CareerSource Florida, Inc., provides administrative
 887 support for the state board, the principal workforce policy
 888 organization for the state. The purpose of the state board is to
 889 design and implement strategies that help Floridians enter,
 890 remain in, and advance in the workplace, so that they may become
 891 more highly skilled and successful, which benefits these
 892 Floridians, Florida businesses, and the entire state, and
 893 fosters the development of the state's business climate.
 894 CareerSource Florida, Inc., shall, consistent with its agreement
 895 with the department, implement the policy directives of the
 896 state board and administer state workforce development programs
 897 as authorized by law.

898 (3)

899 (d) The state board must include the Secretary of Economic

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900 Opportunity or his or her designee, the vice chairperson of the
 901 board of directors of Enterprise Florida, Inc., and one member
 902 representing each of the Workforce Innovation and Opportunity
 903 Act partners, including the Division of Career and Adult
 904 Education, and other entities representing programs identified
 905 in the Workforce Innovation and Opportunity Act, as determined
 906 necessary.

907 Section 13. Subsection (14) of section 553.79, Florida
 908 Statutes, is amended to read:

909 553.79 Permits; applications; issuance; inspections.—

910 (14) (a) Except as provided in paragraph (b), a building
 911 permit for a single-family residential dwelling must be issued
 912 within 30 working days after receipt of the application therefor
 913 unless unusual circumstances require a longer time for
 914 processing the application or unless the permit application
 915 fails to satisfy the Florida Building Code or the enforcing
 916 agency's laws or ordinances.

917 (b) A building permit for a single-family residential
 918 dwelling applied for by a contractor licensed in this state on
 919 behalf of a property owner who participates in a Community
 920 Development Block Grant-Disaster Recovery program administered
 921 by the Department of Economic Opportunity must be issued within
 922 15 working days after receipt of the application unless the
 923 permit application fails to satisfy the Florida Building Code or
 924 the enforcing agency's laws or ordinances.

925 Section 14. Paragraph (b) of subsection (2) of section
 926 14.20195, Florida Statutes, is amended to read:

927 14.20195 Suicide Prevention Coordinating Council; creation;
 928 membership; duties.—There is created within the Statewide Office

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929 for Suicide Prevention a Suicide Prevention Coordinating
 930 Council. The council shall develop strategies for preventing
 931 suicide.
 932 (2) MEMBERSHIP.—The Suicide Prevention Coordinating Council
 933 shall consist of 31 voting members and 1 nonvoting member.
 934 (b) The following state officials or their designees shall
 935 serve on the coordinating council:
 936 1. The Secretary of Elderly Affairs.
 937 2. The State Surgeon General.
 938 3. The Commissioner of Education.
 939 4. The Secretary of Health Care Administration.
 940 5. The Secretary of Juvenile Justice.
 941 6. The Secretary of Corrections.
 942 7. The executive director of the Department of Law
 943 Enforcement.
 944 8. The executive director of the Department of Veterans'
 945 Affairs.
 946 9. The Secretary of Children and Families.
 947 10. The Secretary ~~executive director of the Department~~ of
 948 Economic Opportunity.
 949 Section 15. Paragraph (j) of subsection (1) of section
 950 16.615, Florida Statutes, is amended to read:
 951 16.615 Council on the Social Status of Black Men and Boys.—
 952 (1) The Council on the Social Status of Black Men and Boys
 953 is established within the Department of Legal Affairs and shall
 954 consist of 19 members appointed as follows:
 955 (j) The Secretary ~~executive director of the Department~~ of
 956 Economic Opportunity or his or her designee.
 957 Section 16. Subsection (3) and paragraph (b) of subsection

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958 (7) of section 20.04, Florida Statutes, are amended to read:
 959 20.04 Structure of executive branch.—The executive branch
 960 of state government is structured as follows:
 961 (3) For their internal structure, all departments, except
 962 for the Department of Financial Services, the Department of
 963 Economic Opportunity, the Department of Children and Families,
 964 the Department of Corrections, the Department of Management
 965 Services, the Department of Revenue, and the Department of
 966 Transportation, must adhere to the following standard terms:
 967 (a) The principal unit of the department is the "division."
 968 Each division is headed by a "director."
 969 (b) The principal unit of the division is the "bureau."
 970 Each bureau is headed by a "chief."
 971 (c) The principal unit of the bureau is the "section." Each
 972 section is headed by an "administrator."
 973 (d) If further subdivision is necessary, sections may be
 974 divided into "subsections," which are headed by "supervisors."
 975 (7)
 976 (b) Within the limitations of this subsection, the head of
 977 the department may recommend the establishment of additional
 978 divisions, bureaus, sections, and subsections of the department
 979 to promote efficient and effective operation of the department.
 980 However, additional divisions, or offices in the Department of
 981 Children and Families, the Department of Corrections, the
 982 Department of Economic Opportunity, and the Department of
 983 Transportation, may be established only by specific statutory
 984 enactment. New bureaus, sections, and subsections of departments
 985 may be initiated by a department and established as recommended
 986 by the Department of Management Services and approved by the

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987 Executive Office of the Governor, or may be established by
 988 specific statutory enactment.

989 Section 17. Paragraph (a) of subsection (7) of section
 990 213.053, Florida Statutes, is amended to read:
 991 213.053 Confidentiality and information sharing.—
 992 (7) (a) Any information received by the Department of
 993 Revenue in connection with the administration of taxes,
 994 including, but not limited to, information contained in returns,
 995 reports, accounts, or declarations filed by persons subject to
 996 tax, shall be made available to the following in performance of
 997 their official duties:

- 998 1. The Auditor General or his or her authorized agent;
- 999 2. The director of the Office of Program Policy Analysis
 1000 and Government Accountability or his or her authorized agent;
- 1001 3. The Chief Financial Officer or his or her authorized
 1002 agent;
- 1003 4. The Director of the Office of Insurance Regulation of
 1004 the Financial Services Commission or his or her authorized
 1005 agent;
- 1006 5. A property appraiser or tax collector or their
 1007 authorized agents pursuant to s. 195.084(1);
- 1008 6. Designated employees of the Department of Education
 1009 solely for determination of each school district's price level
 1010 index pursuant to s. 1011.62(2);
- 1011 7. The Secretary ~~executive director of the Department~~ of
 1012 Economic Opportunity or his or her authorized agent;
- 1013 8. The taxpayers' rights advocate or his or her authorized
 1014 agent pursuant to s. 20.21(3); and
- 1015 9. The coordinator of the Office of Economic and

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1016 Demographic Research or his or her authorized agent.

1017 Section 18. Paragraph (b) of subsection (5) of section
 1018 220.194, Florida Statutes, is amended to read:
 1019 220.194 Corporate income tax credits for spaceflight
 1020 projects.—
 1021 (5) APPLICATION AND CERTIFICATION.—
 1022 (b) In order to take a tax credit under subparagraph (a)1.
 1023 or, if applicable, to transfer an approved credit under
 1024 subparagraph (a)2., a spaceflight business must submit an
 1025 application for certification to the Department of Economic
 1026 Opportunity along with a nonrefundable \$250 fee.

- 1027 1. The application must include:
 - 1028 a. The name and physical in-state address of the taxpayer.
 - 1029 b. Documentation demonstrating to the satisfaction of the
 1030 Department of Economic Opportunity that:
 - 1031 (I) The taxpayer is a spaceflight business.
 - 1032 (II) The business has engaged in a qualifying spaceflight
 1033 project before taking or transferring a credit under this
 1034 section.
 - 1035 c. In addition to any requirement specific to a credit,
 1036 documentation that the business has:
 - 1037 (I) Created 35 new jobs in this state directly associated
 1038 with spaceflight projects during its immediately preceding 3
 1039 taxable years. The business shall be deemed to have created new
 1040 jobs if the number of full-time jobs located in this state at
 1041 the time of application for certification is greater than the
 1042 total number of full-time jobs located in this state at the time
 1043 of application for approval to earn credits; and
 - 1044 (II) Invested a total of at least \$15 million in this state

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1045 on a spaceflight project during its immediately preceding 3
 1046 taxable years.

1047 d. The total amount and types of credits sought.

1048 e. An acknowledgment that a transfer of a tax credit is to
 1049 be accomplished pursuant to subsection (5).

1050 f. A copy of an audit or audits of the preceding 3 taxable
 1051 years, prepared by a certified public accountant licensed to
 1052 practice in this state, which identifies that portion of the
 1053 business's activities in this state related to spaceflight
 1054 projects in this state.

1055 g. An acknowledgment that the business must file an annual
 1056 report on the spaceflight project's progress with the Department
 1057 of Economic Opportunity.

1058 h. Any other information necessary to demonstrate that the
 1059 applicant meets the job creation, investment, and other
 1060 requirements of this section.

1061 2. Within 60 days after receipt of the application for
 1062 certification, the Department of Economic Opportunity shall
 1063 evaluate the application and recommend the business for
 1064 certification or denial. The Secretary ~~executive director of the~~
 1065 ~~Department of Economic Opportunity~~ must approve or deny the
 1066 application within 30 days after receiving the recommendation.
 1067 If approved, the Department of Economic Opportunity must provide
 1068 a letter of certification to the applicant consistent with any
 1069 restrictions imposed. If the Department of Economic Opportunity
 1070 denies any part of the requested credit, the Department of
 1071 Economic Opportunity must inform the applicant of the grounds
 1072 for the denial. A copy of the certification shall be submitted
 1073 to the department within 10 days after the secretary's ~~executive~~

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1074 ~~director's~~ approval.

1075 Section 19. Subsection (3) of section 288.005, Florida
 1076 Statutes, is amended to read:

1077 288.005 Definitions.—As used in this chapter, the term:

1078 ~~(3) "Executive director" means the executive director of~~
 1079 ~~the Department of Economic Opportunity, unless otherwise stated.~~

1080 Section 20. Subsections (1) and (3), paragraph (a) of
 1081 subsection (5), and subsection (6) of section 288.061, Florida
 1082 Statutes, are amended to read:

1083 288.061 Economic development incentive application
 1084 process.—

1085 (1) Upon receiving a submitted economic development
 1086 incentive application, the Division of Strategic Business
 1087 Development of the Department of Economic Opportunity and
 1088 designated staff of Enterprise Florida, Inc., shall review the
 1089 application to ensure that the application is complete, whether
 1090 and what type of state and local permits may be necessary for
 1091 the applicant's project, whether it is possible to waive such
 1092 permits, and what state incentives and amounts of such
 1093 incentives may be available to the applicant. The department
 1094 shall recommend to the Secretary of Economic Opportunity
 1095 ~~executive director~~ to approve or disapprove an applicant
 1096 business. If review of the application demonstrates that the
 1097 application is incomplete, the secretary ~~executive director~~
 1098 shall notify the applicant business within the first 5 business
 1099 days after receiving the application.

1100 (3) Within 10 business days after the department receives
 1101 the submitted economic development incentive application, the
 1102 Secretary of Economic Opportunity ~~executive director~~ shall

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approve or disapprove the application and issue a letter of certification to the applicant which includes a justification of that decision, unless the business requests an extension of that time.

(a) The contract or agreement with the applicant must specify the total amount of the award, the performance conditions that must be met to obtain the award, the schedule for payment, and sanctions that would apply for failure to meet performance conditions. The department may enter into one agreement or contract covering all of the state incentives that are being provided to the applicant. The contract must provide that release of funds is contingent upon sufficient appropriation of funds by the Legislature.

(b) The release of funds for the incentive or incentives awarded to the applicant depends upon the statutory requirements of the particular incentive program.

(5) (a) The Secretary of Economic Opportunity ~~executive director~~ may not approve an economic development incentive application unless the application includes a signed written declaration by the applicant which states that the applicant has read the information in the application and that the information is true, correct, and complete to the best of the applicant's knowledge and belief.

(6) Beginning July 1, 2020, the Secretary of Economic Opportunity ~~executive director~~ may not approve an economic development incentive application unless the application includes proof to the department that the applicant business is registered with and uses the E-Verify system, as defined in s. 448.095, to verify the work authorization status of all newly

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hired employees. If the department determines that an awardee is not complying with this subsection, the department must notify the awardee by certified mail of the department's determination of noncompliance and the awardee's right to appeal the determination. Upon a final determination of noncompliance, the awardee must repay all moneys received as an economic development incentive to the department within 30 days after the final determination.

Section 21. Paragraph (a) of subsection (6) of section 288.0656, Florida Statutes, is amended to read:

288.0656 Rural Economic Development Initiative.—

(6) (a) By August 1 of each year, the head of each of the following agencies and organizations shall designate a deputy secretary or higher-level staff person from within the agency or organization to serve as the REDI representative for the agency or organization:

1. The Department of Transportation.
2. The Department of Environmental Protection.
3. The Department of Agriculture and Consumer Services.
4. The Department of State.
5. The Department of Health.
6. The Department of Children and Families.
7. The Department of Corrections.
8. The Department of Education.
9. The Department of Juvenile Justice.
10. The Fish and Wildlife Conservation Commission.
11. Each water management district.
12. Enterprise Florida, Inc.
13. CareerSource Florida, Inc.

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- 1161 14. VISIT Florida.
 1162 15. The Florida Regional Planning Council Association.
 1163 16. The Agency for Health Care Administration.
 1164 17. The Institute of Food and Agricultural Sciences (IFAS).
 1165

1166 An alternate for each designee shall also be chosen, and the
 1167 names of the designees and alternates shall be sent to the
 1168 Secretary of Economic Opportunity ~~executive director of the~~
 1169 ~~department~~.

1170 Section 22. Paragraph (c) of subsection (5) and subsection
 1171 (8) of section 288.106, Florida Statutes, are amended to read:

1172 288.106 Tax refund program for qualified target industry
 1173 businesses.—

1174 (5) TAX REFUND AGREEMENT.—

1175 (c) The agreement must be signed by the Secretary of
 1176 Economic Opportunity ~~executive director~~ and by an authorized
 1177 officer of the qualified target industry business within 120
 1178 days after the issuance of the letter of certification under
 1179 subsection (4), but not before passage and receipt of the
 1180 resolution of local financial support. The department may grant
 1181 an extension of this period at the written request of the
 1182 qualified target industry business.

1183 (8) SPECIAL INCENTIVES.—If the department determines it is
 1184 in the best interest of the public for reasons of facilitating
 1185 economic development, growth, or new employment opportunities
 1186 within a Disproportionally Affected County, the department may,
 1187 between July 1, 2011, and June 30, 2014, waive any or all wage
 1188 or local financial support eligibility requirements and allow a
 1189 qualified target industry business from another state which

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1190 relocates all or a portion of its business to a
 1191 Disproportionally Affected County to receive a tax refund
 1192 payment of up to \$6,000 multiplied by the number of jobs
 1193 specified in the tax refund agreement under subparagraph
 1194 (5)(a)1. over the term of the agreement. ~~Before~~ ~~Prior to~~
 1195 granting such waiver, the Secretary of Economic Opportunity
 1196 ~~executive director of the department~~ shall file with the
 1197 Governor a written statement of the conditions and circumstances
 1198 constituting the reason for the waiver. Such business shall be
 1199 eligible for the additional tax refund payments specified in
 1200 subparagraph (3)(b)4. if it meets the criteria. As used in this
 1201 section, the term "Disproportionally Affected County" means Bay
 1202 County, Escambia County, Franklin County, Gulf County, Okaloosa
 1203 County, Santa Rosa County, Walton County, or Wakulla County.

1204 Section 23. Subsection (5) of section 288.1089, Florida
 1205 Statutes, is amended to read:

1206 288.1089 Innovation Incentive Program.—

1207 (5) The department shall review proposals pursuant to s.
 1208 288.061 for all three categories of innovation incentive awards.
 1209 Before making a recommendation to the Secretary of Economic
 1210 Opportunity ~~executive director~~, the department shall solicit
 1211 comments and recommendations from the Department of Agriculture
 1212 and Consumer Services. For each project, the evaluation and
 1213 recommendation to the department must include, but need not be
 1214 limited to:

1215 (a) A description of the project, its required facilities,
 1216 and the associated product, service, or research and development
 1217 associated with the project.

1218 (b) The percentage of match provided for the project.

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1219 (c) The number of full-time equivalent jobs that will be
 1220 created by the project, the total estimated average annual wages
 1221 of such jobs, and the types of business activities and jobs
 1222 likely to be stimulated by the project.

1223 (d) The cumulative investment to be dedicated to the
 1224 project within 5 years and the total investment expected in the
 1225 project if more than 5 years.

1226 (e) The projected economic and fiscal impacts on the local
 1227 and state economies relative to investment.

1228 (f) A statement of any special impacts the project is
 1229 expected to stimulate in a particular business sector in the
 1230 state or regional economy or in the state's universities and
 1231 community colleges.

1232 (g) A statement of any anticipated or proposed
 1233 relationships with state universities.

1234 (h) A statement of the role the incentive is expected to
 1235 play in the decision of the applicant to locate or expand in
 1236 this state.

1237 (i) A recommendation and explanation of the amount of the
 1238 award needed to cause the applicant to expand or locate in this
 1239 state.

1240 (j) A discussion of the efforts and commitments made by the
 1241 local community in which the project is to be located to induce
 1242 the applicant's location or expansion, taking into consideration
 1243 local resources and abilities.

1244 (k) A recommendation for specific performance criteria the
 1245 applicant would be expected to achieve in order to receive
 1246 payments from the fund and penalties or sanctions for failure to
 1247 meet or maintain performance conditions.

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1248 (l) Additional evaluative criteria for a research and
 1249 development facility project, including:

1250 1. A description of the extent to which the project has the
 1251 potential to serve as catalyst for an emerging or evolving
 1252 cluster.

1253 2. A description of the extent to which the project has or
 1254 could have a long-term collaborative research and development
 1255 relationship with one or more universities or community colleges
 1256 in this state.

1257 3. A description of the existing or projected impact of the
 1258 project on established clusters or targeted industry sectors.

1259 4. A description of the project's contribution to the
 1260 diversity and resiliency of the innovation economy of this
 1261 state.

1262 5. A description of the project's impact on special needs
 1263 communities, including, but not limited to, rural areas,
 1264 distressed urban areas, and enterprise zones.

1265 (m) Additional evaluative criteria for alternative and
 1266 renewable energy proposals, including:

1267 1. The availability of matching funds or other in-kind
 1268 contributions applied to the total project from an applicant.
 1269 The Department of Agriculture and Consumer Services shall give
 1270 greater preference to projects that provide such matching funds
 1271 or other in-kind contributions.

1272 2. The degree to which the project stimulates in-state
 1273 capital investment and economic development in metropolitan and
 1274 rural areas, including the creation of jobs and the future
 1275 development of a commercial market for renewable energy
 1276 technologies.

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1277 3. The extent to which the proposed project has been
 1278 demonstrated to be technically feasible based on pilot project
 1279 demonstrations, laboratory testing, scientific modeling, or
 1280 engineering or chemical theory that supports the proposal.
 1281 4. The degree to which the project incorporates an
 1282 innovative new technology or an innovative application of an
 1283 existing technology.
 1284 5. The degree to which a project generates thermal,
 1285 mechanical, or electrical energy by means of a renewable energy
 1286 resource that has substantial long-term production potential.
 1287 6. The degree to which a project demonstrates efficient use
 1288 of energy and material resources.
 1289 7. The degree to which the project fosters overall
 1290 understanding and appreciation of renewable energy technologies.
 1291 8. The ability to administer a complete project.
 1292 9. Project duration and timeline for expenditures.
 1293 10. The geographic area in which the project is to be
 1294 conducted in relation to other projects.
 1295 11. The degree of public visibility and interaction.
 1296 Section 24. Paragraph (b) of subsection (1) of section
 1297 288.1251, Florida Statutes, is amended to read:
 1298 288.1251 Promotion and development of entertainment
 1299 industry; Office of Film and Entertainment; creation; purpose;
 1300 powers and duties.—
 1301 (1) CREATION.—
 1302 (b) The department shall conduct a national search for a
 1303 qualified person to fill the position of Commissioner of Film
 1304 and Entertainment when the position is vacant. The Secretary of
 1305 Economic Opportunity ~~executive director of the department~~ has

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1306 the responsibility to hire the film commissioner. Qualifications
 1307 for the film commissioner include, but are not limited to, the
 1308 following:
 1309 1. A working knowledge of the equipment, personnel,
 1310 financial, and day-to-day production operations of the
 1311 industries to be served by the Office of Film and Entertainment;
 1312 2. Marketing and promotion experience related to the film
 1313 and entertainment industries to be served;
 1314 3. Experience working with a variety of individuals
 1315 representing large and small entertainment-related businesses,
 1316 industry associations, local community entertainment industry
 1317 liaisons, and labor organizations; and
 1318 4. Experience working with a variety of state and local
 1319 governmental agencies.
 1320 Section 25. Subsection (8) of section 288.8014, Florida
 1321 Statutes, is amended to read:
 1322 288.8014 Triumph Gulf Coast, Inc.; organization; board of
 1323 directors.—
 1324 (8) The Secretary ~~executive director of the Department~~ of
 1325 Economic Opportunity, or his or her designee, the secretary of
 1326 the Department of Environmental Protection, or his or her
 1327 designee, and the chair of the Committee of 8 Disproportionally
 1328 Affected Counties, or his or her designee, shall be available to
 1329 consult with the board of directors and may be requested to
 1330 attend meetings of the board of directors. These individuals
 1331 shall not be permitted to vote on any matter before the board.
 1332 Section 26. Paragraph (a) of subsection (4) of section
 1333 288.955, Florida Statutes, is amended to read:
 1334 288.955 Scripps Florida Funding Corporation.—

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1335 (4) BOARD; MEMBERSHIP.—The corporation shall be governed by
1336 a board of directors.

1337 (a) The board of directors shall consist of nine voting
1338 members, of whom the Governor shall appoint three, the President
1339 of the Senate shall appoint three, and the Speaker of the House
1340 of Representatives shall appoint three. The Secretary of
1341 Economic Opportunity ~~executive director of the department~~ or the
1342 ~~secretary's director's~~ designee shall serve as an ex-officio,
1343 nonvoting member of the board of directors.

1344 Section 27. Subsection (2) of section 288.9604, Florida
1345 Statutes, is amended to read:

1346 288.9604 Creation of the corporation.—

1347 (2) The board of directors of the corporation shall consist
1348 of seven directors. The Secretary of Economic Opportunity
1349 ~~executive director of the department~~, or his or her designee,
1350 shall serve as chair of the board of directors of the
1351 corporation. The director of the Division of Bond Finance of the
1352 State Board of Administration, or his or her designee, shall
1353 serve as a director on the board of directors of the
1354 corporation. The Governor, subject to confirmation by the
1355 Senate, shall appoint the remaining five directors of the board
1356 of directors of the corporation. The terms of office for the
1357 appointed directors are for 4 years after the date of their
1358 appointment. A vacancy occurring during a term of an appointed
1359 director shall be filled for the unexpired term. An appointed
1360 director is eligible for reappointment. At least three of the
1361 appointed directors of the corporation must have experience in
1362 finance, and one of the directors must have experience in
1363 economic development.

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1364 Section 28. Subsection (5) of section 288.987, Florida
1365 Statutes, is amended to read:

1366 288.987 Florida Defense Support Task Force.—

1367 (5) The Secretary ~~executive director of the Department~~ of
1368 Economic Opportunity, or his or her designee, shall serve as the
1369 ex officio, nonvoting executive director of the task force.

1370 Section 29. Paragraph (a) of subsection (6) of section
1371 290.0065, Florida Statutes, is amended to read:

1372 290.0065 State designation of enterprise zones.—

1373 (6) (a) The department may develop guidelines necessary for
1374 the approval of areas under this section by the Secretary of
1375 Economic Opportunity ~~executive director~~.

1376 Section 30. Subsection (1) of section 311.09, Florida
1377 Statutes, is amended to read:

1378 311.09 Florida Seaport Transportation and Economic
1379 Development Council.—

1380 (1) The Florida Seaport Transportation and Economic
1381 Development Council is created within the Department of
1382 Transportation. The council consists of the following 17
1383 members: the port director, or the port director's designee, of
1384 each of the ports of Jacksonville, Port Canaveral, Port Citrus,
1385 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
1386 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
1387 West, and Fernandina; the secretary of the Department of
1388 Transportation or his or her designee; and the secretary
1389 ~~director~~ of the Department of Economic Opportunity or his or her
1390 designee.

1391 Section 31. Paragraph (b) of subsection (1) of section
1392 311.105, Florida Statutes, is amended to read:

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1393 311.105 Florida Seaport Environmental Management Committee;
1394 permitting; mitigation.—

1395 (1)

1396 (b) The committee shall consist of the following members:
1397 the Secretary of Environmental Protection, or his or her
1398 designee, as an ex officio, nonvoting member; a designee from
1399 the United States Army Corps of Engineers, as an ex officio,
1400 nonvoting member; a designee from the Florida Inland Navigation
1401 District, as an ex officio, nonvoting member; the Secretary
1402 ~~executive director of the Department~~ of Economic Opportunity, or
1403 his or her designee, as an ex officio, nonvoting member; and
1404 five or more port directors, as voting members, appointed to the
1405 committee by the council chair, who shall also designate one
1406 such member as committee chair.

1407 Section 32. Subsection (3) of section 334.065, Florida
1408 Statutes, is amended to read:

1409 334.065 Center for Urban Transportation Research.—

1410 (3) An advisory board shall be created to periodically and
1411 objectively review and advise the center concerning its research
1412 program. Except for projects mandated by law, state-funded base
1413 projects shall not be undertaken without approval of the
1414 advisory board. The membership of the board shall consist of
1415 nine experts in transportation-related areas, including the
1416 secretaries of the Department ~~Florida Departments~~ of
1417 Transportation, the Department of ~~and~~ Environmental Protection,
1418 and the executive director of ~~the~~ Department of Economic
1419 Opportunity, or their designees, and a member of the Florida
1420 Transportation Commission. The nomination of the remaining
1421 members of the board shall be made to the President of the

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1422 University of South Florida by the College of Engineering at the
1423 University of South Florida, and the appointment of these
1424 members must be reviewed and approved by the Florida
1425 Transportation Commission and confirmed by the Board of
1426 Governors.

1427 Section 33. Subsection (5) of section 373.4149, Florida
1428 Statutes, is amended to read:

1429 373.4149 Miami-Dade County Lake Belt Plan.—

1430 (5) The secretary of the Department of Environmental
1431 Protection, the secretary ~~executive director~~ of the Department
1432 of Economic Opportunity, the secretary of the Department of
1433 Transportation, the Commissioner of Agriculture, the executive
1434 director of the Fish and Wildlife Conservation Commission, and
1435 the executive director of the South Florida Water Management
1436 District may enter into agreements with landowners, developers,
1437 businesses, industries, individuals, and governmental agencies
1438 as necessary to effectuate the Miami-Dade County Lake Belt Plan
1439 and the provisions of this section.

1440 Section 34. Subsection (2) of section 380.045, Florida
1441 Statutes, is amended to read:

1442 380.045 Resource planning and management committees;
1443 objectives; procedures.—

1444 (2) The committee ~~must shall~~ include, but ~~is shall~~ not be
1445 limited to, representation from each of the following: elected
1446 officials from the local governments within the area under
1447 study; the planning office of each of the local governments
1448 within the area under study; the state land planning agency; any
1449 other state agency under chapter 20 a representative of which
1450 the Governor feels is relevant to the compilation of the

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committee; and a water management district, if appropriate, and regional planning council all or part of whose jurisdiction lies within the area under study. After the appointment of the members, the Governor shall select a chair and vice chair. A staff member of the state land planning agency shall be appointed by the secretary ~~director~~ of such agency to serve as the secretary of the committee. The state land planning agency shall, to the greatest extent possible, provide technical assistance and administrative support to the committee. Meetings will be called as needed by the chair or on the demand of three or more members of the committee. The committee will act on a simple majority of a quorum present and shall make a report within 6 months to the head of the state land planning agency. The committee must ~~shall~~, from the time of appointment, remain in existence for no less than 6 months.

Section 35. Subsection (5) of section 403.0752, Florida Statutes, is amended to read:

403.0752 Ecosystem management agreements.—

(5) The Secretary ~~Executive Director of the Department of Economic Opportunity~~, the Secretary of Transportation, the Commissioner of Agriculture, the Executive Director of the Fish and Wildlife Conservation Commission, and the executive directors of the water management districts are authorized to participate in the development of ecosystem management agreements with regulated entities and other governmental agencies as necessary to effectuate the provisions of this section. Local governments are encouraged to participate in ecosystem management agreements.

Section 36. Subsection (1) of section 420.0005, Florida

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Statutes, is amended to read:

420.0005 State Housing Trust Fund; State Housing Fund.—

(1) There is established in the State Treasury a separate trust fund to be named the "State Housing Trust Fund." There shall be deposited in the fund all moneys appropriated by the Legislature, or moneys received from any other source, for the purpose of this chapter, and all proceeds derived from the use of such moneys. The fund shall be administered by the Florida Housing Finance Corporation on behalf of the department, as specified in this chapter. Money deposited to the fund and appropriated by the Legislature must, notwithstanding the provisions of chapter 216 or s. 420.504(3), be transferred quarterly in advance, to the extent available, or, if not so available, as soon as received into the State Housing Trust Fund, and subject to the provisions of s. 420.5092(6)(a) and (b) by the Chief Financial Officer to the corporation upon certification by the Secretary ~~executive director of the Department of Economic Opportunity~~ that the corporation is in compliance with the requirements of s. 420.0006. The certification made by the secretary ~~executive director~~ shall also include the split of funds among programs administered by the corporation and the department as specified in chapter 92-317, Laws of Florida, as amended. Moneys advanced by the Chief Financial Officer must be deposited by the corporation into a separate fund established with a qualified public depository meeting the requirements of chapter 280 to be named the "State Housing Fund" and used for the purposes of this chapter. Administrative and personnel costs incurred in implementing this chapter may be paid from the State Housing Fund, but such costs

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1509 may not exceed 5 percent of the moneys deposited into such fund.
 1510 To the State Housing Fund shall be credited all loan repayments,
 1511 penalties, and other fees and charges accruing to such fund
 1512 under this chapter. It is the intent of this chapter that all
 1513 loan repayments, penalties, and other fees and charges collected
 1514 be credited in full to the program account from which the loan
 1515 originated. Moneys in the State Housing Fund which are not
 1516 currently needed for the purposes of this chapter shall be
 1517 invested in such manner as is provided for by statute. The
 1518 interest received on any such investment shall be credited to
 1519 the State Housing Fund.

1520 Section 37. Section 420.0006, Florida Statutes, is amended
 1521 to read:

1522 420.0006 Authority to contract with corporation; contract
 1523 requirements; nonperformance.—The Secretary ~~executive director~~
 1524 of Economic Opportunity ~~the department~~ shall contract,
 1525 notwithstanding part I of chapter 287, with the Florida Housing
 1526 Finance Corporation on a multiyear basis to stimulate, provide,
 1527 and foster affordable housing in the state. The contract must
 1528 incorporate the performance measures required by s. 420.511 and
 1529 be consistent with the corporation's strategic business plan
 1530 prepared in accordance with s. 420.511. The contract must
 1531 provide that if the corporation fails to comply with a
 1532 performance measure required by s. 420.511, the secretary
 1533 ~~executive director~~ shall notify the Governor and refer the
 1534 nonperformance to the department's inspector general for review
 1535 and determination as to whether such failure is due to forces
 1536 beyond the corporation's control or whether such failure is due
 1537 to inadequate management of the corporation's resources.

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1538 Advances shall continue to be made pursuant to s. 420.0005
 1539 during the pendency of the review. If such failure is due to
 1540 outside forces, it may not be deemed a violation of the
 1541 contract. If such failure is due to inadequate management, the
 1542 department's inspector general shall provide recommendations
 1543 regarding solutions. The Governor may resolve differences of
 1544 opinion with respect to performance under the contract and may
 1545 request that advances continue in the event of a failure under
 1546 the contract due to inadequate management. The Chief Financial
 1547 Officer shall approve the request absent a finding by the Chief
 1548 Financial Officer that continuing such advances would adversely
 1549 impact the state; however, the Chief Financial Officer shall
 1550 provide advances sufficient to meet the debt service
 1551 requirements of the corporation and sufficient to fund contracts
 1552 committing funds from the State Housing Trust Fund if such
 1553 contracts are in accordance with the laws of this state.

1554 Section 38. Paragraph (d) of subsection (1) of section
 1555 420.101, Florida Statutes, is amended to read:

1556 420.101 Housing Development Corporation of Florida;
 1557 creation, membership, and purposes.—

1558 (1) Twenty-five or more persons, a majority of whom shall
 1559 be residents of this state, who may desire to create a housing
 1560 development corporation under the provisions of this part for
 1561 the purpose of promoting and developing housing and advancing
 1562 the prosperity and economic welfare of the state and, to that
 1563 end, to exercise the powers and privileges hereinafter provided,
 1564 may be incorporated by filing in the Department of State, as
 1565 hereinafter provided, articles of incorporation. The articles of
 1566 incorporation shall contain:

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(d) The names and post office addresses of the members of the first board of directors. The first board of directors shall be elected by and from the stockholders of the corporation and shall consist of 21 members. However, five of such members shall consist of the following persons, who shall be nonvoting members: the Secretary ~~executive director of the Department~~ of Economic Opportunity or her or his designee; the head of the Department of Financial Services or her or his designee with expertise in banking matters; a designee of the head of the Department of Financial Services with expertise in insurance matters; one state senator appointed by the President of the Senate; and one representative appointed by the Speaker of the House of Representatives.

Section 39. Subsection (8) of section 420.503, Florida Statutes, is amended to read:

420.503 Definitions.—As used in this part, the term:

(8) "Contract" means the contract between the Secretary ~~executive director~~ of Economic Opportunity ~~the department~~ and the corporation for provision of housing services referenced in s. 420.0006.

Section 40. Subsections (1) and (3) of section 420.504, Florida Statutes, are amended to read:

420.504 Public corporation; creation, membership, terms, expenses.—

(1) A public corporation and a public body corporate and politic, to be known as the "Florida Housing Finance Corporation," is created within the Department of Economic Opportunity. It is declared to be the intent of and constitutional construction by the Legislature that the Florida

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Housing Finance Corporation constitutes an entrepreneurial public corporation organized to provide and promote the public welfare by administering the governmental function of financing or refinancing housing and related facilities in this state and that the corporation is not a department of the executive branch of state government within the scope and meaning of s. 6, Art. IV of the State Constitution, but is functionally related to the Department of Economic Opportunity in which it is placed. The executive function of state government to be performed by the Secretary ~~executive director of the Department~~ of Economic Opportunity in the conduct of the business of the Florida Housing Finance Corporation must be performed pursuant to a contract to monitor and set performance standards for the implementation of the business plan for the provision of housing approved for the corporation as provided in s. 420.0006. This contract must include performance standards for the provision of affordable housing in this state established in the strategic business plan described in s. 420.511.

(3) The corporation is a separate budget entity and is not subject to control, supervision, or direction by the Department of Economic Opportunity in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters. The corporation shall consist of a board of directors composed of the Secretary ~~executive director of the Department~~ of Economic Opportunity as an ex officio and voting member, or a senior-level agency employee designated by the secretary director, and eight members appointed by the Governor subject to confirmation by the Senate from the following:

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1625 (a) One citizen actively engaged in the residential home
 1626 building industry.

1627 (b) One citizen actively engaged in the banking or mortgage
 1628 banking industry.

1629 (c) One citizen who is a representative of those areas of
 1630 labor engaged in home building.

1631 (d) One citizen with experience in housing development who
 1632 is an advocate for low-income persons.

1633 (e) One citizen actively engaged in the commercial building
 1634 industry.

1635 (f) One citizen who is a former local government elected
 1636 official.

1637 (g) Two citizens of the state who are not principally
 1638 employed as members or representatives of any of the groups
 1639 specified in paragraphs (a)-(f).

1640 Section 41. Subsection (1) of section 420.506, Florida
 1641 Statutes, is amended to read:

1642 420.506 Executive director; agents and employees; inspector
 1643 general.—

1644 (1) The appointment and removal of an executive director
 1645 shall be by the Secretary ~~executive director of the Department~~
 1646 of Economic Opportunity, with the advice and consent of the
 1647 corporation's board of directors. The executive director shall
 1648 employ legal and technical experts and such other agents and
 1649 employees, permanent and temporary, as the corporation may
 1650 require, and shall communicate with and provide information to
 1651 the Legislature with respect to the corporation's activities.
 1652 Notwithstanding s. 216.262, the board may develop and implement
 1653 rules regarding the employment of employees of the corporation

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1654 and service providers, including legal counsel. The board is
 1655 entitled to establish travel procedures and guidelines for
 1656 employees of the corporation, subject to s. 112.061(6) and (7).
 1657 The executive director's office and the corporation's files and
 1658 records must be located in Leon County.

1659 Section 42. Subsection (30) of section 420.507, Florida
 1660 Statutes, is amended to read:

1661 420.507 Powers of the corporation.—The corporation shall
 1662 have all the powers necessary or convenient to carry out and
 1663 effectuate the purposes and provisions of this part, including
 1664 the following powers which are in addition to all other powers
 1665 granted by other provisions of this part:

1666 (30) To prepare and submit to the Secretary ~~executive~~
 1667 ~~director of Economic Opportunity the department~~ a budget request
 1668 for purposes of the corporation, which request shall,
 1669 notwithstanding the provisions of chapter 216 and in accordance
 1670 with s. 216.351, contain a request for operational expenditures
 1671 and separate requests for other authorized corporation programs.
 1672 The request need not contain information on the number of
 1673 employees, salaries, or any classification thereof, and the
 1674 approved operating budget therefor need not comply with s.
 1675 216.181(8)-(10). The secretary ~~executive director~~ may include
 1676 within the department's budget request the corporation's budget
 1677 request in the form as authorized by this section.

1678 Section 43. Subsection (2) of section 420.511, Florida
 1679 Statutes, is amended to read:

1680 420.511 Strategic business plan; long-range program plan;
 1681 annual report; audited financial statements.—

1682 (2) The corporation, in coordination with the department,

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1683 shall annually develop a long-range program plan for the
 1684 provision of affordable housing in this state as required
 1685 pursuant to chapter 186. In part, the plan must include
 1686 provisions that maximize the abilities of the corporation to
 1687 implement the state housing strategy established under s.
 1688 420.0003, to respond to federal housing initiatives, and to
 1689 develop programs in a manner that is more responsive to the
 1690 needs of public and private partners. The plan shall be
 1691 developed on a schedule consistent with that established by s.
 1692 186.021. For purposes of this section, the Secretary of Economic
 1693 Opportunity executive director or his or her designee shall
 1694 serve as the corporation's representative to achieve a
 1695 coordinated and integrated planning relationship with the
 1696 department.

1697 Section 44. Subsection (7) of section 420.602, Florida
 1698 Statutes, is amended to read:

1699 420.602 Definitions.—As used in this part, the following
 1700 terms shall have the following meanings, unless the context
 1701 otherwise requires:

1702 (7) "Director" means the executive director of the
 1703 ~~Department of Economic Opportunity.~~

1704 Section 45. Subsection (5) of section 420.609, Florida
 1705 Statutes, is amended to read:

1706 420.609 Affordable Housing Study Commission.—Because the
 1707 Legislature firmly supports affordable housing in Florida for
 1708 all economic classes:

1709 (5) The commission shall review, evaluate, and make
 1710 recommendations regarding existing and proposed housing programs
 1711 and initiatives. The commission shall provide these and any

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1712 other housing recommendations to the Secretary ~~director~~ of
 1713 Economic Opportunity ~~the department~~ and the executive director
 1714 of the corporation.

1715 Section 46. Subsection (2) of section 420.622, Florida
 1716 Statutes, is amended to read:

1717 420.622 State Office on Homelessness; Council on
 1718 Homelessness.—

1719 (2) The Council on Homelessness is created to consist of 19
 1720 representatives of public and private agencies who shall develop
 1721 policy and advise the State Office on Homelessness. The council
 1722 members shall be: the Secretary of Children and Families, or his
 1723 or her designee; the Secretary executive director of the
 1724 ~~Department of Economic Opportunity~~, or his or her designee, who
 1725 shall advise the council on issues related to rural development;
 1726 the State Surgeon General, or his or her designee; the Executive
 1727 Director of Veterans' Affairs, or his or her designee; the
 1728 Secretary of Corrections, or his or her designee; the Secretary
 1729 of Health Care Administration, or his or her designee; the
 1730 Commissioner of Education, or his or her designee; the Executive
 1731 Director of CareerSource Florida, Inc., or his or her designee;
 1732 one representative of the Florida Association of Counties; one
 1733 representative of the Florida League of Cities; one
 1734 representative of the Florida Supportive Housing Coalition; one
 1735 representative of the Florida Housing Coalition; the Executive
 1736 Director of the Florida Housing Finance Corporation, or his or
 1737 her designee; one representative of the Florida Coalition for
 1738 the Homeless; the secretary of the Department of Elder Affairs,
 1739 or his or her designee; and four members appointed by the
 1740 Governor. The council members shall be nonpaid volunteers and

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1741 shall be reimbursed only for travel expenses. The appointed
 1742 members of the council shall be appointed to staggered 2-year
 1743 terms and are encouraged to have experience in the
 1744 administration or provision of resources, services, or housing
 1745 that addresses the needs of persons experiencing homelessness.
 1746 The council shall meet at least four times per year. The
 1747 importance of minority, gender, and geographic representation
 1748 shall be considered in appointing members to the council.

1749 Section 47. Paragraph (g) of subsection (1) of section
 1750 427.012, Florida Statutes, is amended to read:

1751 427.012 The Commission for the Transportation
 1752 Disadvantaged.—There is created the Commission for the
 1753 Transportation Disadvantaged in the Department of
 1754 Transportation.

1755 (1) The commission shall consist of seven members, all of
 1756 whom shall be appointed by the Governor, in accordance with the
 1757 requirements of s. 20.052.

1758 (g) The Secretary of Transportation, the Secretary of
 1759 Children and Families, the Secretary ~~executive director of the~~
 1760 ~~Department~~ of Economic Opportunity, the executive director of
 1761 the Department of Veterans' Affairs, the Secretary of Elderly
 1762 Affairs, the Secretary of Health Care Administration, the
 1763 director of the Agency for Persons with Disabilities, and a
 1764 county manager or administrator who is appointed by the
 1765 Governor, or a senior management level representative of each,
 1766 shall serve as ex officio, nonvoting advisors to the commission.

1767 Section 48. Subsections (2), (3), and (4) of section
 1768 443.1116, Florida Statutes, are amended to read:

1769 443.1116 Short-time compensation.—

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1770 (2) APPROVAL OF SHORT-TIME COMPENSATION PLANS.—An employer
 1771 wishing to participate in the short-time compensation program
 1772 must submit a signed, written, short-time plan to the Department
 1773 of Economic Opportunity for approval. The Secretary of Economic
 1774 Opportunity ~~director~~ or his or her designee shall approve the
 1775 plan if:

1776 (a) The plan applies to and identifies each specific
 1777 affected unit;

1778 (b) The individuals in the affected unit are identified by
 1779 name and social security number;

1780 (c) The normal weekly hours of work for individuals in the
 1781 affected unit are reduced by at least 10 percent and by not more
 1782 than 40 percent;

1783 (d) The plan includes a certified statement by the employer
 1784 that the aggregate reduction in work hours is in lieu of layoffs
 1785 that would affect at least 10 percent of the employees in the
 1786 affected unit and that would have resulted in an equivalent
 1787 reduction in work hours;

1788 (e) The plan applies to at least 10 percent of the
 1789 employees in the affected unit;

1790 (f) The plan is approved in writing by the collective
 1791 bargaining agent for each collective bargaining agreement
 1792 covering any individual in the affected unit;

1793 (g) The plan does not serve as a subsidy to seasonal
 1794 employers during the off-season or as a subsidy to employers who
 1795 traditionally use part-time employees;

1796 (h) The plan certifies that, if the employer provides
 1797 fringe benefits to any employee whose workweek is reduced under
 1798 the program, the fringe benefits will continue to be provided to

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the employee participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program. As used in this paragraph, the term "fringe benefits" includes, but is not limited to, health insurance, retirement benefits under defined benefit pension plans as defined in subsection 35 of s. 1002 of the Employee Retirement Income Security Act of 1974, 29 U.S.C., contributions under a defined contribution plan as defined in s. 414(i) of the Internal Revenue Code, paid vacation and holidays, and sick leave;

(i) The plan describes the manner in which the requirements of this subsection will be implemented, including a plan for giving notice, if feasible, to an employee whose workweek is to be reduced, together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation; and

(j) The terms of the employer's written plan and implementation are consistent with employer obligations under applicable federal laws and laws of this state.

(3) APPROVAL OR DISAPPROVAL OF THE PLAN.—The Secretary of Economic Opportunity ~~director~~ or his or her designee shall approve or disapprove a short-time compensation plan in writing within 15 days after its receipt. If the plan is denied, the secretary ~~director~~ or his or her designee shall notify the employer of the reasons for disapproval.

(4) BEGINNING AND TERMINATION OF SHORT-TIME COMPENSATION BENEFIT PERIOD.—A plan takes effect on the date of its approval

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by the Secretary of Economic Opportunity ~~director~~ or his or her designee and expires at the end of the 12th full calendar month after its effective date.

Section 49. Paragraph (d) of subsection (2) of section 446.53, Florida Statutes, is amended to read:

446.53 Concrete masonry education.—

(2)

(d) In addition to the 13 voting members described in paragraph (a), the Secretary ~~executive director of the Department~~ of Economic Opportunity, or his or her designee, shall serve ex officio as a nonvoting member of the board of directors of the council.

Section 50. Section 450.261, Florida Statutes, is amended to read:

450.261 Interstate Migrant Labor Commission; Florida membership.—In selecting the Florida membership of the Interstate Migrant Labor Commission, the Governor may designate the Secretary ~~executive director of the Department~~ of Economic Opportunity as his or her representative.

Section 51. Paragraph (d) of subsection (1), paragraph (a) of subsection (4), and paragraphs (b), (c), and (d) of subsection (5) of section 624.5105, Florida Statutes, are amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.—

(1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

(d) Each proposal for the granting of such tax credit requires the prior approval of the Secretary of Economic

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1857 Opportunity director.

1858 (4) ADMINISTRATION.—

1859 (a)1. The Department of Economic Opportunity may adopt
 1860 rules to administer this section, including rules for the
 1861 approval or disapproval of proposals by insurers.

1862 2. The decision of the Secretary of Economic Opportunity
 1863 ~~director~~ shall be in writing, and, if approved, the proposal
 1864 shall state the maximum credit allowable to the insurer. A copy
 1865 of the decision shall be transmitted to the executive director
 1866 of the Department of Revenue, who shall apply such credit to the
 1867 tax liability of the insurer.

1868 3. The Department of Economic Opportunity shall monitor all
 1869 projects periodically, in a manner consistent with available
 1870 resources to ensure that resources are utilized in accordance
 1871 with this section; however, each project shall be reviewed no
 1872 less frequently than once every 2 years.

1873 4. The Department of Economic Opportunity shall, in
 1874 consultation with the Florida Housing Finance Corporation and
 1875 the statewide and regional housing and financial intermediaries,
 1876 market the availability of the community contribution tax credit
 1877 program to community-based organizations.

1878 (5) DEFINITIONS.—As used in this section, the term:

1879 ~~(b) "Director" means the director of the Department of~~
 1880 ~~Economic Opportunity.~~

1881 (b)(e) "Local government" means any county or incorporated
 1882 municipality in the state.

1883 (c)(d) "Project" means an activity as defined in s.

1884 220.03(1)(t).

1885 Section 52. Paragraph (f) of subsection (2) of section

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1886 1004.015, Florida Statutes, is amended to read:

1887 1004.015 Florida Talent Development Council.—

1888 (2) Members of the council shall include:

1889 (f) The Secretary ~~executive director of the Department of~~
 1890 Economic Opportunity.

1891 Section 53. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: March 2, 2021

I respectfully request that **Senate Bill #1046**, relating to Arrest Booking Photographs, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/15/21

Meeting Date

SB 1046

Bill Number (if applicable)

Topic Arrest Booking Photographs

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 S Monroe St.

Phone 850-681-0024

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FL

32312

Email jorge@flapartners.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Criminal Defense Lawyers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

March 15, 2021

Meeting Date

1046

Bill Number (if applicable)

Topic Arrest Booking Photographs

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Chief Executive Officer

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Tallahassee

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32308

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

This form is part of the public record for this meeting

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03/15/21

Meeting Date

1046

Bill Number (if applicable)

708560

Amendment Barcode (if applicable)

Topic Arrest Booking Photographs

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City

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Myself

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 Commerce and Tourism

BILL: CS/SB 1046

INTRODUCER: Commerce and Tourism Committee, Senator Bean, and others

SUBJECT: Arrest Booking Photographs

DATE: March 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Favorable
2.	Harmsen	McKay	CM	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1046 expands s. 901.43, F.S., to subject any person or entity that publishes or disseminates information relating to arrest booking photographs for a commercial purpose or pecuniary gain as their primary business model to a civil penalty for failing to remove the arrest booking photograph upon written request.

Section 901.43, F.S., prohibits any person or entity engaged in the business of publishing or otherwise disseminating arrest booking photographs from soliciting or accepting a fee to remove the photographs. Additionally, this section requires persons or entities who accept a fee for the removal of such photographs to remove the photographs within ten days of a written request or be subject to a civil penalty.

This bill may have an indeterminate fiscal impact on the courts due to the expansion of what entities are subject to civil penalties. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2021.

II. Present Situation:

Dissemination of Arrest Booking Photographs

Section 901.43, F.S., provides that any person or entity engaged in the business of publicly publishing arrest booking photographs may not solicit or accept a fee or other form of payment to remove the photographs.¹

A person whose arrest booking photograph is published, or his or her legal representative, may request that a registered agent of the person or entity who published the photograph remove the photograph. The request must:

- Be made in writing.
- Be sent by registered mail.
- Include sufficient proof of identification of the person whose arrest booking photograph was published.
- Include specific information identifying the arrest booking photograph that the request seeks to remove.²

The person or entity that published the arrest booking photograph must remove the photograph within 10 days of receipt of the written request for removal.³ If the photograph is not removed within 10 calendar days, the person seeking removal may bring a civil action to enjoin the continued publication of the photograph. Additionally, the court may impose a civil penalty of \$1,000 per day for noncompliance and must award reasonable attorney fees and court costs. Money recovered for civil penalties must be deposited into the General Revenue Fund.⁴

Refusal to remove an arrest booking photograph after written request has been made constitutes an unfair or deceptive trade practice in accordance with part II of ch. 501, F.S.⁵

Section 901.43, F.S., only applies to a person or entity that solicits or accepts payments to remove arrest booking photographs.⁶

Public Disclosure of Criminal Record Information

All “materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge” are public records and open for public inspection, unless a specific exemption applies.⁷

¹ Section 901.43(1), F.S.

² Section 901.43(2), F.S.

³ *Id.*

⁴ Section 901.43(3), F.S.

⁵ Section 901.43(4), F.S.

⁶ Section 901.43(5), F.S.

⁷ Office of the Attorney General (Florida), *Public Records: A Guide for Law Enforcement Agencies* (2019 Edition), at p. 1. and endnote 1 (citing *Shevin v. Byron, Harless, Schaffer, Reid and Assocs., Inc.*, 379 So. 2d 633, 640 (Fla. 1980)) and endnote 2 (citing *Wait v. Fla. Power & Light Co.*, 372 So. 2d 420 (Fla. 1979)), available at [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-BAMQDX/\\$file/2019+Law+Enforcement+Guide+v6.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-BAMQDX/$file/2019+Law+Enforcement+Guide+v6.pdf) (last visited on Mar. 16, 2021).

Criminal record information may be obtained and published by non-governmental publishers. This information includes booking photographs, arrest reports, charging documents, sentencing orders, and criminal history information.⁸ Like all other records prepared by Florida government agencies, arrest and crime reports are generally considered to be subject to public disclosure unless specifically exempted.⁹ Statutory exemptions for active criminal investigative and intelligence information, confessions, juvenile offender records, and certain victim information may apply to crime reports and other law enforcement records.¹⁰

Arrest Record Information

Public record information pertaining to a person's arrest for the alleged commission of a crime includes the arrest report and booking photograph ("mugshot"). With few exceptions, arrest record information (including booking photographs) must be disclosed pursuant to a public records request.¹¹ However, the arrest record information of juveniles charged with misdemeanors is confidential and exempt,¹² and a public records custodian may choose to not electronically publish the arrest or booking photograph of a child that is not confidential and exempt.¹³

Arrest record information may be requested by many persons and entities, including members of the public, traditional news companies, companies that provide criminal history or criminal record information for a service or subscriber fee (e.g., so that a private employer may determine if a job applicant has a criminal history), and companies that are often referred to as "mugshot" companies.

Mugshot companies operate commercial websites that repost booking photographs. The companies often make a profit by charging a fee to remove the image. Photos posted on one site may also be reposted to other sites, causing continuing harm to the reputation of the individual.¹⁴ Florida law does not specifically prohibit mugshot companies from posting booking photographs, but does prohibit charging a removal fee.¹⁵

Laws and Legislation of Other States

Some states have passed laws addressing the issue of publishing booking photographs for commercial gain. Fourteen states, including Florida, have enacted legislation designed to prohibit

⁸ The Florida Department of Law Enforcement is the central repository of criminal history information for the State of Florida. For a fee, a search of Florida criminal history information regarding a person may be performed. Excluded from the search is sealed or expunged information. Florida Department of Law Enforcement, Criminal History Information, *Search Florida's Criminal Histories*, <https://web.fdle.state.fl.us/search/app/default> (last visited Mar. 16, 2021).

⁹ Office of the Attorney General (Florida), *Public Records: A Guide for Law Enforcement Agencies* (2019 Edition), at p. 6, available at [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-BAMQDX/\\$file/2019+Law+Enforcement+Guide+v6.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-BAMQDX/$file/2019+Law+Enforcement+Guide+v6.pdf) (last visited Mar. 16, 2021).

¹⁰ *Id.* at 6-7.

¹¹ Op. Att'y Gen. 94-90 (October 25, 1994) (footnotes omitted), available at <http://www.myfloridalegal.com/ago.nsf/Opinions/83A1D5004064269D852562210063168E> (last visited Mar. 16, 2021).

¹² Sections 943.053(3), and 985.04(2), F.S.

¹³ Section 985.04(2)(a)(2), F.S.

¹⁴ National Conference of State Legislatures, *Mug Shots and Booking Photo Websites, Overview*, May 4, 2020, <http://www.ncsl.org/research/telecommunications-and-information-technology/mug-shots-and-booking-photo-websites.aspx> (last visited Mar. 16, 2021).

¹⁵ Section 901.43, F.S.

commercial website operators from posting mugshot photos on a website and charging a removal fee.¹⁶ Additionally, some states have limited public access to booking photographs. For example, law enforcement in California have the discretion to furnish copies of booking photographs in response to a public request. However, once a copy is furnished to one member of the general public, it must be made available to all who make a request.¹⁷

An American Bar Association article suggests that there is no legal solution to this problem, and instead, the solution will develop through private sector activity.¹⁸ For example, Google has adjusted its algorithms so that the mugshot companies will not appear as prominently in the search results. In addition, some credit card companies such as MasterCard, American Express, and Discover are cutting ties with these types of websites.¹⁹

Case Law

Persons whose booking photographs are posted by commercial entities have sought relief based on various causes of action. These include claims for an invasion of privacy based on false light, invasion of privacy based on unauthorized appropriation of name or likeness, defamation by slander, and unjust enrichment.²⁰

In 2008, the Florida Supreme Court indicated that Florida does not recognize tort claims based on false light, “because we conclude that false light is largely duplicative of existing torts, but without the attendant protections of the First Amendment.”²¹ The Court specifically noted that the key elements of a false claim are nearly identical to the elements required in a defamation case.²² Florida does recognize defamation claims.²³

Right of Publicity

Section 540.08(1), F.S., prohibits a person from publishing, printing, displaying, or otherwise publicly using for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without the person’s express written or oral consent to such use. There are exceptions for:

¹⁶ National Conference of State Legislatures, *supra* note 14. The thirteen states are California, Colorado, Georgia, Illinois, Kentucky, Maryland, Missouri, Oregon, South Carolina, Texas, Utah, Virginia, and Wyoming.

¹⁷ Office of the Attorney General, State of California, Opinion No. 03-205 (July 14, 2003), *available at* <https://oag.ca.gov/system/files/opinions/pdfs/03-205.pdf> (last visited Mar. 16, 2021).

¹⁸ Stephanie Francis Ward, *Hoist Your Mug: Websites Will Post Your Name and Photo; Others Will Charge You to Remove Them*, ABA JOURNAL, August 1, 2012, *available at* http://www.abajournal.com/magazine/article/hoist_your_mug_websites_will_post_your_name_and_photo_others_will_charge_you (last visited Mar. 16, 2021).

¹⁹ National Conference of State Legislatures, *Mug Shots and Booking Photo Websites, Overview*, May 4, 2020, <http://www.ncsl.org/research/telecommunications-and-information-technology/mug-shots-and-booking-photo-websites.aspx> (last visited Mar. 16, 2021).

²⁰ A claim of false light is a type of a claim of invasion of privacy based in tort. For example, to prevail in a false light claim in Pennsylvania, a defendant must establish that a highly offensive false statement was publicized by a defendant with knowledge or in reckless disregard of its falsity. *Santillo v. Reedel*, 430 Pa. Super. 290, 295-296 (Pa. Super. Ct.1993).

²¹ *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098, 1100 (Fla. 2008).

²² *Id.* at 1105-1106.

²³ *Id.* at 1111-1112. *See* ch. 770, F.S.

- Publication, printing, display, or use of the name or likeness of any person in any newspaper, magazine, book, news broadcast or telecast, or other news medium or publication as part of any bona fide news report or presentation having a current and legitimate public interest and where such name or likeness is not used for advertising purposes;
- The use of such name, portrait, photograph, or other likeness in connection with the resale or other distribution of literary, musical, or artistic productions or other articles of merchandise or property where such person has consented to the use on or in connection with the initial sale or distribution; and
- Any photograph of a person solely as a member of the public and where such person is not named or otherwise identified in or in connection with the use of such photograph.²⁴

When necessary consent is not obtained, the person whose name, portrait, photograph, or other likeness is used may bring an action to enjoin the unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.²⁵

In 2014, a Florida federal district court denied the defendant's motion to dismiss a cause of action alleging a violation of s. 540.08, F.S., for publishing the plaintiff's booking photograph without her consent and advertising "unpublishing services" that required the payment of a fee to remove the photograph.²⁶ In a later proceeding, the court denied the plaintiff's Motion to Certify Class (to allow the case to proceed as a class action) without prejudice.²⁷ The class action was not re-filed, nor was the case resolved by trial on the merits. The resolution of the case and whether the plaintiff would have succeeded on the merits of her claim is unknown.

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA)

History and Purpose of FDUTPA

Section 901.43(4), F.S., subjects a person or entity that refuses to remove an arrest booking photograph after a specific request has been made to remove it to prosecution under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA).

FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce.²⁸ The FDUTPA is based on federal law.²⁹ The State Attorney or the Department of Legal Affairs may bring actions when it is in the public interest on behalf of consumers or governmental entities.³⁰ The Office of the State Attorney may enforce violations of the FDUTPA

²⁴ Section 540.08(4), F.S.

²⁵ Section 540.08(2), F.S.

²⁶ *Bilotta v. Citizen Info. Assocs., LLC*, 2014 U.S. Dist. LEXIS 3229 (M.D. Fla. Jan. 10, 2014).

²⁷ *Bilotta v. Citizen Info. Assocs., LLC*, 2014 U.S. Dist. LEXIS 68495 (M.D. Fla. May 19, 2014).

²⁸ Chapter 73-124, Laws of Fla., and s. 501.202, F.S.

²⁹ D. Matthew Allen, et. al., *The Federal Character of Florida's Deceptive and Unfair Trade Practices Act*, 65 U. Miami L. Rev. 1083, Summer 2011.

³⁰ Section 501.207, F.S. David J. Federbush, *FDUTPA for Civil Antitrust: Additional Conduct, Party, and Geographic Coverage; State Actions for Consumer Restitution*, 76 FLA. B.J. 52, December 2002, available at http://www.floridabar.org/divcom/jn/jnjournal01.nsf/c0d731e03de9828d852574580042ae7a/99aa165b7d8ac8a485256c8300791ec1!OpenDocument&Highlight=0.business.Division* (last visited Mar. 16, 2021).

if the violations take place in its jurisdiction. The Department of Legal Affairs has enforcement authority if the violation is multi-jurisdictional, the state attorney defers in writing, or the state attorney fails to act within 90 days after a written complaint is filed.³¹ Consumers may also file suit through private actions.³²

Remedies under the FDUTPA

The Department of Legal Affairs and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments;
- Injunctive relief;
- Actual damages on behalf of consumers and businesses;
- Cease and desist orders; and
- Civil penalties of up to \$10,000 per willful violation.³³

Remedies for private parties are limited to:

- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation; and
- Actual damages, attorney fees and court costs, where a person has suffered a loss due to a FDUTPA violation.³⁴

Arrest Records and Employment

An online mugshot photo can complicate the hiring process for some.³⁵ According to one source, 77 percent of employers google their job applicants.³⁶ The Equal Employment Opportunity Commission (EEOC) has provided guidance that an arrest, in and of itself, is not a job-related consideration consistent with business necessity because the fact of an arrest alone does not establish that the criminal conduct occurred. However, this guidance further states that an employer may make an employment decision based on the conduct underlying an arrest if the conduct makes the individual unfit for the position in question.³⁷

³¹ Section 501.203(2), F.S.

³² Section 501.211, F.S.

³³ Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

³⁴ Section 501.211(1) and (2), F.S.

³⁵ See, e.g., Samantha Schmidt, *This Site Will Remove Your Mug Shot—For a Price, Authorities Say. Its Owners are Charged with Extortion*, THE WASHINGTON POST, May. 18, 2018, available at <https://www.washingtonpost.com/news/morning-mix/wp/2018/05/18/this-site-will-remove-your-mug-shot-for-a-price-now-its-owners-are-charged-with-extortion/> (last visited Mar. 16, 2021); Ralph Cantave, *Florida's Mugshot Removal Law Isn't Working as Intended. This FAMU Professor Found out the Hard Way*, WFSU NEWS, Jan. 9, 2020, available at <https://wusfnews.wusf.usf.edu/2020-01-09/floridas-mugshot-removal-law-isnt-working-as-intended-this-famu-professor-found-out-the-hard-way> (last visited Mar. 16, 2020).

³⁶ Jason Tashea, *Use Copyright Law to Battle Mugshot Extortion*, ABA JOURNAL, Mar. 27, 2018, available at https://www.abajournal.com/lawscribbler/article/use_copyright_law_to_battle_against_mugshot_extortion (last visited Mar. 16, 2020).

³⁷ Equal Employment Opportunity Commission, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act*, No. 915.002 (Apr. 25, 2012), available at <https://www.eeoc.gov/laws/guidance/enforcement-guidance-consideration-arrest-and-conviction-records-employment-decisions> (last visited Mar. 16, 2021).

III. Effect of Proposed Changes:

Section 901.43, F.S., prohibits any person or entity engaged in the business of publishing or otherwise disseminating arrest booking photographs from soliciting or accepting a fee to remove the photographs. Additionally, this section provides that persons or entities who accept a fee for the removal of such photographs must remove the photographs within ten days of a written request or be subject to a civil penalty.

The bill amends s. 901.43, F.S., to expand its application to any person or entity that publishes or disseminates information relating to arrest booking photographs when they do so for a commercial purpose or pecuniary gain. Therefore, these persons or entities are subject to a civil penalty for the failure to remove an arrest booking photograph upon written request.

This bill is effective October 1, 2021.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

This bill may have an indeterminate fiscal impact on the courts due to the expansion of what entities are subject to civil penalties.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 901.43 of the Florida Statutes.

IX. **Additional Information:**

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

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

CS by Commerce and Tourism on March 15, 2021:

The CS removes language that stated that this section did not apply to acts relating to the dissemination of news to the public, including gathering, publishing, or broadcasting information for a news-related purpose, or to any other act performed by a publisher, owner, agent, employee, or retailer of a newspaper, radio station, radio network, television station, television broadcast network, cable television network, or other online news outlet associated with any news organization.

B. **Amendments:**

None.



708560

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 50 - 66

and insert:

(5) This section does not apply to any person or entity that publishes or disseminates information relating to arrest booking photographs unless:

(a) The person or entity solicits or accepts payment to remove the photographs; or

(b) The person or entity's primary business model is the



708560

11 publishing and disseminating of arrest booking photographs for a
12 commercial purpose or pecuniary gain.

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

15 And the title is amended as follows:

16 Delete line 8

17 and insert:

18 purpose or pecuniary gain;

By Senator Bean

4-01228-21

20211046__

A bill to be entitled

An act relating to arrest booking photographs; amending s. 901.43, F.S.; expanding the applicability of provisions relating to the dissemination of arrest booking photographs to include a person or entity whose primary business model is the publishing or dissemination of such photographs for a commercial purpose or pecuniary gain; revising applicability; providing an effective date.

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

Section 1. Section 901.43, Florida Statutes, is amended to read:

901.43 Dissemination of arrest booking photographs.—

(1) Any person or entity engaged in the business of publishing through a publicly accessible print or electronic medium or otherwise disseminating arrest booking photographs of persons who have previously been arrested may not solicit or accept a fee or other form of payment to remove the photographs.

(2) A person whose arrest booking photograph is published or otherwise disseminated, or his or her legal representative, may make a request, in writing, for the removal of an arrest booking photograph to the registered agent of the person or entity who published or otherwise disseminated the photograph. The written request for removal of the arrest booking photograph must be sent by registered mail and include sufficient proof of identification of the person whose arrest booking photograph was published or otherwise disseminated and specific information

Page 1 of 3

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

4-01228-21

20211046__

identifying the arrest booking photograph that the written request is seeking to remove. Within 10 days of receipt of the written request for removal of the arrest booking photograph, the person or entity who published or otherwise disseminated the photograph shall remove the arrest booking photograph without charge.

(3) The person whose arrest booking photograph was published or otherwise disseminated in the publication or electronic medium may bring a civil action to enjoin the continued publication or dissemination of the photograph if the photograph is not removed within 10 calendar days after receipt of the written request for removal. The court may impose a civil penalty of \$1,000 per day for noncompliance with an injunction and shall award reasonable attorney fees and court costs related to the issuance and enforcement of the injunction. Moneys recovered for civil penalties under this section shall be deposited into the General Revenue Fund.

(4) Refusal to remove an arrest booking photograph after written request has been made constitutes an unfair or deceptive trade practice in accordance with part II of chapter 501.

(5) This section does not apply to:

(a) Any person or entity that publishes or disseminates information relating to arrest booking photographs unless:

1. The person or entity solicits or accepts payment to remove the photographs; or

2. The person or entity's primary business model is the publishing and disseminating of arrest booking photographs for a commercial purpose or pecuniary gain.

(b) Any act performed for the purpose of disseminating news

Page 2 of 3

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

4-01228-21

20211046__

59 to the public, including gathering, publishing, or broadcasting
60 information to the public for a news-related purpose, or to any
61 other act performed by a publisher, owner, agent, employee, or
62 retailer of a newspaper, radio station, radio network,
63 television station, television broadcast network, cable
64 television network, or other online news outlet associated with
65 any news organization in connection with the dissemination of
66 news to the public.

67 Section 2. This act shall take effect October 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEE:
Joint Legislative Auditing Committee,
Alternating Chair

SENATOR DENNIS BAXLEY
12th District

March 1, 2021

The Honorable Chair Ed Hooper
302 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Hooper,

I would like to request that SB 572 Engineers and SB 574 Fees/Professional Structural Engineers Licensing be heard in the next Commerce & Tourism Committee meeting.

SB 572 amends current law to create classification for licensed structural engineers. To enhance public safety this bill requires Florida structural engineers to demonstrate their design capability through a nationally-accepted exam. It also establishes criteria for the qualifications of professional structural engineers.

SB 574 establishes fees for Professional Structural Engineers licensing.

I appreciate your favorable consideration.

Onward & Upward


Senator Dennis Baxley
Senate District 12

DKB/dd

REPLY TO:

- ☐ 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- ☐ 315 SE 25th Avenue, Ocala, Florida 34471 (352) 788-6720
- ☐ 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

March 15, 2021

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

572

Bill Number (if applicable)

Topic Engineers

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title _____

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Strucural Engineers 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/15/21

Meeting Date

SB 572

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

State

Zip

Phone

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/15/21
Meeting Date

SB 572/574
Bill Number (if applicable)

Topic ENGINEERS

Amendment Barcode (if applicable)

Name THOMAS GROGAN

Job Title CHIEF STRUCT. ENGINEER

TDMGROGAN@GMAIL.COM

Address 1598 COUNTRY WALK DR

Phone 904.635.2698

Street

FLEMING ISLAND, FL 32003

City

State

Zip

Email TDMGROGAN@GMAIL.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA STRUCTURAL ENGINEERING 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.

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

CS-004 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/15/2021

Meeting Date

SB 572/574

Bill Number (if applicable)

Topic Structural Engineers

Amendment Barcode (if applicable)

Name Jeff Kottkamp

Job Title _____

Address _____

Phone _____

Street

Tallahassee

Florida

Email JeffKottkamp@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 Structural Engineers Association

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 572

INTRODUCER: Senator Baxley

SUBJECT: Engineers

DATE: March 12, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Favorable
2.	McMillan	McKay	CM	Favorable
3.			RC	

I. Summary:

SB 572 authorizes the Florida Board of Professional Engineers (board) to establish minimum standards of practice for the profession of structural engineering, which includes the structural analysis and design of components for threshold buildings (those higher than 50 feet/three stories or with an occupancy of greater than 500 persons) as well as the practice of engineering under current law.

The bill prohibits, effective March 1, 2023, the practice of professional structural engineering by any person who is not a licensed professional structural engineer or otherwise exempted from licensure under ch. 471, F.S., related to engineering.

Under the bill, the following titles may not be used by persons who are not licensed or exempt from licensing under current law relating to engineering: licensed professional engineer, licensed structural engineer, professional structural engineer, or registered professional engineer.

The bill authorizes the board to certify persons as qualified to practice structural engineering if they are licensed or qualify for licensure as an engineer, have at least 4 years of active structural engineering experience under the supervision of a licensed engineer, have passed certain professional examinations, and meet other administrative requirements. The bill also requires the board to certify qualified foreign or out-of-state applicants for licensure by endorsement in certain circumstances.

SB 574, relating to Fees/Professional Structural Engineer Licensing, is linked to this bill, and provides for the establishment of licensing fees by the Board of Professional Engineering to be paid by persons seeking licensure as a professional structural engineer. See Section V, Fiscal Impact Statement.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Regulation of Professional Engineers

The practice of engineering is regulated by the board. Section 471.005(7), F.S., defines the term “engineering” to include:

the term “professional engineering” and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is licensed under this chapter; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of this chapter [ch. 471, Engineering].

Unlike most Department of Business and Professional Regulation (DBPR) professions, the administrative, investigative, and prosecutorial services for the board are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a nonprofit corporation, to provide such services.¹ The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the Board of Professional Engineers.²

Section 471.008, F.S., authorizes the board to adopt rules to implement the provisions of ch. 471, F.S., and for ch. 455, F.S., which provides the general licensing procedures for professional licensing by the DBPR and its professional licensing boards. The board has adopted

¹ See s. 471.038, F.S., the Florida Engineers Management Corporation Act, for the duties and authority of the FEMC.

² See the Annual Report of the FEMC for FY 2019-2020, available at [2019-20-FEMC-Annual-Report.pdf \(fbpe.org\)](https://fbpe.org/wp-content/uploads/2019-20-FEMC-Annual-Report.pdf) (last visited March 12, 2021), and the contract between DBPR and FEMC for the period between July 1, 2017 and June 30, 2021 at <https://fbpe.org/wp-content/uploads/2018/07/FEMC-DBPR-Contract-2017.pdf> (last visited March 12, 2021).

responsibility rules for the profession of engineering addressing a variety of issues, including the design of structures and fire protection systems.³

There were 62,475 licensed professional engineers in Fiscal Year 2019-2020.⁴ The FEMC processed 451 complaints regarding engineering practice during that period, with 372 of those complaints found to be legally sufficient to proceed, and filed 27 administrative complaints in cases where probable cause was found relating to a violation of the Practice Act.⁵

Professional Engineer License Qualifications and Exemptions

Section 471.013, F.S., provides the license qualifications for a professional engineer. In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must have graduated from:

- An approved engineering science curriculum of 4 years or more in a board-approved school, college, or university; or
- An approved engineering technology curriculum of 4 years or more in a board-approved school, college, or university.⁶

Under s. 471.015(2), F.S., the board must certify for licensure any applicant who has submitted proof of being at least 18 years old and has the required engineering experience. For graduates of an approved engineering science curriculum, the applicant must have a record of at least 4 years of active engineering experience sufficient to indicate competence to be in responsible charge of engineering. Graduates of an approved engineering technology curriculum must have a record of at least 6 years of such qualified experience.⁷

Section 471.003(2), F.S., identifies the licensing requirement exemptions of ch. 471, F.S.

Special Inspectors of Threshold Buildings

Section 471.015(7), F.S., authorizes the board to establish by rule the qualifications for certification of licensees as inspectors of threshold buildings. A “threshold building” is “any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.”⁸

³ The responsibility rules are in Fla. Admin. Code Chapters 61G15-30, 61G15-31, 61G15-32, and 61G15-33 (2021).

⁴ There were 595 inactive professional engineering licenses in that fiscal year. See Department of Business and Professional Regulations, *Annual Report, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, Fiscal Year 2019-2020*, at p. 20, available at [DivisionAnnualReport_FY1920.pdf](https://myfloridalicense.com/DivisionAnnualReport_FY1920.pdf) (myfloridalicense.com) (last visited March 12, 2021).

⁵ See the Annual Report of the FEMC for FY 2019-2020, available at [2019-20-FEMC-Annual-Report.pdf](https://fbpe.org/2019-20-FEMC-Annual-Report.pdf) (fbpe.org), at p. 2 (last visited March 12, 2021). The FEMC also filed 27 Final Orders with DBPR; entered into eight negotiations, and tried six administrative hearings; dismissed two cases after re-consideration; issued 11 reprimands, six suspensions, seven probations, eight project reviews, and three license restrictions; and imposed \$43,916.10 in administrative costs and \$25,500.00 in fines. The board also issued 24 Final Orders against licensees.

⁶ Section 471.013(1), F.S.

⁷ See ss. 471.015(2)(a)1. and 2., F.S.

⁸ See s. 553.71(12), F.S.

The board is also authorized to establish minimum qualifications for the qualified representative of the special inspector who is authorized to perform inspections of threshold buildings on behalf of the special inspector.⁹ Current law does not authorize the board to establish minimum training or education requirements for maintaining a certification or qualification as a special inspector.

The agency charged with enforcing the building code (enforcing agency)¹⁰ must require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.¹¹

Use of Engineer Seals

Section 471.025(1), F.S., authorizes the board to prescribe, by rule, one or more forms of seal to be used by licensed engineers. Each licensee must obtain at least one seal.¹² All final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and filed for public record and all final documents provided to the owner or the owner's representative must be signed by the licensee, dated, and sealed with the seal.¹³ The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.¹⁴

A licensee may not affix or permit to be affixed his or her seal, name, or digital signature to any plan, specification, drawing, final bid document, or other document that depicts work which he or she is not licensed to perform or which is beyond his or her profession or specialty.¹⁵

A successor engineer seeking to reuse documents previously sealed by another engineer must be able to independently re-create all of the work done by the original engineer, and assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents.¹⁶

Use of Descriptive Titles

Section 471.031, F.S., sets forth the permissible and prohibited titles for persons licensed under ch. 471, F.S., and for persons who are otherwise exempted from such licensure. With certain exceptions for persons exempted from licensure, the use of the name "professional engineer" or any other title, designation, abbreviation, or indication that a person holds an active license as an engineer when the person is not licensed under ch. 489, F.S., is prohibited, along with use of the following titles:

- Agricultural engineer;

⁹ See s. 471.015(7), F.S.

¹⁰ See s. 553.71(5), F.S., a "local enforcement agency" means an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.

¹¹ Section 553.79(5)(a), F.S.

¹² Section 471.025(1), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 471.025(3), F.S.

¹⁶ Section 471.025(4), F.S. The original engineer is released from any professional responsibility or civil liability for work that is assumed.

- Air-conditioning engineer;
- Architectural engineer;
- Building engineer;
- Chemical engineer;
- Civil engineer;
- Control systems engineer;
- Electrical engineer;
- Environmental engineer;
- Fire protection engineer;
- Industrial engineer;
- Manufacturing engineer;
- Mechanical engineer;
- Metallurgical engineer;
- Mining engineer;
- Minerals engineer;
- Marine engineer;
- Nuclear engineer;
- Petroleum engineer;
- Plumbing engineer;
- Structural engineer;
- Transportation engineer;
- Software engineer;
- Computer hardware engineer; and
- Systems engineer.¹⁷

Imposition of Discipline by the Board

The conduct that constitute grounds for the imposition of discipline by the board are set forth in s. 471.033, F.S. Such discipline includes denial of an application for licensure, suspension or revocation of a license, imposition of fines, reprimands, probation, or restitution, and restriction of the authorized scope of practice of a licensee.

Voluntary Structural Engineer Associations

The Florida Structural Engineers Association (FSEA) provides input on building codes and enforcement and sponsors technical seminars to address common concerns of the profession.¹⁸ Members of FSEA become members of the National Council of Structural Engineers Associations (NCSEA).¹⁹ The NCSEA was formed to improve the standard level of practice of the structural engineering profession and provide an identifiable resource for seeking communication with the profession.²⁰ Additionally, it advocates for the practice of structural

¹⁷ See s. 471.031(b), F.S.

¹⁸ See <http://www.flsea.com/> and <http://www.flsea.com/messages-from-the-president> (last visited March 12, 2021).

¹⁹ *Id.*

²⁰ See <http://www.ncsea.com/about/> (last visited March 12, 2021).

engineering on behalf of its 44 member organizations.²¹ According to the NCSEA, two states restrict who may use the title “structural engineer,”²² seven states have a partial practice act for structural engineers,²³ and two states have a full practice act for structural engineers.²⁴

The National Council of Examiners for Engineering and Surveying is a nonprofit organization composed of 69 engineering and surveying licensing boards from all 50 states, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.²⁵ It provides services including engineering examinations, surveying examinations, exam preparation materials, records programs, and credentials evaluations among other services to licensing jurisdictions.²⁶

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 471.003, F.S., to prohibit, effective March 1, 2023, the practice of professional structural engineering by any person who is not a licensed professional structural engineer or otherwise exempted from licensure under ch. 471, F.S., related to engineering.

The bill prohibits the use of the name or title of “licensed engineer,” “licensed professional engineer,” “licensed structural engineer,” “professional structural engineer,” or “registered structural engineer” or any other title that indicates an unlicensed person is a licensed professional structural engineer in this state. The bill amends s. 471.003(2), F.S., to clarify that certain persons are not required to be licensed as a licensed professional structural engineer, and this exemption includes contractors performing work designed by a professional structural engineer.

Section 2 of the bill amends s. 471.005, F.S., to define the term “licensed professional structural engineer” to mean a person who is licensed to engage in the practice of professional structural engineering in Florida under ch. 471, F.S.

The bill defines the term “professional structural engineering” to mean a service or creative work that includes the structural analysis and design of structural components or systems for threshold buildings.²⁷ The term includes engineering that requires significant structural engineering education, training, experience, and examination, as determined by the board.

The bill allows a retired professional structural engineer to be granted use of the title “professional engineer, retired” or “professional structural engineer, retired” by the board, if the retiree has:

- Been licensed as a professional engineer by the board;
- Relinquished or not renewed a license; and

²¹ *Id.*

²² Idaho and Nebraska. See [NCSEA Structural Licensure Committee](#) (last visited March 12, 2021).

²³ Georgia, Alaska, California, Nevada, Utah, Oregon, and Washington. *Id.*

²⁴ Idaho and Nebraska. *Id.*

²⁵ See [The National Council of Examiners for Engineering and Surveying \(ncees.org\)](#) (last visited March 12, 2021).

²⁶ *Id.*

²⁷ Section 553.71(12), F.S., provides a “threshold building” is “any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.”

- Applied to and been approved by the board to use such title.

Section 3 amends s. 471.013(2)(a), F.S., relating to licensure, to include a reference to licensed professional structural engineers.

Section 4 amends s. 471.015, F.S., to authorize the board to certify persons as qualified to practice professional structural engineering if they are licensed or qualify for licensure as an engineer, have at least 4 years of active professional structural engineering experience under the supervision of a licensed professional engineer, have passed certain professional examinations, and meet other administrative requirements.

Under the bill, an applicant for licensure as a professional structural engineer must:

- Be licensed as an engineer, or qualify for licensure, under ch. 471, F.S.;
- Submit an application in the format prescribed by the board;
- Provide satisfactory evidence of good moral character, as defined by the board.
- Provide a record of 4 years of active professional structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer; and
- Have successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination.

Before March 1, 2023, a qualified applicant, in lieu of satisfying the experience and examination requirements set forth above, may instead:

- Submit a signed affidavit in the format prescribed by the board that the applicant is currently a licensed engineer in Florida and has been engaged in the practice of professional structural engineering with a record of at least 4 years of active professional structural engineering design experience;
- Possess a current professional engineering license and file the necessary documentation as required by the board, or possess a current threshold inspector license; and
- Agree to meet with the board or its representative at the board's request, for the purpose of evaluating the applicant's qualifications for licensure as a professional structural engineer.

An applicant qualified for licensure as an engineer may simultaneously apply for licensure as a professional structural engineer, if all the above requirements and all education, examination, experience, and good moral character requirements set forth in s. 471.013, F.S., are met.

The bill sets forth the following requirements for board certification of an applicant as qualified for licensure as a professional structural engineer by endorsement:

- An applicant who holds a license to practice either engineering or professional structural engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in Florida at the time the license was issued; or
- An applicant who holds a valid license to practice structural engineering issued by another state or territory of the United States and who has successfully passed one of the following 16-hour examination combinations:

- The 8-hour National Council of Examiners for Engineering and Surveying²⁸ Structural Engineering I examination and the 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination.
- The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and either the 8-hour National Council of Examiners for Engineering and Surveying Civil: Structural examination or the 8-hour National Council of Examiners for Engineering and Surveying Architectural Engineering examination.
- The 16-hour Western States Structural Engineering examination.
- The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination, and either the 8-hour California Structural Engineering Seismic III examination, or the 8-hour Washington Structural Engineering III examination.

Section 5 amends s. 471.019, F.S., relating to reinstatement of void licenses, to include a reference to licensed professional structural engineers.

Section 6 amends s. 471.025(2), F.S., regarding the use of seals on documents, to include a reference to the use of seals when a professional structural engineer's license is revoked or suspended.

Section 7 amends s. 471.031, F.S., to provide that beginning March 1, 2023, no person may practice professional structural engineering unless the person is licensed as a professional structural engineer or exempt from licensure under ch. 471, F.S. The bill also provides that the following titles may not be used by persons who are not licensed, or otherwise exempt from licensing, under ch. 471, F.S., relating to engineering: licensed engineer, licensed professional engineer, licensed structural engineer, professional structural engineer, registered structural engineer, or structural engineer.

Section 8 amends s. 471.033, F.S., related to disciplinary proceedings, to revise the acts that constitute grounds for discipline, to include acts related to the practice of professional structural engineering.

Section 9 amends s. 471.037(1), F.S., related to the construction of provisions in ch. 471, F.S., to provide that local building codes, zoning laws, or ordinances may be more restrictive concerning the services of licensed professional structural engineers.

Section 10 amends s. 471.0385, F.S., related to certain authorizations granted to the Governor. The bill grants authority to the Governor to reestablish positions, budget authority, and salary rate necessary to carry out the DBPR's responsibilities relating to "professional structural

²⁸ The National Council of Examiners for Engineering and Surveying (NCEES) is a nonprofit organization dedicated to advancing professional licensure for engineers and surveyors. In the United States, engineers and surveyors are licensed at the state and territory level. NCEES was created in 1920 and provides services for licensure and facilitation of mobility among licensing jurisdictions, including the development and scoring of examinations for licensure. See National Council of Examiners for Engineering and Surveying, *Advancing Licensure for Engineers and Surveyors*, available at <https://ncees.org/about/> (last visited March 12, 2021).

engineers,” in the event the Florida Engineers Management Corporation Act²⁹ is held to be unconstitutional or to violate state or federal antitrust laws.

Section 11 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Beginning March 1, 2023, persons who are licensed engineers in Florida and those who perform work that comes within the definition in the bill for “professional structural engineering” will be required to obtain additional licensing to perform such work.

C. Government Sector Impact:

The creation of an additional licensing and regulatory structure for professional structural engineers may result in a fiscal impact to the DBPR or the FEMC. To date, no analysis by the DBPR or the FEMC of the impact of the bill on their respective operations, revenue, and expenditures has been provided.

²⁹ See s. 471.038, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 574, relating to Fees/Professional Structural Engineer Licensing, is linked to this bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 471.003, 471.005, 471.013, 471.015, 471.019, 471.025, 471.031, 471.033, 471.037, and 471.0385.

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 Baxley

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1 A bill to be entitled
 2 An act relating to engineers; amending s. 471.003,
 3 F.S.; prohibiting a person who is not licensed as an
 4 engineer from using a specified name or title;
 5 prohibiting, after a specified date, a person who is
 6 not a licensed professional structural engineer from
 7 using specified names and titles or practicing
 8 professional structural engineering; exempting certain
 9 persons from licensing requirements; amending s.
 10 471.005, F.S.; defining terms; revising definitions;
 11 amending s. 471.013, F.S.; authorizing the Board of
 12 Professional Engineers to refuse to certify an
 13 applicant for a professional structural engineer
 14 license for certain reasons; amending s. 471.015,
 15 F.S.; providing licensure and application requirements
 16 for a professional structural engineer license;
 17 exempting certain applicants who apply for licensure
 18 before a specified date from having to pass a certain
 19 national examination, under certain conditions;
 20 requiring the board to certify certain applicants for
 21 licensure by endorsement; amending ss. 471.019 and
 22 471.025, F.S.; conforming provisions to changes made
 23 by the act; amending s. 471.031, F.S.; prohibiting
 24 certain persons from practicing professional
 25 structural engineering after a specified date;
 26 prohibiting specified persons from using specified
 27 names and titles; amending s. 471.033, F.S.;
 28 specifying acts that constitute grounds for
 29 disciplinary action, including civil penalties,

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30 against a professional structural engineer; amending
 31 ss. 471.037 and 471.0385, F.S.; conforming provisions
 32 to changes made by the act; providing an effective
 33 date.
 34
 35 Be It Enacted by the Legislature of the State of Florida:
 36
 37 Section 1. Subsections (1) and (2) of section 471.003,
 38 Florida Statutes, are amended to read:
 39 471.003 Qualifications for practice; exemptions.—
 40 (1) (a) No person other than a duly licensed engineer shall
 41 practice engineering or use the name or title of "licensed
 42 engineer," "professional engineer," or "registered engineer" or
 43 any other title, designation, words, letters, abbreviations, or
 44 device tending to indicate that such person holds an active
 45 license as an engineer in this state.
 46 (b) Effective March 1, 2023, no person other than a duly
 47 licensed professional structural engineer shall engage in the
 48 practice of professional structural engineering or use the name
 49 or title of "licensed structural engineer," "professional
 50 structural engineer," or "registered structural engineer" or any
 51 other title, designation, words, letters, abbreviations, or
 52 device tending to indicate that such person holds an active
 53 license as a professional structural engineer in this state.
 54 (2) The following persons are not required to be licensed
 55 under the provisions of this chapter as a licensed engineer or a
 56 licensed professional structural engineer:
 57 (a) Any person practicing engineering for the improvement
 58 of, or otherwise affecting, property legally owned by her or

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him, unless such practice involves a public utility or the public health, safety, or welfare or the safety or health of employees. This paragraph shall not be construed as authorizing the practice of engineering through an agent or employee who is not duly licensed under the provisions of this chapter.

(b)1. A person acting as a public officer employed by any state, county, municipal, or other governmental unit of this state when working on any project the total estimated cost of which is \$10,000 or less.

2. Persons who are employees of any state, county, municipal, or other governmental unit of this state and who are the subordinates of a person in responsible charge licensed under this chapter, to the extent that the supervision meets standards adopted by rule of the board.

(c) Regular full-time employees of a corporation not engaged in the practice of engineering as such, whose practice of engineering for such corporation is limited to the design or fabrication of manufactured products and servicing of such products.

(d) Regular full-time employees of a public utility or other entity subject to regulation by the Florida Public Service Commission, Federal Energy Regulatory Commission, or Federal Communications Commission.

(e) Employees of a firm, corporation, or partnership who are the subordinates of a person in responsible charge, licensed under this chapter.

(f) Any person as contractor in the execution of work designed by a professional engineer or a professional structural engineer or in the supervision of the construction of work as a

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foreman or superintendent.

(g) A licensed surveyor and mapper who takes, or contracts for, professional engineering services incidental to her or his practice of surveying and mapping and who delegates such engineering services to a licensed professional engineer qualified within her or his firm or contracts for such professional engineering services to be performed by others who are licensed professional engineers under the provisions of this chapter.

(h) Any electrical, plumbing, air-conditioning, or mechanical contractor whose practice includes the design and fabrication of electrical, plumbing, air-conditioning, or mechanical systems, respectively, which she or he installs by virtue of a license issued under chapter 489, under former part I of chapter 553, Florida Statutes 2001, or under any special act or ordinance when working on any construction project which:

1. Requires an electrical or plumbing or air-conditioning and refrigeration system with a value of \$125,000 or less; and

2.a. Requires an aggregate service capacity of 600 amperes (240 volts) or less on a residential electrical system or 800 amperes (240 volts) or less on a commercial or industrial electrical system;

b. Requires a plumbing system with fewer than 250 fixture units; or

c. Requires a heating, ventilation, and air-conditioning system not to exceed a 15-ton-per-system capacity, or if the project is designed to accommodate 100 or fewer persons.

(i) Any general contractor, certified or registered pursuant to the provisions of chapter 489, when negotiating or

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performing services under a design-build contract as long as the engineering services offered or rendered in connection with the contract are offered and rendered by an engineer or a professional structural engineer licensed in accordance with this chapter.

(j) Any defense, space, or aerospace company, whether a sole proprietorship, firm, limited liability company, partnership, joint venture, joint stock association, corporation, or other business entity, subsidiary, or affiliate, or any employee, contract worker, subcontractor, or independent contractor of the defense, space, or aerospace company who provides engineering for aircraft, space launch vehicles, launch services, satellites, satellite services, or other defense, space, or aerospace-related product or services, or components thereof.

Section 2. Present subsections (10) through (12) of section 471.005, Florida Statutes, are redesignated as subsections (12) through (14), respectively, new subsections (10) and (11) are added to that section, and present subsection (10) of that section is amended, to read:

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

(10) "Professional structural engineer" means a person who is licensed to engage in the practice of professional structural engineering under this chapter.

(11) "Professional structural engineering" means a service or creative work that includes the structural analysis and design of structural components or systems for threshold buildings as defined in s. 553.71. The term includes engineering, as defined in subsection (7), which requires

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significant structural engineering education, training, experience, and examination, as determined by the board.

(12)(10) "Retired professional engineer," ~~or~~ "professional engineer, retired," "retired professional structural engineer," or "professional structural engineer, retired" means a person who has been duly licensed as a professional engineer by the board and who chooses to relinquish or not to renew his or her license and applies to and is approved by the board to be granted the title "Professional Engineer, Retired" or "Professional Structural Engineer, Retired."

Section 3. Paragraph (a) of subsection (2) of section 471.013, Florida Statutes, is amended to read:

471.013 Examinations; prerequisites.—

(2) (a) The board may refuse to certify an applicant for failure to satisfy the requirement of good moral character only if:

1. There is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensed engineer or licensed professional structural engineer; and

2. The finding by the board of lack of good moral character is supported by clear and convincing evidence.

Section 4. Present subsections (3) through (7) of section 471.015, Florida Statutes, are redesignated as subsections (4) through (8), respectively, a new subsection (3) is added to that section, and present subsection (3) of that section is amended, to read:

471.015 Licensure.—

(3) (a) The management corporation shall issue a

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professional structural engineer license to any applicant whom the board certifies as qualified to practice professional structural engineering and who meets all of the following requirements:

1. Is licensed under this chapter as an engineer or is qualified for licensure as an engineer.
2. Submits an application in the format prescribed by the board.
3. Provides satisfactory evidence of good moral character, as defined by the board.
4. Provides a record of 4 years of active structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer.
5. Has successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination.

(b) Before March 1, 2023, an applicant who satisfies the requirements of subparagraphs (a)1.-3. may satisfy subparagraphs (a)4. and 5. by:

1. Submitting a signed affidavit in the format prescribed by the board which states that the applicant is currently a licensed engineer in this state and has been engaged in the practice of professional structural engineering with a record of at least 4 years of active structural engineering design experience;
2. Possessing a current professional engineering license and filing the necessary documentation as required by the board, or possessing a current threshold inspector license; and
3. Agreeing to meet with the board or a representative of

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the board, upon the board's request, for the purpose of evaluating the applicant's qualifications for licensure.

(c) An applicant who is qualified for licensure as an engineer under s. 471.013 may simultaneously apply for licensure as a professional structural engineer if all requirements of s. 471.013 and this subsection are met.

~~(4)(3)~~ The board shall certify as qualified for a license ~~by endorsement an applicant who:~~

(a) In engineering, by endorsement, an applicant who qualifies to take the fundamentals examination and the principles and practice examination as set forth in s. 471.013, has passed a United States national, regional, state, or territorial licensing examination that is substantially equivalent to the fundamentals examination and principles and practice examination required by s. 471.013, and has satisfied the experience requirements set forth in paragraph (2)(a) and s. 471.013; ~~or~~

(b) In engineering or professional structural engineering, by endorsement, an applicant who holds a valid license to practice engineering, or, for professional structural engineering, an applicant who holds a valid license to practice professional structural engineering, issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in this state at the time the license was issued; or

(c) In professional structural engineering, by endorsement, an applicant who holds a valid license to practice professional structural engineering issued by another state or territory of

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the United States and who has successfully passed one of the following 16-hour examination combinations:

1. The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering I examination and the 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination.

2. The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and either the 8-hour National Council of Examiners for Engineering and Surveying Civil: Structural examination or the 8-hour National Council of Examiners for Engineering and Surveying Architectural Engineering examination.

3. The 16-hour Western States Structural Engineering examination.

4. The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and either the 8-hour California Structural Engineering Seismic III examination or the 8-hour Washington Structural Engineering III examination.

Section 5. Section 471.019, Florida Statutes, is amended to read:

471.019 Reactivation.—The board shall establish by rule a reinstatement process for void licenses. The rule shall prescribe appropriate continuing education requirements for reactivating a license. The continuing education requirements for reactivating a license for a licensed engineer or a licensed professional structural engineer may not exceed the continuing education requirements prescribed pursuant to s. 471.017 for each year the license was inactive.

12-00283C-21

2021572__

Section 6. Subsection (2) of section 471.025, Florida Statutes, is amended to read:

471.025 Seals.—

(2) It is unlawful for any person to seal or digitally sign any document with a seal or digital signature after his or her license has expired or been revoked or suspended, unless such license is ~~has been~~ reinstated or reissued. When an engineer's or a professional structural engineer's license is ~~has been~~ revoked or suspended by the board, the licensee shall, within a period of 30 days after the revocation or suspension has become effective, surrender his or her seal to the executive director of the board and confirm to the executive director the cancellation of the licensee's digital signature in accordance with ss. 668.001-668.006. In the event the engineer's license has been suspended for a period of time, his or her seal shall be returned to him or her upon expiration of the suspension period.

Section 7. Present paragraphs (b) through (g) of subsection (1) of section 471.031, Florida Statutes, are redesignated as paragraphs (c) through (h), respectively, a new paragraph (b) is added to that subsection, and present paragraph (b) of that subsection is amended, to read:

471.031 Prohibitions; penalties.—

(1) A person may not:

(b) Beginning March 1, 2023, practice professional structural engineering unless the person is licensed as a professional structural engineer or is exempt from licensure under this chapter.

(c) ~~(b)~~1. Except as provided in subparagraph 2. or

12-00283C-21

2021572

291 subparagraph 3., use the name or title "professional engineer"
 292 or any other title, designation, words, letters, abbreviations,
 293 or device tending to indicate that such person holds an active
 294 license as an engineer when the person is not licensed under
 295 this chapter, including, but not limited to, the following
 296 titles: "agricultural engineer," "air-conditioning engineer,"
 297 "architectural engineer," "building engineer," "chemical
 298 engineer," "civil engineer," "control systems engineer,"
 299 "electrical engineer," "environmental engineer," "fire
 300 protection engineer," "industrial engineer," "manufacturing
 301 engineer," "mechanical engineer," "metallurgical engineer,"
 302 "mining engineer," "minerals engineer," "marine engineer,"
 303 "nuclear engineer," "petroleum engineer," "plumbing engineer,"
 304 "structural engineer," "transportation engineer," "software
 305 engineer," "computer hardware engineer," or "systems engineer."

306 2. Any person who is exempt from licensure under s.
 307 471.003(2)(j) may use the title or personnel classification of
 308 "engineer" in the scope of his or her work under that exemption
 309 if the title does not include or connote the term "licensed
 310 engineer," "professional engineer," "registered engineer,"
 311 "licensed professional engineer," ~~"licensed engineer,"~~
 312 "registered professional engineer," "licensed structural
 313 engineer," "professional structural engineer," or "registered
 314 structural engineer or ~~"licensed professional engineer."~~"

315 3. Any person who is exempt from licensure under s.
 316 471.003(2)(c) or (e) may use the title or personnel
 317 classification of "engineer" in the scope of his or her work
 318 under that exemption if the title does not include or connote
 319 the term "licensed engineer," "professional engineer,"

12-00283C-21

2021572

320 "registered engineer," "licensed professional engineer,"
 321 ~~"licensed engineer,"~~ "registered professional engineer,"
 322 "licensed structural engineer," "professional structural
 323 engineer," "registered structural engineer," or "structural
 324 engineer," or ~~"licensed professional engineer"~~ and if that
 325 person is a graduate from an approved engineering curriculum of
 326 4 years or more in a school, college, or university which has
 327 been approved by the board.

328 Section 8. Paragraphs (b) through (e) and (g) of subsection
 329 (1) and subsection (4) of section 471.033, Florida Statutes, are
 330 amended to read:

331 471.033 Disciplinary proceedings.—

332 (1) The following acts constitute grounds for which the
 333 disciplinary actions in subsection (3) may be taken:

334 (b) Attempting to procure a license to practice engineering
 335 or professional structural engineering by bribery or fraudulent
 336 misrepresentations.

337 (c) Having a license to practice engineering or
 338 professional structural engineering revoked, suspended, or
 339 otherwise acted against, including the denial of licensure, by
 340 the licensing authority of another state, territory, or country,
 341 for any act that would constitute a violation of this chapter or
 342 chapter 455.

343 (d) Being convicted or found guilty of, or entering a plea
 344 of nolo contendere to, regardless of adjudication, a crime in
 345 any jurisdiction which directly relates to the practice of
 346 engineering, professional structural engineering, or the ability
 347 to practice engineering or professional structural engineering.

348 (e) Making or filing a report or record that the licensee

12-00283C-21

2021572__

349 knows to be false, willfully failing to file a report or record
 350 required by state or federal law, willfully impeding or
 351 obstructing such filing, or inducing another person to impede or
 352 obstruct such filing. Such reports or records include only those
 353 ~~which that~~ are signed in the capacity of a licensed engineer or
 354 licensed professional structural engineer.

355 (g) Engaging in fraud or deceit, negligence, incompetence,
 356 or misconduct, in the practice of engineering or professional
 357 structural engineering.

358 (4) The management corporation shall reissue the license of
 359 a disciplined engineer, professional structural engineer, or
 360 business upon certification by the board that the disciplined
 361 person has complied with all of the terms and conditions set
 362 forth in the final order.

363 Section 9. Subsection (1) of section 471.037, Florida
 364 Statutes, is amended to read:

365 471.037 Effect of chapter locally.—

366 (1) Nothing contained in this chapter shall be construed to
 367 repeal, amend, limit, or otherwise affect any local building
 368 code or zoning law or ordinance, now or hereafter enacted, which
 369 is more restrictive with respect to the services of licensed
 370 engineers or licensed professional structural engineers than the
 371 provisions of this chapter.

372 Section 10. Subsection (3) of section 471.0385, Florida
 373 Statutes, is amended to read:

374 471.0385 Court action; effect.—If any provision of s.

375 471.038 is held to be unconstitutional or is held to violate the
 376 state or federal antitrust laws, the following shall occur:

377 (3) The Executive Office of the Governor, notwithstanding

12-00283C-21

2021572__

378 chapter 216, is authorized to reestablish positions, budget
 379 authority, and salary rate necessary to carry out the
 380 department's responsibilities related to the regulation of
 381 professional engineers and professional structural engineers.

382 Section 11. This act shall take effect July 1, 2021.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

March 15, 2021

Meeting Date

APPEARANCE RECORD

574

Bill Number (if applicable)

Topic Fees/Professional Structural Engineer Licensing

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title _____

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Strucural Engineers 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.

CS-004 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

CS/SB 574
Bill Number (if applicable)

Meeting Date _____
Topic Fees / Professional Structural Engineering
Name David Sendan
Job Title Retired Corp Boss Owner
Address 66 Winterset Dr Phone 352 805 6596
Fruitland Park FL 34731 Email goldendave1955@gmail.com
City State Zip

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

Representing Self / STATEWIDE PUBLIC

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/15/21
Meeting Date

SB 572/574
Bill Number (if applicable)

Topic ENGINEERS

Amendment Barcode (if applicable)

Name THOMAS GROGAN

Job Title CHIEF STRUCT. ENGINEER

TOMGROGAN@GMAIL.COM

Address 1588 COUNTRY WALK DR

Phone 904.635.2699

Street

FLEMING ISLAND, FL 32003

City

State

Zip

Email TOM.GROGAN

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA STRUCTURAL ENGINEERING 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.

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

CS-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE
APPEARANCE RECORD

3/15/2021

Meeting Date

SB 572/574

Bill Number (if applicable)

Topic Structural Engineers

Amendment Barcode (if applicable)

Name Jeff Kottkamp

Job Title _____

Address _____

Phone _____

Street

Tallahassee

Florida

Email JeffKottkamp@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 Structural Engineers Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 574

INTRODUCER: Regulated Industries Committee and Senator Baxley

SUBJECT: Fees/Professional Structural Engineer Licensing

DATE: March 12, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.	McMillan	McKay	CM	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 574 provides that the Board of Professional Engineers (board) may establish a fee for licensing of professional structural engineers.

SB 572, relating to Engineers, is a linked bill that requires the board to determine whether applicants seeking to practice professional structural engineering are licensed or qualify for licensure as an engineer, have at least 4 years of active professional structural engineering experience under the supervision of a licensed professional engineer, have passed certain professional examinations, and meet other administrative requirements. The linked bill also addresses other issues related to professional structural engineers.

See Section V, Fiscal Impact Statement.

The bill is effective on the same date that SB 572 or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

II. Present Situation:

Linked Bill SB 572

This bill is linked to SB 572, relating to Engineers, which amends s. 471.015(3), F.S. Under the linked bill, the board is authorized to certify persons as qualified to practice professional

structural engineering if they are licensed or qualify for licensure as an engineer, have at least 4 years of active professional structural engineering experience under the supervision of a licensed professional engineer, have passed certain professional examinations, and meet other administrative requirements.

In addition, the linked bill provides an applicant for licensure as a professional structural engineer must:

- Be licensed as an engineer, or qualify for licensure, under ch. 471, F.S.;
- Submit an application in the format prescribed by the board;
- Provide satisfactory evidence of good moral character, as defined by the board.
- Provide a record of 4 years of active professional structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer; and
- Have successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination. Section 471.011, F.S., authorizes the board by rule to establish fees to be paid for applications, examination, reexamination, licensing, renewal, reactivation, inactive status applications, and recordmaking and recordkeeping. It also provides that qualification of a business organization must not require payment of a fee.

Fees

Section 471.011, F.S., authorizes the board to establish fees, by rule, to be paid for applications, examination, reexamination, licensing, renewal, reactivation, inactive status applications, and recordmaking and recordkeeping. It also provides that qualification of a business organization must not require payment of a fee.

Current law provides fees for licensure may not exceed these amounts:

- Initial license - \$125;
- Biennial renewal - \$125;
- Temporary registration or certificate - \$25 for an individual or \$50 for a business firm;
- Licensure by endorsement - \$150; or
- Application for inactive status or for reactivation of an inactive license - \$150.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 471.011, F.S., relating to fees for license applications, temporary licenses, license renewals, inactive licenses, examinations, and records, to provide that such fees are also applicable to the regulation of professional structural engineering.

Section 2 of the bill amends subsection s. 471.015(3), F.S., as amended in linked bill SB 572, relating to Engineers, to require payment by applicants seeking licensure to practice professional structural engineering, of a fee to be established by the board.

Section 3 provides the bill takes effect on the same date that SB 572 or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires new or increased taxes or fees¹ to be passed by a 2/3 vote of the membership of each house of the Legislature in a separate bill that contains no other subject.

E. Other Constitutional Issues:

None.

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

The bill requires the board to establish a fee for licensure as a professional structural engineer, as authorized in s. 471.011, F.S.

B. Private Sector Impact:

Beginning March 1, 2023, persons who are licensed engineers in Florida and those who perform work that comes within the definition in the bill for “professional structural engineering” will be required to obtain additional licensing to perform such work and pay the fee for such licensing established by the board.

C. Government Sector Impact:

Unlike most Department of Business and Professional Regulation (DBPR) professions, the administrative, investigative, and prosecutorial services for the board are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a nonprofit corporation, to provide such services.²

¹ A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service. *See* FLA. CONST. art. VII, s. 19(d)(1).

² The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the Board of Professional Engineers *See* s. 471.038, F.S., the Florida Engineers Management Corporation Act, for the duties and authority of the FEMC.

The creation of an additional licensing and regulatory structure for professional structural engineers may result in a fiscal impact to the DBPR or the FEMC. To date, no analysis by the DBPR or the FEMC of the impact of the bill on their respective operations, revenue, and expenditures has been provided.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 471.011 and 471.015.

IX. Additional Information:

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

CS by Regulated Industries on March 1, 2021:

The CS includes the number of the linked bill, SB 572, in the bill.

- B. **Amendments:**

None.

By the Committee on Regulated Industries; and Senator Baxley

580-02309-21

2021574c1

A bill to be entitled

An act relating to fees; amending s. 471.011, F.S.; authorizing the Board of Professional Engineers to establish fees relating to professional structural engineer licensing; amending s. 471.015, F.S.; requiring applicants to pay a specified fee in order to be eligible to receive a professional structural engineer license; providing a contingent effective date.

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

Section 1. Subsections (1) and (6) of section 471.011, Florida Statutes, are amended to read:

471.011 Fees.—

(1) The board by rule may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, and recordmaking and recordkeeping. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this chapter and the provisions of law with respect to the regulation of engineers and professional structural engineers.

(6) The fee for a temporary registration or certificate to practice engineering or professional structural engineering shall not exceed \$25 for an individual or \$50 for a business firm.

580-02309-21

2021574c1

Section 2. Paragraph (a) of subsection (3) of section 471.015, Florida Statutes, as amended by SB 572, 2021 Regular Session, is amended to read:

471.015 Licensure.—

(3) (a) The management corporation shall issue a professional structural engineer license to any applicant whom the board certifies as qualified to practice professional structural engineering and who meets all of the following requirements:

1. Is licensed under this chapter as an engineer or is qualified for licensure as an engineer.

2. Submits an application in the format prescribed by the board.

3. Provides satisfactory evidence of good moral character, as defined by the board.

4. Provides a record of 4 years of active structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer.

5. Has successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination.

6. Pays a fee established by the board under s. 471.011.

Section 3. This act shall take effect on the same date that SB 572 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Commerce and Tourism

Cc: Todd McKay, Staff Director
Kathryn Vigrass, Committee Administrative Assistant

Subject: Committee Agenda Request

Date: March 3, 2021

I respectfully request that **Senate Bill 1560**, relating to Broadband Internet Service, be placed on the:

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

This bill works to comprehensively address unserved and underserved areas of the state, especially rural areas, to ensure broadband is widely available. Additionally, the legislation creates a task force comprised of subject matter experts to assist with these complex broadband issues.

A handwritten signature in cursive script that reads "Lorraine Ausley".

Senator Lorraine Ausley
Florida Senate, District 3

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/15/21

Meeting Date

SB 1560

Bill Number (if applicable)

138988

Topic Broadband Internet Service

Amendment Barcode (if applicable)

J 510320

Name Charlie Dudley

Job Title Attorney

Address 108 S Monroe St.

Phone 850-681-0024

Street

Tallahassee

FL

32312

City

State

Zip

Email cdudley@flapartners.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida Internet and Television Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date _____

Topic BROADBAND

Name TAYLOR PATRICK BIEHL

Job Title Dir GOVT RELATIONS

Address 106 E College Ave Phone 850-224-1660
Street

City TLH State FL Zip 32301 Email TAYLORBIEHL@GOV.FL

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

Representing SPACE EXPLORATION TECHNOLOGIES

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)

03/15/2021

Meeting Date

SB 1560

Bill Number (if applicable)

Topic Broadband Internet Service

Amendment Barcode (if applicable)

Name Tara Taggart

Job Title Legislative Policy Analyst

Address 301 S. Bronough Street #300

Phone 850-701-3603

Street

Tallahassee

FL

32301

Email ttaggart@flcities.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 Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/15/21

Meeting Date

SB 1560

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jeff Scala

Job Title Associate Director of Public Policy

Address 100 South Monroe Street

Phone (850) 922-4300

Street

Tallahassee

FL

32301

City

State

Zip

Email jscala@fl-counties.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Counties

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

15 Mar 21

Meeting Date

1560

Bill Number (if applicable)

Topic Broadband Internet Services

Amendment Barcode (if applicable)

Name James Mosteller

Job Title Advocacy Associate

Address 215 S Monroe St, Suite 420

Phone 850-727-3712

Street

Tallahassee

FL

32309

City

State

Zip

Email James@afloridapromise.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

March 15

Meeting Date

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

1560

Bill Number (if applicable)

Topic BROADBAND INTERNET SERVICE

Amendment Barcode (if applicable)

Name Chris Doolin

Job Title Consultant to the SMALL COUNTY COALITION

Address 1018 THOMASVILLE RD. SUITE 102B Phone 850-508-5492

Street

Tallahassee, Fla

32303

Email cdoolin@doolinassoc.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SMALL COUNTY COALITION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 15

Meeting Date

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

1560

Bill Number (if applicable)

138988

Amendment Barcode (if applicable)

Topic Broadband

Name Chris Doolin

Job Title CONSULTANT - SMALL COUNTY COALITION

Address 1018 THOMASVILLE Rd - SUITE 102 Phone 850-5085492

Street

Tallah.

City

Fla.

State

32303

Zip

Email cdoolin@doolinandassociates.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing SMALL COUNTY COALITION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
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 Commerce and Tourism

BILL: CS/SB 1560

INTRODUCER: Commerce and Tourism Committee and Senator Ausley

SUBJECT: Broadband Internet Service

DATE: March 16, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Harmsen	McKay	CM	Fav/CS
2. _____	_____	ATD	_____
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1560 updates the duties of the Florida Office of Broadband (Office) within the Department of Economic Opportunity (Department) to align its goals and duties with several federal broadband programs, and to encourage efficient identification and use of available federal resources. Specifically, the bill:

- Provides a definition for an “unserved” area to conform to definitions adopted by federal agencies and updates the definition of an “underserved” area;
- Expands the Office’s local technology planning teams’ duties to focus on rural, unserved, and underserved areas;
- Requires the Office to undertake mapping programs that identify Florida’s geographic availability of broadband, and assets that may be used for the further buildout of broadband infrastructure;
- Establishes the Broadband Opportunity Program to award grants for the expansion of broadband Internet service in unserved and underserved areas of Florida;
- Creates a Broadband Deployment Task Force within the Department to support and provide recommendations to the Office for the deployment of broadband Internet throughout Florida; and
- Assigns the Office a role in educating the public and assisting with the deployment of the Federal Emergency Broadband Benefit Program.

II. Present Situation:

Broadband Internet Deployment

Fixed and mobile broadband Internet services provide access to numerous employment, education, entertainment, and health care opportunities.¹ Access to a sufficient internet connection has only grown more important during the COVID-19 pandemic, which requires many Americans to connect to their family and friends, schooling, work, and even medical appointments over the internet.²

While Florida's urban areas are served at a fixed broadband coverage rate of 98 percent, its rural areas are served at a rate of 78.6 percent.³ This disparity is caused primarily by high per-unit construction costs required to build broadband infrastructure across larger swaths of rural geographic areas.⁴ Communities that lack broadband access can have difficulty attracting new capital investment.⁵ Additionally, data indicates that low-income households disproportionately lack access to broadband Internet service, which puts children in those households at risk of falling behind.⁶

Broadband internet is a high speed internet that is faster than dial-up access and is always on; in 2015, the Federal Communications Commission (FCC) defined broadband as 25/3 megabits per second (Mbps), i.e., 25 Mbps (download rate) and 3 Mbps (upload rate).⁷ Consumers can receive Broadband internet through several different technologies, including a digital subscriber line (DSL), a cable modem, fiber, wireless, satellite, and broadband over power lines.⁸

¹ U.S. Federal Communications Commission, *2018 Broadband Deployment Report*, at 1 (Feb. 2, 2018), available at <https://docs.fcc.gov/public/attachments/FCC-18-10A1.pdf> (last visited Mar. 15, 2021).

² Federal Communications Commission, *Emergency Broadband Benefit Report and Order*, pp. 2-3 (Feb. 26, 2021), available at <https://www.fcc.gov/broadbandbenefit> (last visited Mar. 15, 2021).

³ U.S. Federal Communication Commission, *2021 Broadband Deployment Report* at 58. (Jan. 19, 2021), available at <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf> (last visited Mar. 15, 2021). For purposes of this data, 'fixed broadband services' are measured at 25 megabits per second downstream and 3 megabits per second upstream.

⁴ National Telecommunications and Information Administration, American Broadband Initiative, *Milestones Report*, at 11 (Feb. 13, 2019), available at https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/american_broadband_initiative_milestones_report_feb_2019_0.pdf (last visited Mar. 15, 2021). See also, Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, p. 7 (Oct. 25, 2019), available at <https://fas.org/sgp/crs/misc/RL30719.pdf> (last visited Mar. 15, 2021).

⁵ Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, *supra* note 4 at p. 8.

⁶ New American Economy Research Fund, *Back to School: A Look at the Internet Access Gap* (Aug. 6, 2020), <https://research.newamericaneconomy.org/report/internet-access-covid-19/> (last visited Mar. 15, 2021).

⁷ Colby Leigh Rachfal, Congressional Research Service, *State Broadband Initiatives: Selected State and Local Approaches as Potential Models for Federal Initiatives to Address the Digital Divide* (Apr. 6, 2020), available at <https://crsreports.congress.gov/product/pdf/R/R46307> (last visited Mar. 15, 2021), citing Federal Communications Commission, *2019 Broadband Deployment Report*, p. 5 (May 29, 2019), available at <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2019-broadband-deployment-report> (last visited Mar. 15, 2021).

⁸ Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, p. 1 (Oct. 25, 2019), available at <https://fas.org/sgp/crs/misc/RL30719.pdf> (last visited Mar. 15, 2021).

Federal Broadband Initiatives

FCC Digital Opportunity Data Collection Program

The FCC collects and monitors data on broadband deployment in order to identify underserved and unserved localities in the United States.⁹ In August 2019, the FCC adopted the Digital Opportunity Data Collection Program, which modernized the collection of broadband deployment data by creating granular coverage maps, as opposed to census tract maps, and by implementing a process to accept public data to confirm the maps' accuracy.¹⁰ In March 2020, Congress ratified the FCC's Data Collection Program with passage of the Broadband Data Act, which requires the FCC to establish a semiannual collection of geographically granular broadband coverage data to use to create coverage maps.¹¹ Congress has allocated \$65 million to the FCC to achieve this mapping project.¹²

To create these geographic service maps, the FCC collects information from service providers according to specific reporting standards. The service providers must report their service coverage areas, including where their services were available to residences or businesses, and the speed and latency at which their services are delivered.¹³ The FCC also considers public testimony regarding service availability.

FCC's Rural Digital Opportunity Fund

In January 2020, the FCC established the Rural Digital Opportunity Fund (Fund) to fund the deployment of broadband networks in rural America over the next decade. The first phase of the Fund began in 2020 and made available up to \$16 billion to target census blocks that are wholly unserved by fixed broadband speeds of at least 25 megabits per second (Mbps) downstream and 3 Mbps upstream (25/3 Mbps).¹⁴ Florida entities received over \$190 million (to be distributed over the next 10 years) in this first round of funding.¹⁵

Phase II of the Fund will target underserved localities, as identified by the FCC's Digital Opportunity Data Collection Program.¹⁶ Using this more precise data, the second phase of FCC

⁹ Federal Communications Commission, *Establishing the Digital Opportunity Data Collection* pp. 1-2 (Jan. 19, 2021), WC Docket No. 19-195, available at <https://www.fcc.gov/document/fcc-takes-next-step-collect-more-precise-broadband-mapping-data> (last visited Mar. 15, 2021).

¹⁰ *Id.* at p. 3. See also, Federal Communications Commission, *Digital Opportunity Data Collection Order and Further Notice*, 34 FCC Rcd at 7506, 7521, paras. 2, 3, 35.

¹¹ 47 U.S.C. §§642(a)(1)(A), (a)(2).

¹² Marguerite Reardon, CNET, *FCC Chair Rosenworcel Launches Broadband Mapping Taskforce* (Feb. 17, 2021), <https://www.cnet.com/news/fcc-chair-rosenworcel-launches-broadband-mapping-task-force/> (last visited Mar. 15, 2021).

¹³ Federal Communications Commission, *Establishing the Digital Opportunity Data Collection* pp. 5, 8-16 (Jan. 19, 2021), WC Docket No. 19-195, available at <https://www.fcc.gov/document/fcc-takes-next-step-collect-more-precise-broadband-mapping-data> (last visited Mar. 15, 2021).

¹⁴ Federal Communications Commission, *FCC Launches \$20 Billion Rural Digital Opportunity Fund*, (last visited Mar. 15, 2021).

¹⁵ Federal Communications Commission, *Auction 904 Winning Bidders: Attachment A*, available at <https://www.fcc.gov/document/auction-904-winning-bidders> (last visited Mar. 15, 2021).

¹⁶ See, FCC Digital Opportunity Data Collection Program, *supra*.

grants will make available at least \$4.4 billion to target geographic areas where some locations lack access to 25/3 Mbps broadband.¹⁷

FCC's Emergency Broadband Benefit Program

Congress appropriated \$3.2 billion to expand broadband access via subsidies for broadband service to students, families, and unemployed workers.¹⁸ Eligible households can receive a discount of up to \$50 per month off their broadband service bill. A household is eligible to receive subsidies under the bill if any member of the household:¹⁹ qualifies for the Lifeline program, receives benefits under the free or reduce-price school lunch program, received a Federal Pell Grant, experienced a substantial loss of income in the last year and has a total household income in 2020 below \$99,000 for single filers and \$198,000 for joint filers, or meets criteria to participate in service providers' existing low-income or COVID-19 program.²⁰

U.S. Department of Agriculture ReConnect Program

The U.S. Department of Agriculture (USDA), through its ReConnect Program, offers federal loans, grants, and loan/grant combinations to facilitate broadband deployment to rural areas without access to sufficient broadband service.²¹ Eligible entities include cooperatives and non-profits, for-profit companies, and state and local governments and their agencies and political subdivisions. Applicants for a grant or a loan/grant combination under the ReConnect Program must submit a scoring sheet by which USDA may analyze nine separate evaluation criteria to score the application. One of the evaluation criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.²²

Miscellaneous Federal Broadband Initiatives

Federal assets to assist with the expansion and promotion of broadband comes from a variety of other sources, for example:²³

- The FCC's E-Rate Universal Service Fund subsidizes telephone service (including broadband Internet access) to low-income households, high-cost areas, rural healthcare providers, and eligible schools and libraries;²⁴

¹⁷ Federal Communications Commission, *Rural Digital Opportunity Fund Report and Order*, p. 3 (Feb. 7, 2020) WC Docket 19-126, available at <https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0> (last visited Mar. 15, 2021).

¹⁸ NCSL, *COVID-19 Economic Relief Bill: Broadband* (Jan. 4, 2021), <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx> (last visited Mar. 15, 2021).

¹⁹ Consolidated Appropriations Act of 2021, H.R. 133, 116th Cong., s. 904 (a)(6) (2021).

²⁰ Federal Communications Commission, *Emergency Broadband Benefit*, <https://www.fcc.gov/broadbandbenefit> (last visited Mar. 15, 2021).

²¹ U.S. Department of Agriculture, *Broadband*, <https://www.usda.gov/broadband> (last visited Mar. 15, 2021).

²² *Id.*

²³ See generally, National Telecommunications and Information Administration, American Broadband Initiative, *Progress Report*, (June 2020), available at https://www.ntia.doc.gov/files/ntia/publications/abi_progress_report_june2020.pdf (last visited Mar. 15, 2021).

²⁴ Federal Communications Commission, E-Rate: Universal Service Program for Schools and Libraries (Sep. 16, 2020), <https://www.fcc.gov/consumers/guides/universal-service-program-schools-and-libraries-e-rate> (last visited Mar. 15, 2021). The Universal Service Administrative Company is a not-for-profit designated by the FCC to administer the Universal Service Fund. See also, Universal Service Administrative Co., E-Rate

- The U.S. Department of Housing and Urban Development²⁵ and Department of Education²⁶ offer block grants to support broadband infrastructure;
- The Department of the Interior launched a mapping tool to allow service providers to locate federal property available for infrastructure development;²⁷ and
- The National Telecommunications and Information Administration within the U.S. Department of Commerce is working to improve coordination between Federal programs that fund broadband and statewide efforts.²⁸

Additionally, the latest COVID-19 relief bill passed by Congress²⁹ included the following funding to expand broadband Internet access for students, families, and unemployed workers:³⁰

- \$300 million for rural broadband;
- \$250 million for the FCC’s telehealth program;
- \$285 million to fund a pilot program to assist with broadband issues at historically Black colleges and universities;
- \$1.9 billion for “rip and replace” efforts related to Huawei and ZTE equipment in U.S. networks; and
- \$1 billion in grants for tribal broadband programs.

Florida Broadband Program

In 2020 the Legislature created the Florida Office of Broadband (Office) within the Department of Economic Opportunity (Department).³¹ The Office is tasked with developing, marketing, and promoting broadband Internet service in the state.

Specifically, the Office must:

- Create a strategic plan for increasing the use of broadband Internet service in the state which must include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout the state;
- Build local technology planning teams representing, among others, libraries, schools, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture;

²⁵ U.S. Department of Housing and Urban Development, *State CDBG Program Broadband Infrastructure FAQs* (Jan. 7, 2016), <https://files.hudexchange.info/resources/documents/State-CDBG-Program-Broadband-Infrastructure-FAQs.pdf> (last visited Mar. 15, 2021).

²⁶ U.S. Department of Education, *Rural and Low-Income School Program*, <https://www2.ed.gov/programs/reaprlisp/index.html> (last visited Mar. 15, 2021). See also, Broadband USA, *Funding Guide - Department of Education - Rural and Low-Income School Program*, <https://broadbandusa.ntia.doc.gov/funding-program-details-funding-guide/department-education-rural-low-income-school-program-0> (last visited Mar. 15, 2021).

²⁷ U.S. Department of Interior, *Supporting Broadband Tower Facilities in Rural America on Federal Properties Managed at Interior*, <https://www.doi.gov/broadband> (last visited Mar. 15, 2021).

²⁸ Broadband USA, *State Broadband Leaders Network* (Dec. 19, 2018), <https://broadbandusa.ntia.doc.gov/ntia-resources/state-broadband-leaders-network-sbln> (last visited Mar. 15, 2021).

²⁹ Consolidated Appropriations Act of 2021, H.R. 133, 116th Cong. (2021).

³⁰ NCSL, *COVID-19 Economic Relief Bill: Broadband* (Jan. 4, 2021), <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx> (last visited Mar. 15, 2021).

³¹ Ch. 2020-26, Laws of Fla.

- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved³² areas of the state through grant programs; and
- Monitor, participate in, and provide input in proceedings of the FCC and other federal agencies related to the geographic availability and deployment of broadband Internet service as necessary to ensure that Florida's rural, unserved, and underserved areas are best positioned to benefit from federal and state broadband deployment programs.³³

The DEO may apply for and accept federal grant funds, enter into necessary or useful contracts, and establish any committee or workgroup to further the above goals.³⁴

Florida's Multi-use Corridors of Regional Economic Significance (M-CORES)

Section 339.0801(2)(b), F.S., provides that up to \$5 million of the funds transferred to Florida's Turnpike Enterprise³⁵ for the M-CORES program may be used for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor. The Department of Transportation must give specific priority to broadband infrastructure projects located in a rural area of opportunity³⁶ that is adjacent to a multiuse corridor.³⁷

III. Effect of Proposed Changes:

Office of Broadband Mapping Requirements

The bill expands the Office's duties to require it to develop a map of Florida's broadband Internet service availability by June 30, 2022, and to update it annually thereafter. This map must specifically identify:

- Where broadband-capable networks currently exist and where broadband Internet service is available to Florida's consumers.
- The download and upload rates at which service providers make broadband Internet service available to Florida's businesses and individuals.
- Gaps in Florida's broadband Internet service coverage—especially any areas that are underserved or unserved within rural areas of opportunity.
- Any other mapping information that another Florida agency has already compiled.
- Locations where broadband Internet service is not available, or is provided at speeds below 25/3 Mbps, as identified by public input.

The bill permits the Office to collaborate with Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations to create a process to collect and

³² Section 364.0135(2)(d), F.S., defines the term "underserved" to mean a geographic area of this state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 10 Mbps downstream and at least 1 Mbps upstream

³³ Section 364.0135(4), F.S.

³⁴ Section 364.0135(5), F.S.

³⁵ The Florida Turnpike Enterprise is part of the Department of Transportation.

³⁶ Section 288.0656, F.S., defines a rural area of opportunity (RAO) as a rural community, or region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe of chronic distress, or natural disaster that presents a unique economic development opportunity of regional impact. RAO's are eligible for assistance and other support through the Rural Economic Development Initiative, administered by DEO.

³⁷ Section 339.0801(2)(b), F.S.

verify public data regarding the availability of broadband Internet service. This may be repetitive of the current requirement in 364.0135(4)(a), F.S., that the Office include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service in its strategic plan.

The Office must also verify any mapping data it receives from another governmental entity or a contractor by comparing it to the source of the data and by evaluating the third-party's collection methodology, study organization, and self-verification processes. This verification requirement also applies to the broadband availability data that a contractor who operates pursuant to a valid contract with the Office or a governmental entity collects. The contractor must also describe any third party it uses to provide the data.

The bill also requires the Office to create another map by June 30, 2022, that details Florida's broadband infrastructure assets. This map must include the location of any state and federal physical or funding assets that can be used for expanding broadband infrastructure by, e.g., burying or stringing fiber optic cable. Such assets include municipally or city-owned towers, public transportation corridors, capital projects, community-owned land and infrastructure (such as utility poles), and federal E-rate funding commitments.

Florida Broadband Opportunity Program

The bill creates the Broadband Opportunity Program (Grant Program), which will award grants of up to \$5 million per project to applicants who seek to expand access to broadband Internet service in unserved and underserved areas of the state. The Office will administer the Grant Program, and its administration is subject to appropriation. Entities may apply for grants to fund the installation or deployment of infrastructure that supports broadband Internet service in underserved or unserved areas.

Applicants must submit a grant application to the Office, which must include:

- A description of the project area;
- A description of the kind and amount of broadband Internet service infrastructure that is proposed;
- Evidence demonstrating the unserved or underserved nature of the project area and the number of households and businesses that would have new access to broadband Internet service, or that would have upgraded broadband Internet service as a result of the grant;
- A list of significant community institutions that would benefit from the grant;
- The total cost of the project and the timeframe in which it would be completed;
- Sources of funding or in-kind contributions that would supplement any awarded grant; and
- Any other information required by the Office.

The Office must publish the criteria and quantitative scoring system it will use to evaluate applications and award grants each fiscal year. The criteria and quantitative scoring system must include the criteria listed in the bill, as discussed below.

After it receives Grant Program applications, the Office must publish the proposed areas to be served and the proposed broadband Internet speed at which the area will be serviced. A broadband Internet service provider that provides existing service in, or adjacent to a proposed

project area may challenge the Grant Program applicant's plan. The challenge must demonstrate that:

- The provider currently has deployed broadband Internet service to retail customers within the proposed project area;
- The provider has begun construction to provide broadband Internet service to retail customers within the proposed project area; or
- The provider commits to providing broadband Internet service to retail customers within the proposed project area within the timeframe proposed by the applicant.

If the Office determines that the challenge is valid, the Office may not fund the challenged project. If a challenger fails to fulfill its commitment to provide broadband Internet service in accordance with its challenge, it is excluded from submitting another challenge for the next two grant cycles, unless the Office determines the failure to fulfill the commitment was due to circumstances beyond provider's control.

The Office must prioritize applications that:

- Offer broadband Internet service to community institutions including libraries, educational institutions, public safety facilities, and healthcare facilities;
- Facilitate the use of telemedicine and electronic health records;
- Serve economically distressed areas of the state;
- Provide for scalability to transmission speeds of at least 100/10 Mbps;
- Actively promote the adoption of the newly available broadband Internet services in the community;
- Provide evidence of strong support for the project from citizens, government, businesses, and institutions in the community;
- Provide access to broadband Internet service to the greatest number of unserved households and businesses;
- Leverage greater amounts of funding for the project from other private and public sources; or
- Demonstrate consistency with the Office's strategic plan.³⁸

The Office must attempt to award grants to qualified applicants in all regions of the state. The Office cannot award grants:

- To provide broadband Internet service to an area that already has broadband Internet service from at least one provider.
- To provide service in a project area that has received any other federal funding.
- To a governmental entity, rural electric cooperative or its broadband affiliate, or an educational institution or affiliate, for the purpose of providing broadband Internet service to any residential or commercial premises, unless other broadband Internet service providers have not deployed broadband Internet service to an unserved or underserved area.
- For the purpose of serving any retail end user that already has access to broadband Internet service.
- To any entity if, when combined with any other state or local funds, the grant will constitute more than 50 percent of the project's funding.

³⁸ The Office has yet to issue its strategic plan.

The Office must enter into an agreement with the applicant that is awarded a grant under the Grant Program. The agreement must specify the total amount of the grant, performance conditions, payment schedule, and sanctions for failure to meet performance conditions, including, but not limited to, requiring the return of grant funds.

By January 1, 2023, and each year thereafter, the Office must publish on its website and provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives:

- A list of all grant applications it received during the previous year and for each application:
 - The results of any quantitative weighting or scoring system the Office used to award grants or rank the applications.
 - The grant amount requested.
 - The grant amount awarded, if any.
 - A report on the progress of each grant recipient in acquiring and installing infrastructure that supports the provision of broadband Internet service in the project areas for which the grant was awarded and in securing adoption of such service in each project area.
- All written challenges during the previous year.

Florida Broadband Deployment Task Force

The bill creates a Broadband Deployment Task Force (Task Force) to support and provide recommendations to the Office for the deployment of broadband Internet service throughout Florida, including addressing the rural infrastructure issue and urban adoption strategies.

The bill establishes the Task Force's membership as follows:

- One member each from the Department of Agriculture and Consumer Services, the Department of Management Services, the Department of Transportation, the Department of Education, the Department of Health, and the Office of Technology and Information Services, all of whom will be appointed by his or her respective agency head;
- One member from the Florida Association of Counties, who will be appointed by the Department's executive director;
- One member of the Florida League of Cities, who will be appointed by the Department's executive director;
- Two members of the public—one who lives in an underserved area and one who lives in an unserved area of Florida—who will be appointed by the Governor; and
- A member from each of the following types of broadband industry providers, who will all be appointed by the Governor: a wireless provider, a wireline provider, a broadband satellite provider, a cable provider, a rural local exchange carrier, and a competitive local exchange carrier.

The bill outlines the following specific duties for the Task Force:

- Identify federal funding sources to assist with the expansion or improvement of broadband Internet in Florida;
- Identify geographic gaps in Florida's broadband Internet service coverage;

- Develop strategies to expand broadband Internet service to rural areas of opportunity³⁹—including establishing partnerships with local governments, other state and federal entities, electric utilities, businesses, and the public;
- Address the affordability of broadband Internet service in Florida;
- Identify funding sources to further deploy broadband Internet service throughout Florida, especially grants provided through the rural infrastructure fund;⁴⁰
- Coordinate with the Cabinet, state agencies, and other governmental entities that have oversight in broadband Internet activities or that control potential funding opportunities; and
- Recommend outreach strategies and partnerships to best use the federal Emergency Broadband Benefit Program.

The Task Force is required to submit a report that details its findings and recommendations to the Governor, President of the Florida Senate, and Speaker of the Florida House of Representatives by December 30, 2022, and each year thereafter.

Office of Broadband’s Role in the Emergency Broadband Benefit Program

The bill requires the Office to establish a process to identify households that may be eligible to receive a subsidy under the Emergency Broadband Benefit Program. The Office is also required to provide separate notice to identified households that they may be eligible to receive assistance under the Program along with information on other state or federal resources that may provide assistance with debt relief.

The bill adopts the federal Emergency Broadband Benefit Program recipient eligibility language.

Local Technology Planning Teams

Current law requires the Office to create local technology planning teams, the membership of which consists of representatives of education, health care, private business, agriculture, economic development organizations, local government, and tourism. Current law does not provide a specific purpose or goal for these teams. The bill adds language that targets the teams’ work to unserved and underserved communities—especially fiscally constrained counties. The bill outlines the following duties for the teams:

- Work with rural communities to help them understand their current availability;
- Locate unserved and underserved businesses or residents;
- Identify assets that may be used to further deploy broadband;
- Build partnerships with broadband service providers, and
- Identify opportunities to increase the use and deployment of broadband in the community.

³⁹ The currently designated rural areas of opportunity (RAOs) are the Northwest RAO, the South Central RAO, and the North Central RAO. See Department of Economic Opportunity, *Rural Areas of Opportunity*, <http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Mar. 15, 2021).

⁴⁰ The Rural Infrastructure Fund (RIF) is administered by the DEO with the purpose of facilitating the planning and financing of rural infrastructure projects in Florida. A main goal of the RIF is to connect rural communities with infrastructure funding programs. See, Department of Economic Opportunity, *Rural Infrastructure Fund*, <https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-infrastructure-fund> (last visited Mar. 15, 2021).

Miscellaneous

Legislative Findings

The bill updates the legislative findings to state that Florida’s sustainable adoption of broadband Internet service is essential to all its residents, rather than beneficial to specific entities.

Definitions

The bill adds a definition of the term “unserved” to mean a geographic area of Florida in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a speed of 25/3 Mbps—the speed used by the FCC to define sufficient broadband Internet.

The bill also amends the definition of “underserved” to mean a geographic area of Florida in which there is no internet service provider that offers a connection to the Internet with a capacity for transmission at a speed of 100/10 Mbps. This is higher than any current definition of broadband.

Public Records

The bill adds language that clarifies that any information that is confidential or exempt from public disclosure under ch. 119, F.S., when held by the Department is also confidential or exempt from ch. 119, F.S., when given to the Department by a broadband service provider pursuant to s. 364.0135, F.S.

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.⁴¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.⁴²

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that Florida agencies must provide access to its public records.⁴³ The Legislature may exempt specific types of public records from public access requirements;⁴⁴ the exemption must state with specificity the public necessity that justifies the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.⁴⁵ For example, section 288.075(3) and (4), F.S.,

⁴¹ Art. I, s. 24(a), Fla. Const.

⁴² *Id.*

⁴³ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁴⁴ Art. I, s. 24(c), Fla. Const.

⁴⁵ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189

make trade secrets held by an economic development agency and proprietary confidential business information held by an economic development agency, respectively, confidential and exempt from s. 119.071(1), F.S.

Effective Date

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may ultimately help to provide more affordable broadband Internet service to Florida's communities by increasing related infrastructure and identifying funding sources to subsidize other related costs.

C. Government Sector Impact:

This bill will require the Office to undertake geographical mapping, gather public input, and perform outreach and informational campaigns. This will likely require additional funding.

(Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

Additionally, the bill creates the Broadband Opportunity Program, which is designed to administer grants to support the growth of broadband Internet infrastructure in Florida. The Office will likely require funds to staff this program. The general program is subject to appropriation, but has not yet been allocated any amount.

VI. Technical Deficiencies:

The definition of the Task Force states that it operates within the Office; the creation of the Task Force in s. 364.0135(5), F.S., states that it is established within the Department to support and provide recommendations to the Office. This inconsistency may lead to confusion while creating the Task Force.

The bill refers to a “board” that shall adjust its geographic information system maps to reflect information received from the public. This should refer to the “Office.”

VII. Related Issues:

The bill creates a Broadband Deployment Task Force that must perform specific duties and submit an annual report. Section 20.03, F.S., defines a “task force” as an advisory body that is created by a specific statutory enactment for a time not to exceed 3 years and that will cease to exist after it completes its assignment. The bill does not create a term of existence for the task force and further requires it to create and submit an annual report each year after its initial report is due in 2022. This may conflict with the duration of task forces described in s. 20.03, F.S.

The bill requires the Office to establish a mechanism to receive and verify public input as part of its mapping process. This may be repetitive of the current requirement in 364.0135(4)(a), F.S., that the Office include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service in its strategic plan.

The confidentiality and public record exemption language in s. 364.0135(6), F.S., of the bill appears to reiterate current confidentiality and public record exemption language that already exist elsewhere in law. Therefore, this language appears to be duplicative and unnecessary.

The Department may lack expertise to be able to direct consumers to state or federal resources that may provide assistance with debt relief as required by the bill.

VIII. Statutes Affected:

This bill substantially amends sections 364.0135 and 364.0136 of the Florida Statutes.

IX. Additional Information:

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

CS by Commerce and Tourism on March 15, 2021:

The CS creates the Broadband Opportunity Program to award grants to support

broadband Internet infrastructure in underserved and unserved areas of Florida. The Grant Program will be administered by the Office, and is subject to appropriation.

B. Amendments:

None.

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



186496

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
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The Committee on Commerce and Tourism (Ausley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 193 - 275

and insert:

(g) Administer the Broadband Opportunity Program
established in s. 364.0136.

(5) BROADBAND DEPLOYMENT TASK FORCE.—The Broadband
Deployment Task Force, a task force as defined in s. 20.03(8),
is established within the department to support and provide
recommendations to the office for the deployment of broadband



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Internet service throughout this state, including, but not limited to, rural buildout and urban adoption strategies. The department shall provide administrative and technical assistance to the task force in the performance of its duties. The task force shall operate in a manner consistent with s. 20.052.

(a) The task force shall be composed of the following members, who must be appointed by September 1, 2021, and who must have an interest and significant expertise in broadband Internet services:

1. One member from each of the following state agencies, who shall be appointed by his or her agency head: the Department of Agriculture and Consumer Services, the Department of Management Services, the Department of Transportation, the Department of Education, the Department of Health, and the Office of Technology and Information Services.

2. One member from the Florida Association of Counties as a representative of underserved or unserved rural communities, who is recommended by the association and appointed by the executive director.

3. One member from the Florida League of Cities as a representative of underserved or unserved rural communities, who is recommended by the league and appointed by the executive director.

4. Two members of the public who are appointed by the Governor, including one member who resides in an underserved area of this state and one member who resides in an unserved area of this state.

5. One member from each of the following segments of the broadband industry, who shall be appointed by the Governor: a



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wireless provider, a wireline provider, a broadband satellite provider, a cable provider, a rural local exchange carrier, and a competitive local exchange carrier.

(b) Any vacancy on the task force must be filled in the same manner as the original appointment.

(c) The task force shall:

1. Identify any available federal funding sources for the expansion or improvement of broadband Internet services in this state.

2. Identify any gaps in broadband Internet service coverage for any area of this state.

3. Develop strategies to expand broadband Internet service to any area of this state designated as a rural area of opportunity, including, but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public to support broadband Internet service in such areas.

4. Develop an urban adoption strategy to address areas of this state which have broadband Internet service, but where such service is not affordable.

5. Identify specific projects that will accomplish the deployment of broadband Internet service throughout this state, including grants provided through the rural infrastructure fund pursuant to s. 288.0655(2) (b) .

6. Coordinate with the Cabinet, state agencies, and other governmental entities with oversight in broadband Internet activities or potential funding opportunities.

7. Recommend outreach strategies and partnerships for maximum use of the federal Emergency Broadband Benefit Program



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within the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 and regulations adopted thereunder.

(d) The task force shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 30, 2022, and each year thereafter.

(6) CONFIDENTIALITY.—Any information that is confidential or exempt from public disclosure under chapter 119 when in the possession of the department retains its status as confidential or exempt from disclosure under chapter 119 when provided by a broadband service provider under this section.

~~(7) (5)~~ ADMINISTRATION.—The department may:

(a) Apply for and accept federal funds for purposes of this section.

(b) Enter into contracts necessary or useful to carry out the purposes of this section.

(c) Establish any committee or workgroup to administer and carry out the purposes of this section.

Section 2. Section 364.0136, Florida Statutes, is created to read:

364.0136 Broadband Opportunity Program.—

(1) The Broadband Opportunity Program is established within the Florida Office of Broadband within the Department of Economic Opportunity to award grants to applicants who seek to expand broadband Internet service to unserved and underserved areas of this state. The office must administer and act as fiscal agent for the program and is responsible for receiving and reviewing applications and awarding grants. Funding for the program shall be as provided in s. 338.2278(7)(b).



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(2) Grants awarded under this section shall fund the installation or deployment of infrastructure that supports the provision of broadband Internet service. State funds may not be used to install or deploy broadband Internet service to a geographic area in which broadband Internet service is already deployed by at least one provider.

(3) Applicants eligible for grant awards include:

(a) Corporations, nonprofit corporations, limited liability companies, general partnerships, and limited partnerships that are organized under the laws of this state or otherwise authorized to transact business in this state.

(b) Political subdivisions.

(c) Rural electric cooperatives organized under chapter 425 and their broadband affiliates.

(d) Indian tribes.

(4) The office may not award, directly or indirectly, grants under this section to a governmental entity, a rural electric cooperative or its broadband affiliate, or an educational institution or affiliate to provide broadband Internet service to any residential or commercial premises, unless other broadband Internet service providers have not deployed service to an unserved or underserved area.

(5) An eligible applicant shall submit a grant application to the office on a form prescribed by the office. A grant application must include all of the following information:

(a) A description of the project area.

(b) A description of the kind and amount of broadband Internet service infrastructure which is proposed.

(c) Evidence demonstrating the unserved or underserved



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nature of the project area.

(d) The number of households and businesses which would have access to broadband Internet service as a result of the grant.

(e) A list of significant community institutions that would benefit from the grant.

(f) The total cost of the project and the timeframe in which it would be completed.

(g) A list identifying sources of funding or in-kind contributions that would supplement any awarded grant.

(h) Any other information required by the office.

(6) (a) At least 30 days before the first day grant applications may be submitted each fiscal year, the office shall publish on its website the specific criteria and quantitative scoring system it will use to evaluate or rank grant applications. Such criteria and quantitative scoring system must include the criteria set forth in subsection (7).

(b) Within 3 business days after the close of the grant application process, the office shall publish on its website, from each grant application submitted, the proposed unserved or underserved areas to be served and the proposed broadband Internet speeds of the areas to be served.

(c) A broadband Internet service provider that provides existing service in or adjacent to a proposed project area may submit to the office, within 45 days after publication of the information under paragraph (b), a written challenge to an application. The challenge must contain information demonstrating that:

1. The provider currently has deployed broadband Internet



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service to retail customers within the project area;

2. The provider has begun construction to provide broadband Internet service to retail customers within the proposed project area within the timeframe proposed by the applicant; or

3. The provider commits to providing broadband Internet service to retail customers within the proposed project area within the timeframe proposed by the applicant.

(d) Within 3 business days after the submission of a written challenge, the office shall notify the applicant, in writing, of the challenge.

(e) The office shall evaluate each challenge submitted under this subsection. If the office determines that the provider currently has deployed, has begun construction to provide, or commits to provide broadband Internet service in the proposed project area, the office may not fund the challenged project.

(f) If the office denies funding to an applicant as a result of a broadband Internet service provider's challenge, and the provider does not fulfill its commitment to provide broadband Internet service in the unserved or underserved area, the office may not consider another challenge from the provider for the next two grant application cycles, unless the office determines that the failure to fulfill the commitment was due to circumstances beyond the provider's control.

(7) (a) In evaluating grant applications and awarding grants, the office must give priority to applications that:

1. Offer broadband Internet service to important community institutions, including, but not limited to, libraries, educational institutions, public safety facilities, and health



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care facilities;

2. Facilitate the use of telemedicine and electronic health records;

3. Serve economically distressed areas of this state, as measured by indices of unemployment, poverty, or population loss which are significantly greater than the statewide average;

4. Provide for scalability to transmission speeds of at least 100 megabits per second download and 10 megabits per second upload;

5. Include a component to actively promote the adoption of the newly available broadband Internet service in the community;

6. Provide evidence of strong support for the project from residents, government, businesses, and institutions in the community;

7. Provide access to broadband Internet service to the greatest number of unserved and underserved households and businesses;

8. Leverage greater amounts of funding for a project from private sources; or

9. Demonstrate consistency with the strategic plan adopted under s. 364.0135.

(b) The office must endeavor to award grants to qualified applications serving all regions of this state.

(8)(a) The office may not award any grant to an otherwise eligible grant applicant to provide broadband Internet service in a project area for which any other federal funding has been awarded.

(b) A grant awarded under this section may not be used to serve any retail end user that already has access to broadband



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Internet service.

(c) A grant awarded under this section, when combined with any state or local funds, may not fund more than 50 percent of the total cost of a project.

(d) A single project may not be awarded a grant in excess of \$5 million.

(9) For each grant awarded, the office shall enter into an agreement with the applicant. The agreement must specify the total amount of the grant, performance conditions that must be met to obtain the grant, the schedule of payment, and sanctions that would apply for failure to meet performance conditions, including, but not limited to, requiring the return of grant funds.

(10) By January 1, 2023, and each year thereafter, the office shall publish on its website and provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives all of the following information:

(a) A list of all grant applications received during the previous fiscal year and for each application:

1. The results of any quantitative weighting or scoring system the office used to award grants or rank the applications.

2. The grant amounts requested.

3. The grant amounts awarded, if any.

4. A report on the progress of each grant recipient in acquiring and installing infrastructure that supports the provision of broadband Internet service in the project areas for which that grant was awarded and in securing adoption of such service in each project area.

(b) All written challenges filed during the previous year



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and the results of those challenges.

Section 3. Subsection (7) of section 338.2278, Florida Statutes, is amended to read:

338.2278 Multi-use Corridors of Regional Economic Significance Program.—

(7) Funds that result from increased revenues to the State Transportation Trust Fund derived from the amendments to s. 320.08 made by chapter 2019-43, Laws of Florida, ~~this act~~ and deposited into the fund pursuant to s. 320.20(5)(a) must be used as follows:

~~(a) For the 2019-2020 fiscal year, \$45 million shall be retained in the State Transportation Trust Fund, and the remaining funds shall be transferred to the General Revenue Fund.~~

(a) ~~(b)~~ For the 2020-2021 fiscal year, \$90 million shall be retained in the State Transportation Trust Fund, and the remaining funds shall be transferred to the General Revenue Fund.

(b) ~~(e)~~ For the 2021-2022 fiscal year and each fiscal year thereafter, 50 percent of the funds shall be transferred to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity for use by the Florida Office of Broadband as provided in s. 364.0135, and all of the remaining funds shall be retained in the State Transportation Trust Fund. For the 2021-2022 fiscal year, \$1 million of such funds transferred for use by the Florida Office of Broadband shall be used for the express purpose of funding the office's mapping duties under s. 364.0135(4).

Section 4. Section 364.0137, Florida Statutes, is created



186496

to read:

364.0137 Broadband assistance funds.—

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

And the title is amended as follows:

Delete line 31

and insert:

364.0136, F.S.; creating the Broadband Opportunity Program within the office; providing for administration of the program; providing requirements for grant awards; providing eligibility requirements; providing application requirements; requiring the office to publish certain information related to grant applications and grant awards on its website; authorizing grant applications to be challenged under certain circumstances; specifying contents of a challenge; providing procedures to be used by the office in evaluating challenges; providing direction for prioritizing grant funding; specifying conditions for the award of grants; requiring the office to enter into an agreement containing specified information with each grant recipient; requiring the office to publish specified information annually on its website and provide the information to the Governor and Legislature; amending s. 338.2278, F.S.; transferring, beginning in a specified fiscal year, certain funds from the State Transportation Trust Fund to the State Economic Enhancement and Development Trust Fund within the department annually for use by the office;



186496

301 requiring a specified portion of such funds, for the
302 2021-2022 fiscal year, to be used for specified
303 mapping purposes; creating s. 364.0137, F.S.; defining
304 terms; requiring the office



510320

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
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The Committee on Commerce and Tourism (Ausley) recommended the following:

Senate Amendment to Amendment (186496) (with title amendment)

Delete lines 97 - 270

and insert:

program shall be subject to appropriation.

(2) Grants awarded under this section shall fund the installation or deployment of infrastructure that supports the provision of broadband Internet service. State funds may not be used to install or deploy broadband Internet service to a



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geographic area in which broadband Internet service is already
deployed by at least one provider.

(3) Applicants eligible for grant awards include:

(a) Corporations, nonprofit corporations, limited liability
companies, general partnerships, and limited partnerships that
are organized under the laws of this state or otherwise
authorized to transact business in this state.

(b) Political subdivisions.

(c) Rural electric cooperatives organized under chapter 425
and their broadband affiliates.

(d) Indian tribes.

(4) The office may not award, directly or indirectly,
grants under this section to a governmental entity, a rural
electric cooperative or its broadband affiliate, or an
educational institution or affiliate to provide broadband
Internet service to any residential or commercial premises,
unless other broadband Internet service providers have not
deployed service to an unserved or underserved area.

(5) An eligible applicant shall submit a grant application
to the office on a form prescribed by the office. A grant
application must include all of the following information:

(a) A description of the project area.

(b) A description of the kind and amount of broadband
Internet service infrastructure which is proposed.

(c) Evidence demonstrating the unserved or underserved
nature of the project area.

(d) The number of households and businesses which would
have access to broadband Internet service as a result of the
grant.



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40 (e) A list of significant community institutions that would
41 benefit from the grant.

42 (f) The total cost of the project and the timeframe in
43 which it would be completed.

44 (g) A list identifying sources of funding or in-kind
45 contributions that would supplement any awarded grant.

46 (h) Any other information required by the office.

47 (6) (a) At least 30 days before the first day grant
48 applications may be submitted each fiscal year, the office shall
49 publish on its website the specific criteria and quantitative
50 scoring system it will use to evaluate or rank grant
51 applications. Such criteria and quantitative scoring system must
52 include the criteria set forth in subsection (7).

53 (b) Within 3 business days after the close of the grant
54 application process, the office shall publish on its website,
55 from each grant application submitted, the proposed unserved or
56 underserved areas to be served and the proposed broadband
57 Internet speeds of the areas to be served.

58 (c) A broadband Internet service provider that provides
59 existing service in or adjacent to a proposed project area may
60 submit to the office, within 45 days after publication of the
61 information under paragraph (b), a written challenge to an
62 application. The challenge must contain information
63 demonstrating that:

64 1. The provider currently has deployed broadband Internet
65 service to retail customers within the project area;

66 2. The provider has begun construction to provide broadband
67 Internet service to retail customers within the proposed project
68 area within the timeframe proposed by the applicant; or



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69 3. The provider commits to providing broadband Internet
70 service to retail customers within the proposed project area
71 within the timeframe proposed by the applicant.

72 (d) Within 3 business days after the submission of a
73 written challenge, the office shall notify the applicant, in
74 writing, of the challenge.

75 (e) The office shall evaluate each challenge submitted
76 under this subsection. If the office determines that the
77 provider currently has deployed, has begun construction to
78 provide, or commits to provide broadband Internet service in the
79 proposed project area, the office may not fund the challenged
80 project.

81 (f) If the office denies funding to an applicant as a
82 result of a broadband Internet service provider's challenge, and
83 the provider does not fulfill its commitment to provide
84 broadband Internet service in the unserved or underserved area,
85 the office may not consider another challenge from the provider
86 for the next two grant application cycles, unless the office
87 determines that the failure to fulfill the commitment was due to
88 circumstances beyond the provider's control.

89 (7) (a) In evaluating grant applications and awarding
90 grants, the office must give priority to applications that:

91 1. Offer broadband Internet service to important community
92 institutions, including, but not limited to, libraries,
93 educational institutions, public safety facilities, and health
94 care facilities;

95 2. Facilitate the use of telemedicine and electronic health
96 records;

97 3. Serve economically distressed areas of this state, as



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measured by indices of unemployment, poverty, or population loss which are significantly greater than the statewide average;

4. Provide for scalability to transmission speeds of at least 100 megabits per second download and 10 megabits per second upload;

5. Include a component to actively promote the adoption of the newly available broadband Internet service in the community;

6. Provide evidence of strong support for the project from residents, government, businesses, and institutions in the community;

7. Provide access to broadband Internet service to the greatest number of unserved and underserved households and businesses;

8. Leverage greater amounts of funding for a project from private sources; or

9. Demonstrate consistency with the strategic plan adopted under s. 364.0135.

(b) The office must endeavor to award grants to qualified applications serving all regions of this state.

(8) (a) The office may not award any grant to an otherwise eligible grant applicant to provide broadband Internet service in a project area for which any other federal funding has been awarded.

(b) A grant awarded under this section may not be used to serve any retail end user that already has access to broadband Internet service.

(c) A grant awarded under this section, when combined with any state or local funds, may not fund more than 50 percent of the total cost of a project.



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(d) A single project may not be awarded a grant in excess of \$5 million.

(9) For each grant awarded, the office shall enter into an agreement with the applicant. The agreement must specify the total amount of the grant, performance conditions that must be met to obtain the grant, the schedule of payment, and sanctions that would apply for failure to meet performance conditions, including, but not limited to, requiring the return of grant funds.

(10) By January 1, 2023, and each year thereafter, the office shall publish on its website and provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives all of the following information:

(a) A list of all grant applications received during the previous fiscal year and for each application:

1. The results of any quantitative weighting or scoring system the office used to award grants or rank the applications.

2. The grant amounts requested.

3. The grant amounts awarded, if any.

4. A report on the progress of each grant recipient in acquiring and installing infrastructure that supports the provision of broadband Internet service in the project areas for which that grant was awarded and in securing adoption of such service in each project area.

(b) All written challenges filed during the previous year and the results of those challenges.

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

And the title is amended as follows:



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156 Delete lines 296 - 303
157 and insert:
158 Legislature; creating s. 364.0137, F.S.; defining



138988

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
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The Committee on Commerce and Tourism (Gruters) recommended the following:

Senate Amendment to Amendment (186496)

Delete lines 105 - 112
and insert:

(a) Corporations, limited liability companies, general
partnerships, and limited partnerships that are organized under
the laws of this state or otherwise authorized to transact
business in this state.

(b) Indian tribes.

By Senator Ausley

3-01819B-21

20211560__

1 A bill to be entitled
 2 An act relating to broadband Internet service;
 3 amending s. 364.0135, F.S.; revising legislative
 4 findings; defining terms; revising the duties of the
 5 Florida Office of Broadband within the Department of
 6 Economic Opportunity; requiring local technology
 7 planning teams or partnerships to work with rural
 8 communities for specified purposes; requiring the
 9 office to develop geographic information system maps
 10 in collaboration with specified entities and
 11 consistent with certain federal reporting standards by
 12 a specified date; specifying required contents of the
 13 maps; requiring the department to annually update such
 14 maps and establish a mechanism to receive and verify
 15 governmental and public input related to broadband
 16 Internet service; authorizing the department to work
 17 collaboratively with specified entities in developing
 18 the mechanism; requiring the office to develop a
 19 broadband infrastructure asset map by a specified
 20 date; specifying required contents of the map;
 21 establishing the Broadband Deployment Task Force
 22 within the office for a specified purpose; requiring
 23 the department to provide administrative and technical
 24 assistance to the task force; providing for the
 25 membership and duties of the task force; requiring the
 26 task force to submit annual progress reports to the
 27 Governor and the Legislature by a specified date;
 28 providing that certain information provided to the
 29 department from broadband service providers retains

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

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30 its exemption from public disclosure; creating s.
 31 364.0136, F.S.; defining terms; requiring the office
 32 to establish a process to identify eligible households
 33 to receive federal Emergency Broadband Benefit Program
 34 funds under certain circumstances; providing for
 35 direct subsidy payments; providing for household
 36 participation in the program; requiring the office to
 37 provide certain information to potentially eligible
 38 households; providing an effective date.
 39
 40 Be It Enacted by the Legislature of the State of Florida:
 41
 42 Section 1. Section 364.0135, Florida Statutes, is amended
 43 to read:
 44 364.0135 Promotion of broadband adoption; Florida Office of
 45 Broadband.—
 46 (1) LEGISLATIVE FINDINGS.—The Legislature finds that the
 47 sustainable adoption of broadband Internet service is critical
 48 to the economic and business development of this the state and
 49 is essential ~~beneficial~~ for all residents of this state,
 50 libraries, schools, colleges and universities, health care
 51 providers, and community organizations.
 52 (2) DEFINITIONS.—As used in this section, the term:
 53 (a) "Department" means the Department of Economic
 54 Opportunity.
 55 (b) "Office" means the Florida Office of Broadband.
 56 (c) "Sustainable adoption" means the ability for
 57 communications service providers to offer broadband services in
 58 all areas of this the state by encouraging adoption and use

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

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utilization levels that allow for these services to be offered in the free market absent the need for governmental subsidy.

(d) "Task force" means the Broadband Deployment Task Force within the office.

(e) ~~(d)~~ "Underserved" means a geographic area of ~~this the~~ state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 100 ~~10~~ megabits per second downstream and at least 10 megabits ~~1 megabit~~ per second upstream.

(f) "Unserved" means a geographic area of this state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 25 megabits per second downstream and at least 3 megabits per second upstream.

(3) STATE AGENCY.—The department is designated as the lead state agency to facilitate the expansion of broadband Internet service in ~~this the~~ state. The department shall work collaboratively with private businesses and receive staffing support and other resources from Enterprise Florida, Inc., state agencies, local governments, and community organizations.

(4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of Broadband is created within the Division of Community Development in the department for the purpose of developing, marketing, and promoting broadband Internet services in ~~this the~~ state. The office, in the performance of its duties, shall do all of the following:

(a) Create a strategic plan that has goals and strategies for increasing the use of broadband Internet service in ~~this the~~

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state. The plan must include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout ~~this the~~ state.

(b) Build and facilitate local technology planning teams or partnerships with members representing cross-sections of the community, which may include, but are not limited to, representatives from the following organizations and industries: libraries, K-12 education, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture. The local technology planning teams or partnerships shall work with rural communities to help the communities understand their current broadband availability, locate unserved and underserved businesses and residents, identify assets relevant to broadband deployment, build partnerships with broadband service providers, and identify opportunities to leverage assets and reduce barriers to the deployment of broadband Internet services in the community. The teams or partnerships must be proactive in fiscally constrained counties in identifying and providing assistance with applying for federal grants for broadband Internet service.

(c) Encourage the use of broadband Internet service, especially in the rural, unserved, or underserved communities of ~~this the~~ state through grant programs having effective strategies to facilitate the statewide deployment of broadband Internet service. For any grants to be awarded, priority must be given to projects that:

1. Provide access to broadband education, awareness,

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training, access, equipment, and support to libraries, schools, colleges and universities, health care providers, and community support organizations.

2. Encourage the sustainable adoption of broadband in primarily underserved areas by removing barriers to entry.

3. Work toward encouraging investments in establishing affordable and sustainable broadband Internet service in underserved areas of this ~~the~~ state.

4. Facilitate the development of applications, programs, and services, including, but not limited to, telework, telemedicine, and e-learning to increase the usage of, and demand for, broadband Internet service in this ~~the~~ state.

(d) Monitor, participate in, and provide input in proceedings of the Federal Communications Commission and other federal agencies related to the geographic availability and deployment of broadband Internet service in this ~~the~~ state as necessary to ensure that this information is accurately presented and that rural, unserved, and underserved areas of this ~~the~~ state are best positioned to benefit from federal and state broadband deployment programs.

(e) By June 30, 2022, develop geographic information system maps of broadband Internet service availability throughout this state. The office shall collaborate with broadband service providers, state agencies, local governmental entities, private businesses, educational institutions, and community organizations and leaders to develop such maps.

1. The maps must do all of the following:

a. Be consistent with the Digital Opportunity Data Collection program reporting standards established by the

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Federal Communications Commission.

b. Identify where broadband-capable networks exist and broadband Internet service is available to end users.

c. Identify download and upload transmission speeds made available to businesses and individuals in this state.

d. Identify gaps in broadband Internet service coverage, specifying underserved and unserved areas within those areas of this state designated as a rural area of opportunity under s. 288.0656(2).

e. Include any other mapping information already compiled by other state agencies.

f. Be updated annually.

2. Any mapping data received from another governmental entity or a contractor must be verified. Such data must be verified against the source of the data and whether such entity is able to demonstrate that it has employed a sound and reliable methodology in the collection, organization, and verification of the data it has submitted to the office. If a governmental entity enters into a valid contract with a contractor to collect broadband availability data, the entity must describe the third party providing the data as well as the methodology used to collect, organize, and verify the availability data provided.

3. The office must establish a mechanism to receive and verify public input which identifies locations in which broadband Internet service is not available, including locations in which broadband Internet service is provided at data transmission speeds below the standard established by the Federal Communications Commission for broadband Internet service. Upon verification, the board shall adjust its

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geographic information system maps to reflect information received from the public. In developing and implementing this mechanism, the office may work in collaboration with, and receive staffing support and other resources from, Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations.

(f) By June 30, 2022, develop a broadband infrastructure asset map that includes, but is not limited to:

1. State and federal assets, including, but not limited to, municipally or city-owned towers that may be used by providers; rights-of-way that may be made available for easier and less expensive access to burying or stringing fiber optic cable; public transportation corridors; capital projects that may be used as an opportunity to lay new fiber optic conduit for future activation; and federal E-rate funding commitments; and

2. Community-owned land and infrastructure, including, but not limited to, land that may be leased and utility poles that may be used to expand broadband networks.

(5) BROADBAND DEPLOYMENT TASK FORCE.—The Broadband Deployment Task Force, a task force as defined in s. 20.03(8), is established within the department to support and provide recommendations to the office for the deployment of broadband Internet service throughout this state, including, but not limited to, rural buildout and urban adoption strategies. The department shall provide administrative and technical assistance to the task force in the performance of its duties. The task force shall operate in a manner consistent with s. 20.052.

(a) The task force shall be composed of the following members, who must be appointed by September 1, 2021, and who

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must have an interest and significant expertise in broadband Internet services:

1. One member from each of the following state agencies, who shall be appointed by his or her agency head: the Department of Agriculture and Consumer Services, the Department of Management Services, the Department of Transportation, the Department of Education, the Department of Health, and the Office of Technology and Information Services.

2. One member from the Florida Association of Counties as a representative of underserved or unserved rural communities, who is recommended by the association and appointed by the executive director.

3. One member from the Florida League of Cities as a representative of underserved or unserved rural communities, who is recommended by the league and appointed by the executive director.

4. Two members of the public who are appointed by the Governor, including one member who resides in an underserved area of this state and one member who resides in an unserved area of this state.

5. One member from each of the following segments of the broadband industry, who shall be appointed by the Governor: a wireless provider, a wireline provider, a broadband satellite provider, a cable provider, a rural local exchange carrier, and a competitive local exchange carrier.

(b) Any vacancy on the task force must be filled in the same manner as the original appointment.

(c) The task force shall:

1. Identify any available federal funding sources for the

3-01819B-21 20211560

expansion or improvement of broadband Internet services in this state.

2. Identify any gaps in broadband Internet service coverage for any area of this state.

3. Develop strategies to expand broadband Internet service to any area of this state designated as a rural area of opportunity, including, but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public to support broadband Internet service in such areas.

4. Develop an urban adoption strategy to address areas of this state which have broadband Internet service, but where such service is not affordable.

5. Identify specific projects that will accomplish the deployment of broadband Internet service throughout this state, including grants provided through the rural infrastructure fund pursuant to s. 288.0655(2)(b).

6. Coordinate with the Cabinet, state agencies, and other governmental entities with oversight in broadband Internet activities or potential funding opportunities.

7. Recommend outreach strategies and partnerships for maximum use of the federal Emergency Broadband Benefit Program within the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 and regulations adopted thereunder.

(d) The task force shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 30, 2022, and each year thereafter.

(6) CONFIDENTIALITY.—Any information that is confidential

3-01819B-21 20211560

or exempt from public disclosure under chapter 119 when in the possession of the department retains its status as confidential or exempt from disclosure under chapter 119 when provided by a broadband service provider under this section.

(7) ~~(5)~~ ADMINISTRATION.—The department may:

(a) Apply for and accept federal funds for purposes of this section.

(b) Enter into contracts necessary or useful to carry out the purposes of this section.

(c) Establish any committee or workgroup to administer and carry out the purposes of this section.

Section 2. Section 364.0136, Florida Statutes, is created to read:

364.0136 Broadband assistance funds.—

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

(a) "Broadband service provider" means a provider of broadband Internet access service in this state.

(b) "Federal broadband program" means the Emergency Broadband Benefit Program within the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 and regulations adopted thereunder.

(2) In order to assist participating broadband service providers in identifying potential recipients for broadband assistance funds under the federal broadband program, the Florida Office of Broadband, as created in s. 364.0135, must establish a process to quickly identify potential eligible households to receive such funds.

(3) An eligible broadband service provider that participates in and receives funds under the federal broadband

3-01819B-21

20211560__

291 program must provide direct subsidy payments by providing
292 monthly discounts for eligible households as set forth in the
293 federal broadband program. A provider may not disqualify a
294 household because a member of the household has any past or
295 present arrearages with a broadband provider. Such discounts may
296 be no more than the standard rate for an Internet service
297 offering and associated equipment, in an amount equal to that
298 set forth in the federal broadband program.

299 (4) To be eligible for direct subsidy payments, an eligible
300 household must demonstrate low income. Such eligible households
301 include those in which at least one member of the household is
302 eligible for the National School Lunch Program or the School
303 Breakfast Program, as provided in s. 595.402, has experienced a
304 substantial loss of income since February 29, 2020, has received
305 a federal Pell Grant, is eligible for the federal Lifeline
306 program, or meets participation requirements for a service
307 provider's existing low-income or COVID-19 program, subject to
308 any other eligibility requirements required by the Federal
309 Communications Commission.

310 (5) Where possible, the office shall provide potentially
311 eligible households with notice of their potential eligibility
312 to receive financial assistance under the federal broadband
313 program and shall also direct the members of those households to
314 other state or federal resources that may provide assistance
315 with debt relief.

316 Section 3. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, Vice Chair
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Criminal Justice

SENATOR ANNETTE TADDEO
40th District

MEMORANDUM

To: Senator Hooper Chair of the Commerce and Tourism Committee
From: Senator Annette Taddeo
Subject: Committee Agenda Request
Date: January 26, 2021

Senate Bill 302, entitled Small Business Saturday Sales Tax Holiday, would exempt small businesses from collecting sales tax on November 27th, 2021 - this year's Small Business Saturday. Small Business Saturday is a nation-wide shopping holiday on the Saturday following Black Friday. The goal of the Small Business Saturday Holiday is to encourage consumers to shop local to support small businesses. I respectfully request that **Senate Bill 302** be placed on the next committee agenda.

Great Bill!

A handwritten signature in blue ink, appearing to be "AT", with a horizontal line through it.

Senator Annette Taddeo
Florida Senate, District 40

REPLY TO:

- ☐ 9100 South Dadeland Boulevard, Suite 1500, Miami, Florida 33156 (305) 596-3003
- ☐ 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

WILTON SIMPSON AARON BEAN
President of the Senate President Pro Tempore

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Reset Form

3/15/2021

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

302

Bill Number (if applicable)

Topic Small Business Saturday Sales Tax Holiday

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title _____

Address 104 South Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

Email TcgLobby@aol.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/15/21

Meeting Date

302

Bill Number (if applicable)

Topic Small Business Saturday Sales Tax Holiday

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Senior Policy Director

Address 136 S Bronough Street

Phone 850-521-1200

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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 Commerce and Tourism

BILL: SB 302

INTRODUCER: Commerce and Tourism Committee and Senator Taddeo

SUBJECT: Small Business Saturday Sales Tax Holiday

DATE: March 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 302 establishes a one-day sales tax holiday on Saturday, November 27, 2021, that coincides with Small Business Saturday. During the holiday, small businesses may opt out of collecting state sales tax and local discretionary sales surtaxes on the sale of items of tangible personal property having a sales price of \$1,000 or less per item.

A small business that chooses not to participate in the sales tax holiday must notify the Department of Revenue of its decision by November 16, 2021, and post a copy of that notice at its place of business.

The bill takes effect July 1, 2021.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴ Sales tax receipts accounted for approximately 79 percent of the state's General Revenue in Fiscal Year 2019-2020.⁵

Section 212.055, F.S., authorizes counties to impose local discretionary sales surtaxes in addition to the state sales tax. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁷

Small Business Saturday

Small Business Saturday was created in 2010 by American Express as a rewards program that encouraged their cardholders to shop at small businesses on the Saturday after Black Friday.⁸ The U.S. Senate passed a resolution recognizing Small Business Saturday in 2011,⁹ and the U.S. Small Business Administration began co-sponsoring the shopping event in 2015.¹⁰ Although American Express has ended its cardholder rewards program, sales on Small Business Saturday have increased. According to the Small Business Administration, 110 million consumers spent almost \$20 billion at small businesses on Small Business Saturday in 2019, compared to the almost \$18 billion spent by 104 million consumers in 2018.¹¹

III. Effect of Proposed Changes:

SB 302 establishes a one-day sales tax holiday on Saturday, November 27, 2021, that coincides with Small Business Saturday. During the holiday, small businesses may opt out of collecting state sales tax and local discretionary sales surtaxes on the sale of items of tangible personal property having a sales prices of \$1,000 or less per item. The bill defines a "small business" as one that:

- Has registered with the Department of Revenue (DOR);
- Began operating no later than January 8, 2021; and

⁴ See s. 212.07(2), F.S.

⁵ Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Mar. 16, 2021).

⁶ Section 212.054(2)(a), F.S.

⁷ *Supra* note 5, at 231-232.

⁸ U.S. Chamber of Commerce, *Support Your Local Community by Shopping Small* (November 20, 2018), available at <https://www.uschamber.com/series/above-the-fold/support-your-local-community-shopping-small> (last visited Mar. 16, 2021).

⁹ A resolution designating November 26, 2011, as "Small Business Saturday" and supporting efforts to increase awareness of the value of locally owned small businesses, S. Res. 320, 112th Cong. (2011).

¹⁰ U.S. Small Business Administration, *Nearly \$20 billion spent by Americans this Small Business Saturday* (December 3, 2019), available at <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/nearly-20-billion-spent-americans-small-business-saturday> (last visited Mar. 16, 2021).

¹¹ *Id.*

- Has owed and remitted less than \$200,000 in total sales and use tax to the DOR during either the one-year period ending on September 30, 2021, or the period beginning on the date the business began operating and ending on September 30, 2021, if the business has not been in operation for a full year as of September 30, 2021.

A small business eligible to file a consolidated tax return may only qualify for the sales tax holiday if the total sales and use tax owed and remitted from all of the business's locations is less than \$200,000.

If a business chooses not to participate in the sales tax holiday, the business must notify the DOR of its decision by November 16, 2021. The business must post a copy of the notice in a conspicuous place.

The DOR may adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., for the purpose of implementing the bill.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{12, 13} which is \$2.2 million or less for Fiscal Year 2021-2022.¹⁴

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² FLA. CONST. art. VII, s. 18(d).

¹³ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 16, 2021).

¹⁴ Based on the Demographic Estimating Conference's population adopted on November 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 16, 2021).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet met regarding the bill.

B. Private Sector Impact:

Persons purchasing items from stores participating in the sales tax holiday will realize savings.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill defines “small business” as a dealer who owed and remitted to the DOR less than \$200,000 in total sales and use tax during a specified period. Information contained in reports received by the DOR, such as taxes remitted, is considered confidential and exempt from public records under s. 213.053, F.S. Thus, the DOR has indicated it will not be able to publish a Tax Information Publication (TIP) identifying businesses participating in the sales tax holiday.

VIII. Statutes Affected:

The bill creates an undesignated section of chapter law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism on March 15, 2021:

The committee substitute:

- Provides that a business that chooses not to participate in the sales tax holiday must notify the DOR of its decision by November 16, 2021, and post a copy of that notice at its place of business; and

- Deletes language that appropriates \$200,000 to the DOR to implement the sales tax holiday.

B. Amendments:

None.

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



503806

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Taddeo) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 49
and insert:
27, 2021. If a qualifying dealer chooses not to participate in
the tax holiday, the dealer must notify the Department of
Revenue in writing by November 16, 2021, of its election to
collect sales tax during the holiday and must post a copy of
that notice in a conspicuous location at its place of business.
(4) The Department of Revenue may, and all conditions are



503806

deemed to be met to, adopt emergency rules pursuant to ss.
120.536(1) and 120.54, Florida Statutes, to implement this
section. Notwithstanding any other law, emergency rules adopted
pursuant to this subsection are effective for 6 months after
adoption and may be renewed during the pendency of procedures to
adopt permanent rules addressing the subject of the emergency
rule.

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

And the title is amended as follows:

Delete lines 7 - 8

and insert:

timeframe; authorizing certain dealers to opt out of
participating in the tax holiday, subject to certain
requirements; authorizing the Department of Revenue to
adopt emergency rules;

By Senator Taddeo

40-00188-21

2021302__

A bill to be entitled

An act relating to a Small Business Saturday sales tax holiday; defining the term "small business"; providing that small businesses are not required to collect the sales and use tax on the retail sale of certain items of tangible personal property during a specified timeframe; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an effective date.

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

Section 1. Small Business Saturday sales tax holiday.-

(1) As used in this section, the term "small business" means a dealer, as defined in s. 212.06, Florida Statutes, who registered with the Department of Revenue and began operation no later than January 8, 2021, and who owed and remitted to the Department of Revenue less than \$200,000 in total tax under chapter 212, Florida Statutes, for the 1-year period ending September 30, 2021. If the dealer has not been in operation for a 1-year period as of September 30, 2021, the dealer must have owed and remitted less than \$200,000 in total tax under chapter 212, Florida Statutes, for the period beginning on the day the dealer began operation and ending September 30, 2021, in order to qualify as a small business under this section. If the dealer is eligible to file a consolidated return pursuant to s. 212.11(1)(e), Florida Statutes, the total tax under chapter 212, Florida Statutes, owed and remitted from all of the dealer's places of business must be less than \$200,000 for the applicable

Page 1 of 2

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

40-00188-21

2021302__

period ending September 30, 2021.

(2) Subject to subsection (3), the tax levied under chapter 212, Florida Statutes, may not be collected by a small business during the period from 12:01 a.m. on November 27, 2021, through 11:59 p.m. on November 27, 2021, on the retail sale, as defined in s. 212.02(14), Florida Statutes, of any item of tangible personal property, as defined in s. 212.02(19), Florida Statutes, having a sales price of \$1,000 or less per item.

(3) At its option, a small business may choose not to participate in the sales and use tax exemption provided in subsection (2) and may collect tax on all sales made on November 27, 2021.

(4) The Department of Revenue may, and all conditions are deemed to be met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to implement this section.

Section 2. For the 2021-2022 fiscal year, the sum of \$200,000 of nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this act.

Section 3. This act shall take effect July 1, 2021.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

3-15-21

Meeting Date

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

616

Bill Number (if applicable)

Topic

Public Accounting

Amendment Barcode (if applicable)

Name

Justin Thomas

Job Title

Director of Governmental Affairs

Address

119 S. Manac St. Suite 121

Phone

Street

Tallahassee

FL

32301

City

State

Zip

Email

justin@flcpa.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Florida Institute of CPAs

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)

3/15/21

Meeting Date

SB 616

Bill Number (if applicable)

Topic

Public Accounting

Amendment Barcode (if applicable)

Name

David Sanders

Job Title

Retired Bus Corp Owner Senior Citizen of FL

Address

Street

City

State

Zip

Phone

Email

66 WINTERGREEN DR

FRUITLAND PARK FL 34731

352 805 6597

goldendave1955@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

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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 Commerce and Tourism

BILL: SB 616

INTRODUCER: Senator Gruters

SUBJECT: Public Accountancy

DATE: March 12, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 616 permits a nonresident Florida-licensed certified public accountant (CPA) to renew his or her license if the CPA has complied with the continuing education requirements in the state in which his or her office is located. However, a nonresident CPA must satisfy Florida's ethics-related continuing education requirements. If the state in which the nonresident CPA's office is located does not have continuing education requirements as a condition for license renewal, the nonresident CPA must comply with the continuing education requirements in Florida.

The bill permits a CPA to place his or her license in a retired status. If a licensee on retired status reenters the workforce in a position that has an association with accounting or any of the CPA services, the licensee automatically loses his or her retired status. A retired CPA may continue to be engaged in specific activities but may not offer professional services that require the use of the CPA title. A retired CPA may reactivate her or his license in a conditional manner determined by the Florida Board of Accountancy, which must require the payment of fees and the completion of any required continuing education.

The bill takes effect July 1, 2021.

II. Present Situation:

Certified Public Accountants

The Florida Board of Accountancy (board) within the Department of Business and Professional Regulation (DBPR) is responsible for regulating and licensing the more than 38,000 active and 2,800 inactive CPAs and more than 5,500 accounting firms in Florida.¹ The Division of Certified

¹ Department of Business and Professional Regulation, *Fiscal Year 2019-2020 Annual Report*, page 20, available at www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1920.pdf (last visited Mar. 12, 2021).

Public Accounting provides administrative support to the nine-member board, which consists of seven CPAs and two laypersons.²

A CPA is an individual who holds a license to practice public accounting in this state under ch. 473, F.S., or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141, F.S.³

The practice of public accounting includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements.⁴ To engage in the practice of public accounting,⁵ an individual or firm must be licensed pursuant to ss. 473.308 or 473.3101, F.S., and business entities must meet the requirements of s. 473.309, F.S.

CPA Licensing

Section 473.308, F.S., provides licensing requirements for CPAs. To be licensed as a certified public accountant, a person must be of good moral character, pass the licensure exam, and have at least 150 semester hours of education with a focus on accounting and business.⁶ CPA licenses must be renewed on a biennial basis through procedures adopted by the DBPR.⁷

License by Endorsement

Individuals who are licensed as a CPA in another state or territory, as well as individuals who are not licensed in another state or territory but have met certain requirements, may apply to the board for licensure by endorsement.⁸

If the applicant is not licensed and has never been licensed in another state or territory, the applicant must meet the education, work experience, and good moral character requirements and have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306, F.S.⁹

If the applicant is licensed in another state or territory, the applicant must:

- Have satisfied licensing criteria that were substantially equivalent to the licensure criteria in Florida at the time the license was issued;¹⁰
- Have passed a national, regional, state, or territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state and

² Section 473.303, F.S.

³ See s. 473.302(4), F.S. Section 473.3141, F.S., permits a person who does not have an office in Florida to practice public accountancy in this state without obtaining a license under ch. 473, F.S., notifying or registering with the board, or paying a fee if the person meets the required criteria.

⁴ Section 473.302(8), F.S.

⁵ Section 473.302(8), F.S., defines the terms “practice of,” “practicing public accountancy,” and “public accounting.”

⁶ Sections 473.308(2)-(5), F.S.

⁷ Section 473.311(2), F.S.

⁸ Section 473.308(7), F.S.

⁹ Section 473.308(7)(a), F.S., and Fla Admin. Code R. 61H1-29.003(1) (2021).

¹⁰ Section 473.308(7)(b)1., F.S.

meet the education, work experience, and good moral character requirements, if the criteria for issuance of such a license were not substantially equivalent to Florida's criteria;¹¹ or

- Have held a valid license in another state or territory for at least 10 years before applying for a license in Florida, have passed a national, regional, state, or territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state, and meet the education, work experience, and good moral character requirements.¹²

Continuing Education

CPAs, as part of the license renewal procedure, are required to submit proof satisfactory to the board that, during the 2 years prior to the application for renewal, they have successfully completed not less than 48 or more than 80 hours of continuing professional education programs in public accounting subjects approved by the board.¹³ The board has the authority to prescribe by rule additional continuing professional education hours, not to exceed 25 percent of the total hours required, for failure to complete the hours required for renewal by the end of the reestablishment period.¹⁴

Not less than 10 percent of the total continuing education hours required by the board shall be in accounting-related and auditing-related subjects, as distinguished from federal and local taxation matters and management services.¹⁵

Not less than 5 percent of the continuing education shall be in ethics applicable to the practice of public accounting, including a review of the provisions of ch. 455, F.S., relating to the regulations of businesses and professions, ch. 473, F.S., and the related administrative rules. This requirement must be administered by providers approved by the board.¹⁶

Inactive Licenses

Section 473.313(1), F.S., permits Florida-licensed CPAs to request that their license be placed on inactive status. Licenses can also be placed on inactive status for failing to complete, or failure to report completion of, the continuing education requirements.¹⁷ The board is authorized to adopt rules establishing fees for placing a license on inactive status, renewal of inactive status, and reactivation of an inactive license.¹⁸

A CPA may reactivate an inactive license by paying the DPBR a \$250 application fee¹⁹ and providing certification that the CPA has completed the education requirements.²⁰ If a license that was placed on inactive status for failure to report completed continuing education requirements

¹¹ Section 473.308(7)(b)2., F.S.

¹² Section 473.308(7)(b)3., F.S.

¹³ Section 473.312(1)(a), F.S.

¹⁴ *Id.*

¹⁵ Section 473.312(1)(b), F.S.

¹⁶ Section 473.312(1)(c), F.S.

¹⁷ Sections 473.313(2) and (3), F.S.

¹⁸ See Fla. Admin. Code R. 61H1-33.006 (2021).

¹⁹ Fla. Admin. Code R. 61H1-31.006 (2021).

²⁰ Section 473.313(3), F.S.

is inactive on January 1, the applicant must submit a complete application to the board by March 15 immediately after the delinquent period.²¹

Retired Status

Florida law does not currently provide CPAs the option of placing licenses into a retired status as an alternative to inactive status.

The American Institute of Certified Public Accountants (AICPA) estimated that, as of 2015, approximately 75 percent of its members would be eligible to retire by 2020.²² In order to allow retirees to continue to serve their communities without remaining an active CPA in practice, the AICPA's Board of Directors and the National Association of State Boards of Accountancy Board of Directors each approved changes in the Uniform Accountancy Act to provide for the creation of a Retired-CPA status. The changes allow inactive CPAs at least 55 years of age to place the word "retired" after their CPA title, in lieu of "inactive," with appropriate registration with their State Board; offer volunteer tax preparation services; participate in government-sponsored business mentoring programs; and serve on the board of a non-profit organization. All of these activities must be uncompensated, and the applicant must have a license in good standing.²³

III. Effect of Proposed Changes:

Licensure by Endorsement

The bill amends s. 473.308(7)(a), F.S., referring to applicants for licensure by endorsement who are not licensed in another state, to change the term "another" state to "any" state. The bill does not make the same change throughout s. 473.308, F.S., where the term "another" state is used in several instances.

As amended by the bill, s. 473.308(7)(a), F.S., appears to permit persons who have not been licensed as a CPA in *any* state, including Florida, to qualify for license by endorsement instead of persons who have not been licensed in any state *aside* from Florida.

This change in language would prevent a previously-licensed Florida CPA from using the licensure by endorsement process to regain a license. However, a person from Florida who has not been licensed as a CPA in any state or territory must still satisfy the licensing requirements of this state, whether they do so through the regular licensure qualification process or the licensure by endorsement process.

²¹ *Id.*

²² American Institute of Certified Public Accountants, *Proposed Revisions to AICPA/NASBA Uniform Accountability Act 2015*, available at <https://www.aicpa.org/content/dam/aicpa/advocacy/state/downloadabledocuments/inactive-retired-exposure-draft-nov-2015.pdf> (last visited Mar. 12, 2021).

²³ Uniform Accountancy Act of 2018, s. 6(d).

Continuing Education

The bill creates s. 473.311(1)(b), F.S., to permit a nonresident licensee seeking to renew his or her Florida license to comply with the continuing education requirements of the state in which his or her office is located. Under the bill, a nonresident licensee must still complete no less than 5 percent of the total continuing education hours required in ethics applicable to public accounting as administered by providers approved by the board.

The nonresident licensee must comply with all of Florida's continuing education requirements if the state in which the nonresident licensee's office is located does not have continuing education requirements as a condition for license renewal.

The bill also amends s. 473.312(1)(c), F.S., to require that a majority of the continuing education hours in ethics include a review of the provisions of the provisions of ch. 455, F.S., relating to the regulations of businesses and professions, ch. 473, F.S., and the related administrative rules.

Retired Status

Under current law, a CPA licensed in Florida is not permitted to place his or license in a retired status. The bill amends s. 473.313, F.S., to permit a Florida-licensed CPA to submit an application to the DBPR to place his or her license in a retired status if the licensee:

- Is at least 55 years of age;
- Holds a current active or inactive license; and
- Is in good standing and not the subject of any sanction or disciplinary action.

Under the bill, a licensee in retired status that reenters the workforce in a position associated with accounting, or any related services defined in ss. 473.302(8)(a), (c), and (d), F.S., automatically loses his or her retired status. A CPA on retired status may continue to provide services utilizing accounting skills, as well as tax, management advisory, or consulting services, as defined in s. 473.302(8)(b), F.S., but may not provide certain accounting services that involve expressing an opinion on or preparing financial statements, as defined in ss. 473.302(8)(a), (c), and (d), F.S.

Retired licensees are permitted to use the title of "retired CPA" but may not offer or render professional services that require her or his signature and use of the CPA title, regardless of whether the word "retired" is attached to such title.

The bill authorizes a retired licensee to serve without compensation on a board of directors or board of trustees, provide volunteer tax preparation services, participate in a government-sponsored business mentoring program, and participate in an advisory role for a similar charitable, civic, or nonprofit organizations. A retired licensee may accept routine reimbursement for actual costs of travel and meals associated with volunteer services or de minimis per diem amounts paid to the retired licensee to cover such expenses as allowed by law.

Retired licensees are not required to maintain the continuing education requirements set forth in s. 473.312, F.S.

A retired licensee must affirm in writing his or her understanding of the limited types of activities in which he or she may engage while in retired status and that he or she has a professional duty to ensure that he or she holds the professional competencies necessary to participate in such activities.

A retired licensee may reactivate his or her license in a conditional manner determined by the board, which must require the payment of fees and the completion of any required continuing education.

Effective Date

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Section 19(a), Article VII of the State Constitution limits the authority of the legislature to enact legislation that imposes a new state tax or fee by requiring such legislation to be approved by a 2/3 vote in each chamber of the legislature. Section 19(e), Article VII of the Florida Constitution provides that a state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject.

SB 616 permits a licensed CPA in retired status to reactivate his or her license in a conditional manner determined by the Florida Board of Accountancy. The bill requires that the conditions for the reactivation of a license in retired status must include the payment of fees. The board currently has the authority to impose a fee for the reactivation

of an inactive license. Because the bill requires the board to impose a fee of an unknown amount for the reactivation of a license in retired status, it is unclear if the voting and separate bill requirements found in the State Constitution apply to the bill.

B. Private Sector Impact:

Retired CPAs wishing to reactivate their licenses will be subject to reactivation fees in an amount determined by the board.

C. Government Sector Impact:

The DBPR estimates that the technological modifications required to administer the bill can be made with existing resources.

VI. Technical Deficiencies:

Line 129 of the bill refers to subsection (2) of s. 473.313, F.S., but the bill rennumbers section (2) as paragraph (1)(a).

VII. Related Issues:

The bill creates s. 473.311(1)(b), F.S., permitting a nonresident licensee seeking a renewal of his or her Florida license to comply with the continuing education requirements of the state in which his or her office is located. It is unclear if these new provisions are intended to apply to territories as well as states. In comparison, existing provisions governing the renewal of CPA licenses in s. 473.308, F.S., include licensure requirements for persons licensed in other states *or* territories.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 473.308, 473.311, 473.312, and 473.313.

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 Gruters

23-00559-21

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A bill to be entitled

An act relating to public accountancy; amending s. 473.308, F.S.; requiring that certain applicants not be licensed in any state or territory in order to be licensed by endorsement; amending s. 473.311, F.S.; providing license renewal requirements for nonresident licensees; amending s. 473.312, F.S.; requiring that a majority of the hours required for continuing education include specific content; amending s. 473.313, F.S.; authorizing certain Florida certified public accountants to apply to the Department of Business and Professional Regulation to have their license placed in a retired status; providing requirements for such conversion; imposing requirements and prohibitions on retired licensees; authorizing retired licensees to use a specified title under certain circumstances; providing that retired licensees are not required to maintain continuing education requirements; authorizing retired licensees to reactivate their licenses if certain conditions are met; defining the term "retired licensee"; providing an effective date.

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

Section 1. Subsection (7) of section 473.308, Florida Statutes, is amended to read:

473.308 Licensure.—

(7) The board shall certify as qualified for a license by

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endorsement an applicant who:

(a) Is not licensed and has not been licensed in any ~~another~~ state or territory and who has met the requirements of this section for education, work experience, and good moral character and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

(b)1. Holds a valid license to practice public accounting issued by another state or territory of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued;

2. Holds a valid license to practice public accounting issued by another state or territory of the United States but the criteria for issuance of such license did not meet the requirements of subparagraph 1.; has met the requirements of this section for education, work experience, and good moral character; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

3. Holds a valid license to practice public accounting issued by another state or territory of the United States for at least 10 years before the date of application; has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; and has met the requirements of this section for good moral character.

Section 2. Subsection (1) of section 473.311, Florida Statutes, is amended to read:

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473.311 Renewal of license.—

(1) (a) The department shall renew a license issued under s. 473.308 upon receipt of the renewal application and fee and upon certification by the board that the Florida certified public accountant has satisfactorily completed the continuing education requirements of s. 473.312.

(b) A nonresident licensee seeking renewal of a license in this state shall be determined to have met the continuing education requirements in s. 473.312, except for the requirements in s. 473.312(1)(c), if the licensee has complied with the continuing education requirements applicable in the state in which his or her office is located. If the state in which the nonresident licensee's office is located has no continuing education requirements for license renewals, the nonresident licensee must comply with the continuing education requirements in s. 473.312.

Section 3. Paragraph (c) of subsection (1) of section 473.312, Florida Statutes, is amended to read:

473.312 Continuing education.—

(1)

(c) Not less than 5 percent of the total hours required by the board shall be in ethics applicable to the practice of public accounting. This requirement shall be administered by providers approved by the board and a majority of the hours shall include a review of the provisions of chapter 455 and this chapter and the related administrative rules.

Section 4. Section 473.313, Florida Statutes, is amended to read:

473.313 Inactive status and retired status.—

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(1) A Florida certified public accountant may request that her or his license be placed in an inactive status by making application to the department. The board may prescribe by rule fees for placing a license on inactive status, renewal of inactive status, and reactivation of an inactive license.

(a) (2) A license that has become inactive under this subsection ~~(1)~~ or for failure to complete the requirements in s. 473.312 may be reactivated under s. 473.311 upon application to the department. The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The maximum continuing education requirements for reactivating a license are 120 hours, including at least 30 hours in accounting-related and auditing-related subjects, not more than 30 hours in behavioral subjects, and a minimum of 8 hours in ethics subjects approved by the board, for the reactivation of a license that is inactive or delinquent.

(b) (3) A license that is delinquent for failure to report completion of the requirements in s. 473.312 may be reactivated under s. 473.311 upon application to the department. Reactivation requires the payment of an application fee as determined by the board and certification by the Florida certified public accountant that the applicant satisfactorily completed the continuing education requirements set forth under s. 473.311. If the license is delinquent on January 1 because of failure to report completed continuing education requirements, the applicant must submit a complete application to the board by March 15 immediately after the delinquent period.

(c) (4) Any Florida certified public accountant holding an inactive license may be permitted to reactivate such license in

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a conditional manner. The conditions of reactivation shall require the payment of fees and the completion of required continuing education.

(d)(5) Notwithstanding the provisions of s. 455.271, the board may, at its discretion, reinstate the license of an individual whose license has become null and void if the individual has made a good faith effort to comply with this section but has failed to comply because of illness or unusual hardship. The individual shall apply to the board for reinstatement in a manner prescribed by rules of the board and shall pay an application fee in an amount determined by rule of the board. The board shall require that the individual meet all continuing education requirements as provided in subsection (2), pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

(2) A Florida certified public accountant who is at least 55 years of age and currently holds an active or inactive license under this chapter may apply to the department for her or his license to be placed in a retired status. The application must be prescribed by the board and must state that the applicant has no association with accounting or any of the services described in s. 473.302(8)(a), (c), or (d). If a licensee who has been granted retired status reenters the workforce in a position that has an association with accounting or any of the services described in s. 473.302(8)(a), (c), or (d), the licensee automatically loses her or his retired status, except as provided in paragraph (a).

(a) A retired licensee who serves without compensation on a board of directors or board of trustees, provides volunteer tax

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preparation services, participates in a government-sponsored business mentoring program such as the Internal Revenue Service's Volunteer Income Tax Assistance program or the Small Business Administration's SCORE program, or participates in an advisory role for a similar charitable, civic, or other nonprofit organization shall continue to be eligible for retired status.

(b) The board shall require a retired licensee to affirm in writing her or his understanding of the limited types of activities in which she or he may engage while in retired status and that she or he has a professional duty to ensure that she or he holds the professional competencies necessary to participate in such activities.

(c) Licensees may convert their license to retired status only if they hold a license in good standing and are not the subject of any sanction or disciplinary action.

(d) A retired licensee may accept routine reimbursement for actual costs of travel and meals associated with volunteer services or de minimis per diem amounts paid to the licensee to cover such expenses, as allowed by law.

(e) A retired licensee may use the title of "retired CPA" on any business card or letterhead or any other printed or electronic document. However, such title may not be applied in such a manner that could confuse the public as to the current status of the licensee. The licensee is not required to have a certificate issued with the word "retired" on the certificate.

(f) A retired licensee is not required to maintain the continuing education requirements under s. 473.312.

(g) A retired licensee may not offer or render professional

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175 services that require her or his signature and use of the CPA
176 title, regardless of whether the word "retired" is attached to
177 such title.

178 (h) A retired licensee may reactivate her or his license in
179 a conditional manner determined by board rules. The conditions
180 of reactivation must require the payment of fees and the
181 completion of any required continuing education.

182
183 For the purposes of this subsection, the term "retired licensee"
184 means a licensee whose license has been placed in retired status
185 by the department.

186 Section 5. This act shall take effect July 1, 2021.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/15/21
Meeting Date

SB 1444
Bill Number (if applicable)

Topic Florida Small Manufacturing Business Recovery Act Amendment Barcode (if applicable)

Name Slater Bayliss

Job Title _____

Address 204 S. Monroe St. Phone 850-222-8900
Street

Tallahassee FL 32301 Email swb@cardenaspartners.com
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Advantage Capital

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Commerce 3:30

THE FLORIDA SENATE
APPEARANCE RECORD

3/15/21

Meeting Date

SB 1444

Bill Number (if applicable)

Topic Florida Small Manufacturing Business Recovery Act

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

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City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1444

INTRODUCER: Senator Wright

SUBJECT: Florida Small Manufacturing Business Recovery Act

DATE: March 12, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 1444 creates s. 288.715, F.S., the Florida Small Manufacturing Business Recovery Act. The bill allows investors to earn state premium tax credits equal to their investment in certified relief funds; in turn, the relief funds will invest in certain businesses. The bill caps investment at a level that will result in no more than \$100 million in tax credits under the program.

The Department of Economic Opportunity will administer the program by certifying relief funds, granting tax credits to investors, and, if necessary, revoking a relief fund's tax credit authority.

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

The bill takes effect July 1, 2021.

II. Present Situation:

Economic Development Incentives that use Tax Credits

Capital Investment Tax Credit

The Capital Investment Tax Credit was created to attract and grow capital-intensive industries in the state by offering an annual tax credit equal to 5 percent of the capital costs generated by a project. The tax credit offered may only be used against the corporate income tax or premium tax liability generated by a project.¹ Eligible projects are in high impact portions of the clean energy, life sciences, financial services, information technology, semi-conductor, transportation

¹ Section 220.91, F.S.

equipment manufacturing, advanced manufacturing, or corporate headquarters facility industries. In calendar year 2019, the DEO approved over \$67 million in capital investment tax credits.²

Rural Job Tax Credit Program

The Florida Rural Job Tax Credit Program offers a tax credit incentive for eligible businesses that are located within a designated qualified rural area to create new jobs.³ The tax credit ranges from \$1,000 to \$1,500 per qualified employee and can be taken against either the businesses' corporate income tax or sales and use tax liabilities. A business is limited to no more than \$500,000 of tax credits per year.⁴ The DEO administers this program, and may approve up to \$5 million in tax credits per year; in calendar year 2019, the DEO approved \$100,000 in rural job tax credits.⁵

Florida New Markets Development Program⁶

The Florida New Markets Development Program (NMDP), similar to the program created in this bill, uses tax credits to spur economic development. The NMDP allows Florida taxpayers to earn tax credits against corporate income tax and insurance premium tax by investing in qualified community development entities (CDEs) that make investments in qualified low-income community businesses. CDEs are domestic corporations or partnerships that have a primary role in administering the tax credit program and act as intermediaries between the investors, financiers, and low-income community businesses. The NMDP is modeled after the federal New Markets Tax Credit program.⁷ The NMDP is capped at a cumulative investment that would result in no more than \$216.34 million in tax credits, and an annual investment that would result in no more than \$36.6 million in a single fiscal year.⁸ The NMDP has exhausted its credit allocation. It has not issued tax credits since Fiscal Year 2014-2015.⁹

Examples of Acts in Other States

In 2017, Georgia created the Georgia Agribusiness and Rural Jobs Act, which is designed to spur \$100 million in capital investments in rural businesses in the state. Investors may redeem up to \$15 million in tax credits annually for four years (for a total of \$60 million tax credits) against their corporate income tax and premium tax liabilities.¹⁰ While Georgia's tax credit program incentivizes investment rural businesses instead of manufacturing businesses, the program's

² Department of Economic Opportunity, *2019-2020 Incentives Report*, 49, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited Mar. 12, 2021).

³ Sections 212.098, and 220.1895, F.S.

⁴ Section 212.098(6)(d), F.S.

⁵ *Supra* note 5, at 18.

⁶ Sections 288.991-9922, F.S.

⁷ Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs*, 32-36 (Mar. 2017), available at <http://edr.state.fl.us/content/returnoninvestment/ROISELECTPROGRAMS2017final.pdf> (last visited Mar. 12, 2021).

⁸ Section 288.9914(3)(c), F.S.

⁹ Florida Dep't of Economic Opportunity, *2017 Incentives Report*, 11 available at <http://www.floridajobs.org/docs/default-source/reports-and-legislation/2017-annual-incentives-report.pdf?sfvrsn=4> (last visited Mar. 12, 2021).

¹⁰ Ga. Code Annotated s. 33-1-25, et seq. (2017).

structure is similar to that of the proposed bill. Similar legislation directed towards other industries has been proposed in several other states, including Kentucky¹¹ and Washington.¹²

Additionally, the federal New Markets Tax Credit Program is structurally similar to the program created by the bill. The federal program, which offers investors a credit against the federal income tax in exchange for making equity investments in Community Development Entities (CDEs), was extended through 2025 with a \$5 billion annual appropriation under the 2021 Consolidated Appropriations Act.¹³ Several CDEs are actively financing businesses in Florida under the federal program.¹⁴

III. Effect of Proposed Changes:

The bill creates s. 288.715, F.S., the Florida Small Manufacturing Business Recovery Act, to be administered by the Department of Economic Opportunity (DEO). The bill uses tax credits against the state insurance premium tax to incentivize investors to give funds, known as “relief contributions,” to certified relief funds that, in turn, will make capital or equity investments, or loans with a maturity date of at least 2 years, in an impact business. The total relief investment authorities are capped at \$100 million and relief contributions are capped at \$80 million.

An impact business is one that:

- Has fewer than 200 employees;
- Has its principal business operations in Florida. A business has its principal business operations in the state if at least 60 percent of the business’s employees are Florida residents, at least 80 percent of the business’s payroll is paid to Florida residents, or the business has agreed to use the proceeds of a relief investment to relocate at least 60 percent of the business’s employees to Florida or pay at least 80 percent of the business’s payroll to Florida residents; and
- Is engaged in manufacturing under NAICS code 31-33. A business not engaged in manufacturing is considered an impact business under the bill if the DEO has determined that an investment in such a business will benefit the state’s recovery.

Tax Credit Application, Approval, and Allocation

Beginning August 1, 2021, the DEO must accept applications for certification of relief funds and relief contributions. Applications must include:

- The total relief investment authority¹⁵ sought by the applicant, 80 percent of which must consist of relief contributions;

¹¹ Kentucky House Bill 203 (2019), <https://apps.legislature.ky.gov/record/19rs/hb203.html> (last visited Mar. 12, 2021).

¹² Doug Farquhar, *Jump-Starting Rural Economies* (Apr. 2018), available at <http://www.ncsl.org/research/environment-and-natural-resources/jump-starting-rural-economies.aspx> (last visited Mar. 12, 2021).

¹³ Consolidated Appropriations Act, H.R. 133, 116th Cong. (2020).

¹⁴ United States Department of the Treasury, *New Markets Tax Credit Qualified Equity Investment Report (March 2021)*, available at <https://www.cdfifund.gov/sites/cdfi/files/2021-03/NMTC%20QEI%20Issuance%20Report-March%202021.pdf> (last visited Mar. 12, 2021).

¹⁵ “Relief investment authority” means the amount stated on the notice issued by DEO certifying a relief fund.

- Evidence that an applicant or an affiliate of the applicant is licensed as a rural or small business investment company;¹⁶
- Evidence that at least one principal of the rural or small business investment company is, and has been for at least 4 years, an officer, employee, or affiliate of the applicant on the date the application is submitted;
- Evidence that the applicant and its affiliates have invested more than \$500 million in small businesses, regardless of whether the principal businesses operations of the small business are in the state; and
- A signed affidavit from each investor stating that the investor agrees to make a relief contribution,¹⁷ and the amount of the relief contribution.

The DEO must approve or deny an application within 30 days of its receipt. The DEO must deny an application if:

- The application is incomplete, including failing to submit the affidavits accounting for at least 80 percent of the relief investment authority sought;
- The application does not include evidence proving the relief fund is eligible for certification; or
- The DEO has already approved the maximum total relief investment authority and relief contributions.

The total relief investment authority is capped at \$100 million and relief contributions are capped at \$80 million.

The DEO must issue a written notice to an approved applicant certifying the applicant as a relief fund and specifying the applicant's amount of relief fund authority. If the DEO denies an application for any reason other than the aforementioned reasons, the DEO must notify the applicant and allow the applicant to cure defects in the application within 15 days of receipt of the notice of denial.

The DEO may not reduce a relief fund's requested relief investment authority unless such an allocation would cause the DEO to exceed the relief investment authority and relief contribution limits. If the DEO approves applications received on the same day with relief investment authority and relief contribution amounts that would collectively exceed the limits specified by the bill, the DEO must approve both applicants but proportionally reduce the authority and contribution for each approved application as necessary to avoid exceeding the limit.

Additionally, the DEO may not approve any applications submitted after a denied application until the previously denied application has been cured and reconsidered if the approval of the subsequent application would result in exceeding the dollar limitations on relief investment authority or relief contributions.

¹⁶ See 7 U.S.C. s. 2009cc and 15 U.S.C. s. 681.

¹⁷ "Relief contribution" means a cash investment in a relief fund which equals the amount specified on a notice of tax credit allocation issued by the DEO after certification. The investments must purchase an equity interest in the relief fund or a debt instrument issued by the relief fund.

Within 30 days of certification, a relief fund must collect the relief contributions from each investor whose affidavit was included in the application, and collect direct or indirect equity investments from affiliates of the fund equal to at least 10 percent of the relief fund's investment authority. A relief fund must send to the DEO proof of collecting such contributions and investments within 35 days of certification. If a relief fund fails to send such documentation, the DEO must revoke the fund's certification.

Upon a relief fund's satisfaction of the aforementioned collection and documentation requirements, the DEO must issue a notice of the amount and utilization schedule of the tax credit certificates allocated to each investor or affiliate as a result of their relief contributions. Only the first \$3.5 million of a relief fund's investment in any one impact business may be considered a relief investment; a relief investment in an affiliate of an impact business is considered a relief investment in that impact business.

Tax Credits

An investor that made a relief contribution is vested with a nonrefundable tax credit against state premium taxes, which is transferable to any person that pays premium taxes in the state.

On the closing date,¹⁸ an investor who made a relief contribution is eligible for a tax credit equal to the amount specified in the notice sent by the DEO. The DEO will issue investors a tax credit for one-fifth of their relief contributions on the anniversary of the relief fund's closing date every year for 5 years, beginning in 2023. If the tax credit received in one year exceeds the taxes owed for that year, the unused credits may be carried forward for use; a retaliatory tax may not be assessed for using the tax credit. Anyone receiving a tax credit must include a copy of the tax credit certificate when submitting an annual statement for each year the credit is claimed.

Revocation of Tax Credit Certificates and Exit from the Program

The DEO may not issue a tax credit to a relief fund that does not invest at least 70 percent of its relief investment authority in relief investments within 1 year of the closing date or 100 percent of its authority within 2 years of the closing date. A relief investment is any capital or equity investment¹⁹ in or loan²⁰ to an impact business with a maturity of at least 2 years after the date of issuance.

The DEO must revoke a relief fund's tax credit certificate if the relief fund:

- Makes a distribution in excess of the cumulative investment earnings of the relief fund, taking into account all past distributions, before satisfying the investment level requirements listed above;

¹⁸ The closing date is the date on which a relief fund has collected the relief funds from each investor whose affidavit was included in the fund's application and the direct or indirect equity investments from affiliates of the relief fund.

¹⁹ An equity investment is a relief investment only if the relief fund does not acquire a majority interest in the small business as a result of the investment.

²⁰ A secured loan is a relief investment only if it has an initial interest rate of less than 2 percent or principal and interest payments deferred for at least 1 year. Subordinate loans must have an initial interest rate of 6 percent and interest payments deferred for at least 1 year.

- Fails to maintain the required investment levels through the fifth anniversary of the closing date;²¹ or
- Makes a distribution that results in the fund having less than 100 percent of its authority invested in other relief investments or held in cash or marketable securities available for relief investments, after satisfying the original investment level requirements but before decertification of the relief fund.

The DEO must notify a relief fund of the reasons for revocation before revoking the tax credit certificate, and the DEO may not revoke a certificate if a relief fund corrects the reasons for revocation within 30 days of receiving notice.

A relief fund that has invested all of its relief investment authority in relief investments may apply to the DEO to be decertified on or after the sixth anniversary of the fund's closing date. The DEO must respond and not unreasonably deny an application for decertification within 60 days of receipt; a relief fund is eligible for decertification if it has not had its tax credit certificate revoked. The DEO must send notice of its decision to approve or deny an application for decertification, including, if necessary, any reasons for denial.

The DEO may not revoke a tax credit certificate in response to any action a relief fund takes after decertification. However, a decertified relief fund's tax credit certificate may be revoked as a result of actions taken while a fund was certified, even if the actions are discovered after the fund has been decertified.

The relief investment authority and relief contributions of a relief fund whose tax credit certificate has been revoked do not count towards the \$100 million limit and \$80 million limit on relief investment authorities and relief contributions, respectively, that the DEO is authorized to approve. Relief investment authority and relief contribution amounts from such a fund will be awarded pro rata to relief funds whose investment relief authorities were reduced in order to not exceed the total relief investment authority the DEO may approve. Relief investment authority remaining may be awarded to new applicants.

Reporting Requirements

Each relief fund must submit a report to the DEO on or before April 1 of each year, including the closing date year, until the calendar year after the relief fund is decertified. In addition to an itemization of the relief fund's investments, reports must also include:

- A bank statement evidencing each relief investment;
- The name, location, and industry class of each impact business that received a relief investment and evidence that the business qualified as an impact business at the time of the investment;
- The jobs created and retained as a result of each relief investment; and
- Any other information required by the DEO.

²¹ An investment that is sold or repaid is considered to be maintained if the relief fund reinvests an amount equal to the repaid or sold investment into other relief investments in Florida within 1 year of receipt of such funds.

Relief funds must also submit a report to the DEO on or before the fifth business day after the first and second anniversaries of the closing date that provides documentation proving that the relief fund has met the investment thresholds required and has not violated any other revocation provisions.

Miscellaneous

A relief fund may request the DEO to issue a written opinion advising whether a business qualifies as an impact business; if the DEO does not respond within 10 days, the business is deemed an impact business or small business.

The bill grants the DEO rulemaking authority to implement the program.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

The DEO may incur administrative costs to implement and operate the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 288.715 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 Wright

14-01583-21

20211444__

1 A bill to be entitled
 2 An act relating to the Florida Small Manufacturing
 3 Business Recovery Act; creating s. 288.715, F.S.;
 4 providing a short title; defining terms; requiring the
 5 Department of Economic Opportunity to accept
 6 applications for certification of relief funds and
 7 relief contributions in a specified manner; specifying
 8 information required to be submitted in an
 9 application; requiring the department to approve or
 10 deny applications within a specified timeframe;
 11 prohibiting the department from approving more than a
 12 specified amount of relief investment authority and
 13 relief contributions; requiring the department to deny
 14 applications under certain circumstances; requiring
 15 the department to provide notice of approval or denial
 16 to applicants; requiring the department to certify
 17 approved applications; authorizing applicants whose
 18 applications were denied to provide additional
 19 information within a certain timeframe to cure defects
 20 in their applications; requiring the department to
 21 reconsider such applications; requiring certified
 22 relief funds to collect contributions and investments
 23 and submit certain documentation within a specified
 24 timeframe; requiring the department to revoke relief
 25 funds' certification under certain circumstances;
 26 requiring the department to give notice relating to
 27 tax credit certificates; providing requirements
 28 relating to lapsed or revoked investment authority;
 29 authorizing nonrefundable tax credits for owners of

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30 tax credit certificates issued by the department;
 31 providing restrictions on the credit; requiring
 32 taxpayers to submit a copy of the tax credit
 33 certificate with the taxpayers' annual statements;
 34 authorizing the department to revoke tax credit
 35 certificates under certain circumstances; prohibiting
 36 certain amounts invested in impact businesses from
 37 being counted as a relief investment; authorizing
 38 certain relief funds to apply to the department to be
 39 decertified; providing procedures for decertification;
 40 authorizing a relief fund to request certain opinions
 41 from the department; requiring relief funds to submit
 42 specified reports to the department; authorizing the
 43 department to adopt rules; providing an effective
 44 date.
 45
 46 Be It Enacted by the Legislature of the State of Florida:
 47
 48 Section 1. Section 288.715, Florida Statutes, is created to
 49 read:
 50 288.715 The Florida Small Manufacturing Business Recovery
 51 Act.—
 52 (1) This section may be cited as the "Florida Small
 53 Manufacturing Business Recovery Act."
 54 (2) As used in this section, the term:
 55 (a) "Affiliate" means a person that directly, or indirectly
 56 through one or more intermediaries, controls, is controlled by,
 57 or is under common control with another person. For the purposes
 58 of this paragraph, a person is "controlled by" another person if

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the controlling person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(b) "Closing date" means the date on which a relief fund has collected the amounts specified in paragraph (3)(f).

(c) "Department" means the Department of Economic Opportunity.

(d) "Impact business" means a business that, at the time of the initial relief investment by a relief fund:

1. Has fewer than 200 employees;

2. Has its principal business operations in this state; and

3. Is engaged in the North American Industry Classification System codes 31-33 or, if not engaged in such industries, the department determines that an investment in the business will be beneficial to this state's recovery.

For the purposes of this paragraph, a business has its principal business operations in this state if at least 60 percent of the business' employees reside in this state, at least 80 percent of the business' payroll is paid to individuals who reside in this state, or the business has agreed to use the proceeds of a relief investment to relocate at least 60 percent of the business' employees to this state or pay at least 80 percent of the business' payroll to individuals residing in this state.

(e) "Premium taxes" means taxes imposed under s. 624.509 or s. 624.5091.

(f) "Relief contribution" means a cash investment in a relief fund which equals the amount specified on a notice of tax

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credit allocation issued by the department under paragraph (3)(h). The investment must purchase an equity interest in the relief fund or purchases, at par value or premium, a debt instrument issued by the relief fund which has an original maturity date of at least 5 years after the date of issuance and a repayment schedule that is no greater than level principal amortization over 5 years.

(g) "Relief fund" means an entity certified by the department under paragraph (3)(e).

(h) "Relief investment" means any capital or equity investment in an impact business or any loan to an impact business which has a stated maturity at least 2 years after the date of issuance. A secured loan is a relief investment only if it has an initial interest rate of less than 2 percent or principal and interest payments deferred for at least 1 year. A subordinate loan is a relief investment only if it has an initial interest rate of less than 6 percent or principal and interest payments deferred for at least 1 year. An equity investment is a relief investment only if the relief fund does not acquire a majority interest in the small business as a result of such investment. The term "relief investment" does not include any transaction that includes an origination fee.

(i) "Relief investment authority" means the amount stated on the notice issued under paragraph (3)(e) certifying the relief fund. Eighty percent of a relief fund's relief investment authority must consist of relief contributions.

(j) "Small business" means any business that has its principal business operations in this state, as described in paragraph (d), and which, at the time the initial relief

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 117 investment is made, has fewer than 250 employees or the number
 118 of employees set forth for the business' North American Industry
 119 Classification System code under 13 C.F.R. s. 121.201, whichever
 120 is greater.

121 (3)(a) Beginning August 1, 2021, the department shall
 122 accept applications for certification of relief funds and relief
 123 contributions. The application must include:

124 1. The total relief investment authority sought by the
 125 applicant;

126 2. Evidence that proves, to the satisfaction of the
 127 department, that:

128 a. The applicant or an affiliate of the applicant is a
 129 federally approved or licensed rural business investment company
 130 under 7 U.S.C. s. 2009cc or a small business investment company
 131 under 15 U.S.C. s. 681. The applicant must include a certificate
 132 executed by an executive officer of the applicant attesting that
 133 the approval or license remains in effect and has not been
 134 revoked;

135 b. At least one principal or similar officer of such entity
 136 is, and has been for at least 4 years, an officer or employee of
 137 the applicant or an affiliate of the applicant on the date the
 138 application is submitted; and

139 c. As of the date the application is submitted, the
 140 applicant and its affiliates have invested more than \$500
 141 million in small businesses, regardless of whether the principal
 142 business operations of the small business are in this state; and

143 3. A signed affidavit from each investor stating that the
 144 investor agrees to make a relief contribution and the amount of
 145 the relief contribution.

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 146 (b)1. Except as provided in subparagraph 2., the department
 147 shall approve or deny an application within 30 days after
 148 receiving the application. The department shall deem
 149 applications received on the same day as having been received
 150 simultaneously. The department may not approve more than \$100
 151 million in relief investment authority and may not approve more
 152 than \$80 million in relief contributions. If approving
 153 simultaneously submitted applications would result in exceeding
 154 these limits, the department shall proportionally reduce the
 155 relief investment authority and the relief contributions for
 156 each approved application as necessary to avoid exceeding the
 157 limit.

158 2. If the department denies an application for
 159 certification as a relief fund, and approving a subsequently
 160 submitted application would result in exceeding the dollar
 161 limitation on relief investment authority or relief
 162 contributions, assuming the previously denied application was
 163 completed, clarified, or cured under subparagraph (e)2., the
 164 agency may not make a determination on the subsequently
 165 submitted application until the previously denied application is
 166 reconsidered or the 15-day period for submitting additional
 167 information regarding that application has passed, whichever
 168 occurs first.

169 (c) The department must deny an application if:

170 1. The application is incomplete, including failing to
 171 submit the affidavits accounting for at least 80 percent of the
 172 relief investment authority sought;

173 2. The applicant does not satisfy the requirements of
 174 subparagraph (a)2.; or

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3. The department has already approved the maximum total relief investment authority and relief contributions authorized under subparagraph (b)1.

(d) The department may not deny a relief fund application or reduce the requested relief investment authority for reasons other than those described in paragraphs (b) and (c).

(e)1. If the department approves an application, the department must issue a written notice to the applicant certifying the applicant as a relief fund and specifying the applicant's amount of relief investment authority.

2. If the department denies an application, the department must notify the applicant of the reasons for denial. If the application was denied for any reason other than a reason specified in paragraph (c) or because the applicant failed to satisfy subparagraph (a)3., the applicant may submit additional information to the agency to cure defects in the application within 15 days after receipt of the notice of denial. The department must reconsider such application within 15 days after receiving any additional information and, if the application is approved, treat it as approved as of its original filing date.

(f) Within 30 days after receiving a certification under paragraph (e), a relief fund must:

1. Collect the relief contributions from each investor whose affidavit was included in the application; and

2. Collect direct or indirect equity investments from affiliates of the relief fund, including employees, officers, and directors of such affiliates, equal to at least 10 percent of the relief fund's investment authority.

(g) Within 35 days after receiving certification under

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paragraph (e), a relief fund must send documentation to the department which proves the relief fund has collected the amounts required under paragraph (f). If the relief fund fails to comply with this paragraph, the department shall revoke the relief fund's certification.

(h) After a relief fund satisfies the requirement under paragraph (g), the department shall issue to each investor or affiliate identified under paragraph (g) a notice of the amount and utilization schedule of the tax credit certificates allocated to the investor or affiliate as a result of the investor or affiliate's relief contribution.

(i) If a relief fund's certification is revoked under paragraph (g) or the relief fund has tax credits revoked under paragraph (5)(b), the corresponding relief investment authority and relief contributions do not count toward limits on total relief investment authority and relief contributions authorized under paragraph (b). The department shall first award lapsed or revoked relief investment authority and the corresponding relief contributions pro rata to each relief fund awarded less than the relief investment authority for which it applied pursuant to subparagraph (b)1. The department may award any remaining relief investment authority to new applicants.

(4)(a) A nonrefundable tax credit certificate is authorized for owners of tax credit certificates issued by the department under paragraph (b). The credit may be claimed against premium taxes and is transferable to any person that pays premium taxes in this state.

(b) On the closing date, a taxpayer that made a relief contribution is eligible for a credit equal to the amount

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specified in the notice issued under paragraph (3)(h). On or before the anniversaries of the closing date occurring in 2023, 2024, 2025, 2026, and 2027, the department shall issue a tax credit certificate equal to one-fifth of the relief contributions allocated to the taxpayer.

(c) Any amount of credits which exceeds the tax otherwise due for that year may be carried forward for any ensuing taxable years. An additional retaliatory tax may not be required as a result of using the credit. A taxpayer claiming a credit under this section shall submit a copy of the tax credit certificate with the taxpayer's annual statement for each taxable year in which the credit is claimed.

(5)(a) The department is not required to issue a tax credit certificate to a relief fund that does not invest at least 70 percent of its relief investment authority in relief investments within 1 year after the closing date or 100 percent of its relief investment authority in relief investments within 2 years after the closing date.

(b) The department may revoke tax credit certificates issued pursuant to subsection (4) if:

1. Before satisfying paragraph (a), the relief fund makes a distribution or payment in excess of the cumulative investment earnings of the relief fund as of the date of the distribution or payment, taking into account all past distributions and payments;

2. After satisfying paragraph (a), the relief fund fails to maintain those levels of investment until the fifth anniversary of the closing date. For the purposes of this subparagraph, an investment is maintained even if the investment is sold or

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repaid, so long as the relief fund reinvests an amount equal to the capital returned or recovered from the original investment, exclusive of any profits realized, in other relief investments in this state within 1 year of the receipt of such capital. Regularly scheduled principal payments on a loan that is a relief investment are deemed continuously invested in a relief investment if the amounts are reinvested in one or more relief investments by the end of the following calendar year; or

3. After satisfying paragraph (a) and before the relief fund is decertified pursuant to paragraph (d), the relief fund makes a distribution or payment that results in the relief fund having less than 100 percent of its relief investment authority invested in relief investments or held in cash or marketable securities available for investment in relief investments.

The department must notify the relief fund of the reasons for revocation before revoking tax credit certificates pursuant to this paragraph. If, within 30 days after the department sends such notice, the relief fund corrects the reasons given in the notice to the satisfaction of the department, the department may not revoke the tax credit certificates.

(c) The amount by which one or more relief investments by a relief fund in the same impact business exceeds \$3.5 million may not be counted as a relief investment for the purposes of this section, exclusive of capital repaid or redeemed by such small business and reinvested as a relief investment in such small business. A relief investment in an affiliate of an impact business shall be treated as a relief investment in that impact business for the purposes of this paragraph.

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291 (d)1. On or after the sixth anniversary of the closing
 292 date, a relief fund that has invested 100 percent of its relief
 293 investment authority in relief investments may apply to the
 294 department to be decertified as a relief fund. The department
 295 shall respond to and not unreasonably deny the application
 296 within 60 days after receiving the application. In evaluating
 297 the application, the fact that no tax credit certificates have
 298 been revoked with respect to the relief fund shall be evidence
 299 to prove that the relief fund is eligible for decertification.
 300 2. The department shall send notice to the relief fund of
 301 its determination with respect to decertification and reasons
 302 for denial, if applicable.
 303 3. The department may not revoke a tax credit certificate
 304 due to any actions of a relief fund which occur after
 305 decertification, but the department may revoke tax credit
 306 certificates due to the actions of a relief fund which occur
 307 before decertification even if such actions are discovered after
 308 the date of decertification.
 309 (e) A relief fund may request a written opinion from the
 310 department as to whether a business qualifies as an impact
 311 business. The department shall issue a written opinion to the
 312 relief fund within 10 business days after receiving such a
 313 request. If the department determines that the business
 314 qualifies as an impact business or if the department fails to
 315 timely issue the written opinion, the business shall be
 316 considered a small business or impact business for the purposes
 317 of this section.
 318 (6) (a) Each relief fund shall submit a report to the
 319 department on or before April 1 of each year, including the

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320 closing date year, until the calendar year after the relief fund
 321 is decertified. The report must provide an itemization of the
 322 relief fund's relief investments and must include the following
 323 documents and information:
 324 1. A bank statement evidencing each relief investment;
 325 2. The name, location, and industry class of each impact
 326 business that received a relief investment from the relief fund
 327 and evidence that the business qualified as an impact business
 328 at the time the investment was made, if applicable;
 329 3. The jobs created and retained as a result of each relief
 330 investment; and
 331 4. Any other information required by the department.
 332 (b) Each relief fund shall submit a report to the
 333 department on or before the fifth business day after the first
 334 and second anniversaries of the closing date which provides
 335 documentation to prove that the relief fund has met the
 336 investment thresholds required in paragraph (5) (a) and has not
 337 violated any of the other revocation provisions described in
 338 paragraph (5) (b).
 339 (7) The department may adopt rules to implement this
 340 section.
 341 Section 2. This act shall take effect July 1, 2021.

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The Florida Senate

Committee Agenda Request

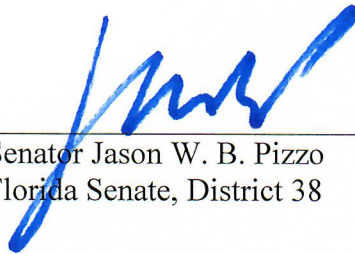
To: Senator Ed Hooper, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: March 3, 2021

I respectfully request that **SM 1544**, relating to Free Trade Agreement/United States and United Kingdom, be placed on the:

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



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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SM 1544

INTRODUCER: Senator Pizzo

SUBJECT: Free Trade Agreement/United States and United Kingdom

DATE: March 12, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vigrass	McKay	CM	Favorable
2.			RC	

I. Summary:

SM 1544 commends Congress for granting Trade Promotion Authority (TPA) to the executive branch. The memorial also encourages the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and encourages Congress to ratify such an agreement.

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

II. Present Situation:

Trade Promotion Authority

Although the President has the authority to negotiate treaties with foreign countries, Congress has the sole authority to regulate international trade.¹

Since 1974, Congress has enacted TPA legislation that defines U.S. negotiating objectives and priorities for trade agreements and establishes consultation and notification requirements for the President to follow throughout the negotiation process.² TPA does not provide new power to the executive branch, but rather, TPA is a legislative procedure through which Congress defines U.S. negotiating objectives and details an oversight process to be used during trade negotiations.³

¹ U.S. CONST. art. 1, s.8

² Office of the United States Trade Representative, *Trade Promotion Authority*, available at <https://ustr.gov/trade-topics/trade-promotion-authority> (last visited Mar. 12, 2021).

³ *Id.*

TPA is only extended for limited periods, so Congress periodically reconsiders legislation to extend it and to outline future negotiation objectives.⁴

Free Trade Agreements

A Free Trade Agreement is an agreement between two or more countries where the parties involved agree on certain trade obligations for the purpose of reducing barriers and providing a more stable and transparent trading environment. It also allows an easier process for U.S. companies to export products or services to partner markets.⁵ All U.S. Free Trade Agreements (FTAs), except the agreement with Jordan, were considered in Congress under TPA.⁶

The U.S. currently has FTAs with 20 countries. The current U.S. FTA partner countries include: Australia; Bahrain; Canada; Chile; Colombia; Costa Rica; Dominican Republic; El Salvador; Guatemala; Honduras; Israel; Jordan; Korea; Mexico; Morocco; Nicaragua; Oman; Panama; Peru; and Singapore.⁷ In 2020, the U.S., Mexico, and Canada renegotiated the North American Free Trade Agreement and entered into force the United States-Mexico-Canada Agreement on July 1, 2020.⁸

US and UK Trade Negotiations

In July of 2017, the U.S. – UK Trade and Investment Working Group was established to provide commercial progress for the UK and U.S. businesses, workers, and consumers to prepare for the UK's withdrawal from the European Union. On May 5, 2020, the U.S. and UK announced the formal launch of trade agreement negotiations.⁹

The U.S. and the UK are each other's largest source of foreign direct investment, with about \$1 trillion invested in each other's economies and over \$250 billion a year in total two-way trade.¹⁰ More than 1.25 million U.S. workers are employed by British companies in the U.S., and over 1.5 million Britons are employed by U.S. affiliates. Additionally, the UK is the United States' 7th largest trading partner and the 5th largest export destination for U.S. goods and services.¹¹

⁴ *Id.*

⁵ International Trade Administration, *U.S. Free Trade Agreements*, available at <https://2016.export.gov/FTA/index.asp> (last visited Mar. 12, 2021).

⁶ Congressional Research Service, *Major Votes on Free Trade Agreements and Trade Promotion Authority* (July 22, 2020), available at <https://fas.org/sgp/crs/row/R45846.pdf> (last visited Mar. 12, 2021).

⁷ Office of the United States Trade Representative, *Free Trade Agreements*, available at <https://ustr.gov/trade-agreements/free-trade-agreements> (last visited Mar. 12, 2021).

⁸ Office of the United States Trade Representative, *United States-Mexico-Canada Agreement*, available at <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement> (last visited Mar. 12, 2021).

⁹ Office of the United States Trade Representative, *U.S.-UK Trade Agreement Negotiations*, available at <https://ustr.gov/countries-regions/europe-middle-east/europe/united-kingdom/us-uk-trade-agreement-negotiations> (last visited Mar. 12, 2021).

¹⁰ Office of the United States Trade Representative, *Joint Statement of USTR Robert Lighthizer and UK Secretary of State for International Trade Elizabeth Truss* (May 5, 2020), available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2020/may/joint-statement-ustr-robert-lighthizer-and-uk-secretary-state-international-trade-elizabeth-truss> (last visited Mar. 12, 2021).

¹¹ U.S. Chamber of Commerce, *U.S.-UK Trade and Investment Ties*, available at <https://www.uschamber.com/international/europe/us-uk-business-council/us-uk-trade-and-investment-ties> (last visited Mar. 12, 2021).

Current Trade Agreements

As part of the U.S. – UK Trade and Investment Working Group, the U.S. and the UK have signed agreements on specific products that were covered by existing agreements the U.S. maintains with the EU.¹² These agreements between the U.S. and UK were entered into force on December 31, 2020, to ensure that there was no disruption in trade for specific products between the U.S. and UK. These new agreements include U.S. – UK Agreement on Trade in Wine; U.S. – UK Agreement on Mutual Recognition of Certain Distilled Spirits/Spirits Drinks; Agreement on Mutual Recognition; and Agreement on the Mutual Recognition of Certificates of Conformity for Marine Equipment.¹³

As of January 1, 2021, EU Trade Agreements no longer apply to the UK. The UK has sought to replicate the effects of previous trade agreements to ensure continuity for UK business.¹⁴ In 2018, the Trump Administration notified Congress, under TPA, of its intent to enter comprehensive FTA negotiations with the UK. The U.S. and UK conducted five rounds of negotiations in 2020, with negotiations pending over outstanding issues.¹⁵ To be considered under the current TPA, an agreement must be concluded by July 1, 2021.¹⁶

III. Effect of Proposed Changes:

SM 1544 commends Congress for granting TPA to the executive branch. The memorial also encourages the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the U.S. and UK, and encourages Congress to ratify such an agreement.

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹² These existing agreements have covered trade with the UK by virtue of the UK's membership in the EU. *See* Office of the United States Trade Representative, *U.S.-UK Trade Agreement Negotiations*, available at <https://ustr.gov/countries-regions/europe-middle-east/europe/united-kingdom/us-uk-trade-agreement-negotiations> (last visited Mar. 12, 2021)

¹³ *Id.*

¹⁴ Gov.UK, *UK trade agreements with non-EU countries*, available at <https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries> (last visited Mar. 12, 2021).

¹⁵ Congressional Research Service, *Brexit and Outlook for US-UK Free Trade Agreement* (Jan. 14, 2021), available at <https://fas.org/sgp/crs/row/IF11123.pdf> (last visited Mar. 12, 2021).

¹⁶ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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

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Senate Memorial

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

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

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

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

Page 1 of 2

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

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

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

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

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

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

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: March 8, 2021

I respectfully request that **Senate Bill #2004**, relating to Broadband Internet, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny", is written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 20

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

15 Mar 21

Meeting Date

2004

Bill Number (if applicable)

Topic Broadband Internet

Amendment Barcode (if applicable)

Name James Mosteller

Job Title Advocacy Associate

Address 215 S. Monroe Street, Suite 420

Phone 8507273712

Street

Tallahassee

FL

32301

City

State

Zip

Email James@afloridapromise.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3-15-21
Meeting Date

SB 2004/
Bill Number (if applicable)

233842/
Amendment Barcode (if applicable)

Topic PROPOSAL) INTERNET

Name TAYLOR PATRICK BIEHL

Job Title Dir. (IT RELATIONS

Address 106 E. COLLEGE AVE SUITE 1110
Street

Phone 850-224-1660

144 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 SPACE EXPLORATION TECHNOLOGIES (PALE X)

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)

3/15/21
Meeting Date

SB 2004
Bill Number (if applicable)

Broadband Internet
Topic

Amendment Barcode (if applicable)

David Sordani
Name

Retired Camp Boss Owner
Job Title

Retired
Citizen of FL
STATESMAN

66 Watersgreen Dr
Address
Street
Orlando FL 32811
City State Zip

Phone 352 805 6597
Email goldendave1955@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Self
Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 2004

INTRODUCER: Commerce and Tourism Committee and Senator Burgess

SUBJECT: Broadband Internet

DATE: March 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 2004 requires the Office of Broadband (Office) within the Department of Economic Opportunity to address additional areas in its strategic plan. Specifically, the Office must develop short-term and long-term goals and strategies to increase the availability of and access to broadband Internet service in Florida; incorporate federal broadband activities that may improve Florida's broadband Internet service; and identify available federal funding for the expansion or improvement of broadband Internet service. The bill requires the Office to complete and submit its strategic plan by June 30, 2022.

Additionally, the bill requires the Office to provide technical and planning assistance to Florida's rural communities' broadband Internet infrastructure projects.

The bill provides an appropriation of \$1.4 million in nonrecurring funds for the fiscal year 2021-2022.

II. Present Situation:

Broadband Internet Deployment

Fixed and mobile broadband Internet services provide access to numerous employment, education, entertainment, and health care opportunities.¹ Access to a sufficient internet connection has only grown more important during the COVID-19 pandemic, which requires many Americans to connect to their family and friends, schooling, work, and even medical appointments over the internet.² While Florida's urban areas are served at a fixed broadband coverage rate of 98 percent, its rural areas are served at a rate of 78.6 percent.³ This disparity is caused primarily by high per-unit construction costs required to build broadband infrastructure across larger swaths of rural geographic areas.⁴ Communities that lack broadband access can have difficulty attracting new capital investment.⁵ Additionally, data indicates that low-income households disproportionately lack access to broadband Internet service, which puts children in those households at risk of falling behind.⁶

Broadband internet is a high speed internet that is faster than dial-up access and is always on; in 2015, the Federal Communications Commission (FCC) defined broadband as 25/3 megabits per second (Mbps), i.e., 25 Mbps (download rate) and 3 Mbps (upload rate).⁷ Consumers can receive Broadband internet through several different technologies, including a digital subscriber line (DSL), a cable modem, fiber, wireless, satellite, and broadband over power lines.⁸

¹ U.S. Federal Communications Commission, *2018 Broadband Deployment Report*, at 1 (Feb. 2, 2018), available at <https://docs.fcc.gov/public/attachments/FCC-18-10A1.pdf> (last visited Mar. 15, 2021).

² Federal Communications Commission, *Emergency Broadband Benefit Report and Order*, pp. 2-3 (Feb. 26, 2021), available at <https://www.fcc.gov/broadbandbenefit> (last visited Mar. 15, 2021).

³ U.S. Federal Communication Commission, *2021 Broadband Deployment Report* at 58. (Jan. 19, 2021), available at <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf> (last visited Mar. 15, 2021). For purposes of this data, 'fixed broadband services' are measured at 25 megabits per second downstream and 3 megabits per second upstream.

⁴ National Telecommunications and Information Administration, American Broadband Initiative, *Milestones Report*, at 11 (Feb. 13, 2019), available at https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/american_broadband_initiative_milestones_report_feb_2019_0.pdf (last visited Mar. 15, 2021). See also, Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, p. 7 (Oct. 25, 2019), available at <https://fas.org/sgp/crs/misc/RL30719.pdf> (last visited Mar. 15, 2021).

⁵ Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, *supra* note 4 at p. 8.

⁶ New American Economy Research Fund, *Back to School: A Look at the Internet Access Gap* (Aug. 6, 2020), <https://research.newamericaneconomy.org/report/internet-access-covid-19/> (last visited Mar. 15, 2021).

⁷ Colby Leigh Rachfal, Congressional Research Service, *State Broadband Initiatives: Selected State and Local Approaches as Potential Models for Federal Initiatives to Address the Digital Divide* (Apr. 6, 2020), available at <https://crsreports.congress.gov/product/pdf/R/R46307> (last visited Mar. 15, 2021), citing Federal Communications Commission, *2019 Broadband Deployment Report*, p. 5 (May 29, 2019), available at <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2019-broadband-deployment-report> (last visited Mar. 15, 2021).

⁸ Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, p. 1 (Oct. 25, 2019), available at <https://fas.org/sgp/crs/misc/RL30719.pdf> (last visited Mar. 15, 2021).

Other State Action

All 50 states have created either a task force, commission, or authority to coordinate broadband expansion.⁹ One organization has studied the work of several state broadband offices authorities, and determined that effective practices include stakeholder outreach and engagement at both the state and local levels; thorough development of a policy framework with well-defined goals; adoption of a state broadband plan; and helping communities identify their broadband goals and needs to better connect them with satisfactory resources.¹⁰

Florida's Office of Broadband

In 2020 the Legislature created the Florida Office of Broadband (Office) within the Department of Economic Opportunity (Department).¹¹ The Office is tasked with developing, marketing, and promoting broadband Internet service in the state.

Specifically, the Office must:

- Create a strategic plan for increasing the use of broadband Internet service in Florida which must include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout the state;
- Build local technology planning teams representing, among others, libraries, schools, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture;
- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved¹² areas of the state through grant programs; and
- Monitor, participate in, and provide input in proceedings of the FCC and other federal agencies related to the geographic availability and deployment of broadband Internet service as necessary to ensure that Florida's rural, unserved, and underserved areas are best positioned to benefit from federal and state broadband deployment programs.¹³

The DEO may apply for and accept federal grant funds, enter into necessary or useful contracts, and establish any committee or workgroup to further the above goals.¹⁴

⁹ NCSL, *State Broadband Task Forces, Commissions or Authorities and Other Broadband Resources* (June 2020), <https://www.ncsl.org/research/telecommunications-and-information-technology/state-broadband-task-forces-commissions.aspx> (last visited Mar. 15, 2021).

¹⁰ Kathryn de Wit, Pew Charitable Trusts, *How States are Expanding Broadband Access* (Feb. 27, 2020), <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/02/how-states-are-expanding-broadband-access> (last visited Mar. 15, 2021).

¹¹ Ch. 2020-26, Laws of Fla.

¹² Section 364.0135(2)(d), F.S., defines the term “underserved” to mean a geographic area of this state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 10 Mbps downstream and at least 1 Mbps upstream

¹³ Section 364.0135(4), F.S.

¹⁴ Section 364.0135(5), F.S.

Federal Broadband Programs

FCC Digital Opportunity Data Collection Program

The FCC collects and monitors data on broadband deployment in order to identify underserved and unserved localities in the United States.¹⁵ In August 2019, the FCC adopted the Digital Opportunity Data Collection Program, which modernized the collection of broadband deployment data by creating granular coverage maps, as opposed to census tract maps, and by implementing a process to accept public data to confirm the maps' accuracy.¹⁶ In March 2020, Congress ratified the FCC's Data Collection Program with passage of the Broadband Data Act, which requires the FCC to establish a semiannual collection of geographically granular broadband coverage data to use to create coverage maps.¹⁷ Congress has allocated \$65 million to the FCC to achieve this mapping project.¹⁸

To create these geographic service maps, the FCC collects information from service providers according to specific reporting standards. The service providers must report their service coverage areas, including where their services were available to residences or businesses, and the speed and latency at which their services are delivered.¹⁹ The FCC also considers public testimony regarding service availability.

FCC's Rural Digital Opportunity Fund

In January 2020, the FCC established the Rural Digital Opportunity Fund (Fund) to fund the deployment of broadband networks in rural America over the next decade. The first phase of the Fund began in 2020 and made available up to \$16 billion to target census blocks that are wholly unserved by fixed broadband speeds of at least 25 megabits per second (Mbps) downstream and 3 Mbps upstream (25/3 Mbps).²⁰ Florida entities received over \$190 million (to be distributed over the next 10 years) in this first round of funding.²¹

Phase II of the Fund will target underserved localities, as identified by the FCC's Digital Opportunity Data Collection Program.²² Using this more precise data, the second phase of FCC

¹⁵ Federal Communications Commission, *Establishing the Digital Opportunity Data Collection* pp. 1-2 (Jan. 19, 2021), WC Docket No. 19-195, available at <https://www.fcc.gov/document/fcc-takes-next-step-collect-more-precise-broadband-mapping-data> (last visited Mar. 15, 2021).

¹⁶ *Id.* at p. 3. See also, Federal Communications Commission, *Digital Opportunity Data Collection Order and Further Notice*, 34 FCC Rcd at 7506, 7521, paras. 2, 3, 35.

¹⁷ 47 U.S.C. §§642(a)(1)(A), (a)(2).

¹⁸ Marguerite Reardon, CNET, *FCC Chair Rosenworcel Launches Broadband Mapping Taskforce* (Feb. 17, 2021), <https://www.cnet.com/news/fcc-chair-rosenworcel-launches-broadband-mapping-task-force/> (last visited Mar. 15, 2021).

¹⁹ Federal Communications Commission, *Establishing the Digital Opportunity Data Collection* pp. 5, 8-16 (Jan. 19, 2021), WC Docket No. 19-195, available at <https://www.fcc.gov/document/fcc-takes-next-step-collect-more-precise-broadband-mapping-data> (last visited Mar. 15, 2021).

²⁰ Federal Communications Commission, *FCC Launches \$20 Billion Rural Digital Opportunity Fund*, (last visited Mar. 15, 2021).

²¹ Federal Communications Commission, *Auction 904 Winning Bidders: Attachment A*, available at <https://www.fcc.gov/document/auction-904-winning-bidders> (last visited Mar. 15, 2021).

²² See, FCC Digital Opportunity Data Collection Program, *supra*.

grants will make available at least \$4.4 billion to target geographic areas where some locations lack access to 25/3 Mbps broadband.²³

FCC's Emergency Broadband Benefit Program

Congress appropriated \$3.2 billion to expand broadband access via subsidies for broadband service to students, families, and unemployed workers.²⁴ Eligible households can receive a discount of up to \$50 per month off their broadband service bill. A household is eligible to receive subsidies under the bill if any member of the household:²⁵ qualifies for the Lifeline program, receives benefits under the free or reduce-price school lunch program, received a Federal Pell Grant, experienced a substantial loss of income in the last year and has a total household income in 2020 below \$99,000 for single filers and \$198,000 for joint filers, or meets criteria to participate in service providers' existing low-income or COVID-19 program.²⁶

U.S. Department of Agriculture ReConnect Program

The U.S. Department of Agriculture (USDA), through its ReConnect Program, offers federal loans, grants, and loan/grant combinations to facilitate broadband deployment to rural areas without access to sufficient broadband service.²⁷ Eligible entities include cooperatives and non-profits, for-profit companies, and state and local governments and their agencies and political subdivisions. Applicants for a grant or a loan/grant combination under the ReConnect Program must submit a scoring sheet by which USDA may analyze nine separate evaluation criteria to score the application. One of the evaluation criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.²⁸

Federal assets to assist with the expansion and promotion of broadband comes from a variety of sources, for example:²⁹

- The FCC's E-Rate Universal Service Fund subsidizes telephone service (including broadband Internet access) to low-income households, high-cost areas, rural healthcare providers, and eligible schools and libraries;³⁰

²³ Federal Communications Commission, *Rural Digital Opportunity Fund Report and Order*, p. 3 (Feb. 7, 2020) WC Docket 19-126, available at <https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0> (last visited Mar. 12, 2021).

²⁴ NCSL, *COVID-19 Economic Relief Bill: Broadband* (Jan. 4, 2021), <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx> (last visited Mar. 15, 2021).

²⁵ Consolidated Appropriations Act of 2021, H.R. 133, 116th Cong., s. 904 (a)(6) (2021).

²⁶ Federal Communications Commission, *Emergency Broadband Benefit*, <https://www.fcc.gov/broadbandbenefit> (last visited Mar. 15, 2021).

²⁷ U.S. Department of Agriculture, *Broadband*, <https://www.usda.gov/broadband> (last visited Mar. 15, 2021).

²⁸ *Id.*

²⁹ See generally, National Telecommunications and Information Administration, American Broadband Initiative, *Progress Report*, (June 2020), available at https://www.ntia.doc.gov/files/ntia/publications/abi_progress_report_june2020.pdf (last visited Mar. 15, 2021).

³⁰ Federal Communications Commission, E-Rate: Universal Service Program for Schools and Libraries (Sep. 16, 2020), <https://www.fcc.gov/consumers/guides/universal-service-program-schools-and-libraries-e-rate> (last visited Mar. 15, 2021). The Universal Service Administrative Company is a not-for-profit designated by the FCC to administer the Universal Service Fund. See also, Universal Service Administrative Co., E-Rate

- The U.S. Department of Housing and Urban Development³¹ and Department of Education³² offer block grants to support broadband infrastructure;
- The U.S. Department of Agriculture’s ReConnect Program offers federal loans and grants to facilitate broadband deployment to rural areas that lack sufficient broadband service;³³
- The Department of the Interior launched a mapping tool to allow service providers to locate federal property available for infrastructure development;³⁴ and
- The National Telecommunications and Information Administration within the U.S. Department of Commerce is working to improve coordination between Federal programs that fund broadband and statewide efforts.³⁵

Additionally, the latest COVID-19 relief bill passed by Congress³⁶ included the following funding to expand broadband Internet access for students, families, and unemployed workers:³⁷

- \$300 million for rural broadband;³⁸
- \$250 million for the FCC’s telehealth program;³⁹
- \$285 million to fund a pilot program to assist with broadband issues at historically Black colleges and universities;⁴⁰
- \$1.9 billion for “rip and replace” efforts related to Huawei and ZTE equipment in U.S. networks;⁴¹ and
- \$1 billion in grants for tribal broadband programs.⁴²

³¹ U.S. Department of Housing and Urban Development, *State CDBG Program Broadband Infrastructure FAQs* (Jan. 7, 2016), <https://files.hudexchange.info/resources/documents/State-CDBG-Program-Broadband-Infrastructure-FAQs.pdf> (last visited Mar. 15, 2021).

³² U.S. Department of Education, Rural and Low-Income School Program, <https://www2.ed.gov/programs/reaprlisp/index.html> (last visited Mar. 15, 2021). See also, Broadband USA, *Funding Guide - Department of Education - Rural and Low-Income School Program*, <https://broadbandusa.ntia.doc.gov/funding-program-details-funding-guide/department-education-rural-low-income-school-program-0> (last visited Mar. 15, 2021).

³³ U.S. Department of Agriculture, *Broadband*, <https://www.usda.gov/broadband> (last visited Mar. 15, 2021).

³⁴ U.S. Department of Interior, *Supporting Broadband Tower Facilities in Rural America on Federal Properties Managed at Interior*, <https://www.doi.gov/broadband> (last visited Mar. 15, 2021).

³⁵ Broadband USA, *State Broadband Leaders Network* (Dec. 19, 2018), <https://broadbandusa.ntia.doc.gov/ntia-resources/state-broadband-leaders-network-sbln> (last visited Mar. 15, 2021).

³⁶ Consolidated Appropriations Act of 2021, H.R. 133, 116th Cong. (2021).

³⁷ NCSL, *COVID-19 Economic Relief Bill: Broadband* (Jan. 4, 2021), <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx> (last visited Mar. 15, 2021).

³⁸ See generally, National Telecommunications and Information Administration, *Overview of Consolidated Appropriations Act, 2021: Broadband Infrastructure Deployment Grants*, <https://broadbandusa.ntia.doc.gov/ntia-common-content/overview-consolidated-appropriations-act-2021> (last visited Mar. 15, 2021). These grants will be available to support infrastructure for the deployment of fixed broadband service in a census block with at least one household or business that does not have access to internet at a speed of 25/3Mbps or higher.

³⁹ Federal Communications Commission, *COVID-19 Telehealth Program* (Feb. 9, 2021), <https://www.fcc.gov/covid-19-telehealth-program> (last visited Mar. 15, 2021).

⁴⁰ See generally, National Telecommunications and Information Administration, *Office of Minority Broadband Initiative*, <https://www.ntia.doc.gov/category/minority-broadband-initiative> (last visited Mar. 15, 2021).

⁴¹ B. Braverman, M. Browne, and J. Mark, *Let Her Rip! FCC Adopts Remove-and-Replace Rules* (Jan. 15, 2021), <https://www.dwt.com/insights/2021/01/fcc-huawei-zte-rip-and-replace-rules> (last visited Mar. 15, 2021). See also, Federal Communications Commission, *Second Report and Order in re: Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs* (Dec. 10, 2020), WC Docket No. 18-89, available at <https://docs.fcc.gov/public/attachments/FCC-20-176A1.pdf> (last visited Mar. 15, 2021).

⁴² See generally, National Telecommunications and Information Administration, *NTIA Announces Tribal Consultations on New Program to Increase Broadband Access Across Indian Country* (Feb. 5, 2021), <https://www.ntia.gov/blog/2021/ntia-announces-tribal-consultations-new-program-increase-broadband-access-across-indian> (last visited Mar. 15, 2021).

III. Effect of Proposed Changes:

The Office is currently required to draft a strategic plan for increasing the use of broadband Internet service in Florida. **Section 1** of the bill adds additional subject matter areas that the Office must address the strategic plan, specifically:

- Short and long-term goals that increase the availability of, and access to broadband Internet service in Florida;
- Federal broadband activities, specifically those implemented by the FCC, that may improve broadband Internet service in Florida; and
- Federal funding sources that may be used to expand or improve broadband Internet service in Florida.

The bill also requires that the Office complete and submit its strategic plan to the Governor, Chief Justice of the Supreme Court, the President of the Florida Senate, and the Speaker of the Florida House of Representatives by June 30, 2022.

Section 1 of the bill expands the Office's duties to include the provision of technical and planning assistance relating to broadband infrastructure to rural communities.

Section 2 appropriates \$1.4 million in nonrecurring funds from the State Economic Enhancement and Development Trust Fund to the Department of Economic Opportunity for the 2021-2022 fiscal year. The Department must use these funds to commission a broadband feasibility study and to develop a strategic plan as required by s. 364.0135, F.S.

Section 3 provides that the bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The Office's planning and execution of its duties may help localities secure funding for broadband Internet service, which will positively impact its citizens' business and personal needs. Additionally, communities with sufficient broadband Internet service may better attract or retain business.

C. Government Sector Impact:

The bill appropriates \$1.4 million in nonrecurring funds from the State Economic Enhancement and Development Trust Fund to the Department to commission a broadband feasibility study and develop a broadband strategic plan, as required by s. 364.0135, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 364.0135 of the Florida Statutes.

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

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

CS by Commerce and Tourism on March 15, 2021:

The CS appropriates \$1.4 million in nonrecurring funds for the fiscal year 2021-2022 from the State Economic Enhancement and Development Trust Fund to the Department for the specific purposes of commissioning a broadband feasibility study and developing a strategic plan.

B. Amendments:

None.



233844

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Burgess) recommended the following:

Senate Amendment (with title amendment)

Between lines 80 and 81
insert:

Section 2. For the 2021-2022 fiscal year, the sum of \$1.4 million in nonrecurring funds is appropriated from the State Economic Enhancement and Development Trust Fund to the Department of Economic Opportunity for the purpose of commissioning a broadband feasibility study and developing a strategic plan as required in s. 364.0135, Florida Statutes.



233844

11

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

13 And the title is amended as follows:

14 Between lines 13 and 14

15 insert:

16 providing an appropriation;

By Senator Burgess

20-01385-21

20212004__

1 A bill to be entitled
 2 An act relating to broadband Internet; amending s.
 3 364.0135, F.S.; requiring the Florida Office of
 4 Broadband's strategic plan to include short-term and
 5 long-term goals for increasing the availability of and
 6 access to broadband Internet service in this state;
 7 providing requirements for the development of the
 8 plan; requiring the updated plan to be submitted to
 9 the Governor, the Chief Justice of the Supreme Court,
 10 and the Legislature by a specified date; requiring the
 11 plan to be updated biennially; requiring the office to
 12 provide technical and planning assistance related to
 13 broadband infrastructure to rural communities;
 14 providing an effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. Subsection (4) of section 364.0135, Florida
 19 Statutes, is amended to read:
 20 364.0135 Promotion of broadband adoption; Florida Office of
 21 Broadband.—
 22 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of
 23 Broadband is created within the Division of Community
 24 Development in the department for the purpose of developing,
 25 marketing, and promoting broadband Internet services in the
 26 state. The office, in the performance of its duties, shall do
 27 all of the following:
 28 (a) Create a strategic plan that has short-term and long-
 29 term goals and strategies for increasing and improving the

Page 1 of 3

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

20-01385-21

20212004__

30 availability of and access to use of broadband Internet service
 31 in this the state. In development of the plan, the department
 32 shall incorporate applicable federal broadband activities,
 33 including any efforts or initiatives of the Federal
 34 Communications Commission, to improve broadband Internet service
 35 in this state. The plan must include a process to review and
 36 verify public input regarding transmission speeds and
 37 availability of broadband Internet service throughout the state.
 38 The plan must also identify available federal funding sources
 39 for the expansion or improvement of broadband. The strategic
 40 plan must be submitted to the Governor, the Chief Justice of the
 41 Supreme Court, the President of the Senate, and the Speaker of
 42 the House of Representatives by June 30, 2022. The strategic
 43 plan must be updated biennially thereafter.
 44 (b) Build and facilitate local technology planning teams or
 45 partnerships with members representing cross-sections of the
 46 community, which may include, but are not limited to,
 47 representatives from the following organizations and industries:
 48 libraries, K-12 education, colleges and universities, local
 49 health care providers, private businesses, community
 50 organizations, economic development organizations, local
 51 governments, tourism, parks and recreation, and agriculture.
 52 (c) Provide technical and planning assistance related to
 53 broadband infrastructure to rural communities.
 54 (d) (e) Encourage the use of broadband Internet service,
 55 especially in the rural, unserved, or underserved communities of
 56 the state through grant programs having effective strategies to
 57 facilitate the statewide deployment of broadband Internet
 58 service. For any grants to be awarded, priority must be given to

Page 2 of 3

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

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59 projects that:

60 1. Provide access to broadband education, awareness,
61 training, access, equipment, and support to libraries, schools,
62 colleges and universities, health care providers, and community
63 support organizations.

64 2. Encourage the sustainable adoption of broadband in
65 primarily underserved areas by removing barriers to entry.

66 3. Work toward encouraging investments in establishing
67 affordable and sustainable broadband Internet service in
68 underserved areas of the state.

69 4. Facilitate the development of applications, programs,
70 and services, including, but not limited to, telework,
71 telemedicine, and e-learning to increase the usage of, and
72 demand for, broadband Internet service in the state.

73 (e)~~(d)~~ Monitor, participate in, and provide input in
74 proceedings of the Federal Communications Commission and other
75 federal agencies related to the geographic availability and
76 deployment of broadband Internet service in the state as
77 necessary to ensure that this information is accurately
78 presented and that rural, unserved, and underserved areas of the
79 state are best positioned to benefit from federal and state
80 broadband deployment programs.

81 Section 2. This act shall take effect July 1, 2021.

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Commerce Committee Judge:

Started: 3/15/2021 3:30:45 PM

Ends: 3/15/2021 5:12:12 PM

Length: 01:41:28

3:30:45 PM
3:30:47 PM Meeting called to order
3:30:52 PM Roll call
3:30:59 PM Quorum present
3:31:18 PM Chair opening remarks
3:32:02 PM Tab 3, SB 572 by Sen. Baxley
3:33:20 PM Questions:
3:33:24 PM Sen. Powell to sponsor
3:33:35 PM Sponsor response
3:33:50 PM Follow up
3:34:02 PM Sponsor response
3:34:37 PM Sen. Powell
3:34:44 PM Further response of sponsor
3:35:23 PM Speaker, Tom Grogan, FL Structural Engineering Assn for the bill
3:36:18 PM Speaker, Barney Bishop, FL Structural Engineers Assn. for the bill
3:37:33 PM Sen. Powell question to Mr. Bishop
3:38:00 PM Response by Mr. Grogan in his expertise
3:38:50 PM Jeff Kottcamp, FL Structural Engineers Assn., waive in support
3:39:12 PM Speaker, David Serdar
3:40:17 PM No debate
3:40:23 PM Sponsor waive close
3:40:28 PM Roll call
3:40:31 PM SB 572 passes favorably
3:40:52 PM Tab 4, CS/SB 574 by Sen. Baxley
3:41:31 PM Jeff Kottcamp waive in support
3:41:52 PM Tom Grogan waive in support
3:41:57 PM Barney Bishop waive in support
3:42:14 PM No debate
3:42:21 PM Sponsor waive close
3:42:26 PM Roll call
3:42:30 PM CS/SB 574 passes favorably
3:42:53 PM Tab 5, SB 1560 by Sen. Ausley
3:46:50 PM Amendment 186496 by Sen. Ausley
3:47:06 PM Amendment to Amendment 510320 by Sen. Ausley
3:47:54 PM Speaker Charlie Dudley, Florida Internet and Television Association, for information
3:49:26 PM Sponsor waive close to Amendment to Amendment
3:49:43 PM Amendment to Amendment 510320 is adopted
3:49:50 PM Amendment to Amendment 138988 by Sen. Gruters
3:50:35 PM Sen. Pizzo, question
3:51:09 PM Response by Sen. Gruters
3:51:40 PM Sen. Pizzo for follow up
3:52:08 PM Response by Sen. Gruters
3:52:37 PM Speaker, Charlie Dudley, FL Internet and Television Assn., for information
3:55:00 PM Speaker, Chris Doolin, Small County Coalition for the bill
3:56:23 PM Debate on Amendment to Amendment
3:56:31 PM Question, Sen. Pizzo
3:57:40 PM Sen. Taddeo question to sponsor and debate
3:58:42 PM Reponse from sponsor
3:58:50 PM Sen. Gruters close on his Amendment to Amendment
3:59:34 PM Amendment to Amendment 138988 is adopted
4:00:13 PM Back on Amendment 186496, Sponsor to explain main amendment
4:00:35 PM No questions

4:00:41 PM Taylor Patrick Biehl, Space Exploration Technologies, waive in support on main amendment
4:01:10 PM Sen. Ausley waive close
4:01:24 PM Amendment 186496 adopted
4:01:29 PM Chris Doolin, Small County Coalition for the bill
4:02:59 PM James Mosteller, Foundation for FL's Future waive in support
4:03:09 PM Jeff Scala, FL Association of Counties waive in support
4:03:18 PM Tara Taggart FL League of Cities waive in support
4:03:35 PM Sen. Ausley close on bill
4:04:11 PM Roll call on SB 1560
4:04:25 PM SB 1560 passes as CS favorably
4:04:46 PM Tab 7, SB 616 by Sen. Gruters
4:05:27 PM Justin Thames, FL Institute of CPAs in support of bill
4:05:51 PM Sen. Gruters waive close
4:05:58 PM Roll call
4:06:02 PM SB 616 passes favorably
4:06:21 PM Tab 1, SB 1948 by Sen. Bean
4:09:56 PM Amendment 486480 by Sen. Bean
4:11:00 PM Sen. Bean explains amendment
4:11:40 PM Sen. Taddeo question for sponsor
4:12:07 PM Response of sponsor
4:12:24 PM Sen. Powell question to sponsor
4:13:00 PM Response of sponsor
4:13:50 PM Follow up, Sen. Powell
4:14:04 PM Response of sponsor
4:14:54 PM Another question of Sen. Powell
4:15:07 PM Response of sponsor
4:15:18 PM Further conversation, Sen. Powell
4:15:59 PM Response of sponsor
4:16:37 PM Sen. Powell further questions
4:16:57 PM Response of sponsor
4:17:15 PM Chair calls Ex. Dir Dane Eagle, DEO, in response to Sen. Powell's questions
4:19:32 PM Further questions of Sen. Powell
4:19:47 PM Response by Ex Dir. Eagle
4:20:20 PM Back and forth
4:21:33 PM Sen. Torres questions to Executive Director Eagle
4:22:12 PM Response
4:22:19 PM Back and forth of Sen. Torres and Mr. Eagle
4:23:12 PM In debate:
4:23:21 PM Sen. Burgess
4:23:36 PM Sen. Bean closes on amendment
4:23:44 PM Amendment 486480 adopted
4:23:53 PM Back on bill as amended:
4:24:03 PM Sen. Torres is questions
4:24:08 PM Response of sponsor
4:24:22 PM Sen. Taddeo question to sponsor
4:24:47 PM Reponse of sponsor
4:26:10 PM Follow up question
4:26:31 PM Response of sponsor
4:26:41 PM Further question of Sen. Taddeo
4:27:35 PM Response of sponsor
4:28:17 PM Ida Eskamani, Florida Rising, speaking for bill
4:30:29 PM Karen Woodall, Florida center for Fiscal and Economic Policy, speaking for the bill
4:33:40 PM In debate:
4:33:45 PM Sen. Powell
4:35:26 PM Sen. Pizzo
4:37:15 PM Sen. Burgess
4:38:02 PM Sen. Torres
4:39:03 PM Sen. Diaz
4:39:57 PM Sen. Garcia
4:41:00 PM Sen Wright
4:41:06 PM Sen. Bean closes on bill
4:41:43 PM Roll call on SB 1948

4:41:56 PM SB 1948 passes CS favorably
4:42:12 PM Tab 2, SB 1046 by Sen. Bean
4:43:41 PM Amendment 708560 by Sen. Bean
4:44:05 PM Blake Mathesie, FSU Law Student, speaking for amendment
4:44:45 PM Questions on amendment:
4:44:52 PM Sen. Pizzo
4:45:39 PM Reponse of sponsor
4:46:09 PM Debate on amendment: none
4:46:17 PM Amendment 708560 adopted, Back on the bill as amended
4:46:26 PM Sen. Pizzo question
4:46:58 PM Response of sponsor
4:47:13 PM Barney Bishop waive in support
4:47:23 PM Jorge Chamizo, FL Assn. of Criminal Defense Lawyers waive in support
4:47:35 PM Blake Mathesie, FSU Law Student speaking for bill
4:51:24 PM Debate on bill as amended
4:51:32 PM Sponsor waive close
4:51:37 PM Roll call
4:51:40 PM SB 1046 passes CS favorably
4:52:01 PM Tab 10, SB 2004 by Sen. Burgess
4:53:09 PM Amendment 233844 by Sen. Burgess
4:53:48 PM Taylor P. Biehl, Space Exploration Tech., waive in support
4:54:13 PM Sen. Burgess waive close
4:54:21 PM Amendment 233844 adopted, Back on bill as amended
4:54:25 PM Sen. Torres question of sponsor
4:54:52 PM Response of sponsor
4:55:31 PM James Mosteller, Foundation of FL's Future waive in support
4:55:41 PM Speaker, David Serdar, waive in support
4:56:08 PM Debate on bill as amended
4:56:16 PM Sen. Burgess close on bill
4:56:34 PM Roll call on SB 2004
4:56:44 PM SB 2004 passes CS favorably
4:57:02 PM Tab 9, SM 1544 by Sen. Pizzo
4:58:02 PM Sen. Burgess question
4:58:13 PM Response of sponsor
4:58:51 PM Sen. Hutson question/comment
4:59:07 PM Sen. Pizzo response
4:59:33 PM Chair comments
5:00:04 PM Debate on bill:
5:00:12 PM Sen. Powell
5:00:24 PM Sen. Pizzo comments
5:01:09 PM Sen. Pizzo closed on bill
5:01:18 PM Roll call
5:01:21 PM SM 1544 passes favorably
5:01:44 PM Tab 6, SB 302 by Sen. Tadddeo
5:03:18 PM Amendment Late-filed 503806 taken up
5:03:40 PM Sen. Taddeo explains amendment
5:04:12 PM Debate on amendment:
5:04:18 PM Sen. Pizzo
5:04:23 PM Response of sponsor
5:04:39 PM Back and forth
5:04:54 PM Sen. Taddeo waive close on amendment
5:04:56 PM Amendment 503806 adopted, Back on bill as amended
5:05:05 PM Carolyn Johnson, Florida Chamber of Commerce, waive in support
5:05:22 PM Pamela Burch-Fort, NAACP Florida State Conference, waive in support
5:05:38 PM Debate on bill as amended: none
5:05:51 PM Sen. Taddeo close on bill
5:07:06 PM Roll call
5:07:09 PM SB 302 passes CS favorably
5:07:33 PM Tab 8, SB 1444 by Sen. Wright
5:09:03 PM Slater Bayliss, Advantage Capital waive in support
5:09:13 PM Brewster Bevis, Associated Industries waive in support
5:09:47 PM Sen. Wright waive close

5:10:07 PM Roll call
5:10:10 PM SB 1444 passes favorably
5:10:11 PM Chair announced that appearance cards came late for David Serdar, waiving in support of Bills, 574 and 616
5:10:12 PM Motions: Sen. Hutson to be shown Voting After Yea on Tabs 5, 7, Sen. Gruters Voting After Yea on Tabs 3, 4 and Sen. Pizzo Voting After Yea on Tab 7
5:10:14 PM Motions adopted
5:11:48 PM Sen. Garcia moved adjournment
5:11:57 PM Meeting adjourned