

Tab 1	SB 356 by Avila; (Similar to H 01255) Notaries Public						
281962	A	S	RCS	CM, Avila	Delete L.242 - 328:	01/24 09:25 AM	
Tab 2	SB 542 by Ingoglia; (Identical to H 00543) Boards of Directors of Banks						
191300	D	S	L RCS	CM, Ingoglia	Delete everything after	01/23 05:33 PM	
Tab 3	SB 998 by Collins; (Similar to CS/H 00815) Sale of Liquefied Petroleum Gas						
Tab 4	SB 1198 by Martin; (Similar to H 01189) Corporate Actions						
400960	A	S	L RCS	CM, Martin	Delete L.121 - 947:	01/23 05:33 PM	
Tab 5	SB 1218 by Burgess; (Similar to H 01147) Broadband						
Tab 6	SB 1420 by Burgess; (Identical to H 01419) Department of Commerce						
180646	A	S	L RCS	CM, Burgess	Delete L.544 - 677:	01/23 05:33 PM	
Tab 7	SB 1748 by Brodeur; (Identical to H 01599) Tourist Development Tax						
Tab 8	SB 58 by Stewart; (Similar to H 00475) Sales Tax Holiday for Micromobility Vehicles and Related Personal Safety Equipment						
258478	D	S	FAV	CM, Stewart	Delete everything after	01/23 05:33 PM	
Tab 9	SB 1260 by Trumbull; (Similar to H 01289) Verification of Reemployment Assistance Benefit Eligibility						
Tab 10	SB 1492 by Trumbull; (Compare to CS/H 00433) Employment Regulations						
709582	A	S	L RCS	CM, Trumbull	Delete L.21 - 54.	01/23 05:33 PM	
Tab 11	SB 1540 by Torres; Workforce Retention						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Trumbull, Chair
Senator Wright, Vice Chair

MEETING DATE: Tuesday, January 23, 2024

TIME: 1:00—3:00 p.m.

PLACE: Toni Jennings Committee Room, 110 Senate Building

MEMBERS: Senator Trumbull, Chair; Senator Wright, Vice Chair; Senators Gruters, Rodriguez, Stewart, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 356 Avila (Similar H 1255)	Notaries Public; Requiring that certain notarial certificates contain the printed names of specified individuals; prohibiting a notary public from falsely notarizing the signature of a person who is not in that notary public's presence, either in person or online; deleting a provision that prohibits a notary public from notarizing a signature on a document of a person who is not, at the time of the notarial act, physically present or present by means of audio-video communication technology and that provides civil penalties; requiring a notary public to keep at least one electronic journal; requiring the Department of State to retain jurisdiction over the journal records for a specified timeframe for a certain purpose, etc. CM 01/23/2024 Fav/CS ATD FP	Fav/CS Yeas 5 Nays 0
2	SB 542 Ingoglia (Identical H 543)	Boards of Directors of Banks; Disqualifying certain persons from serving on the board of directors of a bank under certain circumstances, etc. BI 01/09/2024 Favorable CM 01/23/2024 Fav/CS RC	Fav/CS Yeas 6 Nays 0
3	SB 998 Collins (Similar CS/H 815)	Sale of Liquefied Petroleum Gas; Defining the terms "licensed location" and "remote bulk storage"; authorizing up to two remote bulk storage locations for specified licenses; authorizing the Department of Agriculture and Consumer Services to condemn unsafe equipment and order the immediate removal of liquefied petroleum gas from certain bulk storage locations; requiring persons servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems to include specified information on certain documents, etc. CM 01/23/2024 Favorable EN FP	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Tuesday, January 23, 2024, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1198 Martin (Similar H 1189)	Corporate Actions; Providing that a defective corporate action is not void or voidable in certain circumstances; requiring the board of directors to take certain action to ratify a defective corporate action; providing quorum and voting requirements for the ratification of certain defective corporate actions; requiring that notice be given to shareholders of certain corporate action taken by the board of directors; authorizing certain persons and entities to file certain motions, etc. CM 01/23/2024 Fav/CS RC	Fav/CS Yeas 5 Nays 0
5	SB 1218 Burgess (Similar H 1147)	Broadband; Extending the date through which a promotional rate and related terms for certain wireline attachments of broadband facilities to municipal electric utility poles are effective, etc. RI 01/16/2024 Favorable CM 01/23/2024 Favorable RC	Favorable Yeas 6 Nays 0
6	SB 1420 Burgess (Identical H 1419)	Department of Commerce; Providing that amendments are deemed withdrawn if the local government fails to transmit the comprehensive plan amendments to the department, in its role as the state land planning agency, within a certain time period; revising the duties of the Florida Sports Foundation; requiring the department to establish a direct-support organization; specifying that the organization is a direct-support organization of the department and a corporation not for profit; authorizing the organization to take certain actions regarding administration of property and expenditures, etc. CM 01/23/2024 Fav/CS ATD RC	Fav/CS Yeas 6 Nays 0
7	SB 1748 Brodeur (Identical H 1599)	Tourist Development Tax; Prohibiting a plan for tourist development from allocating more than a certain percentage of the tax revenue to an individual project unless the governing board of the county approves such use by supermajority vote, etc. CM 01/23/2024 Favorable FT AP	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Tuesday, January 23, 2024, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 58 Stewart (Similar H 475)	Sales Tax Holiday for Micromobility Vehicles and Related Personal Safety Equipment; Providing a sales tax exemption during a specified period on the retail sale of micromobility vehicles and related personal safety equipment; defining the terms "micromobility vehicle" and "related personal safety equipment", etc. CM 01/23/2024 Fav/CS FT AP	Fav/CS Yeas 6 Nays 0
9	SB 1260 Trumbull (Similar H 1289)	Verification of Reemployment Assistance Benefit Eligibility; Citing this act as the "Promoting Work, Deterring Fraud Act of 2024"; providing requirements for reemployment assistance benefit conditions for non-Florida residents; removing requirements that certain skills assessments of claimants be voluntary; revising circumstances under which the department disqualifies claimants from benefits; requiring the department to verify claimants' identities before paying benefits; requiring the department to procure an online workforce search and match tool for a specified purpose, etc. CM 01/23/2024 Favorable ATD FP	Favorable Yeas 4 Nays 2
10	SB 1492 Trumbull (Compare CS/H 433)	Employment Regulations; Prohibiting political subdivisions from maintaining a certain minimum wage; prohibiting political subdivisions from controlling, affecting, or awarding preferences relating to wages or employment benefits of entities contracting with the political subdivision; prohibiting a political subdivision from requiring employers to meet or provide heat exposure requirements beyond those required by law; prohibiting a political subdivision from giving preference to or considering or seeking information from an employer in a competitive solicitation based on or relating to an employer's heat exposure requirements, etc. CM 01/23/2024 Fav/CS CA RC	Fav/CS Yeas 4 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Tuesday, January 23, 2024, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 1540 Torres	Workforce Retention; Designating the “Florida Jobs Retention Act of 2024”; defining the terms “department” and “employer”; requiring employers that intend to relocate out of state or cease operation to notify the Department of Business and Professional Regulation within a specified timeframe before taking such action; providing that such employers are ineligible for state grants, loans, or tax benefits for a specified timeframe; requiring the head of each state agency to ensure that certain services are performed by state contractors within the state, etc. CM 01/23/2024 Favorable AEG FP	Favorable Yeas 6 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
12	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated. Secretary of Commerce Kelly, James Alexander (Tallahassee)		
		Pleasure of Governor	Recommend Confirm Yeas 6 Nays 0

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 356

INTRODUCER: Commerce and Tourism and Senator Avila

SUBJECT: Notaries Public

DATE: January 24, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	Fav/CS
2.			ATD	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 356 makes the following changes with respect to notaries public:

- Requires notarial certificates to include the printed name of a person whose signature is being notarized, and printed names of all signatories, including principals and witnesses.
- Prohibits a notary public from falsely notarizing a signature of a person who is not in the presence of a notary public, either in person or online, at the time the signature is notarized.
- Creates criminal penalties for prohibited acts by notaries public, with enhanced penalties for violations pertaining to real estate transactions.

The bill requires notaries public to keep tangible journals of all notarizations performed, specifies duties related to maintaining such journals, and delineates circumstances in which other parties may have access to entries in the journals.

The bill also modifies a provision relating to a recording notification service by clerks of circuit courts, to provide that if a property appraiser receives notice from a property owner or clerk of the circuit court and reasonably determines that a recorded deed is fraudulent, the property appraiser may refuse to update the owner of record on the county's tax rolls. However, the property appraiser must make a notation in their records that a possible conveyance has been recorded.

The bill takes effect July 1, 2024.

II. Present Situation:

Notaries Public in Florida

A notary public is a public officer under the Florida Constitution,¹ and “an impartial agent of the state.”² As a public officer, notaries public are constitutionally required to give a bond (as required by law) and swear or affirm to uphold the Constitutions of the United States and Florida.³ Notaries public are appointed and commissioned by the Governor to four-year terms,⁴ and are authorized under Florida law to perform six basic duties:⁵

- Administer oaths or affirmations;⁶
- Take acknowledgments;⁷
- Solemnize marriages;⁸
- Attest to photocopies;⁹
- Verify vehicle identification numbers (VINs);¹⁰ and
- Certify the contents of a safe-deposit box.¹¹

A notary public may only exercise the foregoing duties within the physical boundaries of the State of Florida.¹² Generally, a notary public may not charge more than \$10 per notarial act and may not charge a fee for notarizing a vote-by-mail ballot.¹³

A notary public may provide an electronic signature that is unique, verifiable, under the notary public’s sole control, and attached to a document in a way revealing any subsequent alteration.¹⁴ When an electronic signature must be accompanied by a notary public seal, the requirement is met when the notary public includes his or her full name as provided in the notary public’s application for commission, the words “Notary Public State of Florida,” the expiration date of the notary public’s commission, and the notary public’s commission number.¹⁵ The seal must also be applied to all notarized paper documents using a rubber stamp containing the foregoing information.¹⁶ The rubber stamp seal must be affixed to the notarized paper document in

¹ Art. II, § 5(c), Fla. Const.

² 58 AM. JUR. 2D Notaries Public § 1.

³ See s. 117.01(3) & (7), F.S. ((3) requiring that, as part of oath, the applicant must swear he or she has read ch. 117, F.S., and knows the duties, responsibilities, limitations, and powers of a notary; (7) requiring that notaries give a bond in the amount of \$7,500 in the event the notary breaches duties, of which is to be kept on file with the Department of State). Section 117.01(1), F.S., requires a notary to be able to read, write, and understand the English language.

⁴ Section 117.01(1), F.S.

⁵ Executive Office of the Governor, State of Florida, *Governor’s Reference Manual for Notaries Public*, p. 13 (Dec. 13, 2016), available at https://www.flgov.com/wp-content/uploads/Notary_Reference_Manual_12.13.16.pdf (last visited Jan. 24, 2024).

⁶ Section 117.03, F.S.

⁷ Section 117.04, F.S.

⁸ Section 117.045, F.S.

⁹ Section 117.05(12)(a), F.S.

¹⁰ Section 319.23(3)(a)2., F.S.

¹¹ Section 655.94(1), F.S.

¹² Section 117.01(1), F.S.

¹³ Section 117.05(2), F.S.

¹⁴ Section 117.021(2), F.S.

¹⁵ Section 117.021(3), F.S.

¹⁶ Section 117.05(3), F.S.

photographically reproducible black ink. Every notary public must print, type, or stamp below his or her signature on a paper document his or her name exactly as commissioned.¹⁷

Additionally, as a public officer, a notary public is held to high standards and is subject to discipline, including suspension by the Governor and removal by the Senate, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony.¹⁸ A notary public is also subject to criminal penalties for certain unlawful uses of the notary public commission (such as notarizing his or her own signature),¹⁹ and liable to pay fees for certain civil infractions (such as notarizing a document when the signor is not in the notary public's presence).²⁰

Becoming a Notary Public in Florida

In order to be eligible to become a notary public in Florida, a person must:

- Be at least 18 years of age;
- Be a Florida resident or permanent resident alien with a recorded declaration of domicile;
- Maintain Florida residence throughout the appointment; and
- Be able to read, write, and understand the English language.²¹

To apply to be a notary public in Florida, the application form provided by the Department of State must be completed, signed, sworn, and filed along with the appropriate applications fees.²² Because the bond must be attached, the bonding agency usually submits the application in both a paper and electronic format.²³ The oath of office and notary public bond must accompany the notary public's application when filed with the Department of State.²⁴ Applicants must also provide the following as part of the application:

- Personal identification information;
- Affidavit of good character from a reference who has known the applicant for at least one year and is not a relative;
- Ten-year history of any licenses and discipline;
- Statement regarding whether the applicant has ever been convicted of a felony or had his or her civil rights restored; and
- Any other information requested by the Governor's office to confirm eligibility.²⁵

Notary's Duty to Confirm Identity

One of the notary public's primary duties is to verify the identity of the person who is signing a document. If the person is personally known to the notary public or provides "satisfactory

¹⁷ *Id.*

¹⁸ FLA. CONST., Art. IV, s. 7.

¹⁹ Section 117.05(1), F.S. (providing violation is a third degree felony). *See also* s. 117.05(3)(d), (7), and (8), F.S.; s. 117.105, F.S.; s. 117.107(9), F.S.

²⁰ Section 117.107(9), F.S. (providing violation is a civil infraction punishable by a fine of up to \$5,000).

²¹ *See supra* note 5.

²² Section 117.01(2), F.S. (requiring \$25 application fee, \$10 commission fee, and \$4 educational surcharge, except that the commission fee is waived for veterans with a 50 percent disability).

²³ *See supra* note 5 at p. 7.

²⁴ Section 117.01(2), F.S.

²⁵ *Id.*

evidence” by producing valid identification or witnesses or both verifying that the person is who he or she claims to be, the notary public may notarize the document.²⁶

Prohibited Acts

Section 117.107, F.S., specifies prohibited acts by notaries. A notary public may not:

- Use a name or initial in signing certificates other than that by which the notary public is commissioned.
- Sign notarial certificates using a facsimile signature stamp unless the notary public has a physical disability that limits or prohibits his or her ability to make a written signature and unless the notary public has first submitted written notice to the Department of State with an exemplar of the facsimile signature stamp. This does not apply to or prohibit the use of an electronic signature and seal by a notary public who is registered as an online notary public to perform an electronic or online notarization in accordance with ch. 117, F.S.
- Affix his or her signature to a blank form of affidavit or certificate of acknowledgment and deliver that form to another person with the intent that it be used as an affidavit or acknowledgment.
- Take the acknowledgment of or administer an oath to a person whom the notary public actually knows to have been adjudicated mentally incapacitated by a court of competent jurisdiction, where the acknowledgment or oath necessitates the exercise of a right that has been removed, and where the person has not been restored to capacity as a matter of record.
- Notarize a signature on a document if it appears that the person is mentally incapable of understanding the nature and effect of the document at the time of notarization.
- Take the acknowledgment of a person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does understand.
- Change anything in a written instrument after it has been signed by anyone.
- Amend a notarial certificate after the notarization is complete.
- Notarize a signature on a document if the person whose signature is being notarized does not appear before the notary public either by means of physical presence or by means of audio-video communication technology as authorized under part II of ch. 117, F.S., at the time the signature is notarized. Any notary public who violates this prohibition is guilty of a civil infraction, punishable by penalty not exceeding \$5,000, and such violation constitutes malfeasance and misfeasance in the conduct of official duties.
- Notarize a signature on a document if the document is incomplete or blank. However, an endorsement or assignment in blank of a negotiable or nonnegotiable note and the assignment in blank of any instrument given as security for such note is not deemed incomplete.
- Notarize a signature on a document if the person whose signature is to be notarized is the spouse, son, daughter, mother, or father of the notary public.
- Notarize a signature on a document if the notary public has a financial interest in or is a party to the underlying transaction; however, a notary public who is an employee may notarize a signature for his or her employer, and this employment does not constitute a financial interest in the transaction nor make the notary a party to the transaction as long as he or she does not

²⁶ Section 117.05(5), F.S.

receive a benefit other than his or her salary and the fee for services as a notary public authorized by law.

Recording Notification Service

In 2023, in response to an increase in fraudulent real property attempted conveyances in which a fraudster executes and records a deed purporting to convey title to or an interest in real property to himself or herself or a third party without the property owner's knowledge or consent, the Legislature enacted legislation in an attempt to minimize the potential for fraudulent real property deeds.²⁷ Pursuant to s. 28.47, F.S., on or before July 1, 2024, each clerk of the circuit court must create, maintain, and operate a free recording notification service which is open to all persons wishing to register for the service. The clerk must ensure that registration for the recording notification service is possible through an electronic registration portal. When a land record is recorded for a monitored identity, a recording notification must be sent within 24 hours after the recording to each registrant who is subscribed to receive recording notifications for that monitored identity. The notification must contain:

- Information identifying the monitored identity for which the land record was filed;
- The land record's recording date;
- The official record book and page number or instrument number assigned to the land record by the clerk;
- Instructions for electronically searching for and viewing the land record using the assigned official record book and page number or instrument number; and
- A phone number at which the clerk's office may be contacted during normal business hours with questions related to the recording notification.

There is no right or cause of action against, and no civil liability on the part of, the clerk with respect to the creation, maintenance, or operation of the recording notification service, and nothing in s. 28.47, F.S., may be construed to require the clerk to provide or allow access to a record or information which is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution or to otherwise violate the public records laws of Florida.

Section 28.47, F.S., also applies to county property appraisers who have adopted an electronic land record notification service before July 1, 2023. The property appraiser may use a verification process for persons wishing to register for the electronic land record notification service to ensure the integrity of the process. For purposes of the property appraiser electronic land notification service, "land record" means a deed or other document purporting to convey real property. When a land record is recorded for a monitored identity, the property appraiser must send a recording notification to each registrant who is subscribed to receive recording notifications for that monitored identity within 24 hours after the instrument has been reflected on the county tax roll.

²⁷ Chapter 2023-238, Laws of Fla.

III. Effect of Proposed Changes:

Public Notary Requirements

Section 1 amends s. 117.05, F.S., to require that when notarizing a signature, a notary public must complete a jurat or notarial certificate that must contain, among other elements, the *printed* name of the person whose signature is being notarized. The notarial certificate must also contain the printed names of all signatories, including principals and witnesses.

Section 2 amends s. 117.105, F.S., to prohibit a notary public from:

- Falsely notarizing a signature on a written or electronic document of a person who is not in the presence of the notary public, either in person or online, at the time the signature is notarized;²⁸ or,
- Falsely *or fraudulently* taking or receiving an acknowledgment of the signature on a written *or electronic document*.

A notary public who violates the above provisions commits a felony of the third degree, punishable as provided in s. 775.082, F.S., (sentencing), s. 775.083, F.S., (fines), or s. 775.084, F.S., (habitual offenders).²⁹ If the document notarized under these circumstances pertains to a real estate transaction or any other transfer of real property, the notary public commits a felony of the second degree.³⁰

Section 3 amends s. 117.107, F.S., by deleting subsection (9), which provides that a notary public may not notarize a signature on a document if the person whose signature is being notarized does not appear before the notary public either by means of physical presence or by means of audio-video communication technology at the time the signature is notarized, and specifies the penalty for a notary public who violates this provision.

The bill also specifies the criminal penalty for a notary public who commits a violation of any of the prohibited acts specified in s. 117.107, F.S. A notary public who commits a violation of s. 117.107, F.S., commits a misdemeanor of the first degree.³¹ A notary public who commits a violation of s. 117.107, F.S., with the intent to defraud commits a felony of the third degree. If the violation of s. 117.107, F.S., pertains to a real estate transaction or any other transfer of real property, the notary public commits a felony of the second degree.

²⁸ “In the presence of” and “electronic” have the same meaning as provided in s. 117.201, F.S. “In the presence of” means in the physical presence of another person; or outside of the physical presence of another person, but able to see, hear, and communicate with the person by means of audio-video communication technology. “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

²⁹ A “felony of the third degree” is punishable by a term of imprisonment not to exceed 5 years, and a fine not to exceed \$5,000.

³⁰ A “felony of the second degree” is punishable by a term of imprisonment not to exceed 15 years, and a fine not to exceed \$10,000.

³¹ A “misdemeanor of the first degree” is punishable by a term of imprisonment not to exceed 1 year, and a fine not to exceed \$1,000. See ss. 775.082 and 775.083, F.S.

Journal of Notarizations

Section 4 creates s. 117.109, F.S., to provide that a notary public must keep one or more tangible journals of all notarizations performed by the notary public. For each notarization, the journal entry must contain all of the following:

- The date and time of the notarization.
- The type of notarial act performed, whether an oath or acknowledgment.
- The type, the title, or a description of the electronic recording or proceeding.
- The name and address of each principal or witness involved in the transaction or proceeding.
- Evidence of identity of each principal involved in the transaction or proceeding in either of the following forms:
 - A statement that the person is personally known to the notary public; or
 - A notation of the type of government-issued identification credential the person provided to the notary public;
 - An indication that the government-issued identification credential satisfied the credential analysis; and
 - An indication that the principal satisfactorily passed the identity proofing.
- The fee, if any, charged for the notarization

The notary public must maintain a backup record of the journal, and protect from unauthorized access the journal, the backup record, and any other records the notary public receives.

The Department of State must retain jurisdiction over the journal records for a period of 10 years after the date of the notarial acts for the purpose of investigating possible notarial misconduct. A notary public must also maintain the journal for at least 10 years after the date of the notarial act.

A notary public, a guardian of an incapacitated notary public, or the personal representative of a notary public may contract with a secure repository, in accordance with any rules established under ch. 117, F.S., and delegate to the repository the notary public's duty to maintain the journal, provided that the Department of State is notified of such delegation of retention duties within 30 days thereafter, including the effective date of the delegation and the address and contact information for the repository.

If a notary public delegates to a secure repository their duty to maintain the journal, the notary public must make an entry in their journal identifying such repository and notify the Department of State. During any delegation, the secure repository must fulfill the responsibilities of the notary public to provide copies or access under s. 117.111, F.S., created by section 5 of the bill.

An omitted or incomplete entry in the journal does not invalidate the notarial act performed, but may be introduced as evidence to establish violations of ch. 117, F.S., as evidence of possible fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, or unconscionability; or for other evidentiary purposes.

Section 5 creates s. 117.111, F.S., to specify further requirements concerning the use of journals by notaries public. A notary public is required to:

- Keep the journal secure and under their sole control. The notary public may not allow another person to use the notary public's journal or allow another person who is providing services to a notary public to facilitate the performance of notarizations.
- Notify an appropriate law enforcement agency and the Department of State of any unauthorized use of or compromise to the security of the journal within 7 days after the discovery of the unauthorized use or compromise to security.
- Provide copies of pertinent entries in the journal upon the request of:
 - The Department of State, pursuant to a notary misconduct investigation; or
 - Any other persons or entities, pursuant to a subpoena, a court order, a law enforcement investigation, or any other lawful inspection demand.³²

Property Appraiser and Recording Notification Service

Section 6 amends s. 28.47, F.S., to provide that if a property appraiser receives notice from the property owner or clerk of the circuit court and reasonably determines that the recorded deed is fraudulent, the property appraiser may refuse to update the owner of record on the county's tax rolls. However, the property appraiser must make a notation in his or her records that a possible conveyance has been recorded.

Effective Date

The bill takes effect July 1, 2024.

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:

Section 6 of the bill, which modifies a provision relating to a recording notification service by clerks of circuit courts, to provide that if a property appraiser receives notice from a property owner or clerk of the circuit court and reasonably determines that a

³² The bill provides that these provisions may not be construed to prevent a notary public from designating a secure repository.

recorded deed is fraudulent, the property appraiser may refuse to update the owner of record on the county's tax rolls, may cause the bill to violate the single-subject requirement in Article III, Section 6, of the Florida Constitution.³³ A legislative act violates the single-subject requirement when the provisions in the bill are not logically connected to one another, are not necessary to achieve the purpose of the legislation or "are designed to accomplish dissociated objects of legislative effort."³⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The journal of notarizations will presumably come at some cost to notaries public.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 117.05, 117.105, 117.107, and 28.47 of the Florida Statutes.

This bill creates sections 117.109 and 117.111 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 January 23, 2024

The committee substitute removes the requirement that notaries public must keep secure "electronic" journals of all notarizations performed, and provides that a notary public must keep one or more "tangible" journals of all notarizations performed.

³³ Art. III, § 6, Fla. Const.

³⁴ See *Heggs v. State*, 759 So. 2d 620, 626 (Fla. 2000); *State v. Petruzzelli*, 374 So. 2d 13, 15 (Fla. 1979), *State ex rel-Landis v. Thompson*, 120 Fla. 860,892-3, 16350.270, 283 (1935).

B. Amendments:

None.

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



281962

LEGISLATIVE ACTION

Senate . House
Comm: RCS .
01/24/2024 .
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The Committee on Commerce and Tourism (Avila) recommended the following:

Senate Amendment (with title amendment)

Delete lines 242 - 328

and insert:

Section 4. Section 117.109, Florida Statutes, is created to read:

117.109 Journal of notarizations.—

(1) A notary public shall keep one or more tangible journals of all notarizations performed by the notary public. For each notarization, the journal entry must contain all of the

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following:

(a) The date and time of the notarization.

(b) The type of notarial act performed, whether an oath or acknowledgment.

(c) The type, the title, or a description of the electronic recording or proceeding.

(d) The name and address of each principal or witness involved in the transaction or proceeding.

(e) Evidence of identity of each principal involved in the transaction or proceeding in either of the following forms:

1. A statement that the person is personally known to the notary public; or

2.a. A notation of the type of government-issued identification credential the person provided to the notary public;

b. An indication that the government-issued identification credential satisfied the credential analysis; and

c. An indication that the principal satisfactorily passed the identity proofing.

(f) The fee, if any, charged for the notarization.

(2) The notary public shall take reasonable steps to:

(a) Maintain a backup record of the journal required by subsection (1).

(b) Protect from unauthorized access the journal, the backup record, and any other records the notary public receives.

(3) The Department of State shall retain jurisdiction over the journal records for a period of 10 years after the date of the notarial acts for the purpose of investigating possible notarial misconduct.

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(a) A notary public shall maintain the journal required under subsection (1) for at least 10 years after the date of the notarial act.

(b) A notary public, a guardian of an incapacitated notary public, or the personal representative of a notary public may contract with a secure repository, in accordance with any rules established under this chapter, and delegate to the repository the notary public's duty to maintain the journal, provided that the department is notified of such delegation of retention duties within 30 days thereafter, including the effective date of the delegation and the address and contact information for the repository.

(c) If a notary public delegates to a secure repository his or her duty to maintain the journal required under this section, the notary public must make an entry in his or her journal identifying such repository and notify the department as required in this subsection. During any delegation under this subsection, the secure repository shall fulfill the responsibilities of the notary public to provide copies or access under s. 117.111.

(4) An omitted or incomplete entry in the journal does not invalidate the notarial act performed, but may be introduced as evidence to establish violations of this chapter; as evidence of possible fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, or unconscionability; or for other evidentiary purposes.

Section 5. Section 117.111, Florida Statutes, is created to read:

117.111 Use of journal.—

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(1) A notary public shall do all of the following:

(a) Keep the journal maintained pursuant to s. 117.109 secure and under his or her sole control. The notary public may not allow another person to use the notary public's journal or allow another person who is providing services to a notary public to facilitate the performance of notarizations.

(b) Notify an appropriate law enforcement agency and the Department of State of any unauthorized use of or compromise to the security of the journal within 7 days after the discovery of the unauthorized use or compromise to security.

(2) A notary public shall provide copies of pertinent entries in the journal upon the request of any of the following:

(a) The department, pursuant to a notary misconduct investigation.

(b) Any other persons or entities, pursuant to a subpoena, a court order, a law enforcement investigation, or any other lawful inspection demand.

(3) This section may not be construed to prevent a notary public from designating a secure repository under s. 117.109.

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

And the title is amended as follows:

Delete lines 17 - 53

and insert:

notary public to keep at least one tangible journal;
requiring a journal entry for each notarization;
providing requirements for such entries; requiring the notary public to take reasonable steps to maintain a backup record and to protect the journal, the backup

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98 record, and other records from unauthorized access;
99 requiring the Department of State to retain
100 jurisdiction over the journal records for a specified
101 timeframe for a certain purpose; requiring the notary
102 public to maintain the journal for a specified
103 timeframe; authorizing the notary public or specified
104 individuals on his or her behalf to contract with a
105 secure repository to maintain the journal; providing
106 that such repository must fulfill specified duties of
107 the notary public with respect to the journal;
108 requiring the notary public to send, within a
109 specified timeframe, a certain notification to the
110 department of such delegation of retention duties;
111 requiring the notary public to make an entry
112 identifying the repository and providing notice to the
113 department; requiring the secure repository to fulfill
114 certain responsibilities of the notary public during
115 any delegation; providing that an omitted or
116 incomplete entry in the journal does not invalidate
117 the notarial act, but may be used for specified
118 evidentiary purposes; creating s. 117.111, F.S.;
119 requiring a notary public to keep the journal secure
120 and notify, within a specified timeframe, the
121 appropriate law enforcement agency and the department
122 of any unauthorized use of or compromise to the
123 security of the journal; prohibiting the notary public
124 from allowing another person to use the notary
125 public's journal or from allowing another person who
126 is providing services to a notary public to facilitate

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127 the performance of notarizations; requiring the notary
128 public to provide copies of pertinent entries upon the

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By Senator Avila

39-00547-24

2024356__

1 A bill to be entitled
 2 An act relating to notaries public; amending s.
 3 117.05, F.S.; requiring that certain notarial
 4 certificates contain the printed names of specified
 5 individuals; amending s. 117.105, F.S.; prohibiting a
 6 notary public from falsely notarizing the signature of
 7 a person who is not in that notary public's presence,
 8 either in person or online; defining terms; providing
 9 criminal penalties; making technical changes; amending
 10 s. 117.107, F.S.; deleting a provision that prohibits
 11 a notary public from notarizing a signature on a
 12 document of a person who is not, at the time of the
 13 notarial act, physically present or present by means
 14 of audio-video communication technology and that
 15 provides civil penalties; providing criminal
 16 penalties; creating s. 117.109, F.S.; requiring a
 17 notary public to keep at least one electronic journal;
 18 requiring a journal entry for each notarization;
 19 providing requirements for such entries; requiring the
 20 notary public to take reasonable steps to maintain a
 21 backup record and to protect the journal, the backup
 22 record, and other records from unauthorized access;
 23 requiring the Department of State to retain
 24 jurisdiction over the journal records for a specified
 25 timeframe for a certain purpose; requiring the notary
 26 public to maintain the journal for a specified
 27 timeframe; authorizing the notary public or specified
 28 individuals on his or her behalf to contract with a
 29 secure repository to maintain the journal; providing

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30 that such repository must fulfill specified duties of
 31 the notary public with respect to the journal;
 32 requiring the notary public to send, within a
 33 specified timeframe, a certain notification to the
 34 department of such delegation of retention duties;
 35 requiring the notary public to make an entry
 36 identifying the repository and providing notice to the
 37 department; requiring the secure repository to fulfill
 38 certain responsibilities of the notary public during
 39 any delegation; providing that an omitted or
 40 incomplete entry in the journal does not invalidate
 41 the notarial act, but may be used for specified
 42 evidentiary purposes; creating s. 117.111, F.S.;
 43 requiring a notary public to keep the electronic
 44 journal secure and notify, within a specified
 45 timeframe, the appropriate law enforcement agency and
 46 the department of any unauthorized use of or
 47 compromise to the security of the journal; prohibiting
 48 the notary public from allowing another person to use
 49 the notary public's electronic journal or from
 50 allowing another person who is providing services to a
 51 notary public to facilitate the performance of
 52 notarizations; requiring the notary public to provide
 53 electronic copies of pertinent entries upon the
 54 request of specified entities; providing construction;
 55 amending s. 28.47, F.S.; authorizing a property
 56 appraiser to refuse to update an owner of record on
 57 the county's tax rolls under specified circumstances;
 58 requiring the property appraiser to make a certain

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notation in the records in the event such refusal is made; providing an effective date.

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

Section 1. Paragraph (e) of subsection (4) and subsection (13) of section 117.05, Florida Statutes, are amended to read:
117.05 Use of notary commission; unlawful use; notary fee; seal; duties; employer liability; name change; advertising; photocopies; penalties.—

(4) When notarizing a signature, a notary public shall complete a jurat or notarial certificate in substantially the same form as those found in subsection (13). The jurat or certificate of acknowledgment shall contain the following elements:

(e) The printed name of the person whose signature is being notarized. It is presumed, absent such specific notation by the notary public, that notarization is to all signatures.

(13) The following notarial certificates are sufficient for the purposes indicated, if completed with the information required by this chapter. The specification of forms under this subsection does not preclude the use of other forms. However, the notarial certificate must contain the printed names of all signatories, including principals and witnesses.

(a) For an oath or affirmation:

STATE OF FLORIDA
COUNTY OF

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Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this day of, ...(year)..., by ...(name of person making statement)....

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary Public)...
Personally Known..... OR Produced Identification.....
Type of Identification Produced.....

(b) For an acknowledgment in an individual capacity:

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this day of, ...(year)..., by ...(name of person acknowledging)....

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary Public)...
Personally Known..... OR Produced Identification.....
Type of Identification Produced.....

(c) For an acknowledgment in a representative capacity:

STATE OF FLORIDA
COUNTY OF

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The foregoing instrument was acknowledged before me by means of
☐ physical presence or ☐ online notarization, this day of
, ...(year)..., by ...(name of person)... as ...(type of
 authority, . . . e.g. officer, trustee, attorney in fact)... for
 ...(name of party on behalf of whom instrument was executed)....

...(Signature of Notary Public - State of Florida)...
 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
 Personally Known..... OR Produced Identification.....
 Type of Identification Produced.....

Section 2. Section 117.105, Florida Statutes, is amended to
 read:

117.105 False or fraudulent acknowledgments; penalties for
~~prohibited acts~~ penalty.—

(1) A notary public may not do any of the following: who
(a) Falsely notarize a signature on a written or electronic
document of a person who is not in the presence of the notary
public, either in person or online, at the time the signature is
notarized. For the purposes of this paragraph, the terms “in the
presence of” and “electronic” have the same meaning as provided
in s. 117.201.

(b) Falsely or fraudulently take takes an acknowledgment of
 an instrument as a notary public. ~~or~~

(c) Who Falsely or fraudulently make makes a certificate as
 a notary public. ~~or~~

(d) Who Falsely or fraudulently take or receive takes or
~~receives~~ an acknowledgment of the signature on a written or
electronic document ~~instrument is guilty of a felony of the~~

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~~third degree, punishable as provided in s. 775.082, s. 775.083,~~
~~or s. 775.084.~~

(2) A notary public who violates subsection (1) commits a
felony of the third degree, punishable as provided in s.
775.082, s. 775.083, or s. 775.084. If the document notarized
under these circumstances pertains to a real estate transaction
or any other transfer of real property, the notary public
commits a felony of the second degree, punishable as provided in
s. 775.082, s. 775.083, or s. 775.084.

Section 3. Section 117.107, Florida Statutes, is amended to
 read:

117.107 Prohibited acts; penalty.—

(1) A notary public may not use a name or initial in
 signing certificates other than that by which the notary public
 is commissioned.

(2) A notary public may not sign notarial certificates
 using a facsimile signature stamp unless the notary public has a
 physical disability that limits or prohibits his or her ability
 to make a written signature and unless the notary public has
 first submitted written notice to the Department of State with
 an exemplar of the facsimile signature stamp. This subsection
 does not apply to or prohibit the use of an electronic signature
 and seal by a notary public who is registered as an online
 notary public to perform an electronic or online notarization in
 accordance with this chapter.

(3) A notary public may not affix his or her signature to a
 blank form of affidavit or certificate of acknowledgment and
 deliver that form to another person with the intent that it be
 used as an affidavit or acknowledgment.

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(4) A notary public may not take the acknowledgment of or administer an oath to a person whom the notary public actually knows to have been adjudicated mentally incapacitated by a court of competent jurisdiction, where the acknowledgment or oath necessitates the exercise of a right that has been removed pursuant to s. 744.3215(2) or (3), and where the person has not been restored to capacity as a matter of record.

(5) A notary public may not notarize a signature on a document if it appears that the person is mentally incapable of understanding the nature and effect of the document at the time of notarization.

(6) A notary public may not take the acknowledgment of a person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does understand.

(7) A notary public may not change anything in a written instrument after it has been signed by anyone.

(8) A notary public may not amend a notarial certificate after the notarization is complete.

(9) ~~A notary public may not notarize a signature on a document if the person whose signature is being notarized does not appear before the notary public either by means of physical presence or by means of audio-video communication technology as authorized under part II of this chapter at the time the signature is notarized. Any notary public who violates this subsection is guilty of a civil infraction, punishable by penalty not exceeding \$5,000, and such violation constitutes malfeasance and misfeasance in the conduct of official duties. It is no defense to the civil infraction specified in this~~

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~~subsection that the notary public acted without intent to defraud. A notary public who violates this subsection with the intent to defraud is guilty of violating s. 117.105.~~

~~(10)~~ A notary public may not notarize a signature on a document if the document is incomplete or blank. However, an endorsement or assignment in blank of a negotiable or nonnegotiable note and the assignment in blank of any instrument given as security for such note is not deemed incomplete.

(10)~~(11)~~ A notary public may not notarize a signature on a document if the person whose signature is to be notarized is the spouse, son, daughter, mother, or father of the notary public.

(11)~~(12)~~ A notary public may not notarize a signature on a document if the notary public has a financial interest in or is a party to the underlying transaction; however, a notary public who is an employee may notarize a signature for his or her employer, and this employment does not constitute a financial interest in the transaction nor make the notary a party to the transaction under this subsection as long as he or she does not receive a benefit other than his or her salary and the fee for services as a notary public authorized by law. For purposes of this subsection, a notary public who is an attorney does not have a financial interest in and is not a party to the underlying transaction evidenced by a notarized document if he or she notarizes a signature on that document for a client for whom he or she serves as an attorney of record and he or she has no interest in the document other than the fee paid to him or her for legal services and the fee authorized by law for services as a notary public.

(12) A notary public who commits a violation of this

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 233 section commits a misdemeanor of the first degree, punishable as
 234 provided in s. 775.082 or s. 775.083. A notary public who
 235 commits a violation of this section with the intent to defraud
 236 commits a felony of the third degree, punishable as provided in
 237 s. 775.082, s. 775.083, or s. 775.084. If the violation of this
 238 section pertains to a real estate transaction or any other
 239 transfer of real property, the notary public commits a felony of
 240 the second degree, punishable as provided in s. 775.082, s.
 241 775.083, or s. 775.084.

242 Section 4. Section 117.109, Florida Statutes, is created to
 243 read:

244 117.109 Electronic journal of notarizations.—

245 (1) A notary public shall keep one or more secure
 246 electronic journals of all notarizations performed by the notary
 247 public. For each notarization, the electronic journal entry must
 248 contain all of the following:

249 (a) The date and time of the notarization.

250 (b) The type of notarial act performed, whether an oath or
 251 acknowledgment.

252 (c) The type, the title, or a description of the electronic
 253 recording or proceeding.

254 (d) The name and address of each principal or witness
 255 involved in the transaction or proceeding.

256 (e) Evidence of identity of each principal involved in the
 257 transaction or proceeding in either of the following forms:

258 1. A statement that the person is personally known to the
 259 notary public; or

260 2.a. A notation of the type of government-issued
 261 identification credential the person provided to the notary

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 262 public;
 263 b. An indication that the government-issued identification
 264 credential satisfied the credential analysis; and
 265 c. An indication that the principal satisfactorily passed
 266 the identity proofing.
 267 (f) The fee, if any, charged for the notarization.
 268 (2) The notary public shall take reasonable steps to:
 269 (a) Maintain a backup record of the electronic journal
 270 required by subsection (1).
 271 (b) Protect from unauthorized access the electronic
 272 journal, the backup record, and any other records the notary
 273 public receives.
 274 (3) The Department of State shall retain jurisdiction over
 275 the electronic journal records for a period of 10 years after
 276 the date of the notarial acts for the purpose of investigating
 277 possible notarial misconduct.
 278 (a) A notary public shall maintain the electronic journal
 279 required under subsection (1) for at least 10 years after the
 280 date of the notarial act.
 281 (b) A notary public, a guardian of an incapacitated notary
 282 public, or the personal representative of a notary public may
 283 contract with a secure repository, in accordance with any rules
 284 established under this chapter, and delegate to the repository
 285 the notary public's duty to maintain the electronic journal,
 286 provided that the department is notified of such delegation of
 287 retention duties within 30 days thereafter, including the
 288 effective date of the delegation and the address and contact
 289 information for the repository.
 290 (c) If a notary public delegates to a secure repository his

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or her duty to maintain the electronic journal under this section, the notary public must make an entry in his or her electronic journal identifying such repository and notify the department as required in this subsection. During any delegation under this subsection, the secure repository shall fulfill the responsibilities of the notary public to provide copies or access under s. 117.111.

(4) An omitted or incomplete entry in the electronic journal does not invalidate the notarial act performed, but may be introduced as evidence to establish violations of this chapter; as evidence of possible fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, or unconscionability; or for other evidentiary purposes.

Section 5. Section 117.111, Florida Statutes, is created to read:

117.111 Use of electronic journal.—

(1) A notary public shall do all of the following:

(a) Keep the electronic journal secure and under his or her sole control, which includes access protection using passwords or codes under the control of the notary public. The notary public may not allow another person to use the notary public's electronic journal or allow another person who is providing services to a notary public to facilitate the performance of notarizations.

(b) Notify an appropriate law enforcement agency and the Department of State of any unauthorized use of or compromise to the security of the electronic journal within 7 days after the discovery of the unauthorized use or compromise to security.

(2) A notary public shall provide electronic copies of

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pertinent entries in the electronic journal upon the request of any of the following:

(a) The department, pursuant to a notary misconduct investigation.

(b) Any other persons or entities, pursuant to a subpoena, a court order, a law enforcement investigation, or any other lawful inspection demand.

(3) This section may not be construed to prevent a notary public from designating a secure repository under s. 117.109.

Section 6. Subsection (6) of section 28.47, Florida Statutes, is amended to read:

28.47 Recording notification service.—

(6) This section also applies to county property appraisers who have adopted an electronic land record notification service before July 1, 2023.

(a) 1. The property appraiser may use a verification process for persons wishing to register for the electronic land record notification service to ensure the integrity of the process.

2. If the property appraiser receives notice from the property owner or clerk of the circuit court and reasonably determines that the recorded deed is fraudulent, the property appraiser may refuse to update the owner of record on the county's tax rolls. However, the property appraiser shall make a notation in his or her records that a possible conveyance has been recorded.

(b) For purposes of this subsection only, and notwithstanding paragraph (1)(a) and subsection (3):

1. "Land record" means a deed or other document purporting to convey real property.

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349 2. When a land record is recorded for a monitored identity,
350 the property appraiser must send a recording notification to
351 each registrant who is subscribed to receive recording
352 notifications for that monitored identity within 24 hours after
353 the instrument being reflected on the county tax roll.

354 Section 7. This act shall take effect July 1, 2024.



SENATOR Bryan Avila
39th District

THE FLORIDA
SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Government Oversight and Accountability, Chair
Appropriations
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Ethics and Elections
Health Policy
Select Committee on Resiliency
Joint Select Committee on Collective Bargaining

January 8, 2024

Honorable Senator Jay Trumbull
Committee on Commerce and Tourism

Honorable Chair Trunbull:

I respectfully request SB 356 Notaries Public be placed on the next committee agenda.

SB 356 Notaries Public requires that certain notarial certificates contain the printed names of specified individuals; prohibiting a notary public from falsely notarizing the signature of a person who is not in that notary public's presence, either in person or online; deleting a provision that prohibits a notary public from notarizing a signature on a document of a person who is not, at the time of the notarial act, physically present or present by means of audio-video communication technology and that provides civil penalties; requiring a notary public to keep at least one electronic journal; requiring the Department of State to retain jurisdiction over the journal records for a specified timeframe for a certain purpose
Thank you for your consideration.

Sincerely,

Senator Bryan Avila
Florida Senate, District 39

CC: Todd McKay, Staff Director
Renita Hayes, Committee Administrative Assistant
Andrea Gainey, Legislative Assistant
Kimberly Rogers, Legislative Assistant

REPLY TO:
□ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
□ 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039
Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

1/23/2024

Meeting Date

Commerce & Tourism

Committee

Name Edda Ivonne Fernandez - AARP

Phone 954-850-7262

Address 215 S, Monroe Street

Email ifernandez@aarp.org

Street

Tallahassee

FL

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

AARP

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

DUPLICATE

356

Meeting Date

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Jess McCarty, Executive Assistant County Attorney Phone 305-979-7110

Address 111 NW 1st Street, Suite 2800 Email jmm2@miamidade.gov

Street

Miami

City

FL

State

33128

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Miami-Dade County

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 542

INTRODUCER: Commerce and Tourism and Senator Ingoglia

SUBJECT: Boards of Directors of Banks

DATE: January 24, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 542 prohibits any person who served as an executive officer or director of a financial institution within the 5 year period before the date such financial institution became insolvent, from serving as an executive officer or director of any state financial institution for 5 years after the date of such insolvency.

Any person who is disqualified under the aforementioned prohibition, is also prohibited from having direct or indirect control over the selection or appointment of an executive officer or director to any state financial institution through contact, trust, or by operation of law during such disqualification period. However, the prohibitions in the bill do not apply when an executive officer or director demonstrates to the Office of Financial Regulation (OFR), and the OFR determines, that the actions or omissions of such executive officer or director were not a contributing cause to the insolvency.

The bill takes effect upon becoming a law.

II. Present Situation:

A bank fails when it must be closed, which generally happens when a bank becomes insolvent because it is unable to meet its monetary obligations.¹ The Federal Deposit Insurance Corporation (FDIC) reports that there have been 566 bank failures from 2001 through 2023,² five of which were in 2023.³

Dual Oversight of Depository Institutions

An institution must have a federal or state charter to accept deposits. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency within the U.S. Department of the Treasury or as state banks by a state regulator.⁴

The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, credit unions and related entities.⁵ The Office of Financial Regulation (OFR) licenses and regulates 200 financial entities, including 69 state-chartered banks as of June 2023.⁶ There are also 26 nationally-chartered banks and 3 federally-chartered savings institutions operating in Florida as of September 2023.⁷

Due to federal preemptions, a state's regulatory powers in relation to federally chartered institutions is limited. However, the state may exercise powers within their exceptions to exclusive federal visitorial authority. Such exceptions are those recognized by federal law and courts of law, or exceptions created by the U.S. Congress.⁸ Banks chartered by the OFR must become members of the Federal Reserve or obtain insurance from the Federal Deposit Insurance Corporation.⁹ Thus, state-chartered banks are subject to a dual-regulatory system.¹⁰

The OFR must examine the condition of each state-chartered financial institution at least every 18 months, and may conduct more frequent examinations as needed that are based on risks associated with a licensee, such as prior examination results or significant operational changes.¹¹

¹ The FDIC, *When a Bank Fails – Facts for Depositors, Creditors, and Borrowers*, July 28, 2014, available at [FDIC: When a Bank Fails - Facts for Depositors, Creditors, and Borrowers](#) (last visited Jan. 24, 2024) (hereinafter cited as “FDIC: When a Bank Fails – Facts for Depositors, Creditors, and Borrowers”).

² The FDIC, *Bank Failures in Brief – Summary 2001 through 2023*, Nov. 3, 2023, available at [FDIC: Bank Failures in Brief](#) (last visited Jan. 24, 2024).

³ The five banks are: (a) Citizens Bank on November 3, 2023, (b) Heartland Tri-State Bank on July 28, 2023, (c) First Republic Bank on May 1, 2023, (d) Signature Bank on March 12, 2023, and (e) Silicon Valley Bank on March 10, 2023. The FDIC, *Failed Bank List*, Oct. 1, 2000, available at [FDIC: Failed Bank List](#) (last visited Jan. 24, 2024).

⁴ Congressional Research Service, *Introduction to Financial Services: Banking*, p. 1, Jan. 5, 2023, available at <https://crsreports.congress.gov/product/pdf/IF/IF10035> (last visited Jan. 24, 2024).

⁵ Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes: Ch. 655, financial institutions generally; Ch. 657, credit unions; Ch. 658, banks and trust companies; Ch. 660, trust business; Ch. 662, family trust companies; Ch. 663, international banking; Ch. 665, relating to associations; and Ch. 667, savings banks.

⁶ The OFR, *Fast Facts* (2023 ed.), available at [FastFacts.pdf \(flofr.gov\)](#) (last visited Jan. 24, 2024).

⁷ The FDIC, *FDIC State Tables*, Aug. 31, 2022, available at [FDIC: State Tables](#) (last visited Jan. 24, 2024).

⁸ 12 C.F.R. § 7.4000 (2011).

⁹ Sections 658.22 and 658.38, F.S.

¹⁰ The OCC, *Who Regulates My Bank?*, available at [Who Regulates My Bank? \(helpwithmybank.gov\)](#) (last visited Jan. 24, 2024).

¹¹ Section 655.045(1), F.S.

When a state-chartered financial institution also has a federal regulator, the OFR may accept an examination performed by the federal regulator¹² or the regulators may conduct a joint examination.¹³

Laws Relating to Directors and Executive Officers

Once a financial institution obtains a charter, one of the regulator's primary tasks is to ensure solvency, which is achieved by conducting financial exams of its licensed entities. Financial institutions also need approval from their regulator to make changes in their upper management, merge with another company, pay dividends to shareholders, engage in material transactions with subsidiaries and affiliates, or make significant changes to their business operations.¹⁴

Qualifications

Section 658.33, F.S., provides that the board of directors of a bank or trust company must consist of at least five directors. Each director must be elected, except in cases when a director is appointed to fill a vacancy.¹⁵ Elections are held at the annual meeting of stockholders or at a special meeting.¹⁶

A majority of the directors must be United States citizens during their whole term of service, and a majority of the directors must have resided in Florida for at least 1 year preceding their election and must remain residents during their time in office.¹⁷ Within 30 days following the annual meeting or any other meeting at which directors or officers are elected, the bank or trust company must submit to the office the names and residence addresses of those persons on a form adopted by the commission and provided by the office.¹⁸

Each director, upon assuming office, must acknowledge that he or she is familiar with his or her responsibilities as a director and that he or she will diligently and honestly administer the affairs of the bank or trust company and will not knowingly violate, or willfully permit to be violated, any of the provisions of the financial institutions codes or pertinent rules of the commission.¹⁹

¹² The FDIC may conduct examinations or take authorized investigatory steps to determine compliance with applicable law and regulations. 12 U.S.C. § 1820.

¹³ Section 655.045(1)(a), F.S.

¹⁴ For a detailed discussion of the regulatory framework, see, Congressional Research Service, *Who Regulates Whom? An Overview of the U.S. Financial Regulatory Framework*, March 10, 2020, available at <https://crsreports.congress.gov/product/pdf/R/R44918/7> (last visited Jan. 24, 2024). See also ss. 655.0385, 655.0386, 655.03855, and 655.412, F.S.

¹⁵ Section 658.33(1), F.S.

¹⁶ *Id.* However, if authorized by the articles of incorporation, a majority of the full board of directors may, at any time during the year following the annual meeting of shareholders, increase the number of directors of the bank or trust company by not more than two and appoint persons to fill the resulting vacancies.

¹⁷ Section 658.33(2), F.S. In the case of a bank or trust company with total assets of less than \$150 million, at least one, and in the case of a bank or trust company with total assets of \$150 million or more, two of the directors who are not also officers of the bank or trust company must have had at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the last 5 years.

¹⁸ Section 658.33(3), F.S.

¹⁹ Section 658.33(4), F.S. The signed copy of such oath must be filed with the office within 30 days after election.

The president, chief executive officer, or any other person, regardless of title, who has equivalent rank or leads the overall operations of the bank or trust company must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 5 years.²⁰

Disapproval of Directors and Executive Officers

Federal law

An insurance depository institution²¹ or a depository institution holding company²² must notify the appropriate Federal banking agency²³ of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution or holding company at least 30 days (or such other time as prescribed by the Federal banking agency) before such addition if:²⁴

- The entity is noncompliant with minimum capital requirements or is otherwise in a troubled condition;²⁵ or
- The agency determines, within its specified authority, that prior notice is appropriate.

The appropriate Federal banking agency must issue a notice of disapproval if the competence, experience, character, or integrity of an individual indicates that it would not be in the best interests of the depositors of the depository institution or the public to permit the individual to be a director or be employed as a senior executive officer of the institution.²⁶ If the appropriate Federal banking agency issues a notice of disapproval before the end of a specified notice period, the entity may not add the individual to the board of directors.²⁷

²⁰ See s. 658.33(5), F.S. This requirement may be waived by the OFR after considering the overall experience and expertise of the proposed officer and the condition of the bank or trust company as reflected in the most recent regulatory examination report and other available data.

²¹ “Insured depository institution” is defined as any bank or savings association the deposits of which are insured by the FDIC pursuant to ch. 16. 12 U.S.C. § 1831(c)(2). Under Florida law, a state bank must obtain and thereafter maintain insurance of its deposits by the FDIC. See s. 658.38, F.S.

²² “Depository institution holding company” is defined as a bank holding company or a savings and loan holding company. 12 U.S.C. § 1831(w). “Bank holding company” means any company which has control over any bank or over any company that is or becomes a bank holding company by virtue of ch. 17. 12 U.S.C. § 1841. “Savings and loan holding company” is defined as any company that directly or indirectly controls a savings association or that controls any other company that is a savings and loan holding company except as specified in 12 U.S.C. § 1467a(a)(1)(D)(ii). 12 U.S.C. § 1467a(a)(1)(D)(i).

²³ “Appropriate Federal banking agency” is defined as: (1) the Office of the Comptroller of the Currency in the case of: (A) any national banking association; (B) any Federal branch or agency of a foreign bank; and (C) any Federal savings association; (2) the Federal Deposit Insurance Corporation, in the case of: (A) any State nonmember insured bank; (B) any foreign bank having an insured branch; and (C) any State savings association; (3) the Board of Governors of the Federal Reserve System, in the case of: (A) any State bank; (B) certain branch or agencies of a foreign bank; (C) any foreign bank which does not operate an insured branch; (D) any agency or commercial lending company other than a Federal agency; (E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under certain provisions; (F) any bank holding company and any non-depository subsidiaries of a bank holding company; and (G) any savings and loan holding company and any non-depository subsidiaries of a savings and loan holding company. 12 U.S.C. § 1813(q).

²⁴ 12 U.S.C. § 1831i(a).

²⁵ “Troubled condition” must be defined by each appropriate Federal banking agency. 12 U.S.C. § 1831i(f).

²⁶ 12 U.S.C. § 1831i(e).

²⁷ 12 U.S.C. § 1831i(b).

Florida law

Similar to Federal law, Florida law also authorizes the OFR to disapprove the proposed appointment of any individual to the board of directors or employment of an individual as an executive officer if the state financial institution meets specified criteria, including, but not limited to, when the institution is non-compliant with minimum capital requirements or is otherwise operating in an unsafe and unsound condition.²⁸

Removal and Prohibition Orders of DirectorsFederal law

Pursuant to 12 U.S.C. 1818(e), an appropriate Federal banking agency may serve upon a director (other than a bank holding company or savings and loan holding company)²⁹ a written notice of the agency's intention to remove such director from office or to prohibit any further participation in the conduct of the affairs of any insured depository institution if certain criteria are met.³⁰ Specifically, the appropriate Federal banking agency may take such action if it has determined that a director has:³¹

- Violated any law or regulation, any final cease-and-desist order, or certain conditions imposed in writing by, or any written agreement entered into with, certain Federal banking agencies;
- Engaged in any unsafe or unsound practice, or any act, omission, or practice which constitutes a breach of the director's fiduciary duty;
- By reason of the violation, practice, or breach:
 - Such insured depository institution or business institution has suffered or will probably suffer financial loss or other damage;
 - The interests of the insured depository institution's depositors have been or could be prejudiced; or
 - The director has received financial gain or other benefit by reason of such violation, practice, or breach; and
- Such violation, practice, or breach involves personal dishonesty by the director, or demonstrates willful or continuing disregard by the director for the safety or soundness of such insured depository institution or business.

²⁸ "Unsafe and unsound practice" is defined as: 1. any practice or conduct found by the office to be contrary to generally accepted standards applicable to a financial institution, or a violation of any prior agreement in writing or order of a state or federal regulatory agency, which practice, conduct, or violation creates the likelihood of loss, insolvency, or dissipation of assets or otherwise prejudices the interest of the financial institution or its depositors or members. Section 655.005(y), F.S.

²⁹ Federal law applies to "any institution-affiliated party" which is a broader category of persons than only directors and is defined as: (1) any director, officer, employee, or controlling stockholder (other than a bank holding company or savings and loan holding company) of, or agent for, an insured depository institution; (2) any other person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under s. 1817(j) of this title; (3) any shareholder (other than a bank holding company or savings and loan holding company), consultant, joint venture partner, and any other person as determined by the appropriate Federal banking agency (by regulation or case-by-case) who participates in the conduct of the affairs of an insured depository institution; and (4) certain independent contractors. 12 U.S.C. § 1813(u).

³⁰ 12 U.S.C. § 1818(e). The appropriate Federal banking agency may also remove a director for specific violations of federal law, such as intentionally violating provisions relating to records and reports on mandatory instruments transactions. 12 U.S.C. § 1818(e)(2).

³¹ 12 U.S.C. § 1818(e)(1).

The appropriate Federal banking agency may suspend the director from office or prohibit the director from further participation in the affairs of the depository institution if the agency finds that such action is necessary for the protection of the depository institution's depositors, and the director is served with written notice of the suspension order.³²

Any director who is suspended from office or prohibited from participating in the affairs of the institution pursuant to this provision or pursuant to certain criminal offenses³³ may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of, any insured depository institution and other specified entities.³⁴ A specified federal agency may consent to limit or cease enforcement of any order against a director.³⁵

Pursuant to these provisions, the FDIC pursued enforcement actions against directors of First NBC Bank which was a bank in New Orleans that failed in April 2017.³⁶ In April 2023, the FDIC issued orders of prohibition from further participation in specified activities, including serving or acting as a director unless or until the order is modified, terminated, suspended, or set aside by the FDIC and specified agencies.³⁷

Florida law

Similar to Federal laws, Section 655.037, F.S., authorizes the OFR to issue and serve a complaint to remove a director³⁸ of a financial institution if the OFR has reason to believe that such party is engaging or has engaged in any specified conduct, including, but not limited to, an unsafe or unsound practice,³⁹ a prohibited act or practice, or a willful violation of any law relating to financial institutions.⁴⁰ The complaint must contain a statement of facts and notice of opportunity to be heard.⁴¹ The OFR may enter an order removing the director or restricting or prohibiting

³² 12 U.S.C. § 1818(e)(3)(A).

³³ 12 U.S.C. § 1818(g).

³⁴ 12 U.S.C. § 1818(e)(7)(A).

³⁵ 12 U.S.C. § 1818(e)(7)(B).

³⁶ RegReport, *Directors from Failed NOLA Bank Prohibited from Further Service or Fined – or Both*, May 26, 2023, available at [Directors from failed NOLA bank prohibited from further service or fined – or both – Regulatory Report \(regreport.info\)](https://www.regreport.info/directors-from-failed-nola-bank-prohibited-from-further-service-or-fined-or-both-regulatory-report) (last visited Jan. 24, 2024).

³⁷ The FDIC, *ED&O Search Form*, available at [FDIC: Enforcement Decisions and Orders - Search Form](https://www.fdic.gov/enforcement/decisions-and-orders/search-form) (last visited Jan. 24, 2024).

³⁸ Florida law applies to any “financial institution-affiliated party” which is a broader category of persons than only directors and is defined as: 1. a director, officer, employee, or controlling stockholder, other than a financial institution holding company, of, or agent for, a financial institution, subsidiary, or service corporation; 2. Any other person who has filed or is required to file a change-of-control notice with the appropriate state or federal regulatory agency; 3. A stockholder, other than a financial institution holding company, a joint venture partner, or any other person as determined by the office who participates in the affairs of a financial institution, subsidiary, or service corporation; or 4. certain independent contractors. See s. 655.005(j), F.S.

³⁹ “Unsafe or unsound practice” is defined as: 1. any practice or conduct found by the office to be contrary to generally accepted standards applicable to a financial institution, or a violation of any prior agreement in writing or order of a state or federal regulatory agency, which practice, conduct, or violation creates the likelihood of loss, insolvency, or dissipation of assets or otherwise prejudices the interest of the financial institution or its depositors or members. See s. 655.005(y), F.S.

⁴⁰ Section 655.037(1), F.S.

⁴¹ Section 655.037(2), F.S. The OFR’s jurisdiction and authority to issue any notice and proceed with a complaint is not affected by resignation, termination of employment or participation, or separation from a state financial institution by the

participation by the director in the affairs of that particular state financial institution, or any other state financial institution, subsidiary, or service if: (a) the director does not request a hearing within the prescribed time, or (b) a hearing is held and the OFR makes findings that:⁴²

- Any of the charges in the complaint are true;
- One of the following is met:
 - The state financial institution has suffered or will likely suffer loss or other damage;
 - The interests of the depositors, members, or shareholders could be seriously prejudiced; or
 - The director has received financial gain by reason of such violation, practice, or breach; and
- Such violation, practice, or breach of fiduciary duty is one involving personal dishonesty by the director, or a continued disregard for the safety or soundness of the state financial institution.⁴³

Under Florida law, any director removed from office pursuant to s. 655.037, F.S., is not eligible for reelection to such position or to any official position in any financial institution in Florida except with the written consent of the OFR.⁴⁴

III. Effect of Proposed Changes:

The bill creates s. 655.038, F.S., to prohibit any person who served as an executive officer or director of a financial institution within the 5 year period before the date such financial institution became insolvent, from serving as an executive officer or director of any state financial institution for 5 years after the date of such insolvency. This prohibition only applies to any insolvency that occurs on or after the effective date of the bill.

The bill provides that any person who is disqualified under the aforementioned prohibition, is also prohibited from having direct or indirect control over the selection or appointment of an executive officer or director to any state financial institution through contact, trust, or by operation of law during such disqualification period. However, the prohibitions in the bill do not apply when an executive officer or director demonstrates to the OFR, and the OFR determines, that the actions or omissions of such executive officer or director were not a contributing cause to the insolvency.

The bill directs the Division of Law Revision to replace the phrase “the effective date of this act” wherever it occurs in the bill with the date this bill becomes a law.

The bill takes effect upon becoming a law.

director if such notice is served before the end of the 6-year period beginning on the date such person ceases to be such a director with respect to the state financial institution. *See* s. 655.037(8), F.S.

⁴² *See* s. 655.037, F.S.

⁴³ *See* s. 655.037(3), F.S.

⁴⁴ Section 655.037(7), F.S.

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:

Financial institutions and their customers may benefit from not having executive officers or directors that held the same position in a financial institution doing business in Florida that went insolvent within the previous 5 years.

A financial institution may incur replacement costs to the extent that any current executive officers or directors are disqualified under the provisions of the bill. Executive officers and directors who, but for the provisions of CS/SB 542, would serve as an executive officer or director of a financial institution may lose compensation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 655.038 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 January 23, 2024

The committee substitute creates s. 655.038, F.S., to prohibit any person who served as an executive officer or director of a financial institution within the 5 year period before the date such financial institution became insolvent, from serving as an executive officer or director of any state financial institution for 5 years after the date of such insolvency. This prohibition only applies to any insolvency that occurs on or after the effective date of the bill. Additionally, any person who is disqualified under the aforementioned prohibition, is also prohibited from having direct or indirect control over the selection or appointment of an executive officer or director to any state financial institution through contact, trust, or by operation of law during such disqualification period. However, the prohibitions in the bill do not apply when an executive officer or director demonstrates to the Office of Financial Regulation (OFR), and the OFR determines, that the actions or omissions of such executive officer or director were not a contributing cause to the insolvency. The bill will take effect upon becoming a law.

B. Amendments:

None.



191300

LEGISLATIVE ACTION

	Senate	House
Comm: RCS	.	.
01/23/2024	.	.
	.	.
	.	.

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 655.038, is created to read:

655.038 Directors, qualifications; officers.—Any person who served as an executive officer or director of a financial institution within the 5-year period before the date such financial institution became insolvent, for any insolvency that occurs on or after the effective date of this act, may not serve

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as an executive officer or director of any state financial institution for 5 years after the date of such insolvency. Any person who is disqualified from serving as an executive officer or director of any state financial institution under this subsection may not have direct or indirect control over the selection or appointment of an executive officer or director to any state financial institution through contract, trust, or by operation of law during such disqualification period. This section does not apply when an executive officer or director that demonstrates to the office, and the office determines, that the actions or omissions of such executive officer or director were not a significant contributing cause to the insolvency. As used in this subsection, the term "executive officer" has the same meaning as in s. 655.005(1).

Section 2. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

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

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to executive officers and boards of directors of financial institutions; creating s. 655.038, F.S.; disqualifying certain persons from serving as executive officers or directors of a state financial institution under certain circumstances;

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prohibiting disqualified executive officers and directors from selecting or appointing certain persons in specified circumstances; providing applicability; defining the term "executive officer"; providing a directive to the Division of Law Revision; providing an effective date.

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By Senator Ingoglia

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A bill to be entitled

An act relating to boards of directors of banks;
amending s. 658.33, F.S.; disqualifying certain
persons from serving on the board of directors of a
bank under certain circumstances; providing an
effective date.

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

Section 1. Present subsections (2) through (5) of section
658.33, Florida Statutes, are redesignated as subsections (3)
through (6), respectively, and a new subsection (2) is added to
that section, to read:

658.33 Directors, number, qualifications; officers.—

(2) If a person has previously served on a board of
directors of a bank doing business in this state which became
insolvent, such person is disqualified from serving on the board
of directors of another bank for 5 years after the date such
bank became insolvent.

Section 2. This act shall take effect July 1, 2024.



Senator Blaise Ingolia
11th District

THE FLORIDA SENATE

Tallahassee, Florida. 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Banking and Insurance
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures
Committee, *Alternating Chair*

January 10, 2024

The Honorable Jay Trumbull, Chair
Commerce and Tourism
313 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Re: **SB 542 Boards of Directors of Banks**

Chair Trumbull,

SB 542 has been referred to the Commerce and Tourism as its second committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me.
Thank you for your leadership and consideration.

Regards,

A handwritten signature in dark ink, appearing to read "Blaise Ingolia", with a stylized flourish extending from the end.

Blaise Ingolia
State Senator, District 11

Cc: Todd McKay, Staff Director, Jennifer Renner, Deputy Staff Director, Renita Hayes, Committee Administration Assistant

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 998

INTRODUCER: Senator Collins

SUBJECT: Sale of Liquefied Petroleum Gas

DATE: January 22, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McKay	CM	Favorable
2.			EN	
3.			FP	

I. Summary:

SB 998 makes a number of changes with regard to the regulation of liquefied petroleum (LP) gas by the Department of Agriculture and Consumer Services (DACS):

- Provides that a category I liquefied petroleum gas dealer license may include up to two remote bulk storage locations to meet minimum bulk storage requirements, and that remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.
- Specifies that a competency exam must be completed within 90 days after the application has been accepted by the DACS.
- Requires that qualifiers must have 1 year of verifiable LP gas experience.
- Provides that a person may not act as a master qualifier for more than one licensee.
- Gives the DACS the authority to condemn unsafe equipment and order immediate removal of LP gas that is deemed a threat to public health.
- Adjusts language relating to aggregate capacity of containers.
- Requires LP gas technicians to provide their name, qualifier number, and license number on all work orders.
- Prohibits anyone other than those authorized from adding or removing gas from a customer's tank.
- Revises and clarifies the minimum storage requirement to account for aggregate storage.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

The Present Situation for each section in the bill is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

The Bureau of Compliance within the Department of Agriculture and Consumer Services (DACS) is the primary agency charged with regulating the liquefied petroleum (LP) gas industry, including licensing, inspection, training, and examination requirements, pursuant to Ch. 527, F.S.¹ LP gas is defined in statute as any material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane; propylene; butanes (normal butane or isobutane); and butylenes.²

Definitions and Licensure

Section 527.01, F.S., provides definitions for use in ch. 527, F.S.

Pursuant to s. 527.02, F.S., it is unlawful for any person in Florida to engage in any of the following activities without first obtaining a license from the DACS to do so:

- Category I liquefied petroleum gas dealer - any person selling or offering to sell by delivery or at a stationary location any liquefied petroleum gas to the consumer for industrial, commercial, or domestic use; any person leasing or offering to lease, or exchanging or offering to exchange, any apparatus, appliances, and equipment for the use of liquefied petroleum gas; any person designing, installing, servicing, altering, or modifying apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas; any person installing carburetion equipment; or any person requalifying cylinders.³
- Category II liquefied petroleum gas dispenser - any person engaging in the business of operating a liquefied petroleum gas dispensing unit for the purpose of serving liquid products to the consumer for industrial, commercial, or domestic use, and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas, including maintaining a cylinder storage rack at the licensed business location for the purpose of storing cylinders filled by the licensed business for sale or use at a later date.⁴
- Category III liquefied petroleum gas cylinder exchange operator - any person operating a storage facility used for the purpose of storing filled propane cylinders of not more than 43.5 pounds propane capacity or 104 pounds water capacity, while awaiting sale to the consumer, or a facility used for the storage of empty or filled containers which have been offered for exchange.⁵
- Category IV dealer in appliances and equipment - any person selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas.⁶
- Category V LP gas installer - any person who is engaged in the liquefied petroleum gas business and whose services include the design, installation, servicing, altering, or modifying of apparatus, piping, tubing, tanks, and equipment for the use of liquefied petroleum or

¹ See The Florida Department of Agriculture and Consumer Services, *Liquefied Petroleum Gas Licenses*, available at <https://www.fdacs.gov/Business-Services/LP-Gas-Licenses> (last visited Jan. 22, 2024).

² Section 527.01(1), F.S.

³ Section 527.01(6), F.S.

⁴ Section 527.01(7), F.S.

⁵ Section 527.01(8), F.S.

⁶ Section 527.01(9), F.S.

natural gas and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum or natural gas.⁷

- Category VI miscellaneous operator - any person who is engaged in operation as a manufacturer of LP gas appliances and equipment; a fabricator, repairer, and tester of vehicles and cargo tanks; a requalifier of LP gas cylinders; or a pipeline system operator.⁸

The sale of liquefied petroleum gas cylinders with a volume of 10 pounds water capacity or 4.2 pounds liquefied petroleum gas capacity or less is exempt. It is a felony of the third degree⁹ to intentionally or willfully engage in any of these activities without first obtaining appropriate licensure from the DACS. Each business location of a person having multiple locations must be separately licensed.¹⁰

Section 1 amends s. 527.01, F.S., to provide definitions for the following terms:

- “Licensed location” means the premises on which category I, category II, category III, category IV, category V, or category VI liquefied petroleum gas operations are performed.
- “Remote bulk storage” means the location of liquefied petroleum gas stored for the sole purpose of filling delivery vehicles used in delivery to an end user.

Section 2 amends s. 527.02, F.S., to provide that a category I liquefied petroleum gas dealer license may include up to two remote bulk storage locations to meet the minimum bulk storage requirements of s. 527.11, F.S. Remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.

Qualifiers and Master Qualifiers

A person applying for a license to engage in category I, category II, or category V activities must prove competency by passing a written examination administered by the DACS or its agent with a grade of 70 percent or above in each area tested, and each applicant for examination must submit a \$20 nonrefundable fee.¹¹

Application for examination for competency may be made by an individual or by an owner, a partner, or any person employed by the license applicant. Upon successful completion of the competency examination, the DACS must register the examinee.¹²

Qualifier registration automatically expires if the individual terminates active employment in the area of examination for a period exceeding 24 months, or fails to provide documentation of continuing education. If the qualifier registration has expired, the individual must apply for and successfully complete an examination by the DACS in order to reestablish qualifier status.¹³

⁷ Section 527.01(10), F.S.

⁸ Section 527.01(11), F.S.

⁹ See ss. 775.082, 775.083, and 775.084, F.S., which provide that a “felony of the third degree” is punishable by a term of imprisonment not to exceed 5 years, and a fine not to exceed \$5,000.

¹⁰ Section 527.02(1), F.S.

¹¹ Section 527.0201(1), F.S.

¹² Section 527.0201(2), F.S.

¹³ Section 527.0201(2)(a), F.S.

Every business organization in license category I, category II, or category V must employ at all times a full-time qualifier who has successfully completed an examination in the corresponding category of the license held by the business organization. A person may not act as a qualifier for more than one licensed location.¹⁴ A qualifier for a business must actually function in a supervisory capacity of other company employees performing licensed activities. A separate qualifier is required for every 10 such employees.¹⁵

In addition to all other licensing requirements, each category I and category V licensee must, at the time of application for licensure, identify to the DACS one master qualifier who is a full-time employee at the licensed location. This person must be a manager, owner, or otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the DACS. The master qualifier requirement is in addition to the requirements of s. 527.0201(1), F.S.¹⁶

In order to apply for certification as a master qualifier, each applicant must have a minimum of 3 years of verifiable LP gas experience or hold a professional certification by an LP gas manufacturer, each applicant must be employed by a licensed category I or category V licensee or an applicant for such license, and each applicant must pass a master qualifier competency examination administered by the DACS or its agent. Master qualifier examinations must be based on Florida's laws, rules, and adopted codes governing liquefied petroleum gas safety, general industry safety standards, and administrative procedures. The applicant must successfully pass the examination with a grade of 70 percent or above. Each applicant for master qualifier registration must submit to the DACS a nonrefundable \$30 examination fee before the examination.¹⁷

Upon successful completion of the master qualifier examination, the DACS must issue the examinee a master qualifier registration. A master qualifier may transfer from one licenseholder to another upon becoming employed by the company and providing a written request to the DACS.¹⁸

A master qualifier registration expires 3 years after the date of issuance and may be renewed by submission of documentation of completion of at least 16 hours of approved continuing education courses during the 3-year period, proof of employment, and a \$30 certificate renewal fee. The DACS must define approved courses of continuing education.¹⁹

Section 3 amends s. 527.0201(2), F.S., to provide that the examination for competency must be completed within 90 days after the application has been accepted by the DACS.

The bill also provides that in order to apply for certification as a qualifier, each applicant must have a minimum of 1 year of verifiable LP gas experience. A person may not act as a qualifier for more than one licensed *or remote bulk storage* location.

¹⁴ Section 527.0201(2)(b), F.S.

¹⁵ Section 527.0201(4), F.S.

¹⁶ Section 527.0201(5), F.S.

¹⁷ Section 527.0201(5)(a), F.S.

¹⁸ Section 527.0201(5)(b), F.S.

¹⁹ Section 527.0201(5)(c), F.S.

A qualifier for a business must actually function in a position with authority to monitor and enforce safety provisions under ch. 527, F.S., at the licensed location.

The bill replaces a requirement that each category I and category V licensee must identify to the DACS one master qualifier who is a full-time employee *at the licensed location* with a requirement that the identification be of a master qualifier who is a full-time employee *of the licensee*. A person may not act as a master qualifier for more than one licensee.

Powers and Duties of the DACS

The DACS is empowered to enforce all statutory provisions and adopted rules related to:

- The safe handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing, or maintaining of liquefied petroleum gas, liquefied petroleum gas equipment, and liquefied petroleum gas systems.²⁰
- Reasonable standards of competency required of persons to safely engage in the business of handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing, or maintaining liquefied petroleum gas, liquefied petroleum gas equipment, or liquefied petroleum gas systems, including, but not limited to, the training, licensure, testing, and qualifying of such persons.²¹

The DACS has the powers and authority expressly conferred on it by, or reasonably implied from, the provisions of ch. 527, F.S., and may conduct such investigations as it may deem proper to determine whether any person has violated any provision of ch. 527, F.S., or adopted rule, or to secure information useful in the lawful administration of any law or rule promulgated pursuant to ch. 527, F.S..²² The DACS may collect, propose, publish, and disseminate information relating to the subject matter of any duties imposed upon it by law.²³

Section 4 amends s. 527.055, F.S., to provide that the DACS has the powers and authority to condemn unsafe equipment and order the immediate removal of LP gas from storage that does not comply with ch. 527, F.S., and is deemed a threat to the public health, safety, and welfare.

Bulk Storage Locations

The provisions of ch. 527, F.S., apply to liquefied petroleum gas bulk storage locations when:

- A single container in the bulk storage location has a capacity of 2,000 gallons or more.
- The aggregate container capacity of the bulk storage location is 4,000 gallons or more. or
- A container or containers are installed for the purpose of serving the public the liquid product.²⁴

²⁰ Section 527.055(1)(a), F.S.

²¹ Section 527.055(1)(b), F.S.

²² See ss. 527.055(2), and 527.055(3), F.S.

²³ Section 527.055(4), F.S.

²⁴ Section 527.0605, F.S.

No newly installed container may be placed in operation until it has been inspected and approved by the DACS.²⁵

Section 5 amends s. 527.0605(1)(b), F.S., to provide that the provisions of ch. 527, F.S., apply to liquefied petroleum gas bulk storage locations when the aggregate container capacity of the bulk storage location is *more than* 4,000 gallons.

Responsibilities of Persons Engaged in Servicing Liquefied Petroleum Gas Equipment

All persons engaged in the business of servicing, testing, repairing, maintaining, or installing LP gas equipment and systems must initially present proof of licensure to consumers, owners, or end users prior to working on said equipment or systems. Additionally, such persons must subsequently present proof of licensure upon the request of consumers, owners, end users, or persons who have authorized such work.²⁶

Any consumer, owner, end user, or person who alters or modifies his or her LP gas equipment or system in any way must, for informational purposes, notify the licensed dealer who next fills or otherwise services his or her LP gas system that such work has been performed. The DACS may promulgate rules prescribing the method of notification. Such notification must be made within a reasonable time prior to the date the liquefied petroleum gas equipment or system is next filled or otherwise serviced in order that the equipment or system may be serviced in a safe manner.²⁷

A category I liquefied petroleum gas dealer may not render a consumer's LP gas equipment or system inoperable or discontinue service without providing written or electronic notification to the consumer at least 5 business days before rendering the LP gas equipment or system inoperable or discontinuing service. This notification does not apply in the event of a hazardous condition known to the category I liquefied petroleum gas dealer.²⁸

Section 6 amends s. 527.067, F.S., to add a provision that all persons engaged in the business of servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems must include on all work orders, estimates, invoices, and similar documentation the name, qualifier number, and license number of the person performing the work.

Restriction on use of containers

A person, other than the owner and those authorized by the owner, may not sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner any LP gas container or receptacle for any gas or compound, or for any other purpose.²⁹

Section 7 amends s. 527.07, F.S., to add a provision that a person, other than those authorized by the end user, may not add gas to or remove gas from any container or receptacle that contains LP gas purchased or contracted for transfer by, and in the lawful possession of, the end user.

²⁵ *Id.*

²⁶ Section 527.067(1), F.S.

²⁷ Section 527.067(2), F.S.

²⁸ Section 527.067(3), F.S.

²⁹ Section 527.07, F.S.

Minimum Storage

Every person who engages in the distribution of LP gas for resale to domestic, commercial, or industrial consumers as a prerequisite to obtaining an LP gas license must install, own, or lease a bulk storage filling plant of not less than 18,000 gallons (water capacity) within Florida and must be located within a 75-mile radius of the licensed company's business location. This bulk storage filling plant must have loading and unloading provisions solely for the licenseholder and be operated and maintained in compliance with ch. 527, F.S., for the duration of the license.³⁰

A dealer in LP gas licensed as of August 31, 2000, who has entered or who enters into a written agreement with a wholesaler that the wholesaler will provide liquefied petroleum gas to the dealer for a period of 12 continuous months is exempt from the requirements in s. 527.11(1), F.S., if the wholesaler has at least 18,000 gallons (water capacity) of bulk storage within Florida permanently connected for storage, which is used as such for each dealer to whom gas is sold, and if the wholesaler has loading and unloading provisions. Such dealer must provide certification of this agreement on a form provided by the DACS to the DACS before her or his license may be issued. The form must be signed by both the wholesaler or his or her agent and the dealer or his or her agent and must be submitted annually with the license renewal application. A dealer who does not provide written proof of minimum storage may have her or his license denied, suspended, or revoked. A wholesaler may not enter into written agreements that allocate an amount of storage that exceeds the wholesaler's total storage capacity minus 18,000 gallons (water capacity).³¹

Section 8 amends s. 527.11(1), F.S., to provide that the necessary bulk storage requirement is *aggregate capacity* of not less than 18,000 gallons, and deletes the requirement that the bulk storage be located within 75 miles of the licensed company's business location.

The bill deletes an outdated provision in s. 527.11(2), F.S., and provides that a wholesaler *or a dealer* may not enter into written agreements that allocate an amount that exceeds the total storage capacity minus 18,000 gallons.

Effective Date

Section 9 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³⁰ Section 527.11(1), F.S.

³¹ Section 527.11(2), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 527.01, 527.02, 527.0201, 527.055, 527.0605, 527.067, 527.07, and 527.11 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Collins

14-00349-24

2024998__

1 A bill to be entitled
 2 An act relating to the sale of liquefied petroleum
 3 gas; amending s. 527.01, F.S.; defining the terms
 4 "licensed location" and "remote bulk storage";
 5 amending s. 527.02, F.S.; authorizing up to two remote
 6 bulk storage locations for specified licenses;
 7 requiring such bulk storage locations to be located
 8 within a specified distance of the licensed location;
 9 amending s. 527.0201, F.S.; requiring that competency
 10 examinations be completed within a specified
 11 timeframe; providing eligibility criteria for
 12 certification as a qualifier; prohibiting a person
 13 from acting as a qualifier for more than one remote
 14 bulk storage location; requiring qualifiers to
 15 function in a position with specified authority;
 16 prohibiting a person from acting as a master qualifier
 17 for more than one licensee; amending s. 527.055, F.S.;
 18 authorizing the Department of Agriculture and Consumer
 19 Services to condemn unsafe equipment and order the
 20 immediate removal of liquefied petroleum gas from
 21 certain bulk storage locations; amending s. 527.0605,
 22 F.S.; revising the applicability of specified
 23 provisions for bulk storage locations; amending s.
 24 527.067, F.S.; requiring persons servicing, testing,
 25 repairing, maintaining, or installing liquefied
 26 petroleum gas equipment and systems to include
 27 specified information on certain documents; amending
 28 s. 527.07, F.S.; prohibiting unauthorized persons from
 29 adding liquefied petroleum gas to or removing

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

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30 liquefied petroleum gas from certain containers and
 31 receptacles; amending s. 527.11, F.S.; revising
 32 minimum bulk storage requirements for liquefied
 33 petroleum gas licenses; removing an exemption from
 34 such requirements; prohibiting dealers from entering
 35 into certain agreements; providing an effective date.
 36
 37 Be It Enacted by the Legislature of the State of Florida:
 38
 39 Section 1. Subsections (19) and (20) are added to section
 40 527.01, Florida Statutes, to read:
 41 527.01 Definitions.—As used in this chapter:
 42 (19) "Licensed location" means the premises on which
 43 category I, category II, category III, category IV, category V,
 44 or category VI liquefied petroleum gas operations are performed.
 45 (20) "Remote bulk storage" means the location of liquefied
 46 petroleum gas stored for the sole purpose of filling delivery
 47 vehicles used in delivery to an end user.
 48 Section 2. Paragraph (d) is added to subsection (3) of
 49 section 527.02, Florida Statutes, to read:
 50 527.02 License; penalty; fees.—
 51 (3)
 52 (d) A category I liquefied petroleum gas dealer license may
 53 include up to two remote bulk storage locations to meet the
 54 minimum bulk storage requirements of s. 527.11. Remote bulk
 55 storage locations must be located within 75 miles of the
 56 licensed location and included in the category I liquefied
 57 petroleum gas dealer license application.
 58 Section 3. Subsections (2), (4), and (5) of section

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527.0201, Florida Statutes, are amended to read:

527.0201 Qualifiers; master qualifiers; examinations.—

(2) Application for examination for competency may be made by an individual or by an owner, a partner, or any person employed by the license applicant. The examination for competency must be completed within 90 days after the application has been accepted by the department. Upon successful completion of the competency examination, the department shall register the examinee.

(a) Qualifier registration automatically expires if the individual terminates active employment in the area of examination for a period exceeding 24 months, or fails to provide documentation of continuing education. If the qualifier registration has expired, the individual must apply for and successfully complete an examination by the department in order to reestablish qualifier status.

(b) Every business organization in license category I, category II, or category V shall employ at all times a full-time qualifier who has successfully completed an examination in the corresponding category of the license held by the business organization. In order to apply for certification as a qualifier, each applicant must have a minimum of 1 year of verifiable LP gas experience. A person may not act as a qualifier for more than one licensed or remote bulk storage location.

(4) A qualifier for a business must actually function in a position with authority to monitor and enforce safety provisions under this chapter at the licensed location ~~supervisory capacity of other company employees performing licensed activities.~~ A

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separate qualifier shall be required for every 10 such employees.

(5) In addition to all other licensing requirements, each category I and category V licensee must, at the time of application for licensure, identify to the department one master qualifier who is a full-time employee of the licensee ~~at the licensed location~~. This person shall be a manager, an owner, or otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the department as provided by rule. A person may not act as a master qualifier for more than one licensee. The master qualifier requirement shall be in addition to the requirements of subsection (1).

(a) In order to apply for certification as a master qualifier, each applicant must have a minimum of 3 years of verifiable LP gas experience or hold a professional certification by an LP gas manufacturer as adopted by department rule immediately preceding submission of the application, must be employed by a licensed category I or category V licensee or an applicant for such license, and must pass a master qualifier competency examination administered by the department or its agent. Master qualifier examinations shall be based on Florida's laws, rules, and adopted codes governing liquefied petroleum gas safety, general industry safety standards, and administrative procedures. The applicant must successfully pass the examination with a grade of 70 percent or above. Each applicant for master qualifier registration must submit to the department a nonrefundable \$30 examination fee before the examination.

(b) Upon successful completion of the master qualifier

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examination, the department shall issue the examinee a master
qualifier registration. A master qualifier may transfer from one
licenseholder to another upon becoming employed by the company
and providing a written request to the department.

(c) A master qualifier registration expires 3 years after
the date of issuance and may be renewed by submission to the
department of documentation of completion of at least 16 hours
of approved continuing education courses during the 3-year
period; proof of employment; and a \$30 certificate renewal fee.
The department shall define by rule approved courses of
continuing education.

Section 4. Subsection (5) is added to section 527.055,
Florida Statutes, to read:

527.055 General powers and duties.—

(5) The department shall have the powers and authority to
condemn unsafe equipment and order the immediate removal of
liquefied petroleum gas from storage that does not comply with
this chapter and is deemed a threat to the public health,
safety, and welfare.

Section 5. Subsection (1) of section 527.0605, Florida
Statutes, is amended to read:

527.0605 Liquefied petroleum gas bulk storage locations;
jurisdiction.—

(1) The provisions of this chapter apply to liquefied
petroleum gas bulk storage locations when:

(a) A single container in the bulk storage location has a
capacity of 2,000 gallons or more;

(b) The aggregate container capacity of the bulk storage
location is more than 4,000 gallons ~~or more~~; or

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(c) A container or containers are installed for the purpose
of serving the public the liquid product.

Section 6. Present subsections (2) and (3) of section
527.067, Florida Statutes, are redesignated as subsections (3)
and (4), respectively, and a new subsection (2) is added to that
section, to read:

527.067 Responsibilities of persons engaged in servicing
liquefied petroleum gas equipment and systems and consumers, end
users, or owners of liquefied petroleum gas equipment or
systems.—

(2) All persons engaged in the business of servicing,
testing, repairing, maintaining, or installing liquefied
petroleum gas equipment and systems shall include on all work
orders, estimates, invoices, and similar documentation the name,
qualifier number, and license number of the person performing
the work.

Section 7. Section 527.07, Florida Statutes, is amended to
read:

527.07 Restriction on use of containers.—

(1) A person, other than the owner and those authorized by
the owner, may not sell, fill, refill, remove gas from, deliver,
permit to be delivered, or use in any manner any liquefied
petroleum gas container or receptacle for any gas or compound,
or for any other purpose.

(2) A person, other than those authorized by the end user,
may not add gas to or remove gas from any container or
receptacle that contains liquefied petroleum gas purchased or
contracted for transfer by, and in the lawful possession of, the
end user.

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Section 8. Subsections (1) and (2) of section 527.11, Florida Statutes, are amended to read:

527.11 Minimum storage.—

(1) Every person who engages in the distribution of liquefied petroleum gas for resale to domestic, commercial, or industrial consumers as a prerequisite to obtaining a liquefied petroleum gas license shall install, own, or lease a bulk storage with an aggregate capacity ~~filling plant~~ of not less than 18,000 gallons (water capacity) within this ~~the~~ state and ~~shall be located within a 75-mile radius of the licensed company's business location. The~~ This bulk storage ~~filling plant~~ must have loading and unloading provisions solely for the licenseholder and be operated and maintained in compliance with this chapter for the duration of the license.

(2) ~~A dealer in liquefied petroleum gas licensed as of August 31, 2000, who has entered or who enters into a written agreement with a wholesaler that the wholesaler will provide liquefied petroleum gas to the dealer for a period of 12 continuous months is exempt from the requirements of subsection (1), if the wholesaler has at least 18,000 gallons (water capacity) of bulk storage within this state permanently connected for storage, which is used as such for each dealer to whom gas is sold, and if the wholesaler has loading and unloading provisions. Such dealer must provide certification of this agreement on a form provided by the department to the department before her or his license may be issued. The form must be signed by both the wholesaler or his or her agent and the dealer or his or her agent and must be submitted annually with the license renewal application. A dealer who does not~~

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2024998__

provide written proof of minimum storage may have her or his license denied, suspended, or revoked. A dealer or wholesaler may not enter into written agreements that allocate an amount of storage that exceeds the dealer's or wholesaler's total storage capacity minus 18,000 gallons (water capacity).

Section 9. This act shall take effect July 1, 2024.



The Florida Senate
Committee Agenda Request


To: Senator Jay Trumbull, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 17, 2024

I respectfully request that **Senate Bill #998**, relating to Sale of Liquefied Petroleum Gas, be placed on the:

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


Senator Jay Collins
Florida Senate, District 14

File signed original with committee office

S-020 (03/2004)

1/23/24

Meeting Date

Commerce and Tourism

Committee

Name **Dale Calhoun**

Phone **8506810496**

Address **201 S Monroe St Unit A**

Email **dale.calhoun@floridagas.org**

Street

Tallahassee

FL

32312

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Florida Propane Gas Association

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

998

Bill Number or Topic

Amendment Barcode (if applicable)

DUPLICATE

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

1/23/2024

The Florida Senate
APPEARANCE RECORD

998

Meeting Date

Commerce and Tourism Committee

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Larry Williams**

Phone **8505211980**

Address **215 S. Monroe Street, Suite 601**

Email **lwilliams@gunster.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Chesapeake Utilities

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1198

INTRODUCER: Senator Martin

SUBJECT: Corporate Actions

DATE: January 24, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	McKay	CM	Fav/CS
2.			RC	

I. Summary:

CS/SB 1198 provides a statutory ratification procedure for corporate actions that may not have been properly authorized and for shares that may have been improperly issued. These improperly authorized corporate actions, that would otherwise be proper, are called defective corporate actions.

The bill provides a statutory ratification process that is intended to supplement common law ratification. Subsequent ratified defective corporate actions, under these proposed provisions, would remain subject to equitable review. The ratification procedure is intended to be available only where there is objective evidence that a corporate action was defectively implemented. The bill gives specified affected parties the ability to file motions in the circuit court of the applicable county.

The bill also provides a statutory method, though filing a single composite statement, for a registered agent to resign from more than one corporate entity at a time, if the specified entity has been dissolved, administratively or voluntarily, for 10 years or longer. The bill applies to the following business entity types:

- Limited liability companies or a foreign limited liability companies;
- Corporations; and
- Corporations not for profit.

The bill keeps the fee to file the registered agent resignation the same for the listed above business entity types, even if filing to resign from more than one entity at a time.

The bill takes effect July 1, 2024.

II. Present Situation:

Corporations that do business within Florida are governed by the requirements laid forth in the Florida Business Corporation Act, a law that is modeled after the Model Business Corporation Act (MBCA) promulgated by the American Bar Association (ABA) in 1950.¹ The general business law community, headed by groups like the ABA and the Florida Bar Business Law Section (Business Law Section), are continually participating in collaborative efforts to make corporate laws clearer and pragmatic.

Limited Liability Companies (Chapter 605)

A Limited Liability Company (LLC) is a type of business entity recognized by and regulated under chapter 605, F.S., the Florida Revised Limited Liability Company Act. Benefits to forming a business as an LLC include a flexible tax structure and a vertical liability shield, which limits the personal liability of the LLC's members and managers for company obligations. Currently, LLCs are the most popular business entity in Florida, with over 2 million active LLCs as of 2023.²

Corporations for Profit (Chapter 607)

A for profit corporation is a type of business entity recognized and regulated under chapter 607, F.S. In order for a corporation to organize, the entity must file articles of incorporation, including specifics such as a corporate name, address, number of shares, and the designation of a registered office and agent.³

Corporations Not for Profit (Chapter 617)

A corporation not for profit is a type of business entity recognized and regulated under chapter 617, F.S. The structure of corporations not for profit are similar to for profit corporations, needing the filing of articles of incorporation.

The Department of State

The Department of State (DOS) is the state's central location responsible for receiving and maintaining a number of corporate records. Florida law requires certain documents to be filed with the Division of Corporations (division) of the DOS in order for a business to be organized as a corporation, partnership, LLC, or other business/commercial entity. Business entities can file these documents and check their status through an internet portal that is maintained by the division.

¹ See generally Section 607, F.S.

² Florida Department of State, Division of Corporations Yearly Statistics, available at <https://dos.fl.gov/sunbiz/about-us/yearly-statistics/> (last visited January 2024).

³ Section 607.0202, F.S.

Fees

In order to help maintain these records, the DOS is statutorily allowed to collect fees. Florida's fee requirements for business entities are some of the most competitive in the United States; where a corporation in Delaware (the state with the most incorporations, because of their notoriously pro-business laws) will pay no less than \$175 and no more than \$200,000 in annual fees, Florida only requires an aggregate of \$150 in fees per year.⁴

In 2013, the Legislature passed a law to make fees more uniform across the various business law chapters. However, each specific type of business entity should be aware of the various fees associated with their respective business organization chapter.

The relevant fees for the bill are as follows:⁵

<u>Corporation Fees</u>	
New Florida/Foreign Corporation	
Filing Fees	\$35.00
Registered Agent Designation	\$35.00
Annual Reports	
Annual Report of a For Profit Corporation	\$150.00
Annual Report of Not For Profit Corporation	\$61.25
Resignation of Agent	
Resignation of Registered Agent of an Active Corporation	\$87.50
Resignation of Registered Agent of an Administratively Dissolved/Voluntarily Dissolved/Withdrawn Corporation/Inactive Corporation	\$35.00

<u>Limited Liability Company Fees</u>	
New Florida/Foreign LLC	
Filing Fee	\$100.00
Registered Agent Designation Fee	\$25.00
Annual Reports	
Annual Report	\$138.75
Resignation of Agent	
Resignation of Registered Agent for an active LLC	\$85.00
Resignation of Registered Agent for a dissolved/inactive LLC	\$25.00

⁴ U.S. Securities and Exchange Commission, Schedule 14-A, Saga Communications, Inc. Proxy Statement (Apr. 16, 2020), available at https://www.sec.gov/Archives/edgar/data/0000886136/000110465921050534/tm2111304-1_def14a.htm, (last visited January 22, 2024).

⁵ The Florida Department of State, Division of Corporations, Fees, available at <https://dos.fl.gov/sunbiz/forms/fees/>, (last visited January 22, 2024).

Defective Corporate Actions

Under the Florida Business Corporation Act, there are certain requirements that a corporation must establish in order to be considered a valid corporation and properly authorized. For instance, a corporation must file its articles of incorporation with the DOS to transact business in the state. If a corporation does not file those articles of incorporation or does not include the requirements of the articles of incorporation, they are not entitled to filing by the department and may be considered an invalid corporation.⁶

Additionally, a corporation could have filed all documents correctly, but made an error in the appointment of their board of directors. Subsequent actions by the corporation, after that incorrect appointment of the board of directors, may be considered invalid. Another potential scenario of a defective corporate action may arise when a corporation issues shares but did not adhere to the correct share issuing guidelines. Any subsequent action, after that incorrect share issuance, may be considered invalid.

Being an invalid corporation can also be referred to as being a defective corporation or an unauthorized corporation. However, because of their nature, corporations, whether it be the incorporator, the board of directors, an officer or agent of the corporation, or the shareholders, can take actions even though the corporation is technically defective, unauthorized, or invalid.

When an unauthorized or defective corporation takes an action, such as improperly issuing shares, a legal situation can arise. For example, a corporation that is trying to make a business deal with another entity or raise capital usually has to reveal certain corporate records for the other parties due diligence, discovering a defective corporate action can immediately halt a transaction or potential transaction. If a business deal has already been agreed upon prior to the discovering the defective corporate action, legal issues can arise.

Currently, disputed acts or defective share issuances that are carried out by a defective or unauthorized corporation are governed by common law in the court system. These disputes can cost business entities time and money to resolve, in addition to the time and resources that have to be allocated by the state via the court system.

Amending Articles of Incorporation

The articles of incorporation govern a corporation. A corporation can amend or add as many articles of incorporation as necessary.⁷ The amendment of an articles of incorporation must be adopted and approved. The adopting and approving can be done several ways, including, through the provided method in the articles of incorporation, either by the incorporators or board of directors, if shareholder action is not required, or by the shareholders or shareholders through voting groups.⁸

⁶ Section 607.0120(1), F.S.

⁷ Section 607.1001, F.S.

⁸ Section 607.1003(1-9), F.S., provides various methods for amending the articles of incorporation.

The amendment can be done in one single amendment form for a fee of \$35.00.⁹ This form, called the articles of amendment form, must be signed and delivered to the DOS, among other specific requirements laid out in statute.¹⁰

Active vs Dissolved Business Entities

The division annually assigns an accompanying status to business entities based on that business entities' filings and payment of fees. When a business entity pays their filing fees and files their initial required filings, (for an LLC it is their articles of organization, and for a corporation it is their articles of incorporation) the division will review the filings and if everything is satisfied the business entity will be assigned an "active" status.

After the initial filings to begin the business entity, a business entity is considered "active" when it has filed the annual report and paid the associated fee. Typically in the fall, the division will go through all of their filings and determine if a business entity is up to date in all of their filings and fees. If the division does not have the required information and associated fee on record they will assign the business entity an "inactive" status and the business entity will be administratively dissolved or administratively revoked.¹¹

A business entity can determine their status by logging in to the online portal operated by the DOS, or they can file and pay to have the DOS send them a certificate of status, for a \$5 fee for an LLC or an \$8.75 fee for a corporation.¹²

A business entity may file a reinstatement application, accompanied with the associated fee, to reactivate their business status and become an "active" business entity again.

Registered Agents

Generally, one of the statutory requirements that a business entity must meet is designating a registered agent.¹³ A registered agent must be an individual who resides in this state whose business address is identical to the address of the registered office.¹⁴ The registered agent must also be available at that Florida address during normal business hours and promptly forward any significant legal or state documents to the business. Registered agents are required to serve as the contact for the business entity that receives service of process, legal notifications, and other official state documents for a business entity.

The DOS is required to maintain an accurate record of the registered agent and registered office for service of process, and must promptly furnish any information disclosed thereby upon request and payment of the required fee.¹⁵ An individual within the business may serve as the entity's

⁹ Florida Department of State, Division of Corporations, Articles of Amendment form, *available at* <https://form.sunbiz.org/pdf/cr2e011.pdf>, (last visited on January 22, 2024).

¹⁰ Section 607.1006, F.S.

¹¹ Note that a general partnership is not required to file an annual report or pay an annual report fee.

¹² For LLCs *see* section 605.0213(12), F.S. and for Corporations *see* section 607.0122(19), F.S.

¹³ Section 607.0501, F.S.

¹⁴ *Id.*

¹⁵ *Id.*

registered agent. Additionally, a business entity with an active Florida filing or registration may serve as a registered agent, however an entity cannot serve as its own registered agent.

Additionally, if a business entity does not appoint and maintain a registered agent, the DOS may administratively dissolve that business entity.¹⁶

In Florida, a registered agent is required for the following:

- Limited Liability Companies;
- Corporation/Foreign Corporation (for profit);
- Corporation/Foreign Corporation (not for profit);
- Limited Partnerships (domestic and foreign); and
- Limited Liability Partnerships (domestic and foreign).¹⁷

In order for a registered agent to resign as the registered agent of the business entity, the registered agent must complete a specific form, accompanied by the payment of the fee, and mail it in to the division. Currently, a registered agent must pay a separate fee to resign as a registered agent of each business entity, separately.

III. Effect of Proposed Changes:

Ratification of Defective Corporate Actions

Sections 1 through 6 create new sections of law detailing the required procedures for ratifying a defective corporate action.

Section 7 of the bill creates filing requirements for ratifying a defective corporate action.

Section 8 of the bill creates law contemplating the jurisdiction and process for judicial proceedings regarding the validity of corporate actions.

Procedural Requirements

Section 1 creates s. 607.145, F.S., defining the following terms, among others, as:

- “Corporate action” meaning any action taken by or on behalf of a corporation, including any action taken by the incorporator the board of directors, a committee of the board of directors, an officer or agent of the corporation, or the shareholders;
- “Defective corporate action” meaning any corporate action purportedly taken which is, and at the time such corporate action was purportedly taken would have been, within the power of the corporation, but is void or voidable due to a failure of authorization; or an overissue; and
- “Failure of authorization” meaning the failure to authorize, approve, or otherwise effect a corporate action in compliance with this chapter, the corporation’s articles of incorporation

¹⁶ For limited partnerships Section 620.1809, F.S. governs.

¹⁷ Note that a general partnership is not required to have a registered agent. Section 620.8301, F.S., states that each general partner is an agent of the partnership. (Note that a general partnership can still designate a separate registered agent, through their initial general partnership registration form, but partners of the general partnership are deemed to be agents and therefore the statutes do not require a general partnership to have a registered agent.)

or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action void or voidable.

Section 2 creates s. 607.0146, F.S., providing that a defective corporate action is not void or voidable if the defective corporate action was ratified (under the ratification requirements that are being created in section 607.0147, F.S.) This section of the bill also emphasizes that the ratification process for a defective corporate action is not the exclusive means of ratifying or validating any defective corporate action.

Additionally, the bill provides that an overissue of shares over and above the number authorized in the corporation's articles of incorporation can be remedied by the adoption of an amendment to the articles of incorporation or other corporate action that authorizes or creates the putative shares that resulted in the overissue. This provision enables a corporation to cure an overissue occurring when shares have been duly authorized but are issued before articles of amendment are filed.

Section 3 creates s. 607.0147, F.S., which sets forth the steps that a corporation must use to remedy a defective corporate action. This includes stating:

- The defective corporate action to be ratified;
- The number and type of putative shares purportedly issued (if shares were issued);
- The date of the defective corporate action;
- The nature of the failure of authorization; and
- The approval of the ratification of the defective corporate action by the board of directors.

This bill also sets forth a similar mechanism as listed above but for a scenario where the defective corporate action to be ratified relates to the election of the initial board of directors of the corporation. In this described scenario the bill provides that after the board of directors takes action it must refer the matter to shareholders for approval. This section clarifies that the board of directors may abandon ratification even after approval without further action.

Section 4 creates s. 607.0148, F.S., which sets forth specific procedural requirements for the ratification of defective corporate actions. The bill provides that the board of directors are subject to the same quorum and voting requirements for the ratification process that exist at the time such ratifying action is taken and that notice, of whether the defective corporate action is to be ratified at a meeting or by written consent, is required to be given to shareholders. The bill also provides notice requirements for whether the corporate action is to be ratified by written consent.

If the shareholders are meeting to ratify the election of a director, or if the ratification is through written consent, the bill requires that it must be approval by a majority vote. The bill clarifies that putative shares existing on the record date are only entitled to notice of matter relating to ratification and that such shares are not entitled to vote, are not counted for quorum purposes, and are not counted in any written consent and that to ratify putative shares, an amendment to the articles of incorporation must be approved.

Section 5 creates s. 607.0149, F.S., detailing notice requirements to shareholders and holders of putative shares when shareholder action to approve the ratification of the defective corporate action is not required. The bill requires "prompt" notice to shareholders following the ratification

of a corporate action by the board of directors. The bill provides for exceptions to the notice requirements, such as that notice is not required to be submitted to shareholders for approval if notice is given pursuant to s. 607.0148(2), F.S., and a disclaimer that notice required by this section may be given in any manner that is authorized under section 607.0141, F.S, and in the case of a public company, notice may be given by any means required by the United States Securities and Exchange Commission.

Section 6 creates s. 607.0150, F.S., which sets forth how a ratification, upon proper notice, affects the corporation and the timing of any ratification. The bill provides that where a defective corporate action is properly ratified, it is deemed no longer void or voidable and is deemed for all intents and purposes to be a validly approved corporate action, effective as the date of the original defective act. Similarly, the bill provides that issuances of putative shares, or fractions of putative shares, are deemed to be issuances of identical valid shares, or fractions of shares, on the date on which the mentioned shares were purportedly issued.

This section clarifies that any corporate action that was taken, subsequent to the defective corporate action that was ratified pursuant to statute, in reliance on such defective corporate action and any subsequent defective corporate action resulting directly or indirectly from such original defective corporate action, is valid as of the respective time such corporate action was taken.

Filing Requirements

Section 7 creates s. 607.0151, F.S., which establishes a new filing requirement (articles of validation) for defective corporate actions ratified that would have normally required a filing, regardless of whether or not the filing was properly made. The bill provides specific requirements for the content of the articles of validation, including that the articles of validation must be filed with the DOS and that the articles of validation will serve to amend or be a substitute for any other filings related to the defective corporate action.

Judicial Proceedings

Section 8 creates s. 607.0152, F.S., conferring jurisdiction on the circuit court in the applicable county to hear and determine claims regarding the validity of any corporate action. The bill provides that it can be a successor thereto, a director of a corporation, or any shareholder of the corporation that can make the filing to a court to determine the validity of any corporate action and that when the filing is made, the court may make any findings or orders it deems proper under the circumstances.

This section of the bill clarifies that service of process for any of these such proceedings should follow the same rules as set forth in Chapter 48, F.S., and that any action brought forth must be done so within 120 days after the validation effective time. Additionally, this section of the bill sets forth a non-exclusive list of various factors that may be considered by the court and certain actions that the court may decide for determinations on the validity of the challenged corporate action.

Resignation of a Registered Agent

Sections 9 through 11 amend the requirements for the resignation of a registered agent.

Sections 12 through 14 amend the associated fees for the resignation of a registered agent.

Section 9 amends s. 605.0115, F.S., to redesignate certain subsections and create a mechanism for a registered agent to resign as the registered agent of more than one dissolved **limited liability company** or inactive **foreign limited liability company**, that has been dissolved for 10 years or longer, through a single composite statement. Additionally, the bill sets forth requirements that the composite resignation statement should contain the name of each dissolved company and the date of the respective companies dissolution. The resignation statement, or composite resignation statement, if resigning from two or more companies at a time, once filed with the DOS, must also be delivered to the company or each respective companies' current mailing address as it appears in the records of the DOS.

Section 10 amends s. 607.0503, F.S., to redesignate certain subsections and create a mechanism for a registered agent of more than one dissolved **corporation** that has been dissolved for 10 years or longer, through a single composite statement. Additionally, the bill sets forth requirements that the composite resignation statement should contain the name of each dissolved corporation and the date of the respective corporation's dissolution. The resignation statement, or composite resignation statement, if resigning from two or more corporations at a time, once filed with the DOS, must also be delivered to the corporation or each respective corporations' current mailing address as it appears in the records of the DOS.

Section 11 amends s. 617.0502, F.S., to redesignate certain subsections and create a mechanism for a registered agent of more than one dissolved **(not for profit) corporation** that has been dissolved for 10 years or longer, through a single composite statement. Additionally, the bill sets forth requirements that the composite resignation statement should contain the name of each dissolved corporation and the date of the respective corporations' dissolution. The resignation statement, or composite resignation statement, if resigning from two or more corporations at a time, once filed with the DOS, must also be delivered to the corporation or each respective corporations' current mailing address as it appears in the records of the DOS.

Fees

Section 12 amends s. 605.0213, F.S., to provide that the fee to resign as a registered agent of a dissolved limited liability company is the same, regardless of whether one is resigning from one entity or more than one entity.

Section 13 amends s. 607.0122, F.S., to provide that the fee to resign as a registered agent of an dissolved corporation is the same, regardless of whether one is resigning from one corporation or more than one corporation.

Section 14 amends s. 617.0122, F.S., to provide that the fee to resign as a registered agent of an inactive corporation is the same, regardless of whether one is resigning from one corporation or more than one corporation.

Incorporating Amendments

Sections 15 through 26 make conforming changes.

Effective Date

Section 27 provides an effective date of July 1, 2024.

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:**

Registered agents looking to resign from more than one inactive corporation at a time will see a reduction in their charged fees.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate at this time.

The DOS is likely to see a reduced amount in collected fees if a registered agent is able to resign from more than one corporation at a time paying only one fee, as opposed to current law that makes a registered agent pay to resign from each corporation separately.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Fees**

The bill creates a new filing requirement, the filing of articles of validation. Section 7 of the bill states that “a corporation that ratifies a defective corporate action and that corporate action that was ratified would have required a filing under ss. 607.0145-607.0152, F.S., must file articles of validation.” Typically filings have fees associated with them, however this bill does not contemplate any fee for filing articles of validation.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes:, 605.0115, 607.0503, 617.0502, 605.0213, 607.0122, 617.0122, 605.0207, 605.0113, 658.23, 607.0501, 607.193, 607.0120, 607.1507, 39.8298, 252.71, 288.012, 617.1807, 617.2006, 617.0501, and 617.0503.

The bill creates sections 607.0145, 607.0146, 607.0147, 607.0148, 607.0149, 607.0150, 607.0151, and 607.0152 of the Florida Statutes.

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

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

CS by Commerce and Tourism on January 23, 2024:

The committee substitute primarily makes clarifying and stylistic changes throughout the bill. The most significant adjustments to the bill are as follows:

- The amendment adds clarifying language to the definition of “validation effective time” stating that the filing or pendency of a judicial proceeding will not affect the validation effective time.
- The amendment adds clarifies when the issuance of putative shares become effective.
- The amendment clarifies what actions a circuit court can take regarding challenges to the validity of defective corporate actions.
- The amendment adjusts the language to clarify which types of business entities a registered agent can resign from using a composite statement to resign from more than one business entity at a time.
- The amendment clarifies language associated with the fees.

Additionally, the amendment deletes language regarding a registered agent being able to resign from one or more foreign corporations or partnerships at a time with a single composite statement and fee.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

	Senate	House
Comm: RCS	.	.
01/23/2024	.	.
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	.	.

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

Senate Amendment (with title amendment)

Delete lines 121 - 947
and insert:
Section 1. Section 607.0145, Florida Statutes, is created to read:
607.0145 Definitions.—As used in ss. 607.0145-607.0152, the term:
(1) "Corporate action" means any action taken by or on behalf of a corporation, including any action taken by the

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incorporator, the board of directors, a committee of the board of directors, an officer or agent of the corporation, or the shareholders.
(2) "Date of the defective corporate action" means the date, or, if the exact date is unknown, the approximate date, on which the defective corporate action was purported to have been taken.
(3) "Defective corporate action" means:
(a) Any corporate action purportedly taken which is, and at the time such corporate action was purportedly taken would have been, within the power of the corporation, but is void or voidable due to a failure of authorization; or
(b) An overissue.
(4) "Failure of authorization" means the failure to authorize, approve, or otherwise effect a corporate action in compliance with this chapter, the corporation's articles of incorporation or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action void or voidable.
(5) "Overissue" means the purported issuance of:
(a) Shares of a class or series in excess of the number of shares of the class or series the corporation has the power to issue under s. 607.0601 at the time of such issuance; or
(b) Shares of any class or series that is not then authorized for issuance by the corporation's articles of incorporation.
(6) "Putative shares" means the shares of any class or series, including shares issued upon exercise of rights,

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options, warrants or other securities convertible into shares of the corporation, or interests with respect to such shares, that were created or issued as a result of a defective corporate action and that:
(a) Would constitute valid shares but for any failure of authorization; or
(b) Cannot be determined by the board of directors to be valid shares.
(7) "Valid shares" means the shares of any class or series that have been duly authorized and validly issued in accordance with this chapter, including as a result of ratification or validation under ss. 607.0145-607.0152.
(8)(a) "Validation effective time," with respect to any defective corporate action ratified under ss. 607.0145-607.0152, means the later of the following:
1. The date and time at which the ratification of the defective corporate action is approved by the shareholders, or if approval of shareholders is not required, the date and time at which the notice required by s. 607.0149 becomes effective in accordance with s. 607.0141;
2. If no articles of validation are required to be filed in accordance with s. 607.0151, the date and time at which the notice required by s. 607.0149 becomes effective in accordance with s. 607.0141; or
3. If articles of validation are required to be filed in accordance with s. 607.0151, the date and time at which the articles of validation filed in accordance with s. 607.0151 become effective.
(b) The validation effective time will not be affected by

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the filing or pendency of a judicial proceeding under s. 607.0152 or any other law unless otherwise ordered by the court.
Section 2. Section 607.0146, Florida Statutes, is created to read:
607.0146 Defective corporate actions.—
(1) A defective corporate action is not void or voidable if:
(a) The defective corporate action was ratified in accordance with the requirements of s. 607.0147, including the filing, if required, of articles of validation pursuant to s. 607.0151; or
(b) The defective corporate action was validated in accordance with s. 607.0152.
(2) Ratification under s. 607.0147 or validation under s. 607.0152 shall not be deemed to be the exclusive means of ratifying or validating any defective corporate action, and the absence or failure of ratification in accordance with ss. 607.0145-607.0152 will not, in and of itself, affect the validity or effectiveness of any corporate action properly ratified under common law or otherwise, and it does not create a presumption that any such corporate action is or was a defective corporate action or is or was void or voidable.
(3) In the case of an overissue, putative shares will be valid shares effective as of the date originally issued or purportedly issued upon:
(a) The effectiveness under ss. 607.0145-607.0152 and ss. 607.1001-607.1009 of an amendment to the articles of incorporation authorizing, designating, or creating such shares; or

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(b) The effectiveness of any other corporate action taken under ss. 607.0145-607.0152 ratifying the authorization, designation, or creation of such shares.

Section 3. Section 607.0147, Florida Statutes, is created to read:

607.0147 Ratification of defective corporate actions.—

(1) To ratify a defective corporate action under this section, other than to ratify an election of the initial board of directors under subsection (2), the board of directors must take the action in accordance with s. 607.0148, stating all of the following:

(a) The defective corporate action to be ratified and, if the defective corporate action involved the issuance of putative shares, the number and type of putative shares purportedly issued.

(b) The date of the defective corporate action.

(c) The nature of the failure of authorization with respect to the defective corporate action to be ratified.

(d) That the board of directors approves the ratification of the defective corporate action.

(2) If a defective corporate action to be ratified relates to the election of the initial board of directors of the corporation under s. 607.0205(1)(b), a majority of the persons who, at the time of the ratification, are exercising the powers of directors must take an action stating all of the following:

(a) The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation.

(b) The earlier of the date on which either such persons

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first took such action or were purported to have been elected to the initial board of directors.

(c) That the ratification of the election of such person or persons as the initial board of directors is approved.

(3) If any provision of this chapter, the corporation's articles of incorporation or bylaws, any corporate resolution, or any plan or agreement in effect at the time action to which the corporation is a party under subsection (1) is taken requires shareholder approval, or would have required shareholder approval, at the date of the occurrence of the defective corporate action, the ratification of the defective corporate action approved in the action taken by the directors under subsection (1) must be submitted to the shareholders for approval in accordance with s. 607.0148.

(4) Unless otherwise provided in the action taken by the board of directors under subsection (1), after the action by the board of directors has been taken and, if required, approved by the shareholders, the board of directors may abandon the ratification at any time before the validation effective time without further action of the shareholders.

Section 4. Section 607.0148, Florida Statutes, is created to read:

607.0148 Action on ratification.—

(1) The quorum and voting requirements applicable to a ratifying action by the board of directors under s. 607.0147(1) are the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time such ratifying action is taken.

(2)(a) If the ratification of the defective corporate

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action requires approval by the shareholders under s. 607.0147(3), and if the approval is to be given at a meeting, the corporation must give notice of the meeting to each holder of valid and putative shares, regardless of whether entitled to vote, as of the record date for notice of the meeting and as of the date of the occurrence of the defective corporate action; however, such notice is not required to be given to holders of valid or putative shares whose identities or addresses for notice cannot be determined from the records of the corporation. The notice must state that the purpose, or one of the purposes, of the meeting is to consider ratification of a defective corporate action.

(b) If the ratification of the defective corporate action requires approval by the shareholders under s. 607.0147(3), and if the approval is to be ratified by one or more written consents of the shareholders, the corporation must give notice of the action taken by such written consent to each holder of valid and putative shares as of the record date of the action by written consent and as of the date of the occurrence of the defective corporate action, regardless of whether entitled to vote; however, notice is not required to be given to holders of valid or putative shares whose identities or addresses for notice cannot be determined from the records of the corporation. The notice must state that the purpose, or one of the purposes, of the written consent was to ratify the defective corporate action.

(c) The notice must be accompanied by both of the following:

1. Either:

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a. A copy of the action taken by the board of directors in accordance with s. 607.0147(1); or

b. The information required by s. 607.0147(1)(a)-(d).

2. A statement that any claim asserting that the ratification of such defective corporate action, and any putative shares issued as a result of such defective corporate action, should not be effective, or should only be effective on certain conditions, and must be brought, if at all, within 120 days after the applicable validation effective time.

(3) Except as provided in subsection (4) with respect to the voting requirements to ratify the election of a director, any quorum and voting requirements applicable to the approval by the shareholders required by s. 607.0147(3) will be the quorum and voting requirements that are applicable, at the time of such shareholder approval, to the defective corporate action proposed to be ratified.

(4) The approval by shareholders at a meeting to ratify the election of a director requires that the votes cast within the voting group favoring such ratification exceed the votes cast within the voting group opposing such ratification of the election at a meeting at which a quorum is present. Approval by shareholders by written consent to ratify the election of a director requires that the consents given within the voting group favoring such ratification represent a majority of the shares of the voting group.

(5) Putative shares on the record date for determining the shareholders entitled to vote on any matter submitted to shareholders under s. 607.0147(3), and without giving effect to any ratification of putative shares that becomes effective as a

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214 result of such vote, will neither be entitled to vote nor be
215 counted for quorum purposes in any vote to approve the
216 ratification of any defective corporate action. Putative shares
217 on the record date for an action by written consent, and without
218 giving effect to any ratification of putative shares that
219 becomes effective as a result of such written consent, will not
220 be entitled to be counted in any written consent to approve the
221 ratification of any defective corporate action.
222 (6) If approval under this section of putative shares would
223 result in an overissue, in addition to the approval required by
224 s. 607.0147(3), approval of an amendment to the corporation's
225 articles of incorporation under ss. 607.1001-607.1009 to
226 increase the number of shares of an authorized class or series
227 or to authorize the creation of a class or series of shares so
228 there is no overissue will also be required.
229 Section 5. Section 607.0149, Florida Statutes, is created
230 to read:
231 607.0149 Notice requirements.—
232 (1) Unless shareholder approval is required under s.
233 607.0147(3), prompt notice of an action taken by the board of
234 directors under s. 607.0147 must be given to each holder of
235 valid shares and each holder of putative shares, regardless of
236 whether entitled to vote, that is a holder of valid shares or
237 putative shares as of:
238 (a) The date of the action by the board of directors taken
239 under s. 607.0147; and
240 (b) The date of the occurrence of the defective corporate
241 action being ratified.
242 (2) Notice is not required to be given to those holders of

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243 valid shares or those holders of putative shares whose
244 identities or addresses for notice cannot be determined from the
245 records of the corporation.
246 (3) The notice must contain both of the following:
247 (a) Either:
248 1. A copy of the action taken by the board of directors
249 pursuant to s. 607.0147(1); or
250 2. The information required by s. 607.0147(1)(a)-(d) or s.
251 607.0147(2)(a), (b), and (c), as applicable.
252 (b) A statement that, in order to be considered, any claim
253 asserting that the ratification of the defective corporate
254 action, and any putative shares issued as a result of such
255 defective corporate action, should not be effective, or should
256 be effective only on certain conditions, and must be brought, if
257 at all, within 120 days after the applicable validation
258 effective time.
259 (4) Notice under this section is not required with respect
260 to any action required to be submitted to shareholders for
261 approval pursuant s. 607.0147(3) if notice is given in
262 accordance with s. 607.0148(2).
263 (5) Notice required by this section may be given in any
264 manner permitted under s. 607.0141 and, for any corporation
265 subject to the reporting requirements of s. 13 or s. 15(d) of
266 the Securities Exchange Act of 1934, may be given by means of a
267 filing or furnishing of such notice with the United States
268 Securities and Exchange Commission.
269 Section 6. Section 607.0150, Florida Statutes, is created
270 to read:
271 607.0150 Effects of ratification.—The following provisions

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272 apply from and after the validation effective time, without
273 regard to the 120-day period during which a claim may be brought
274 under s. 607.0152:
275 (1) Each defective corporate action ratified in accordance
276 with s. 607.0147 will not be void or voidable as a result of the
277 failure of authorization set forth and identified in the action
278 taken under s. 607.0147(1) or (2) and will be deemed a valid
279 corporate action effective as of the date of the defective
280 corporate action.
281 (2) The issuance of each putative share or fraction of a
282 putative share purportedly issued pursuant to a defective
283 corporate action identified in the action taken in accordance
284 with s. 607.0147 will not be void or voidable, and each such
285 putative share or fraction of a putative share will be deemed to
286 be an identical share or fraction of a valid share as of the
287 time it was purportedly issued.
288 (3) Any corporate action taken subsequent to the defective
289 corporate action ratified pursuant to ss. 607.0145-607.0152 in
290 reliance on such defective corporate action having been validly
291 effected, and any subsequent defective corporate action
292 resulting directly or indirectly from such original defective
293 corporate action, will be valid as of the respective time such
294 corporate action was taken.
295 Section 7. Section 607.0151, Florida Statutes, is created
296 to read:
297 607.0151 Filings.—
298 (1) If the defective corporate action ratified under ss.
299 607.0145-607.0152 would have required a filing under this
300 chapter and either:

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301 (a) Any previous filing requires any change to the filing
302 to give effect to the defective corporate action in accordance
303 with this section, including, but not limited to, a change to
304 the date and time of the effectiveness of such filing; or
305 (b) A filing was not previously filed in respect to the
306 defective corporate action,
307
308 In lieu of a filing otherwise required under this chapter, the
309 corporation must file articles of validation in accordance with
310 this section, and such articles of validation will serve to
311 amend or be a substitute for any other filing with respect to
312 such defective corporate action required by this chapter.
313 (2) The articles of validation must specify all of the
314 following:
315 (a) The defective corporate action that is the subject of
316 the articles of validation, including, in the case of any
317 defective corporate action involving the issuance of putative
318 shares, the number and type of putative shares issued and the
319 date or dates upon which such putative shares were purported to
320 have been issued.
321 (b) The date of the defective corporate action.
322 (c) The nature of the failure of authorization in respect
323 of the defective corporate action.
324 (d) A statement that the defective corporate action was
325 ratified in accordance with s. 607.0147, including the date on
326 which the board of directors ratified such defective corporate
327 action and, if applicable, the date on which the shareholders
328 approved the ratification of such defective corporate action.
329 (e)1. If a filing was previously made in respect of the

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330 defective corporate action and such filing requires any change
331 to give effect to the ratification of such defective corporate
332 action pursuant to s. 607.0147:
333 a. The name, title, and filing date of the filing
334 previously made and any articles of correction for that filing;
335 b. A statement that a filing containing all of the
336 information required to be included under the applicable
337 provisions of this chapter to give effect to such defective
338 corporate action is attached as an exhibit to the articles of
339 validation; and
340 c. The date and time that such filing is deemed to have
341 become effective.
342 2. If a filing was not previously made in respect of the
343 defective corporate action and the defective corporate action
344 ratified pursuant to s. 607.0147 would have required a filing
345 under any other provision of this chapter:
346 a. A statement that a filing containing all of the
347 information required to be included under the applicable
348 provisions of this chapter to give effect to such defective
349 corporate action is attached as an exhibit to the articles of
350 validation; and
351 b. The date and time that such filing is deemed to have
352 become effective.
353 Section 8. Section 607.0152, Florida Statutes, is created
354 to read:
355 607.0152 Judicial proceedings regarding validity of
356 corporate actions.—
357 (1) Subject to subsection (4), upon application by the
358 corporation, any successor entity to the corporation, a director

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359 of the corporation, any shareholder, beneficial shareholder, or
360 unrestricted voting trust beneficial owner of the corporation,
361 including any such shareholder, beneficial shareholder, or
362 unrestricted voting trust beneficial owner as of the date of the
363 defective corporate action ratified pursuant to s. 607.0147; or
364 any other person claiming to be substantially and adversely
365 affected by a ratification in accordance with s. 607.0147, the
366 circuit court in the applicable county may take any one or more
367 of the following actions:
368 (a) Determine the validity and effectiveness of any
369 corporate action or defective corporate action ratified pursuant
370 to s. 607.0147.
371 (b) Determine the validity and effectiveness of any
372 ratification of any defective corporate action pursuant to s.
373 607.0147.
374 (c) Determine the validity and effectiveness of any
375 defective corporate action not ratified or not ratified
376 effectively pursuant to s. 607.0147.
377 (d) Determine the validity of any putative shares.
378 (e) Modify or waive any of the procedures specified in s.
379 607.0147 or s. 607.0148 to ratify a defective corporate action.
380 (2) In connection with an action brought under this
381 section, the court may make such findings or issue such orders
382 and take into account any one or more factors or considerations
383 as it deems proper under the circumstances, including, but not
384 limited to, any one or more of the factors, considerations,
385 findings, and orders set forth in subsections (5) and (6).
386 (3) Service of process of the application under subsection
387 (1) on the corporation may be made in any manner provided in

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388 chapter 48 for service on a corporation, and no other party need
389 be joined in order for the court to adjudicate the matter. In an
390 action filed by the corporation, the court may require that
391 notice of the action be provided to other persons specified by
392 the court and permit such other persons to intervene in the
393 action.
394 (4) Notwithstanding any other law to the contrary, any
395 action asserting that the ratification of a defective corporate
396 action, and any putative shares issued as a result of such
397 defective corporate action, should not be effective, or should
398 be effective only on certain conditions, must be brought, if at
399 all, within 120 days after the validation effective time.
400 (5) In connection with the resolution of matters under
401 subsection (2), the court may consider any of the following:
402 (a) Whether the defective corporate action was originally
403 approved or effectuated with the belief that the approval or
404 effectuation was in compliance with the provisions of this
405 chapter, the articles of incorporation, or the bylaws of the
406 corporation.
407 (b) Whether the corporation and board of directors have
408 treated the defective corporate action as a valid act or
409 transaction and whether any person has acted in reliance on the
410 public record that such defective corporate action was valid.
411 (c) Whether any person will be or was harmed by the
412 ratification or validation of the defective corporate action,
413 excluding any harm that would have resulted if the defective
414 corporate action had been valid when approved or effectuated.
415 (d) Whether any person will be harmed by the failure to
416 ratify or validate the defective corporate action.

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417 (e) Whether the defective corporate action was a conflict
418 of interest transaction.
419 (f) Any other factors or considerations the court deems
420 just and equitable.
421 (6) In connection with an action under this section, the
422 court may do any one or more of the following:
423 (a) Declare that a ratification in accordance with and
424 pursuant to s. 607.0147 is not effective or shall only be
425 effective at a time or upon conditions established by the court.
426 (b) Validate and declare effective any defective corporate
427 action or putative shares and impose conditions upon such
428 validation.
429 (c) Require measures to remedy or avoid harm to any person
430 substantially and adversely affected by a ratification in
431 accordance with and pursuant to s. 607.0147 or by any order of
432 the court pursuant to this section, excluding any harm that
433 would have resulted if the defective corporate action had been
434 valid when approved or effectuated.
435 (d) Order the department to accept an instrument for filing
436 with an effective time specified by the court, which effective
437 time may be before or after the date and time of such order,
438 provided that the filing date of such instrument shall be
439 determined in accordance with s. 607.0123.
440 (e) Approve a stock ledger for the corporation that
441 includes any shares ratified or validated in accordance with
442 this section or s. 607.0147.
443 (f) Declare that the putative shares are valid shares or
444 require a corporation to issue and deliver valid shares in place
445 of any putative shares.

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446 (g) Order that a meeting of holders of valid shares or
447 putative shares be held and exercise such powers as it deems
448 appropriate with respect to such a meeting.
449 (h) Declare that a defective corporate action validated by
450 the court shall be effective as of the date and time of the
451 defective corporate action or at such other date and time as
452 determined by the court.
453 (i) Declare that putative shares validated by the court
454 shall be deemed to be identical valid shares or fractions of
455 valid shares as of the date and time originally issued or
456 purportedly issued or at such other date and time as determined
457 by the court.
458 (j) Require payment by the corporation of reasonable
459 expenses, including attorney fees and costs, that the court
460 finds just and equitable under the circumstances.
461 (k) Issue other orders as it deems necessary and proper
462 under the circumstances.
463 Section 9. Subsection (2) of section 605.115, Florida
464 Statutes, is amended, and subsection (6) is added to that
465 section, to read:
466 605.0115 Resignation of registered agent.—
467 (2) After delivering the statement of resignation to the
468 department for filing, the registered agent must promptly mail a
469 copy to the limited liability company's or foreign limited
470 liability company's current mailing address; provided however,
471 that if a composite statement of resignation is being filed
472 pursuant to subsection (6), the registered agent must promptly
473 mail a copy of either the composite statement of resignation or
474 a separate notice of resignation for each respective limited

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475 liability company, in each case using the respective mailing
476 address of the respective limited liability company that then
477 appears in the records of the department.
478 (6)(a) If a registered agent is resigning as registered
479 agent from more than one limited liability company that each has
480 been dissolved, either voluntarily, administratively, or by
481 court action, for a continuous period of 10 years or longer, the
482 registered agent may elect to file the statement of resignation
483 separately for each such limited liability company or may elect
484 to file a single composite statement of resignation covering two
485 or more limited liability companies. Any such composite
486 statement of resignation must set forth, for each such limited
487 liability company covered by the statement of resignation, the
488 name of the respective limited liability and the date
489 dissolution became effective for the respective limited
490 liability company.
491 (b) This subsection is applicable only to resignations from
492 limited liability companies as defined in this chapter.
493 Section 10. Subsection (2) of section 607.0503, Florida
494 Statutes, is amended, and subsection (6) is added to that
495 section, to read:
496 607.0503 Resignation of registered agent.—
497 (2) After delivering the statement of resignation to the
498 department for filing, the registered agent must promptly mail a
499 copy to the corporation at its current mailing address; provided
500 however that if a composite statement of resignation is being
501 filed pursuant to subsection (6), the registered agent must
502 promptly mail a copy of either the composite statement of
503 resignation or a separate notice of resignation for each

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504 respective corporation, in each case using the respective
505 mailing address of the respective corporation that then appears
506 in the records of the department.
507 (6)(a) If a registered agent is resigning as registered
508 agent from more than one corporation that each has been
509 dissolved, either voluntarily, administratively, or by court
510 action, for a continuous period of 10 years or longer, the
511 registered agent may elect to file the statement of resignation
512 separately for each such corporation or may elect to file a
513 single composite statement of resignation covering two or more
514 corporations. Any such composite statement of resignation must
515 set forth, for each such corporation covered by the statement of
516 resignation, the name of the respective corporation and the date
517 that dissolution became effective for the respective
518 corporation.
519 (b) This subsection is applicable only to resignations by
520 registered agents from domestic corporations.
521 Section 11. Subsection (2) of section 617.0502, Florida
522 Statutes, is amended to read:
523 617.0502 Change of registered office or registered agent;
524 resignation of registered agent.—
525 (2)(a) Any registered agent may resign his or her agency
526 appointment by signing and delivering for filing with the
527 Department of State a statement of resignation and mailing a
528 copy of such statement to the corporation at its mailing address
529 of the respective corporation that then appears in the records
530 of the department; provided however that if a composite
531 statement of resignation is being filed pursuant to paragraph
532 (b), the registered agent must promptly mail a copy of either

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533 the composite statement of resignation or a separate notice of
534 resignation for each respective corporation, in each case using
535 the respective mailing address of the respective corporation
536 that then appears in the records of the department principal
537 office address shown in its most recent annual report or, if
538 none, filed in the articles of incorporation or other most
539 recently filed document. The statement of resignation shall
540 state that a copy of such statement of resignation or, if
541 applicable, notice of resignation, has been mailed to the
542 corporation at the address so stated. The agency is terminated
543 as of the 31st day after the date on which the statement was
544 filed and unless otherwise provided in the statement,
545 termination of the agency acts as a termination of the
546 registered office.
547 (b) If a registered agent is resigning as registered agent
548 from one or more corporations that each have been dissolved,
549 either voluntarily, administratively, or by court action, for a
550 continuous period of 10 years or longer, the registered agent
551 may elect to file the statement of resignation separately for
552 each such corporation or may elect to file a single composite
553 statement of resignation covering two or more corporations. Any
554 such composite statement of resignation must set forth, for each
555 such corporation covered by the statement of resignation, the
556 name of the respective corporation and the date that dissolution
557 became effective for the respective corporation. This subsection
558 is applicable only to resignations by registered agents from
559 domestic corporations.
560 Section 12. Subsections (8) and (9) of section 605.0213,
561 Florida Statutes, are amended to read:

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562 605.0213 Fees of the department.—The fees of the department
563 under this chapter are as follows:

564 (8) For filing a registered agent's statement of
565 resignation from a an active limited liability company that has
566 not been dissolved, \$85.

567 (9) For filing a registered agent's statement of
568 resignation from a dissolved limited liability company or a
569 composite statement of resignation from two or more dissolved
570 limited liability companies pursuant to s. 605.0115(6), \$25.

571 Section 13. Subsections (6) and (7) of section 607.0122,
572 Florida Statutes, are amended to read:

573 607.0122 Fees for filing documents and issuing
574 certificates.—The department shall collect the following fees
575 when the documents described in this section are delivered to
576 the department for filing:

577 (6) Agent's statement of resignation from a active
578 corporation that has not been dissolved: \$87.50.

579 (7) Agent's statement of resignation from a an inactive
580 dissolved corporation or a composite statement of resignation
581 from two or more dissolved corporations pursuant to s.
582 607.0502(6): \$35.

583 Section 14. Subsections (6) and (7) of section 617.0122,
584 Florida Statutes, are amended to read:

585 617.0122 Fees for filing documents and issuing
586 certificates.—The Department of State shall collect the
587 following fees on documents delivered to the department for
588 filing:

589 (6) Agent's statement of resignation from a active
590 corporation that has not been dissolved: \$87.50.

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591 (7) Agent's statement of resignation from a inactive
592 dissolved corporation or a composite statement of resignation
593 from two or more dissolved corporations pursuant to s.
594 617.0502(2) (b): \$35.

595
596 Any citizen support organization that is required by rule of the
597 Department of Environmental Protection to be formed as a
598 nonprofit organization and is under contract with the department
599 is exempt from any fees required for incorporation as a
600 nonprofit organization, and the Secretary of State may not
601 assess any such fees if the citizen support organization is
602 certified by the Department of Environmental Protection to the
603 Secretary of State as being under contract with the Department
604 of Environmental Protection.

605 Section 15. For the purpose of incorporating the amendments
606 made by this act to section 605.0115, Florida Statutes, in a
607 reference thereto, section 605.0207, Florida Statutes, is
608 reenacted to read:

609 605.0207 Effective date and time.—Except as otherwise
610 provided in s. 605.0208, and subject to s. 605.0209(3), any
611 document delivered to the department for filing under this
612 chapter may specify an effective time and a delayed effective
613 date. In the case of initial articles of organization, a prior
614 effective date may be specified in the articles of organization
615 if such date is within 5 business days before the date of
616 filing. Subject to ss. 605.0114, 605.0115, 605.0208, and
617 605.0209, a record filed by the department is effective:

618 (1) If the record filed does not specify an effective time
619 and does not specify a prior or a delayed effective date, on the

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620 date and at the time the record is accepted as evidenced by the
621 department's endorsement of the date and time on the filing.

622 (2) If the record filed specifies an effective time, but
623 not a prior or delayed effective date, on the date the record is
624 accepted, as evidenced by the department's endorsement, and at
625 the time specified in the filing.

626 (3) If the record filed specifies a delayed effective date,
627 but not an effective time, at 12:01 a.m. on the earlier of:

628 (a) The specified date; or

629 (b) The 90th day after the record is filed.

630 (4) If the record filed specifies a delayed effective date
631 and an effective time, at the specified time on or the earlier
632 of:

633 (a) The specified date; or

634 (b) The 90th day after the record is filed.

635 (5) If the record filed is the initial articles of
636 organization and specifies an effective date before the date of
637 the filing, but no effective time, at 12:01 a.m. on the later
638 of:

639 (a) The specified date; or

640 (b) The 5th business day before the record is filed.

641 (6) If the record filed is the initial articles of
642 organization and specifies an effective time and an effective
643 date before the date of the filing, at the specified time on the
644 later of:

645 (a) The specified date; or

646 (b) The 5th business day before the record is filed.

647 (7) If the record filed does not specify the time zone or
648 place at which the date or time, or both, is to be determined,

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649 the date or time, or both, at which it becomes effective shall
650 be those prevailing at the place of filing in this state.

651 Section 16. For the purpose of incorporating the amendments
652 made by this act to section 605.0115, Florida Statutes, in a
653 reference thereto, paragraph (b) of subsection (3) of section
654 605.0113, Florida Statutes, is reenacted to read:

655 605.0113 Registered agent.—

656 (3) The duties of a registered agent are as follows:

657 (b) If the registered agent resigns, to provide the notice
658 required under s. 605.0115(2) to the company or foreign limited
659 liability company at the address most recently supplied to the
660 agent by the company or foreign limited liability company.

661 Section 17. For the purpose of incorporating the amendment
662 made by this act to section 607.0122, Florida Statutes, in a
663 reference thereto, subsection (1) of section 658.23, Florida
664 Statutes, is reenacted to read:

665 658.23 Submission of articles of incorporation; contents;
666 form; approval; filing; commencement of corporate existence;
667 bylaws.—

668 (1) Within 3 months after approval by the office and the
669 appropriate federal regulatory agency, the applicant shall
670 submit its duly executed articles of incorporation to the
671 office, together with the filing fee due the Department of State
672 under s. 607.0122.

673 Section 18. For the purpose of incorporating the amendment
674 made by this act to section 607.0503, Florida Statutes, in a
675 reference thereto, subsection (4) of section 607.0501, Florida
676 Statutes, is reenacted to read:

677 607.0501 Registered office and registered agent.—

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678 (4) The duties of a registered agent are:
679 (a) To forward to the corporation at the address most
680 recently supplied to the registered agent by the corporation, a
681 process, notice, or demand pertaining to the corporation which
682 is served on or received by the registered agent; and
683 (b) If the registered agent resigns, to provide the notice
684 required under s. 607.0503 to the corporation at the address
685 most recently supplied to the registered agent by the
686 corporation.
687 Section 19. For the purpose of incorporating the amendments
688 made by this act to sections 605.0213 and 607.0122, Florida
689 Statutes, in references thereto, paragraph (b) of subsection (2)
690 of section 607.193, Florida Statutes, is reenacted to read:
691 607.193 Supplemental corporate fee.—
692 (2)
693 (b) In addition to the fees levied under ss. 605.0213,
694 607.0122, and 620.1109 and the supplemental corporate fee, a
695 late charge of \$400 shall be imposed if the supplemental
696 corporate fee is remitted after May 1 except in circumstances in
697 which a business entity was administratively dissolved or its
698 certificate of authority was revoked due to its failure to file
699 an annual report and the entity subsequently applied for
700 reinstatement and paid the applicable reinstatement fee.
701
702 ===== T I T L E A M E N D M E N T =====
703 And the title is amended as follows:
704 Delete lines 2 - 106
705 and insert:
706 An act relating to corporate actions; creating s.

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707 607.0145, F.S.; defining terms; creating s. 607.0146,
708 F.S.; providing that a defective corporate action is
709 not void or voidable in certain circumstances;
710 providing that ratification or validation under
711 certain circumstances may not be deemed the exclusive
712 means of either ratifying or validating defective
713 corporate actions, and that the absence or failure to
714 ratify defective corporate actions does not affect the
715 validity or effectiveness of certain corporate actions
716 properly ratified; providing for the validity of
717 putative shares in the event of an overissue; creating
718 s. 607.0147, F.S.; requiring the board of directors to
719 take certain action to ratify a defective corporate
720 action; authorizing those exercising the powers of the
721 directors to take certain action when certain
722 defective actions are related to the ratification of
723 the initial board of directors; requiring members of
724 the board of directors to seek approval of the
725 shareholders under certain conditions; authorizing the
726 board of directors to abandon ratification at any time
727 before the validation effective time after action by
728 the board and, if required, approval of the
729 shareholders; creating s. 607.0148, F.S.; providing
730 quorum and voting requirements for the ratification of
731 certain defective corporate actions; requiring the
732 board to send notice to all identifiable shareholders
733 of a certain meeting date; requiring that the notice
734 state that a purpose of the meeting is to consider
735 ratification of a defective corporate action;

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736 requiring the notice sent to be accompanied with
737 certain information; specifying the quorum and voting
738 requirements applicable to ratification of the
739 election of directors; requiring votes cast within the
740 voting group favoring ratification of the election of
741 a director to exceed the votes cast within the voting
742 group opposing such ratification; prohibiting holders
743 of putative shares from voting on ratification of any
744 defective corporate action and providing that they may
745 not be counted for quorum purposes or in certain
746 written consent; requiring approval of certain
747 amendments to the corporation's articles of
748 incorporation under certain circumstances; creating s.
749 607.0149, F.S.; requiring that notice be given to
750 shareholders of certain corporate action taken by the
751 board of directors; providing that notice is not
752 required for holders of certain shares whose
753 identities or addresses for notice cannot be
754 determined; providing requirements for such notice;
755 providing requirements for such notice for
756 corporations subject to certain federal reporting
757 requirements; creating s. 607.0150, F.S.; specifying
758 the effects of ratification; creating s. 607.0151,
759 F.S.; requiring corporations to file articles of
760 validation under certain circumstances; providing
761 applicability; providing requirements for articles of
762 validation; creating s. 607.0152, F.S.; authorizing
763 certain persons and entities to file certain motions;
764 providing for service of process; requiring that

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765 certain actions be filed within a specified timeframe;
766 authorizing the court to consider certain factors in
767 resolving certain issues; authorizing the courts to
768 take certain actions in cases involving defective
769 corporate actions; amending ss. 605.0115, 607.0503,
770 and 617.0502, F.S.; providing that a registered agent
771 may resign from certain limited liability companies or
772 foreign limited liability companies, certain inactive
773 or dissolved corporations, and certain active or
774 inactive corporations, respectively, by delivering a
775 specified statement of resignation to the Department
776 of State; providing requirements for the statement;
777 providing that a registered agent who is resigning
778 from one or more such corporations, companies, or
779 partnerships may elect to file a statement of
780 resignation for each such company, corporation, or
781 partnership or a composite statement; providing
782 requirements for composite statements; requiring that
783 a copy of each of the statements of resignation or the
784 composite statement be mailed to the address on file
785 with the department for the company, corporation, or
786 partnership or companies, corporations, or
787 partnerships, as applicable; amending ss. 605.0213 and
788 607.0122, F.S.; conforming provisions to changes made
789 by the act; providing registered agents may pay one
790 resignation fee regardless of whether resigning from
791 one or multiple inactive or dissolved companies or
792 corporations; reenacting ss. 605.0207 and
793 605.0113(3)(b), F.S., relating to effective dates and

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794 times and to registered agents, respectively, to
795 incorporate the amendments made to s. 605.0115, F.S.,
796 in references thereto; reenacting s. 658.23(1), F.S.,
797 relating to submission of articles of incorporation,
798 to incorporate the amendment made to s. 607.0122,
799 F.S., in a reference thereto; reenacting s.
800 607.0501(4), F.S., relating to registered offices and
801 registered agents, to incorporate the amendment made
802 to s. 607.0503, F.S., in a reference thereto;
803 reenacting s. 607.193(2)(b), F.S., relating to
804 supplemental corporate fees, to incorporate the
805 amendments made to ss. 605.0213 and 607.0122, F.S., in
806 references thereto; reenacting ss. 39.8298(1)(a),
807 252.71(2)(a), 288.012(6)(a), 617.1807,

By Senator Martin

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1 A bill to be entitled
 2 An act relating to the corporate actions; creating s.
 3 607.0145, F.S.; defining terms; creating s. 607.0146,
 4 F.S.; providing that a defective corporate action is
 5 not void or voidable in certain circumstances;
 6 providing that ratification or validation under
 7 certain circumstances may not be deemed the exclusive
 8 means of either ratifying or validating defective
 9 corporate actions, and that the absence or failure to
 10 ratify defective corporate actions does not affect the
 11 validity or effectiveness of certain corporate actions
 12 properly ratified; providing for the validity of
 13 putative shares in the event of an overissue; creating
 14 s. 607.0147, F.S.; requiring the board of directors to
 15 take certain action to ratify a defective corporate
 16 action; authorizing those exercising the powers of the
 17 directors to take certain action when certain
 18 defective actions are related to the ratification of
 19 the initial board of directors; requiring members of
 20 the board of directors to seek approval of the
 21 shareholders under certain conditions; authorizing the
 22 board of directors to abandon ratification at any time
 23 before the validation effective time after action by
 24 the board and, if required, approval of the
 25 shareholders; creating s. 607.0148, F.S.; providing
 26 quorum and voting requirements for the ratification of
 27 certain defective corporate actions; requiring the
 28 board to send notice to all identifiable shareholders
 29 of a certain meeting date; requiring that the notice

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30 state that a purpose of the meeting is to consider
 31 ratification of a defective corporate action;
 32 requiring the board to send notice to all identifiable
 33 shareholders if the ratification of the defective
 34 corporate action is to be accomplished by consent of
 35 the shareholders; specifying the quorum and voting
 36 requirements applicable to ratification of the
 37 election of directors; prohibiting holders of putative
 38 shares from voting on ratification of any defective
 39 corporate action and providing that they may not be
 40 counted for quorum purposes or in certain written
 41 consent; requiring approval of certain amendments to
 42 the corporation's articles of incorporation under
 43 certain circumstances; creating s. 607.0149, F.S.;
 44 requiring that notice be given to shareholders of
 45 certain corporate action taken by the board of
 46 directors; providing requirements for such notice;
 47 providing requirements for such notice for
 48 corporations subject to certain federal reporting
 49 requirements; creating s. 607.0150, F.S.; specifying
 50 the effects of ratification; creating s. 607.0151,
 51 F.S.; requiring corporations to file articles of
 52 validation under certain circumstances; providing
 53 applicability; providing requirements for articles of
 54 validation; creating s. 607.0152, F.S.; authorizing
 55 certain persons and entities to file certain motions;
 56 providing for service of process; requiring that
 57 certain actions be filed within a specified timeframe;
 58 authorizing the court to consider certain factors in

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59 resolving certain issues; authorizing the courts to
 60 take certain actions in cases involving defective
 61 corporate actions; amending ss. 605.0115, 607.0503,
 62 607.1509, 617.0502, and 620.1116, F.S.; providing that
 63 a registered agent may resign from certain limited
 64 liability companies or foreign limited liability
 65 companies, certain inactive or dissolved corporations,
 66 certain inactive or dissolved foreign corporations,
 67 certain active or inactive corporations, and certain
 68 limited partnerships or foreign limited partnerships,
 69 respectively, by delivering a specified statement of
 70 resignation to the Department of State; providing
 71 requirements for the statement; providing that a
 72 registered agent who is resigning from one or more
 73 such corporations, companies, or partnerships may
 74 elect to file a statement of resignation for each such
 75 company, corporation, or partnership or a composite
 76 statement; providing requirements for composite
 77 statements; requiring that a copy of the each of the
 78 statements of resignation or the composite statement
 79 be mailed to the address on file with the department
 80 for the company, corporation, or partnership or
 81 companies, corporations, or partnerships, as
 82 applicable; amending ss. 605.0213 and 607.0122, F.S.;
 83 conforming provisions to changes made by the act;
 84 providing registered agents may pay one resignation
 85 fee regardless of whether resigning from one or
 86 multiple inactive or dissolved companies or
 87 corporations; reenacting ss. 605.0207 and

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88 605.0113(3)(b), F.S., relating to effective dates and
 89 times and to registered agents, respectively, to
 90 incorporate the amendments made to s. 605.0115, F.S.,
 91 in references thereto; reenacting s. 658.23(1), F.S.,
 92 related to submission of articles of incorporation, to
 93 incorporate the amendments made in s. 607.0122, F.S.,
 94 in a reference thereto; reenacting s. 607.0501(4),
 95 F.S., relating to the registered offices and
 96 registered agents, to incorporate the change made to
 97 s. 607.0503, F.S., in a reference thereto; reenacting
 98 s. 607.193(2)(b), F.S., relating to supplemental
 99 corporate fees, to incorporate the amendments made in
 100 ss. 605.0213 and 607.0122, F.S., in references
 101 thereto; reenacting ss. 607.0120(9) and 607.1507(4),
 102 F.S., relating to filing requirements and registered
 103 offices and agents of foreign corporations,
 104 respectively, to incorporate the amendments made to s.
 105 607.1509, F.S., in references thereto; reenacting ss.
 106 39.8298(1)(a), 252.71(2)(a), 288.012(6)(a), 617.1807,
 107 and 617.2006(4), F.S., relating to the Guardian Ad
 108 Litem direct-support organization, the Florida
 109 Emergency Management Assistance Foundation, State of
 110 Florida international offices, conversion to
 111 corporation not for profit, and incorporation of labor
 112 unions or bodies, respectively, to incorporate the
 113 amendment made in s. 617.0122, F.S., in references
 114 thereto; reenacting s. 617.0501(3) and 617.0503(1)(a),
 115 F.S., relating to registered agents, to incorporate
 116 the amendment made to s. 617.0502, F.S., in references

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thereto; providing an effective date.

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

Section 1. Section 607.0145, Florida Statutes, is created to read:

607.0145 Definitions.—As used in ss. 607.0145-607.0152, the term:

(1) "Corporate action" means any action taken by or on behalf of a corporation, including any action taken by the incorporator, the board of directors, a committee of the board of directors, an officer or agent of the corporation, or the shareholders.

(2) "Date of the defective corporate action" means the date, or, if the exact date is unknown, the approximate date, on which the defective corporate action was purported to have been taken.

(3) "Defective corporate action" means:

(a) Any corporate action purportedly taken which is, and at the time such corporate action was purportedly taken would have been, within the power of the corporation, but is void or voidable due to a failure of authorization; or

(b) An overissue.

(4) "Failure of authorization" means the failure to authorize, approve, or otherwise effect a corporate action in compliance with this chapter, the corporation's articles of incorporation or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action void or

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voidable.

(5) "Overissue" means the purported issuance of:

(a) Shares of a class or series in excess of the number of shares of the class or series the corporation has the power to issue under s. 607.0601 at the time of such issuance; or

(b) Shares of any class or series that is not then authorized for issuance by the corporation's articles of incorporation.

(6) "Putative shares" means the shares of any class or series, including shares issued upon exercise of rights, options, warrants or other securities convertible into shares of the corporation, or interests with respect to such shares, which were created or issued as a result of a defective corporate action and which:

(a) Would constitute valid shares but for any failure of authorization; or

(b) Cannot be determined by the board of directors to be valid shares.

(7) "Valid shares" means the shares of any class or series which have been duly authorized and validly issued, including as a result of ratification or validation under ss. 607.0145-607.0152.

(8) "Validation effective time," with respect to any defective corporate action ratified under ss. 607.0145-607.0152, means the later of the following:

(a) The date on which the ratification of the defective corporate action is approved by the shareholders, or if approval of shareholders is not required, the date on which the notice required by s. 607.0149 becomes effective in accordance with s.

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607.0141;

(b) If no articles of validation are required to be filed in accordance with s. 607.0151, the date on which the notice required by s. 607.0149 becomes effective in accordance with s. 607.0141; or

(c) If articles of validation are required to be filed in accordance with s. 607.0151, the date on which the articles of validation filed in accordance with s. 607.0151 become effective.

Section 2. Section 607.0146, Florida Statutes, is created to read:

607.0146 Defective corporate actions.—

(1) A defective corporate action is not void or voidable if:

(a) The defective corporate action was ratified in accordance with the requirements of s. 607.0147, including the filing, if required, of articles of validation pursuant to s. 607.0151; or

(b) The defective corporate action was validated pursuant to s. 607.0152.

(2) Ratification pursuant to s. 607.0147 or validation pursuant to s. 607.0152 may not be deemed to be the exclusive means of ratifying or validating any defective corporate action, and the absence or failure of ratification pursuant to ss. 607.0145-607.0152 does not, in and of itself, affect the validity or effectiveness of any corporate action properly ratified under common law or otherwise, and it does not create a presumption that any such corporate action is or was a defective corporate action or is or was void or voidable.

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(3) In the case of an overissue, putative shares are valid effective as of the date originally issued or purportedly issued upon:

(a) Adoption of an amendment to the articles of incorporation authorizing, designating, or creating such shares pursuant to ss. 607.0145-607.0152 and ss. 607.1001-607.1009; or

(b) Other corporate action taken under ss. 607.0145-607.0152 ratifying the authorization, designation, or creation of such shares.

Section 3. Section 607.0147, Florida Statutes, is created to read:

607.0147 Ratification of defective corporate actions.—

(1) To ratify a defective corporate action under this section, other than ratification of an election of the initial board of directors under subsection (2), the board of directors must ratify the action in accordance with s. 607.0148, stating all of the following:

(a) The defective corporate action to be ratified and, if the defective corporate action involved the issuance of putative shares, the number and type of putative shares purportedly issued.

(b) The date of the defective corporate action.

(c) The nature of the failure of authorization with respect to the defective corporate action that is the subject of the ratification.

(d) That the board of directors approves the ratification of the defective corporate action.

(2) In the event that a defective corporate action to be ratified relates to the election of the initial board of

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233 directors of the corporation under s. 607.0205(1)(b), a majority
 234 of the persons who, at the time of the ratification, are
 235 exercising the powers of directors may take an action stating
 236 all of the following:

237 (a) The name of the person or persons who first took action
 238 in the name of the corporation as the initial board of directors
 239 of the corporation.

240 (b) The earlier of the dates on which either such persons
 241 first took such action or were purported to have been elected to
 242 the initial board of directors.

243 (c) That the ratification of the election of such person or
 244 persons to the initial board of directors is approved.

245 (3) If any action taken pursuant to this section, the
 246 corporation's articles of incorporation or bylaws, any corporate
 247 resolution, or any plan or agreement in effect at the time of
 248 the action to which the corporation is a party under subsection
 249 (1) requires shareholder approval, or would have required
 250 shareholder approval, at the date of the occurrence of the
 251 defective corporate action, the ratification of the defective
 252 corporate action approved in the action taken by the directors
 253 under subsection (1) must be submitted to the shareholders for
 254 approval in accordance with s. 607.0148.

255 (4) Unless otherwise provided in the action taken by the
 256 board of directors under subsection (1), after the action by the
 257 board of directors has been taken and, if required, approved by
 258 the shareholders, the board of directors may abandon the
 259 ratification at any time before the validation effective time
 260 without further action of the shareholders.

261 Section 4. Section 607.0148, Florida Statutes, is created

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262 to read:

263 607.0148 Action on ratification.—

264 (1) The quorum and voting requirements applicable to a
 265 ratifying action by the board of directors under s. 607.0147(1)
 266 are the quorum and voting requirements applicable to the
 267 corporate action proposed to be ratified at the time such
 268 ratifying action is taken.

269 (2)(a) If the ratification of the defective corporate
 270 action requires approval by the shareholders under s.
 271 607.0147(3), and if the approval is to be given at a meeting,
 272 the corporation must notify each holder of valid and putative
 273 shares that, regardless of whether entitled to vote as of the
 274 record date for notice of the meeting and as of the date of the
 275 occurrence of the defective corporate action, approval is
 276 required; however, such notice is not required to be given to
 277 holders of valid or putative shares whose identities or
 278 addresses for notice cannot be determined from the records of
 279 the corporation. The notice must state that the purpose, or one
 280 of the purposes, of the meeting is to consider ratification of a
 281 defective corporate action.

282 (b) If the ratification of the defective corporate action
 283 requires approval by the shareholders under s. 607.0147(3), and
 284 if the approval is to be ratified by one or more written
 285 consents of the shareholders, the corporation must notify each
 286 holder of valid and putative shares as of the record date of the
 287 action by written consent and as of the date of the occurrence
 288 of the defective corporate action, regardless of whether
 289 entitled to vote; however, notice is not required to be given to
 290 holders of valid or putative shares whose identities or

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addresses for notice cannot be determined from the records of the corporation. The notice must state that the purpose, or one of the purposes, of the written consent is to consider ratification of a defective corporate action.

(c) The notice must be accompanied by both of the following:

1. Either a copy of the action taken by the board of directors pursuant to s. 607.0147(1)(a), or the information required pursuant to s. 607.0147(1)(a)-(d).

2. A statement that any claim asserting that the ratification of such defective corporate action, and any putative shares issued as a result of such defective corporate action, are not effective, or may only be effective on certain conditions, and must be brought within 120 days after the applicable validation effective time.

(3) Except as provided in subsection (4) with respect to the voting requirements to ratify the election of a director, any quorum and voting requirements applicable to the approval by the shareholders required by s. 607.0147(3) are those applicable, at the time of such shareholder approval, to the corporate action proposed to be ratified.

(4) The approval by shareholders at a meeting to ratify the election of a director requires that the votes cast by the voting group favoring such ratification exceed the votes cast by the voting group opposing such ratification at a meeting at which a quorum is present. Approval by shareholders by written consent to ratify the election of a director requires that the consents given by the voting group favoring such ratification represent a majority of the shares of the voting group.

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(5) Holders of putative shares on the record date for determining the shareholders entitled to vote on any matter submitted to shareholders under s. 607.0147(3), and without giving effect to any ratification of putative shares which becomes effective as a result of such vote, are not entitled to vote and may not be counted for quorum purposes in any vote to approve the ratification of any defective corporate action. Putative shares on the record date for the action by written consent, and without giving effect to any ratification of putative shares which becomes effective as a result of such written consent, are not entitled to be counted in any written consent to approve the ratification of any defective corporate action.

(6) If approval under this section of putative shares would result in an overissue, in addition to the approval required by s. 607.0147, approval is also required of an amendment to the corporation's articles of incorporation under ss. 607.1001-607.1009 to increase the number of shares of an authorized class or series or to authorize the creation of a class or series of shares so there is no overissue.

Section 5. Section 607.0149, Florida Statutes, is created to read:

607.0149 Notice requirements.—

(1) Unless shareholder approval is required under s. 607.0147(3), prompt notice of an action taken by the board of directors under s. 607.0147 must be given to each holder of valid shares and each holder of putative shares, regardless of whether entitled to vote, who is a holder of valid shares or putative shares as of:

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349 (a) The date of the action by the board of directors taken
 350 under s. 607.0147; and
 351 (b) The date of the occurrence of the defective corporate
 352 action being ratified.
 353 (2) Notice is not required to those holders of valid shares
 354 or those holders of putative shares whose identities or
 355 addresses for notice cannot be determined from the records of
 356 the corporation.
 357 (3) The notice must contain both of the following:
 358 (a) Either a copy of the action taken by the board of
 359 directors pursuant to s. 607.0147(1) or the information required
 360 by s. 607.0147(1)(a)-(d) or s. 607.0147(2)(a), (b), and (c), as
 361 applicable.
 362 (b) A statement that, in order to be considered, any claim
 363 asserting that the ratification of the defective corporate
 364 action, and any putative shares issued as a result of such
 365 defective corporate action, are not effective, or are effective
 366 only on certain conditions, and must be brought within 120 days
 367 after the applicable validation effective time.
 368 (4) Notice is not required under this section with respect
 369 to any action required to be submitted to shareholders for
 370 approval pursuant s. 607.0147(3) if notice is given pursuant to
 371 s. 607.0148(2).
 372 (5) Notice required by this section may be given in any
 373 manner authorized under s. 607.0141 and, for any corporation
 374 subject to the reporting requirements of ss. 13 or 15(d) of the
 375 Securities Exchange Act of 1934, may be given by means of a
 376 filing or furnishing of such notice with the United States
 377 Securities and Exchange Commission.

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378 Section 6. Section 607.0150, Florida Statutes, is created
 379 to read:
 380 607.0150 Effects of ratification.—The following provisions
 381 apply upon the validation effective time, without regard to the
 382 120-day period during which a claim may be brought pursuant to
 383 s. 607.0152:
 384 (1) Each defective corporate action ratified pursuant to s.
 385 607.0147 is not void or voidable as a result of the failure of
 386 authorization set forth and identified pursuant to s.
 387 607.0147(1) or (2) and is deemed a valid corporate action
 388 effective as of the date of the defective corporate action.
 389 (2) The issuance of each putative share or fraction of a
 390 putative share purportedly issued pursuant to a defective
 391 corporate action identified in the action taken pursuant to s.
 392 607.0147 is not void or voidable, and each such putative share
 393 is deemed to be an identical share or fraction of a valid share
 394 as of the time it was purportedly issued.
 395 (3) Any corporate action taken subsequent to the defective
 396 corporate action ratified pursuant to ss. 607.0145-607.0152 in
 397 reliance on such defective corporate action having been validly
 398 effected, and any subsequent defective corporate action
 399 resulting directly or indirectly from such original defective
 400 corporate action, is valid as of the respective time such
 401 corporate action was taken.
 402 Section 7. Section 607.0151, Florida Statutes, is created
 403 to read:
 404 607.0151 Filings.—
 405 (1) If the defective corporate action ratified under ss.
 406 607.0145-607.0152 would have required a filing under ss.

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607.0145-607.0152, and either:

(a) Any previous filing requires any change to the filing to give effect to the defective corporate action in accordance with this section, including a change to the date and time of the effectiveness of such filing; or

(b) A filing was not previously filed with respect to the defective corporate action,

In lieu of a filing otherwise required under ss. 607.0145-607.0152, the corporation must file articles of validation in accordance with this section, and such articles of validation will serve to amend or be a substitute for any other filing with respect to such defective corporate action required under ss. 607.0145-607.0152.

(2) Articles of validation must specify all of the following:

(a) The defective corporate action that is the subject of the articles of validation, including, in the case of any defective corporate action involving the issuance of putative shares, the number and type of putative shares issued and the date or dates upon which such putative shares were purported to have been issued.

(b) The date of the defective corporate action.

(c) The nature of the failure of authorization with respect to the defective corporate action.

(d) A statement that the defective corporate action was ratified pursuant to s. 607.0147, including the date on which the board of directors ratified such defective corporate action and, if applicable, the date on which the shareholders approved

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the ratification of such defective corporate action.

(e)1. If a filing was previously made with respect to the defective corporate action and such filing requires any change to give effect to the ratification of such defective corporate action pursuant to s. 607.0147:

a. The name, title, and filing date of the filing previously made and any articles of correction for that filing;

b. A statement that a filing containing all of the information required to be included under the applicable provisions of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation; and

c. The date and time that such filing is deemed to have become effective.

2. If a filing was not previously made with respect to the defective corporate action and the defective corporate action ratified pursuant to s. 607.0147 would have required a filing under any other provision of this chapter:

a. A statement that a filing containing all of the information required to be included under the applicable provisions of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation; and

b. The date and time that such filing is deemed to have become effective.

Section 8. Section 607.0152, Florida Statutes, is created to read:

607.0152 Judicial proceedings regarding validity of corporate actions.—

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(1) Subject to subsection (4), upon application by the corporation, any successor entity to the corporation; a director of the corporation; any shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation, including any such shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner as of the date of the defective corporate action ratified pursuant to s. 607.0147; or any other person claiming to be substantially and adversely affected by a ratification pursuant to s. 607.0147 may file in the circuit court in the applicable county motions for any of the following:

(a) A determination of the validity and effectiveness of any corporate action or defective corporate action ratified pursuant to s. 607.0147.

(b) A determination of the validity and effectiveness of any ratification of any defective corporate action pursuant to s. 607.0147.

(c) A determination of the validity and effectiveness of any defective corporate action not ratified or not ratified effectively pursuant to s. 607.0147.

(d) A determination of the validity of any putative shares.

(e) A modification or waiver of any of the procedures specified in s. 607.0147 or s. 607.0148 to ratify a defective corporate action.

(2) Upon the filing of such a motion, the court may make such findings or issue such orders as it deems proper under the circumstances. Factors that the court may consider include, but are not limited to, those set forth in subsections (5) and (6).

(3) Service of process of the application under subsection

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(1) on the corporation may be made in any manner provided in chapter 48 for service on a corporation, and no other party need be joined in order for the court to adjudicate the matter. In an action filed by the corporation, the court may require that notice of the action be provided to other persons specified by the court and permit such other persons to intervene in the action.

(4) Notwithstanding any other law to the contrary, an action asserting that the ratification of a defective corporate action, and any putative shares issued as a result of such defective corporate action, is not effective, or may be given effect only upon certain conditions, and must be brought within 120 days after the validation effective time.

(5) In determining judicial proceedings under this section, the court may consider the following:

(a) Whether the defective corporate action was originally approved or effectuated with the belief that the approval or effectuation was in compliance with ss. 607.0145-607.0152, the articles of incorporation, or the bylaws of the corporation.

(b) Whether the corporation and board of directors have treated the defective corporate action as a valid act or transaction and whether any person has acted in reliance on the public record that such defective corporate action was valid.

(c) Whether any person will be or was harmed by the ratification or validation of the defective corporate action, excluding any harm that would have resulted if the defective corporate action had been valid when approved or effectuated.

(d) Whether any person will be harmed by the failure to ratify or validate the defective corporate action.

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523 (e) Whether the defective corporate action was a conflict
 524 of interest transaction.
 525 (f) Any other factors or considerations the court deems
 526 just and equitable.
 527 (6) The court may do any of the following in connection
 528 with an action under this section:
 529 (a) Declare that a ratification pursuant to s. 607.0147 is
 530 not effective or is effective only at a time or upon conditions
 531 established by the court.
 532 (b) Validate and declare effective any defective corporate
 533 action or putative shares and impose conditions upon such
 534 validation.
 535 (c) Require measures to remedy or avoid harm to any person
 536 substantially and adversely affected by a ratification pursuant
 537 to s. 607.0147 or by any order of the court pursuant to this
 538 section, excluding any harm that may have resulted if the
 539 defective corporate action had been valid when approved or
 540 effectuated.
 541 (d) Order the department to accept an instrument for filing
 542 with an effective time specified by the court, which effective
 543 time may be before or after the date of such order, provided
 544 that the filing date of such instrument must be determined in
 545 accordance with s. 607.0123.
 546 (e) Approve a stock ledger for the corporation which
 547 includes any shares ratified or validated pursuant with this
 548 section or s. 607.0147.
 549 (f) Declare that the putative shares are valid shares or
 550 require a corporation to issue and deliver valid shares in place
 551 of any putative shares.

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552 (g) Order that a meeting of holders of valid shares or
 553 putative shares be held and exercise such powers as it deems
 554 appropriate with respect to such a meeting.
 555 (h) Declare that a defective corporate action validated by
 556 the court is effective as of the date of the defective corporate
 557 action or at such other time as determined by the court.
 558 (i) Declare that putative shares validated by the court are
 559 deemed to be identical valid shares or a fraction of valid
 560 shares as of the date originally issued or purportedly issued or
 561 at such other time as determined by the court.
 562 (j) Require payment by the corporation of reasonable
 563 expenses, including attorney fees and costs, as determined by
 564 the court.
 565 (k) Issue other orders as it deems necessary under the
 566 circumstances.
 567 Section 9. Present subsections (3), (4), and (5) of section
 568 605.0115, Florida Statutes, are redesignated as subsections (4),
 569 (5), and (6) respectively, a new subsection (3) is added to that
 570 section, and subsections (1) and (2) of that section, are
 571 amended, to read:
 572 605.0115 Resignation of registered agent.—
 573 (1) A registered agent may resign as agent for an active
 574 limited liability company or a foreign limited liability
 575 company, an inactive limited liability company or an inactive
 576 foreign limited liability company, or for one or more inactive
 577 limited liability companies or inactive foreign limited
 578 liability companies that have been inactive for 10 years or
 579 longer for a limited liability company or foreign limited
 580 liability company by delivering for filing to the department a

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581 signed statement of resignation. The statement of resignation
582 must contain: ~~containing the name of the limited liability~~
583 ~~company or foreign limited liability company.~~

584 (a) The name of the limited liability company or foreign
585 limited liability company; and

586 (b) If the limited liability company or foreign limited
587 liability company has been inactive or dissolved for 10 years or
588 longer, the date of the inactivity or the date of the
589 dissolution.

590 (2) If a registered agent is resigning from one or more
591 limited liability companies or foreign limited liability
592 companies that each have been inactive or dissolved for at least
593 10 years or longer, the registered agent may elect to file the
594 statement of resignation separately for each inactive or
595 dissolved limited liability company or foreign limited liability
596 company or may elect to file a single composite statement of
597 resignation covering two or more limited liability companies or
598 foreign limited liability companies. Such composite statement of
599 resignation must set forth, for each inactive or dissolved
600 limited liability company or foreign limited liability company
601 covered by the statement of resignation, the name of each
602 limited liability company or foreign limited liability company
603 and each limited liability company's or foreign limited
604 liability company's date of dissolution or date of inactivity.

605 (3) After delivering the statement of resignation to the
606 department for filing, the registered agent must promptly mail:

607 (a) A copy of the statement to the limited liability
608 company's or foreign limited liability company's current mailing
609 address as it appears in the records of the department, if the

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610 registered agent is resigning from one limited liability or
611 foreign limited liability company; or

612 (b) If the registered agent is resigning from more than one
613 limited liability company or foreign limited liability company,
614 a copy of either the composite statement of resignation or a
615 separate notice of resignation for the inactive or dissolved
616 limited liability companies or foreign limited liability
617 companies, using the current mailing address of the respective
618 companies as they appear in the records of the department.

619 Section 10. Present subsections (2) through (5) of section
620 607.0503, Florida Statutes, are redesignated as subsections (3)
621 through (6), respectively, a new subsection (2) is added to that
622 section, and subsection (1) and present subsection (2) of that
623 section are amended, to read:

624 607.0503 Resignation of registered agent.—

625 (1) A registered agent may resign as agent for an active a
626 corporation, an inactive corporation, or for one or more
627 inactive corporations that have been inactive for 10 years or
628 longer by delivering to the department for filing a signed
629 statement of resignation. The statement of resignation must
630 contain: ~~containing~~

631 (a) The name of the corporation; and

632 (b) The date of the inactivity or the date of the
633 dissolution, if the corporation has been inactive or dissolved
634 for 10 years or longer.

635 (2) If a registered agent is resigning from one or more
636 corporations that each have been inactive or dissolved for 10
637 years or longer, the registered agent may elect to file the
638 statement of resignation separately for each inactive or

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dissolved corporation or may elect to file a single composite statement of resignation covering two or more corporations. Such composite statement of resignation must set forth, for each inactive or dissolved corporation covered by the statement of resignation, the name of each corporation and each corporation's date of dissolution or date of inactivity.

~~(3)(2)~~ After delivering the statement of resignation to the department for filing, the registered agent must promptly mail:

(a) A copy to the corporation at its current mailing address as it appears in the records of the department, if the registered agent is resigning from one corporation; or

(b) If the registered agent is resigning from more than one corporation, a copy of either the composite statement of resignation or a separate notice of resignation for the inactive or dissolved corporation to the current mailing address of the respective corporation as it appears in the records of the department.

Section 11. Present subsections (2) through (5) of section 607.1509, Florida Statutes, are redesignated as subsections (3) through (6), respectively, a new subsection (2) is added to that section, and subsection (1) and present subsection (2) of that section are amended, to read:

607.1509 Resignation of registered agent of foreign corporation.—

(1) A registered agent may resign as agent for a foreign corporation by delivering to the department for filing a signed statement of resignation for an active foreign corporation, an inactive foreign corporation, or for one or more inactive or dissolved foreign corporations that have each been inactive or

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dissolved for 10 years or longer. The statement of resignation must contain: ~~containing~~

(a) The name of the foreign corporation; and

(b) If the foreign corporation has been inactive or dissolved for 10 years or longer, the date that the foreign corporation became inactive or the date of dissolution.

(2) A registered agent resigning from more than one foreign corporation may elect to file the statement of resignation separately for each inactive or dissolved foreign corporation or may elect to file a single composite statement of resignation covering two or more foreign corporations. Such composite statement of resignation must set forth, for each inactive or dissolved foreign corporation covered by the statement of resignation, the name of the corporation and the date of inactivity or date of dissolution of the foreign corporation.

~~(3)(2)~~ After delivering the statement of resignation to the department for filing, the registered agent must promptly mail:

(a) A copy to the foreign corporation at its current mailing address as it appears in the records of the department, if the registered agent is resigning from one foreign corporation; or

(b) If the registered agent is resigning from more than one foreign corporation, a copy of either the composite statement of resignation or a separate notice of resignation for the inactive or dissolved corporations to the current mailing address as it appears in the records of the department.

Section 12. Present subsections (3), (4), and (5) of section 617.0502, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, new subsections

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697 (3), (4), and (5) are added to that section, and subsection (2)
698 of that section is amended, to read:

699 617.0502 Change of registered office or registered agent;
700 resignation of registered agent.—

701 (2) ~~A~~ Any registered agent may resign his or her agency
702 appointment by signing and delivering for filing with the
703 Department of State a statement of resignation for an active
704 corporation or an inactive corporation, or for one or more
705 inactive or dissolved corporations that have been inactive or
706 dissolved for 10 years or longer. The statement of resignation
707 must contain:

708 (a) The name of the corporation; and
709 (b) The date of the inactivity or date of the dissolution,
710 if the corporation has been inactive or dissolved for 10 years
711 or longer.

712 (3) If a registered agent is resigning from one or more
713 corporations that have each been inactive or dissolved for 10
714 years or longer, the registered agent may elect to file the
715 statement of resignation separately for each inactive or
716 dissolved corporation or may elect to file a single composite
717 statement of resignation covering two or more corporations. Such
718 composite statement of resignation must set forth, for each
719 inactive or dissolved corporation covered by the statement of
720 resignation, the respective name of the corporation and the date
721 of dissolution or date of inactivity of the corporation.

722 (4) After delivering the statement of resignation to the
723 department for filing, the registered agent must promptly mail:

724 (a) A copy to the corporation at its current mailing
725 address as it appears in the records of the department, if the

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726 registered agent is resigning from one corporation; or

727 (b) A copy of either the composite statement of resignation
728 or a separate notice of resignation for the inactive or
729 dissolved corporation to the current mailing address of the
730 respective corporation as it appears in the records of the
731 department if the registered agent is resigning from more than
732 one corporation and mailing a copy of such statement to the
733 corporation at its principal office address shown in its most
734 recent annual report or, if none, filed in the articles of
735 incorporation or other most recently filed document. The
736 statement of resignation shall state that a copy of such
737 statement has been mailed to the corporation at the address so
738 stated.

739 (5) The agency is terminated as of the 31st day after the
740 date on which the statement was filed and unless otherwise
741 provided in the statement, termination of the agency acts as a
742 termination of the registered office.

743 Section 13. Present subsections (2) and (3) of section
744 620.1116, Florida Statutes, are redesignated as subsections (3)
745 and (4), respectively, a new subsection (2) is added to that
746 section, and subsection (1) and present subsection (2) are
747 amended, to read:

748 620.1116 Resignation of registered agent.—

749 (1) In order to resign as registered agent of a limited
750 partnership or foreign limited partnership, the agent must
751 deliver to the Department of State for filing a signed statement
752 of resignation for an active limited partnership or foreign
753 limited partnership, or more than one inactive or dissolved
754 limited partnership or foreign limited partnership that have

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755 been inactive or dissolved for 10 years or longer containing the
 756 following:

757 (a) The name of the limited partnership or foreign limited
 758 partnership; and

759 (b) The date that the limited partnership or foreign
 760 limited partnership became inactive or the date of dissolution,
 761 if the limited partnership or foreign limited partnership has
 762 been inactive or dissolved for 10 years or longer.

763 (2) If a registered agent is resigning from more than one
 764 limited partnership or foreign limited partnership that each
 765 have been inactive or dissolved for 10 years or longer, the
 766 registered agent may elect to file the statement of resignation
 767 separately for each inactive or dissolved limited partnership or
 768 foreign limited partnership or may elect to file a single
 769 composite statement of resignation covering two or more limited
 770 partnerships or foreign limited partnerships. Such composite
 771 statement of resignation must, for each inactive or dissolved
 772 limited partnership or foreign limited partnership, set forth
 773 the respective name of the limited partnership or foreign
 774 limited partnership and the date of dissolution or the date that
 775 the limited partnership or foreign limited partnership became
 776 inactive.

777 (3)(2) After filing the statement with the Department of
 778 State, the registered agent shall mail:

779 (a) A copy to the limited partnership's or foreign limited
 780 partnership's current mailing address as it appears in the
 781 records of the department, if the registered agent is resigning
 782 from one limited partnership or foreign limited partnership; or
 783 (b) A copy of either the composite statement of resignation

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784 or a separate notice of resignation for the inactive or
 785 dissolved limited partnership or foreign limited partnership, to
 786 the current mailing address of the respective limited
 787 partnership or foreign limited partnership as it appears in the
 788 records of the department if the registered agent is resigning
 789 from more than one limited partnership or foreign limited
 790 partnership.

791 Section 14. Subsection (9) of section 605.0213, Florida
 792 Statutes, is amended to read:

793 605.0213 Fees of the department.—The fees of the department
 794 under this chapter are as follows:

795 (9) For filing a registered agent's statement of
 796 resignation from inactive or a dissolved limited liability
 797 companies company, \$25.

798 Section 15. Subsection (7) of section 607.0122, Florida
 799 Statutes, is amended to read:

800 607.0122 Fees for filing documents and issuing
 801 certificates.—The department shall collect the following fees
 802 when the documents described in this section are delivered to
 803 the department for filing:

804 (7) Agent's statement of resignation from inactive
 805 corporations an inactive corporation: \$35.

806 Section 16. Subsection (7) of section 617.0122, Florida
 807 Statutes, is amended to read:

808 617.0122 Fees for filing documents and issuing
 809 certificates.—The Department of State shall collect the
 810 following fees on documents delivered to the department for
 811 filing:

812 (7) Agent's statement of resignation from inactive

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corporations ~~corporation~~: \$35.

Any citizen support organization that is required by rule of the Department of Environmental Protection to be formed as a nonprofit organization and is under contract with the department is exempt from any fees required for incorporation as a nonprofit organization, and the Secretary of State may not assess any such fees if the citizen support organization is certified by the Department of Environmental Protection to the Secretary of State as being under contract with the Department of Environmental Protection.

Section 17. For the purpose of incorporating the amendments made by this act to section 605.0115, Florida Statutes, in a reference thereto, section 605.0207, Florida Statutes, is reenacted to read:

605.0207 Effective date and time.—Except as otherwise provided in s. 605.0208, and subject to s. 605.0209(3), any document delivered to the department for filing under this chapter may specify an effective time and a delayed effective date. In the case of initial articles of organization, a prior effective date may be specified in the articles of organization if such date is within 5 business days before the date of filing. Subject to ss. 605.0114, 605.0115, 605.0208, and 605.0209, a record filed by the department is effective:

(1) If the record filed does not specify an effective time and does not specify a prior or a delayed effective date, on the date and at the time the record is accepted as evidenced by the department's endorsement of the date and time on the filing.

(2) If the record filed specifies an effective time, but

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not a prior or delayed effective date, on the date the record is accepted, as evidenced by the department's endorsement, and at the time specified in the filing.

(3) If the record filed specifies a delayed effective date, but not an effective time, at 12:01 a.m. on the earlier of:

(a) The specified date; or

(b) The 90th day after the record is filed.

(4) If the record filed specifies a delayed effective date and an effective time, at the specified time on or the earlier of:

(a) The specified date; or

(b) The 90th day after the record is filed.

(5) If the record filed is the initial articles of organization and specifies an effective date before the date of the filing, but no effective time, at 12:01 a.m. on the later of:

(a) The specified date; or

(b) The 5th business day before the record is filed.

(6) If the record filed is the initial articles of organization and specifies an effective time and an effective date before the date of the filing, at the specified time on the later of:

(a) The specified date; or

(b) The 5th business day before the record is filed.

(7) If the record filed does not specify the time zone or place at which the date or time, or both, is to be determined, the date or time, or both, at which it becomes effective shall be those prevailing at the place of filing in this state.

Section 18. For the purpose of incorporating the amendments

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871 made by this act to section 605.0115, Florida Statutes, in a
 872 reference thereto, paragraph (b) of subsection (3) of section
 873 605.0113, Florida Statutes, is reenacted to read:
 874 605.0113 Registered agent.—
 875 (3) The duties of a registered agent are as follows:
 876 (b) If the registered agent resigns, to provide the notice
 877 required under s. 605.0115(2) to the company or foreign limited
 878 liability company at the address most recently supplied to the
 879 agent by the company or foreign limited liability company.
 880 Section 19. For the purpose of incorporating the amendment
 881 made by this act to section 607.0122, Florida Statutes, in a
 882 reference thereto, subsection (1) of section 658.23, Florida
 883 Statutes, is reenacted to read:
 884 658.23 Submission of articles of incorporation; contents;
 885 form; approval; filing; commencement of corporate existence;
 886 bylaws.—
 887 (1) Within 3 months after approval by the office and the
 888 appropriate federal regulatory agency, the applicant shall
 889 submit its duly executed articles of incorporation to the
 890 office, together with the filing fee due the Department of State
 891 under s. 607.0122.
 892 Section 20. For the purpose of incorporating the amendment
 893 made by this act to section 607.0503, Florida Statutes, in a
 894 reference thereto, subsection (4) of section 607.0501, Florida
 895 Statutes, is reenacted to read:
 896 607.0501 Registered office and registered agent.—
 897 (4) The duties of a registered agent are:
 898 (a) To forward to the corporation at the address most
 899 recently supplied to the registered agent by the corporation, a

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900 process, notice, or demand pertaining to the corporation which
 901 is served on or received by the registered agent; and
 902 (b) If the registered agent resigns, to provide the notice
 903 required under s. 607.0503 to the corporation at the address
 904 most recently supplied to the registered agent by the
 905 corporation.
 906 Section 21. For the purpose of incorporating the amendments
 907 made by this act to sections 605.0213 and 607.0122, Florida
 908 Statutes, in references thereto, paragraph (b) of subsection (2)
 909 of section 607.193, Florida Statutes, is reenacted to read:
 910 607.193 Supplemental corporate fee.—
 911 (2)
 912 (b) In addition to the fees levied under ss. 605.0213,
 913 607.0122, and 620.1109 and the supplemental corporate fee, a
 914 late charge of \$400 shall be imposed if the supplemental
 915 corporate fee is remitted after May 1 except in circumstances in
 916 which a business entity was administratively dissolved or its
 917 certificate of authority was revoked due to its failure to file
 918 an annual report and the entity subsequently applied for
 919 reinstatement and paid the applicable reinstatement fee.
 920 Section 22. For the purpose of incorporating the amendment
 921 made by this act to section 607.1509, Florida Statutes, in a
 922 reference thereto, subsection (9) of section 607.0120, Florida
 923 Statutes, is reenacted to read:
 924 607.0120 Filing requirements.—
 925 (9) The document must be delivered to the office of the
 926 department for filing. Delivery may be made by electronic
 927 transmission if and to the extent permitted by the department.
 928 If it is filed in typewritten or printed form and not

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929 transmitted electronically, the department may require one exact
930 or conformed copy, to be delivered with the document, except as
931 provided in s. 607.1509.

932 Section 23. For the purpose of incorporating the amendment
933 made by this act to section 607.1509, Florida Statutes,
934 subsection (4) of section 607.1507, Florida Statutes, is
935 reenacted to read:

936 607.1507 Registered office and registered agent of foreign
937 corporation.—

938 (4) The duties of a registered agent are as follows:

939 (a) To forward to the foreign corporation at the address
940 most recently supplied to the registered agent by the foreign
941 corporation, a process, notice, or demand pertaining to the
942 foreign corporation which is served on or received by the
943 registered agent; and

944 (b) If the registered agent resigns, to provide the notice
945 required under s. 607.1509 to the foreign corporation at the
946 address most recently supplied to the registered agent by the
947 foreign corporation.

948 Section 24. For the purpose of incorporating the amendment
949 made by this act to section 617.0122, Florida Statutes, in a
950 reference thereto, paragraph (a) of subsection (1) of section
951 39.8298, Florida Statutes, is reenacted to read:

952 39.8298 Guardian Ad Litem direct-support organization.—

953 (1) AUTHORITY.—The Statewide Guardian Ad Litem Office
954 created under s. 39.8296 is authorized to create a direct-
955 support organization.

956 (a) The direct-support organization must be a Florida
957 corporation not for profit, incorporated under the provisions of

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958 chapter 617. The direct-support organization shall be exempt
959 from paying fees under s. 617.0122.

960 Section 25. For the purpose of incorporating the amendment
961 made by this act to section 617.0122, Florida Statutes, in a
962 reference thereto, paragraph (a) of subsection (2) of section
963 252.71, Florida Statutes, is reenacted to read:

964 252.71 Florida Emergency Management Assistance Foundation.—

965 (2) The foundation is hereby created as a direct-support
966 organization of the division to provide assistance, funding, and
967 support to the division in its disaster response, recovery, and
968 relief efforts for natural emergencies.

969 (a) The foundation must be an organization that is a
970 Florida nonprofit corporation incorporated under chapter 617,
971 approved by the Department of State, and recognized under s.
972 501(c)(3) of the Internal Revenue Code. The foundation is exempt
973 from paying fees under s. 617.0122.

974 Section 26. For the purpose of incorporating the amendment
975 made by this act to section 617.0122, Florida Statutes, in a
976 reference thereto, paragraph (a) of subsection (6) of section
977 288.012, Florida Statutes, is reenacted to read:

978 288.012 State of Florida international offices; direct-
979 support organization.—The Legislature finds that the expansion
980 of international trade and tourism is vital to the overall
981 health and growth of the economy of this state. This expansion
982 is hampered by the lack of technical and business assistance,
983 financial assistance, and information services for businesses in
984 this state. The Legislature finds that these businesses could be
985 assisted by providing these services at State of Florida
986 international offices. The Legislature further finds that the

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accessibility and provision of services at these offices can be enhanced through cooperative agreements or strategic alliances between private businesses and state, local, and international governmental entities.

(6) (a) The department shall establish and contract with a direct-support organization, organized as a nonprofit under chapter 617 and recognized under s. 501(c) (3) of the Internal Revenue Code, to carry out the provisions of this section; assist with the coordination of international trade development efforts; and assist in development and planning related to foreign investment, international partnerships, and other international business and trade development. The organization is exempt from paying fees under s. 617.0122.

Section 27. For the purpose of incorporating the amendment made by this act to section 617.0122, Florida Statutes, in a reference thereto, section 617.1807, Florida Statutes, is reenacted to read:

617.1807 Conversion to corporation not for profit; authority of circuit judge.—If the circuit judge to whom the petition and proposed articles of incorporation are presented finds that the petition and proposed articles are in proper form, he or she shall approve the articles of incorporation and endorse his or her approval thereon; such approval shall provide that all of the property of the petitioning corporation shall become the property of the successor corporation not for profit, subject to all indebtedness and liabilities of the petitioning corporation. The articles of incorporation with such endorsements thereupon shall be sent to the Department of State, which shall, upon receipt thereof and upon payment of all taxes

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due the state by the petitioning corporation, if any, issue a certificate showing the receipt of the articles of incorporation with the endorsement of approval thereon and of the payment of all taxes to the state. Upon payment of the filing fees specified in s. 617.0122, the Department of State shall file the articles of incorporation, and from thenceforth the petitioning corporation shall become a corporation not for profit under the name adopted in the articles of incorporation and subject to all the rights, powers, immunities, duties, and liabilities of corporations not for profit under state law, and its rights, powers, immunities, duties, and liabilities as a corporation for profit shall cease and determine.

Section 28. For the purpose of incorporating the amendment made by this act to section 617.0122, Florida Statutes, in a reference thereto, subsection (4) of section 617.2006, Florida Statutes, is reenacted to read:

617.2006 Incorporation of labor unions or bodies.—Any group or combination of groups of workers or wage earners, bearing the name labor, organized labor, federation of labor, brotherhood of labor, union labor, union labor committee, trade union, trades union, union labor council, building trades council, building trades union, allied trades union, central labor body, central labor union, federated trades council, local union, state union, national union, international union, district labor council, district labor union, American Federation of Labor, Florida Federation of Labor, or any component parts or significant words of such terms, whether the same be used in juxtaposition or with interspace, may be incorporated under this act.

(4) Upon the filing of the articles of incorporation and

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1045 the petition, and the giving of such notice, the circuit judge
 1046 to whom such petition may be addressed shall, upon the date
 1047 stated in such notice, take testimony and inquire into the
 1048 admissions and purposes of such organization and the necessity
 1049 therefor, and upon such hearing, if the circuit judge shall be
 1050 satisfied that the allegations set forth in the petition and
 1051 articles of incorporation have been substantiated, and shall
 1052 find that such organization will not be harmful to the community
 1053 in which it proposes to operate, or to the state, and that it is
 1054 intended in good faith to carry out the purposes and objects set
 1055 forth in the articles of incorporation, and that there is a
 1056 necessity therefor, the judge shall approve the articles of
 1057 incorporation and endorse his or her approval thereon. Upon the
 1058 filing of the articles of incorporation with its endorsements
 1059 thereupon with the Department of State and payment of the filing
 1060 fees specified in s. 617.0122, the subscribers and their
 1061 associates and successors shall be a corporation by the name
 1062 given.

1063 Section 29. For the purpose of incorporating the amendment
 1064 made by this act to section 617.0502, Florida Statutes, in a
 1065 reference thereto, subsection (3) of section 617.0501, Florida
 1066 Statutes, is reenacted to read:

1067 617.0501 Registered office and registered agent.—

1068 (3) A registered agent appointed pursuant to this section
 1069 or a successor registered agent appointed pursuant to s.
 1070 617.0502 on whom process may be served shall each file a
 1071 statement in writing with the Department of State, in such form
 1072 and manner as shall be prescribed by the department, accepting
 1073 the appointment as a registered agent simultaneously with his or

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1074 her being designated. Such statement of acceptance shall state
 1075 that the registered agent is familiar with, and accepts, the
 1076 obligations of that position.

1077 Section 30. For the purpose of incorporating the amendment
 1078 made by this act to section 617.0502, Florida Statutes, in a
 1079 reference thereto, paragraph (a) of subsection (1) of section
 1080 617.0503, Florida Statutes, is reenacted to read:

1081 617.0503 Registered agent; duties; confidentiality of
 1082 investigation records.—

1083 (1)(a) Each corporation, foreign corporation, or alien
 1084 business organization that owns real property located in this
 1085 state, that owns a mortgage on real property located in this
 1086 state, or that transacts business in this state shall have and
 1087 continuously maintain in this state a registered office and a
 1088 registered agent and shall file with the Department of State
 1089 notice of the registered office and registered agent as provided
 1090 in ss. 617.0501 and 617.0502. The appointment of a registered
 1091 agent in compliance with s. 617.0501 or s. 617.0502 is
 1092 sufficient for purposes of this section if the registered agent
 1093 so appointed files, in the form and manner prescribed by the
 1094 Department of State, an acceptance of the obligations provided
 1095 for in this section.

1096 Section 31. This act shall take effect July 1, 2024.

1/23/24

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 1198

Bill Number or Topic

Commerce

Committee

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

Amendment Barcode (if applicable)

Name

Stuart Cohn

Phone

850-561-5600

Address

651 E. Jefferson Street

Email

Street

Tallahassee FL

32399

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

The Business Law Section of the Florida Bar

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1218

INTRODUCER: Senator Burgess

SUBJECT: Broadband

DATE: January 22, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 1218 amends s. 288.9963, F.S., regarding a promotional pole attachment rate required to be offered by municipal utilities to broadband providers to provide broadband service to unserved or underserved areas. The bill extends the date through which municipal electric utilities are required to offer to broadband providers a promotional \$1 per pole, per year, wireline attachment rate for any new pole attachments necessary to make broadband service available to an unserved or underserved end user within a municipal electric utility service territory. The date is extended from July 1, 2024 to December 31, 2028.

The Revenue Estimating Conference has not reviewed SB 1218. Staff estimates an indeterminate impact to municipal utility revenue.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.¹ The role of the PSC is to ensure Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.² In order to do so, the PSC exercises authority over public utilities³ in one or

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Jan. 22, 2024).

³ Under s. 366.02(8), F.S., a “public utility” is defined “as every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state.” There are, however, several exceptions to this definition, which include, “a

more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.⁴ PSC authority over municipal utilities is more limited, however.

Electric Utilities

The PSC monitors the safety and reliability of the electric power grid⁵ and may order the addition or repair of infrastructure as necessary.⁶ The PSC has broad jurisdiction over the rates and service of investor-owned electric.⁷ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC has jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, bulk power supply operations, and planning.⁸ Municipally-owned or operated utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by the governing body elected by the cooperative's membership.

Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida

A municipal electric or gas utility is an electric or gas utility owned and operated by a unit of local government. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appears throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state's electric utility customers.⁹ Florida also has 27 municipally-owned gas utilities and four special gas districts.¹⁰

Regulation of Pole Attachments

Utility poles were first deployed in the U.S. in 1844 to extend telegraph service. While they have been in use for over 175 years, utility poles continue to provide the scaffolding for the technology of the twenty-first century. In the mid-nineteenth and early twentieth centuries, many states adopted laws granting rights-of-way (ROW) to construct utility poles, wires, and facilities to transmit electricity and communications signals. First telegraph, then telephone, electricity,

cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; [and] any dependent or independent special natural gas district.” Generally, “public utility” means investor-owned utilities.

⁴ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Jan. 22, 2024).

⁵ Section 366.04(5) and (6), F.S.

⁶ Section 366.05(1) and (8), F.S.

⁷ Section 366.05, F.S.

⁸ Florida Public Service Commission, *About the PSC*, *supra* note 4.

⁹ Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Jan. 22, 2024).

¹⁰ Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, pg. 13, Apr. 2023 (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.pdf>) (last visited Jan. 22, 2024). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

cable, wireless, and Internet service providers have sought to attach facilities to wooden, and later steel or composite, utility poles.¹¹

The term “pole attachment” refers to the process by which communications companies colocate communications infrastructure on existing electric utility poles. Colocation reduces the number of poles that must be built to accommodate utility services, thereby reducing costs to users of both services by allowing providers to share costs. Rules governing pole attachments seek to balance the desire to maximize value for users of both electric and communications services with concerns unique to electric utility poles, such as safety and reliability.¹² The space requested for a pole attachment is typically one foot.¹³

Pole attachments were originally established by mutual agreement. Later, such agreements were regulated by federal statute and administrative regulations. Pole attachments provide non-pole-owning cable and telecommunication service providers (such as cable television providers and local exchange carriers) with access to a pole-owning utility’s distribution poles, conduits, and right-of-way for:

- Installing fiber, coaxial cable or wires, and other equipment;
- Building an interconnected network; and
- Reaching customers.¹⁴

In 1978, Congress passed the “Pole Attachment Act,” which added s. 224 to the Communications Act of 1934, to require the Federal Communications Commission (FCC) to establish rates, terms, and conditions for pole attachments for the cable television industry.¹⁵

The “Telecommunications Act of 1996,” which amended 47 U.S.C. s. 244 to add provisions making access to utility poles mandatory for telecommunications services providers and providing for nondiscriminatory access—unless there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.¹⁶ Municipal owned electric utilities and rural electric cooperatives are exempt from the provisions of 47 U.S.C. s. 224.¹⁷ Specifically, the term “utility” is defined as:

[A]ny person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such

¹¹ Catherine J.K. Sandoval, Contested Places, *Utility Pole Spaces: A Competition and Safety Framework for Analyzing Utility Pole Association Rules, Roles, and Risks*, 69 Cath. U. L. Rev. 473, 474–75 (2020), available at <https://scholarship.law.edu/cgi/viewcontent.cgi?article=3552&context=lawreview> (last visited Jan. 22, 2024).

¹² American Public Power Association, *Issue Brief: Preserving the Municipal Exemption from Federal Pole Attachment Regulations* (Jan. 2021), available at <https://www.publicpower.org/policy/preserving-municipal-exemption-federal-pole-attachment-regulations> (last visited Jan. 22, 2024).

¹³ Evari GIS Consulting, *Joint Use Pole Audit*, available at <https://www.evarigisconsulting.com/joint-use-pole-audit> (last visited Jan. 22, 2024).

¹⁴ *Id.*

¹⁵ Pub. L. No. 95-234, codified at 47 U.S.C. s. 224.

¹⁶ Pub. L. No. 104-104, codified at 47 U.S.C. s. 224(f).

¹⁷ 47 U.S.C. s. 224(a)(1).

term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.¹⁸

A state, however, can assume regulation of pole attachment through a process known as “reverse preemption.” This requires a state to expressly assert jurisdiction through state legislation, followed by certifying to the FCC that “in so regulating such rates, terms, and conditions, the state has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the utility services.”¹⁹ As of June 13, 2022, 23 states and the District of Columbia have reverse preemption, including Florida.²⁰

Florida assumed regulation of pole attachments for poles owned by a public utility from the FCC after the passage and enactment of SB 1944 in 2021, placing the authority to regulate pole attachments under the PSC.²¹ In 2023, with the passage and enactment of HB 1221, this authority was expanded to the regulation of attachment to poles owned by rural electric cooperatives engaged in the provision of broadband services.²² Presently, s. 366.04(8), F.S., regulates pole attachments for public utilities and such rural electric cooperatives.²³ The PSC does not, however, regulate pole attachments for poles owned by municipal utilities.

Broadband Availability in Rural Areas

Much like with rural electricity distribution, the primary challenge in deploying broadband in rural areas is one of population density. The U.S. Department of Transportation estimates that the average cost of laying fiber is \$27,000 per mile.²⁴ Many rural areas are remote and have geographically dispersed populations, thus more fiber per customer must be laid to serve them. Moreover, rural areas often have harsher terrain than urban areas—such as mountain ranges or ground that is frozen for substantial portions of the year. These features can make it more difficult and costly to serve such areas with fiber.²⁵ Cable networks can also face similar density and terrain issues.

While rural customers still lag behind urban counterparts, the difference in broadband access between these areas is at its lowest ever. In 2015, reflecting advances in technology, the FCC raised benchmark speeds to be considered broadband service to 25 megabits per second (Mbps)

¹⁸ *Id.*

¹⁹ 47 U.S.C. s. 224(c)(2).

²⁰ Federal Communications Commission, *Public Notice: States That Have Certified That They Regulate Pole Attachments*, June 13, 2022, available at <https://www.fcc.gov/document/states-have-certified-they-regulate-pole-attachments-3> (last visited Jan. 22, 2024).

²¹ Chapter 2021-191, Laws of Fla.

²² Chapter 2023-199, Laws of Fla.

²³ Section 364.391, F.S., provides that if a rural electric cooperative engages in the provision of broadband, all poles owned by that cooperative are subject to regulation under s. 366.04(8), F.S., on the same basis as if such cooperative were a public utility under that subsection. Sections 366.04(9) and 366.97, F.S., also provide pole attachment regulations relating to poles owned by public utilities.

²⁴ Congressional Research Service, *Raising the Minimum Fixed Broadband Speed Benchmark: Background and Selected Issues*, July 12, 2021, available at <https://crsreports.congress.gov/product/pdf/IF/IF11875/2> (last visited Jan. 22, 2024).

²⁵ *Id.*

for downloads and 3 Mbps for uploads (25/3 Mbps service).²⁶ Under this benchmark, the FCC reported that 53 percent of people living in U.S. rural areas lacked access to broadband—as compared to just 8 percent of persons living in U.S. urban areas lacking such access. By 2021, the gap for 25/3 Mbps service with at least one provider had essentially vanished.²⁷ Rural areas still were behind their urban counterparts in choice however; 91 percent of rural customers had access to three or more providers, versus 99 percent of urban customers.²⁸

In 2021, the FCC considered increasing their standard for broadband to 100 Mbps of download and 10 Mbps of upload speed (100/10 Mbps service), but ultimately rejected the change given concerns about whether enough providers could meet such a standard.²⁹

Florida Office of Broadband

Section 288.9961, F.S., establishes the Florida Office of Broadband within the Division of Community Development within the Florida Department of Commerce (DCM).³⁰ The Office of Broadband “works with local and state government agencies, community organizations and private businesses to increase the availability and effectiveness of broadband internet throughout the state, specifically in small and rural communities.”³¹

State and Federal Broadband Growth Programs

Connect America Fund

One of the earliest and most significant federal broadband programs is the Connect America Fund, which is part of the FCC’s Universal Service Fund (USF). Started in 2011, the purpose of the fund is to provide subsidies to telecommunications companies to expand telecommunications infrastructure in rural and remote areas of the United States.³² The Connect America Fund is a “high-cost” program, meaning that it is designed to ensure that consumers in rural, insular, and high cost areas have access to modern telecommunications networks and that services through those networks, like voice and broadband, are available at a cost comparable to that in more developed urban areas.³³ The Connect America Fund is the largest of the USF’s programs, and has an annual budget of \$4.5 billion.³⁴

²⁶ Federal Communications Commission, *Wireline: 2015 Broadband Progress Report*, Feb. 14, 2015, available at <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2015-broadband-progress-report> (last visited Jan. 22, 2024).

²⁷ USA Facts, *How Many Americans have Broadband Internet Access*, Oct. 5, 2023, available at <https://usafacts.org/articles/how-many-americans-have-broadband-internet-access/#footnote-3> (last visited Jan. 22, 2024).

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 288.9963, F.S., actually states that the Florida Office of Broadband is created within the Division of Community Development, however, HB 5 from 2023 (enacted as Chapter 2023-173, L.O.F.), changed the name of the Department of Economic Opportunity to the Department of Commerce.

³¹ Florida Department of Commerce, *Office of Broadband*, <https://www.floridajobs.org/community-planning-and-development/broadband/office-of-broadband> (last visited Jan. 22, 2024).

³² Federal Communications Commission, *Universal Service Monitoring Report*, Feb. 13, 2023, available at <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports> (last visited Jan. 22, 2024).

³³ Federal Communications Commission, *Universal Service for High Cost Areas-Connect America Fund*, available at <https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund#releases> (last visited Jan. 22, 2024).

³⁴ Universal Service Administrative Co., *Program Overview*, available at <https://www.usac.org/high-cost/program-overview/> (last visited Jan. 22, 2024).

Broadband Technology Opportunities Program

The Broadband Technology Opportunities Program (BTOP) is a federal grant program administered by the National Telecommunications and Information Administration (NTIA), part of the U.S. Department of Commerce. The BTOP is funded by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), and has an annual budget of \$4 billion. The purpose of the program is to “bridge the technological divide” and BTOP projects include deploying broadband Internet infrastructure, enhancing and expanding public computer centers, and encouraging the sustainable adoption of broadband service.³⁵

USDA Programs: ReConnect Program and the Rural Broadband Program

The United States Department of Agriculture (USDA) operates two programs aimed at developing broadband in rural areas—the ReConnect Program and the Rural Broadband Program. Though these programs both existed prior to 2021, the Infrastructure Investment and Jobs Act (Public Law 117-58), signed into law on November 15, 2021, provided new funding for both of these programs (and other broadband initiatives). The ReConnect Program received \$1.926 billion in funds for grants and loans and the Rural Broadband Program received \$74 million in funds for loans. This new funding level, starting in 2022, exceeded the fiscal year 2021 levels by \$1.291 billion (an increase of 203 percent) for the ReConnect Program and by \$72 million (an increase of 97 percent) for the Rural Broadband Program.³⁶

The purpose of the ReConnect Program is to offer loans, grants, and loan-grant combinations to facilitate broadband deployment in rural areas that currently do not have sufficient access to broadband. The entities eligible to apply for the Reconnect Program include:

- Corporations, limited liability companies, and limited liability partnerships;
- State and local governments;
- U.S. territories and possessions; and
- Indian tribes, as defined in Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. §450b).³⁷

The purposes for which Reconnect grants may be used are:

- Construction or improvement of facilities required to provide fixed terrestrial broadband services;
- Funding of reasonable pre-application expenses; and
- Funding the acquisition of an existing telecommunications system that does not currently provide sufficient access to broadband.³⁸

³⁵ National Telecommunications and Information Administration, *Broadband Technology Opportunities Program*, available at <https://ntia.gov/category/broadband-technology-opportunities-program#:~:text=The%20Broadband%20Technology%20Opportunities%20Program,in%20communities%20across%20the%20country> (last visited Jan. 22, 2024).

³⁶ Congressional Research Service, *Infrastructure Investment and Jobs Act: Funding for USDA Rural Broadband Programs*, Nov. 19, 2021, available at <https://crsreports.congress.gov/product/pdf/IF/IF11918> (last visited Jan. 22, 2024).

³⁷ United States Department of Agriculture, *ReConnect Program*, available at <https://www.usda.gov/reconnect/program-overview> (last visited Jan. 22, 2024).

³⁸ *Id.*

The Rural Broadband Program offers funds to help construct, improve, or acquire facilities and equipment needed to provide broadband to rural areas. The entities eligible to apply for the program are:

- Corporations;
- Limited liability companies;
- Cooperative or mutual organizations;
- State and local governments; and
- Indian tribes and tribal organizations.³⁹

For the most recent years prior to 2021, Congress only appropriated funds to the Rural Broadband Program for loans. However, with the increase in funding under the Infrastructure Investment and Jobs Act, funding for grants and loan guarantees is also now available in the program.⁴⁰

While the USDA's Reconnect and Rural programs are similar in their purpose, a key distinction lies in the standards for eligible service areas. For the ReConnect Program, eligible service areas are areas where at least 90 percent of households lack sufficient access to broadband with at least 100 Mbps download and 20 Mbps upload speed (100/20 Mbps service). For the Rural Broadband Program, the standard for eligibility is if the area in question does not have at least 50 percent of households with at least 25 Mbps download and 3 Mbps upload speed (25/3 Mbps service).

Florida Broadband Opportunity Program

In 2021, Florida enacted the Florida Broadband Deployment Act of 2021.⁴¹ As part of that act, the Florida Broadband Opportunity Program (BOP) was established under s. 288.9962, F.S. BOP is a competitive reimbursement program within the DCM.⁴² The purpose of the program is to award grants to applicants who seek to expand broadband Internet service to unserved areas of Florida. To operate the program, the Florida Legislature appropriated \$400 million in federally funded State and Local Fiscal Recovery Funds (SLFRF) to increase Floridians' access to reliable, affordable, and high-speed internet service.⁴³

Promotional Rate for Broadband Pole Attachments to Municipal Electric-Owned Poles

Also as part of the Florida Broadband Deployment Act of 2021, s. 288.9963, F.S., was created to increase the availability of broadband Internet access in areas where citizens do not have access to acceptable Internet download and upload speeds, or any access at all.⁴⁴ Section 288.9963(3), F.S., requires that broadband providers must, beginning July 1, 2021, receive a promotional rate of \$1 per wireline attachment per pole per year for any new attachment necessary to make

³⁹ United States Department of Agriculture, *Rural Broadband Loans, Loan/Grant Combinations, and Loan Guarantees*, <https://www.rd.usda.gov/programs-services/telecommunications-programs/rural-broadband-loans-loangrant-combinations-and-loan-guarantees> (last visited Jan. 22, 2024).

⁴⁰ Congressional Research Service, *Infrastructure Investment and Jobs Act: Funding for USDA Rural Broadband Programs*, *supra* note 36.

⁴¹ Chapter 2021-24, Laws of Fla.

⁴² Florida Department of Commerce, *Broadband Opportunity Program*, available at <https://www.floridajobs.org/community-planning-and-development/broadband/broadband-opportunity-program> (last visited Jan. 22, 2024).

⁴³ *Id.*

⁴⁴ See s. 288.9963(1), F.S., which provides the Legislative intent for the section.

broadband service available to an unserved⁴⁵ or underserved⁴⁶ end user within a municipal electric utility service territory until July 1, 2024.

Broadband providers wishing to make wireline attachments subject to this promotional rate must:⁴⁷

- Submit an application, including a route map, to the municipal electric utility specifying which wireline attachments on which utility poles are necessary to extend broadband service to unserved and underserved end users;
- Include with this application the information necessary to identify which unserved or underserved end users within the municipal electric utility's service territory will gain access to broadband service; and
- Provide a copy of both of the above to the Florida Office of Broadband.

A broadband provider making a wireline attachment application under the promotional rate pursuant to s. 288.9963, F.S., must make a reasonable effort to make broadband service available to the unserved or underserved customers identified in the application. A provider who fails to do so within 12 months may be required to pay the prevailing rate for those attachments that failed to make broadband service available to the intended customers to the municipal electric utility.

All wireline attachments made pursuant to s. 288.9963, F.S., must comply with safety and reliability standards.⁴⁸ If a municipal electric utility is required to replace a utility pole due to a pole attachment under the section, the utility may require, as a condition to said attachment, that “the broadband provider reimburse all reasonable and nondiscriminatory costs attributable solely to the new attachment”—minus any positive salvage value of the removed pole.⁴⁹

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 288.9963, F.S., to extend the date—from July 1, 2024, to December 31, 2028—through which municipal electric utilities are to offer to broadband providers a promotional \$1 per pole, per year, wireline attachment rate for any new attachments necessary to make broadband service available to an unserved or underserved end user within a municipal electric utility service territory. The bill would also have the effect of extending the \$1 promotional rate for any currently existing wireline attachments made under the existing s. 288.9963, F.S., from July 1, 2024, to December 31, 2028.

Section 2 of the bill provides that it shall take effect upon becoming a law.

⁴⁵ Section 288.9963(2)(e), F.S., defines “unserved” as “no retail access to the Internet at speeds of at least 10 megabits per seconds for downloading and 1 megabits per second for uploading.”

⁴⁶ Section 288.9963(2)(d), F.S., defines “underserved” as “no retail access to the Internet at speeds of at least 25 megabits per seconds for downloading and 3 megabits per second for uploading.”

⁴⁷ Section 288.9963(3)(a), F.S.

⁴⁸ Section 288.9963(4), F.S.

⁴⁹ Section 288.9963(5), F.S. With the replacement of such poles, however, “if the replacement is necessary to correct an existing violation, to bring the pole into compliance with any changes in applicable standards, or because the pole is at the end of its useful life, the replacement cost may not be charged to the broadband provider.”

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 or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) Art. VII, s. 18 of 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 fiscal impact^{50, 51} which for Fiscal Year 2024-2025, is forecast at approximately \$2.3 million or less.⁵²

The Revenue Estimating Conference has not reviewed SB 1218. Staff estimates an indeterminate impact to municipal utility revenues. Therefore, the mandate provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁵⁰ FLA. CONST. art. VII, s. 18(d).

⁵¹ 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 at p. 1, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 22, 2024).

⁵² Based on the Demographic Estimating Conference's estimated population adopted on July 11, 2023. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/archives/230711demographic.pdf> (last visited Jan. 22, 2024).

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

The Revenue Estimating Conference has not reviewed SB 1218. Staff estimates an indeterminate impact to municipal utility revenues.

B. Private Sector Impact:

Broadband service providers may see an adjustment in the pole attachment fees paid to municipal electric utilities for installation of attachments to the utilities' poles. Broadband service providers will be guaranteed access for pole attachment purposes when providing service to underserved or unserved broadband Internet users.

C. Government Sector Impact:

Municipal utilities may see a reduction in the amount of pole attachment fees received from broadband service providers for installation of attachments to the utilities' poles. Municipal utilities will not be able to refuse pole attachments by broadband service providers providing service to underserved or unserved broadband Internet users.

Section 288.9963, F.S., does have reporting requirements to the Florida Office of Broadband within the Division of Community Development of the DCM. To date, staff has not received an analysis of SB 1218 from DCM.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the section 288.9963 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 Burgess

23-01030A-24

20241218__

A bill to be entitled

An act relating to broadband; amending s. 288.9963, F.S.; deleting obsolete language; making technical changes; extending the date through which a promotional rate and related terms for certain wireline attachments of broadband facilities to municipal electric utility poles are effective; providing an effective date.

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

Section 1. Subsection (3) of section 288.9963, Florida Statutes, is amended to read:

288.9963 Attachment of broadband facilities to municipal electric utility poles.—

(3) ~~Beginning July 1, 2021,~~ A broadband provider shall receive a promotional rate of \$1 per wireline attachment per pole per year for any new attachment necessary to make broadband service available to an unserved or underserved end user within a municipal electric utility service territory for the time period specified in this subsection.

(a) A broadband provider ~~that~~ who wishes to make wireline attachments subject to the promotional rate shall submit an application, including a route map, to the municipal electric utility specifying which wireline attachments on which utility poles are necessary to extend broadband service to unserved and underserved end users and therefore qualify for the promotional rate set forth in this subsection, together with such information necessary to identify which unserved or underserved

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23-01030A-24

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end users within the municipal electric utility's service territory will gain access to broadband service as a result. The broadband provider shall also submit a copy of the application and plan ~~shall also be submitted~~ simultaneously to the office.

(b) A municipal electric utility shall report to the office which attachments on which utility poles were made available to broadband providers subject to the promotional rate, together with any information available to it regarding which of its municipal electric utility customers do and do not have access to broadband service and whether they are unserved or underserved.

(c) A broadband provider that ~~who~~ makes application for wireline attachments under the promotional rate shall make all reasonable efforts to make broadband service available to the unserved or underserved municipal electric utility customers identified in the application. If a broadband provider fails to make broadband service available to those customers within 12 months, it may be required to pay the prevailing rate for those attachments that failed to make broadband service available to the intended customers.

(d) Except as provided in this section, wireline attachments which are subject to the promotional rate must conform to all other terms and conditions of existing pole attachment agreements between the broadband provider and the municipal electric utility. If an ~~no~~ agreement does not exist ~~exists~~, the parties ~~shall~~ have 90 days to enter into a pole attachment agreement for all other terms and conditions of attachment.

(e) The promotional rate of \$1 per wireline attachment per

Page 2 of 3

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

23-01030A-24

20241218

59 pole per year applies to all pole attachments made pursuant to
60 this subsection until December 31, 2028 ~~July 1, 2024~~.
61 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Jay Trumbull, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 18, 2024

I respectfully request that **Senate Bill # 1218** relating to Broadband, be placed on the:

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

Senator Danny Burgess
Florida Senate, District 23

File signed original with committee office

S-020 (03/2004)

The Florida Senate

APPEARANCE RECORD

SB1218

01/23/2024
Meeting Date

Commerce & Tourism
Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Meredith Pelton, Florida TaxWatch Phone 850-222-5052

Address 106 N Bronough St Email mpelton@floridataxwatch.org
Street

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Florida TaxWatch

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

1/23/24
Meeting Date
Commerce & Tourism
Committee

1218
Bill Number or Topic
Amendment Barcode (if applicable)

Name Adam Basford Phone 352 538 4299
Address 516 N Adams St Email abasford@aif.com
Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

Associated Industries of FL

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

1/23/2024
Meeting Date
Commerce & Tourism
Committee

1218
Bill Number or Topic
Amendment Barcode (if applicable)

Name Edda Ivonne Fernandez - AARP Phone 954-850-7262
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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1420

INTRODUCER: Commerce and Tourism Committee and Senator Burgess

SUBJECT: Department of Commerce

DATE: January 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Fav/CS
2.			ATD	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1420 implements the following changes that impact the Department of Commerce (DCM):

- Provides that if the local government doesn't hold a second public hearing and adopt a comprehensive plan amendment within 180 days after the DCM provides comments, the amendment is deemed withdrawn; and provides that comprehensive plan amendments are deemed withdrawn if the local government fails to transmit the comprehensive plan amendment to the DCM within 10 working days after the final adoption hearing.
- Deletes an outdated requirement that the Florida Sports Foundation must continue amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.
- Extends the repayment period of the Local Government Emergency Revolving Bridge Loan Program from 5 to 10 years and directs the DCM to amend existing loans executed before Feb. 1, 2024, in order to increase the loan term to a total of 10 years from the original date of execution.
- Requires the DCM to establish a direct-support organization (DSO); renames the Florida Defense Support Task Force; provides for organizational composition; revises the mission of the DSO; requires the DSO to operate under a contract with the DCM; revises the due date for the annual report; and provides a repeal date of October 1, 2029.
- Revises the term "businesses" to include healthcare facilities and allied health care opportunities, and revises the funding priority purposes to provide that health care facilities, in addition to hospitals, operated by nonprofit or local government entities that provide

opportunities in health care, are eligible for the funding under the Incumbent Worker Training Program.

- Specifies that board members of the Workforce Innovation and Opportunity Act are voting members of the state workforce development board.
- Specifies that a homeowner's association's proposed revived declaration of covenants and articles of incorporation and bylaws must be submitted to the DCM within 60 days after obtaining valid written consent from a majority of the affected parcel owners, or within 60 days after the date the documents are approved by affected parcel owners by a vote at a meeting.

Except as otherwise expressly provided in the bill, which takes effect upon the bill becoming a law, the bill takes effect July 1, 2024.

II. Present Situation:

Due to the disparate issues in the bill, for ease of organization and readability, the Present Situation for each issue is discussed below in conjunction with the Effect of Proposed Changes

III. Effect of Proposed Changes:

Comprehensive Plans (Section 2)

Present Situation

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.¹ Each county and municipality must maintain a comprehensive plan to guide future development.²

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.³ A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use. Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. The state land planning agency that administers these provisions is the DCM.⁴

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.⁵

The 10 required elements consider and address capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S.

³ Section 163.3194(3), F.S.

⁴ Section 163.3221(14), F.S.

⁵ Section 163.3177(3) and (6), F.S.

groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Other plans and programs may be added as optional elements to a comprehensive plan.⁶

A comprehensive plan is implemented through the adoption of land development regulations⁷ that are consistent with the plan, and which contain specific and detailed provisions necessary to implement the plan.⁸ Such regulations must, among other prescriptions, regulate the subdivision of land and the use of land for the land use categories in the land use element of the comprehensive plan.⁹

State law requires a proposed comprehensive plan amendment to receive 3 public hearings, the first held by the local planning board.¹⁰ The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including the DCM, the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate in the review process.¹¹

The state and regional agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for “extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region” as well as adverse effects on regional resources or facilities.¹² Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments are deemed withdrawn unless extended by agreement.¹³ If the amendment receives a favorable vote, it is transmitted within 10 days to the DCM, and any other agency or local government that provided comments, for final review.¹⁴ The DCM then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant laws and agency rules.¹⁵

Effect of Proposed Changes

The bill amends s. 163.3184(3)(c), F.S., to provide that if the local government doesn’t hold a second public hearing and adopt a comprehensive plan amendment within 180 days after the DCM provides comments, the amendment is deemed withdrawn.

⁶ *Id.*

⁷ “Land development regulations” means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213, F.S. (governing the administrative review of land development regulations). See s. 163.3164(26), F.S.

⁸ Section 163.3202(2), F.S.

⁹ *Id.*

¹⁰ Sections 163.3174(4)(a), and 163.3184, F.S.

¹¹ Section 163.3184(3)(b), F.S.

¹² Section 163.3184(3)(b)3.a., F.S.

¹³ Section 163.3184(3)(c), F.S.

¹⁴ Section 163.3184(4)(e)2., F.S.

¹⁵ Sections 163.3184(3)(c)4., and 163.3184(4)(e)4., F.S.

The bill amends s. 163.3184(4), F.S., to provide that if the local government fails to transmit the comprehensive plan amendment to the DCM within 10 working days after the final adoption hearing, the amendment is deemed withdrawn.

Local Government Emergency Revolving Bridge Loan Program (Section 3 and 11)

Present Situation

The Local Government Emergency Revolving Bridge Loan provides financial assistance to local governments impacted by federally declared disasters. The purpose of the loan program is to assist these local governments in maintaining operations by bridging the gap between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial assistance.¹⁶

The loans are interest-free with the loan amount determined based upon demonstrated need. The term of the loan is up to 5 years.¹⁷ To be eligible, a local government must be a county or a municipality located in an area designated in the Federal Emergency Management Agency disaster declaration. The local government must show that it may suffer or has suffered substantial loss of its tax or other revenues as a result of the disaster and demonstrate a need for financial assistance to enable it to continue to perform its government operations.¹⁸

The program expires July 1, 2038 and a loan may not be awarded after June 30, 2038. Upon expiration, all unencumbered funds and loan repayments made on or after July 1, 2038, must be transferred to the General Revenue fund.¹⁹

Effect of Proposed Changes

The bill amends s. 288.066, F.S., to extend the repayment period of the program from 5 to 10 years. Effective upon becoming a law, the bill directs the DCM to amend any existing loans executed before Feb. 1, 2024, in order to increase the loan term to a total of 10 years from the original date of execution.

Florida Sports Foundation (Section 4)

Present Situation

The Florida Sports Foundation is a 501(c)(3) non-profit corporation, serving as the official sports promotion and development organization for the State of Florida. It is charged with the promotion and development of professional, amateur, and recreational sports, physical fitness opportunities, and assisting communities and host organizations in attracting major and minor sports events to help produce a thriving Florida sports industry and environment.²⁰ Under its duty to promote amateur sports and physical fitness, the Florida Sports Foundation must continue the

¹⁶ Section 288.066(1), F.S.

¹⁷ Section 288.066(3), F.S.

¹⁸ Section 288.066(2), F.S.

¹⁹ Section 288.066(9), F.S.

²⁰ Section 288.1229, F.S.

successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.²¹

Effect of Proposed Changes

The bill amends s. 288.1229, F.S., to delete an outdated requirement that the Florida Sports Foundation must continue amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.

Florida Defense Support Task Force (Section 7)

Present Situation

In 2011,²² the Legislature created the Florida Defense Support Task Force (Task Force) with the mission to make recommendations to preserve and protect military installations to support the state's position in research and development related to or arising out of military missions and contracting, and to improve the state's military-friendly environment for servicemembers, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.²³

The task force is comprised of the Governor, or his or her designee, and 12 members comprised of four members appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, respectively. Task Force members represent defense-related industries or communities that host military bases and installations.²⁴ With the exception of Legislative members, Task Force members serve for a term of four years. Vacancies are to be filled for the remainder of the unexpired term in the same manner as the initial appointment. Legislative members serve until the expiration of their legislative term and may be reappointed once. All members are eligible for reappointment.²⁵ The President and the Speaker each designate one of their appointees to serve as chair and the chair must rotate each July 1.²⁶ The Secretary of the DCM, or his or her designee, serves as the ex officio, nonvoting executive director.²⁷

The DCM is required to contract with the task force for the expenditure of appropriated funds, which may be used by the task force for:

- Economic and product research and development;
- Joint planning with host communities to accommodate military missions and prevent base encroachment;
- Advocacy on the state's behalf with federal civilian and military officials;
- Assistance to school districts in providing a smooth transition for large numbers of additional military-related students;

²¹ Section 288.1229(7)(g), F.S.

²² Chapter 2011-76, s. 38, Laws of Fla.

²³ Section 288.987(2), F.S.

²⁴ Section 288.987(3), F.S.

²⁵ Section 288.987(3), F.S.

²⁶ Section 288.987(4), F.S.

²⁷ Section 288.987(5), F.S., actually states that the Secretary of Economic Opportunity serves as the ex officio, nonvoting executive director; however, HB 5 from 2023 (enacted as Chapter 2023-173, Laws of Fla.) changed the name of the Department of Economic Opportunity to the Department of Commerce.

- Job training and placement for military spouses in communities with high proportions of active duty military personnel; and
- Promotion of the state to military and related contractors and employers.²⁸

The Task Force must submit an annual progress report and work plan to the Governor, the President, and the Speaker each February 1.²⁹

Effect of Proposed Changes

The bill amends s. 288.987, F.S., to require the DCM to establish a direct-support organization (DSO) to support Florida's military and defense industries and communities, and renames the Florida Defense Support Task Force as the DSO. The DSO must operate under a contract with the DCM which must provide that:

- The DCM may review the DSO's articles of incorporation;
- The DSO must submit an annual budget proposal to the DCM;
- Any DSO funds held in a trust must revert to the state upon the expiration or cancellation of the contract; and
- The DSO is subject to an annual compliance review by the DCM.

The DSO fiscal year begins on July 1 and ends on June 30 of the next succeeding year. The DSO must also provide an annual financial audit pursuant to s. 215.981, F.S.

The bill specifies that, under certain provisions of law, the DSO is not an agency for purposes of leasing buildings or for bids for printing. However, the DSO must comply with per diem and travel expense requirements pursuant to s. 112.061, F.S. The DCM may allow the DSO to use the property, facilities, personnel, and services of the DCM if the DSO provides equal employment opportunities to all persons regardless of race, color, religion, sex, or national origin.

The bill revises the mission of the DSO. In addition to carrying out the provisions of s. 288.987, F.S., the DSO must assist with the coordination of economic and workforce development efforts in military communities and assist in the planning and research and development related to military missions, businesses, and military families. Additionally, the DSO is organized and operated to:

- Request, receive, hold, invest, and administer property;
- Manage and make expenditures for the operation of the activities, services, functions, and programs for economic and product research and development,
- Conduct joint planning with host communities to accommodate military missions and prevent base encroachment,
- Advocate on the state's behalf with federal civilian and military officials;
- Assist school districts in providing a smooth transition for additional military-related students;
- Provide job training and placement for military spouses in communities with high proportions of active duty military personnel; and

²⁸ Section 288.987(7), F.S.

²⁹ Section 288.987(6), F.S.

- Promote of the state to military and related contractors and employers.

The DSO must be governed by a board of directors composed of the Governor, or his or her designee, four members appointed by the Governor, the President, and the Speaker. All appointments in place as of July 1, 2024, must continue in effect until the expiration of the term. The President and the Speaker each designate one of their appointees to serve as chair for a 2-year term and the chair must rotate on July 1 of each odd-numbered year.

In the performance of its duties, the DSO is authorized to make and enter into contracts as necessary to carry out its mission. A proposed contract with a total cost of \$750,000 or more is subject to the noticing, review, and objection procedures provided in s. 216.177, F.S. The DSO may not divide one proposed contract with a total cost of \$750,000 or more into multiple contracts to circumvent the prohibition. If the contract is contrary to legislative policy and intent, the DSO is prohibited from entering into such contract. The DSO is also authorized to establish grant programs and administer grant awards to support its mission.

The bill changes the due date for an annual report from February 1 to December 1.

Unless reviewed and saved from repeal by the Legislature, the DSO is repealed on October 1, 2029.

Florida Defense Support Task Force Public Records and Meetings Exemption (Section 6)

Present Situation

Current law provides a public record exemption for certain records held by the Task Force. Specifically, the following records are exempt³⁰ from public records requirements:³¹

- That portion of a record that relates to strengths and weaknesses of military installations or military missions in Florida relative to the selection criteria for the realignment and closure of military bases and missions under the United States base realignment and closure (BRAC) process.
- That portion of a record that relates to strengths and weaknesses of military installations or military missions in other state or territories and the vulnerability of such installations or missions to base realignment or closure under the United States BRAC process, and any agreements or proposals to relocate or realign military units and missions from other states or territories.
- That portion of a record that relates to Florida's strategy to retain its military bases during any United States BRAC process and any agreements or proposals to relocate or realign military units and missions.

³⁰ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 04- 09 (2004).

³¹ Section 288.985(1)(a)-(c), F.S.

Current law also provides a public meeting exemption for any portion of a meeting of the Task Force, or a workgroup of the Task Force, wherein such exempt records are presented or discussed.³² In addition, any records generated during the closed portion of the meeting are exempt from public record requirements.³³

Effect of Proposed Changes

The bill amends s. 288.985, F.S., to make conforming changes made by s. 288.987, F.S.

Incumbent Worker Training Program and CareerSource Florida, Inc. (Sections 8 and 9)

Present Situation

Workforce Innovation and Opportunity Act of 2014

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.³⁴ WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.³⁵

WIOA identifies four core programs that coordinate and complement each other to ensure job seekers have access to needed resources.³⁶ The core programs are:

- Adult, Dislocated Worker and Youth Programs;
- Adult Education and Literacy Activities;
- Employment Services under the Wagner-Peyser Act;³⁷ and
- Vocational Rehabilitation Services.³⁸

WIOA establishes minimum performance accountability measures for the evaluation of core programs in each state and performance reports to be provided at the state, local, and training provider levels.³⁹ Performance measures that apply across all core programs include:⁴⁰

- The percentage of participants in unsubsidized employment during second quarter after exit.
- The percentage of participants in unsubsidized employment during fourth quarter after exit.
- The median earnings of participants during second quarter after exit.
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit.
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.

³² Section 288.985(2), F.S.

³³ Section 288.985(3), F.S.

³⁴ Workforce Innovation and Opportunity Act, 29 U.S.C. s. 3101 et seq. (2014).

³⁵ See 29 U.S.C. s. 3112(a).

³⁶ See 29 U.S.C. s. 3102(13).

³⁷ See 29 U.S.C. s. 49 et seq.

³⁸ See 29 U.S.C. s. 720 et. seq.

³⁹ See 29 U.S.C. s. 3141.

⁴⁰ *Id.*

State Administration of Workforce Development

WIOA requires the Governor to establish a State Workforce Development Board (state board) to assist the Governor in carrying out the duties and responsibilities required by WIOA.⁴¹

CareerSource Florida, Inc., implements the policy directives of the state board and administers state workforce development programs.⁴² CareerSource Florida, Inc., provides administrative support to the state board, the principal workforce policy organization for the state. WIOA state board members are nonvoting and the number of members is determined by the Governor.⁴³

WIOA requires states to designate local workforce development areas in the state. The local workforce development areas must be consistent with labor market areas and regional economic development areas in the state and have available federal and non-federal resources necessary to effectively administer workforce development services.⁴⁴ Within each area, a local workforce development board must be established.⁴⁵ Each local workforce development board is required to coordinate planning and service delivery strategies within the local workforce development area and submit to the Governor a 4-year local plan for the delivery of workforce development services.⁴⁶

The DCM serves as Florida's lead workforce agency.⁴⁷ The DCM is responsible for the fiscal and administrative affairs of the workforce development system.⁴⁸ The DCM receives and distributes federal funds for employment-related programs to the local workforce development boards.⁴⁹ Under the direction of CareerSource, the DCM is required to annually meet with each local workforce development board to review the board's performance and to certify that the board is in compliance with applicable state and federal laws.⁵⁰

Incumbent Worker Training Program

The Incumbent Worker Training Program (program) was created to provide grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program provides reimbursement grants to businesses that pay for preapproved, direct, training-related costs. The term "business" includes hospitals operated by nonprofit or local government entities which provide nursing opportunities to acquire new or improved skills.⁵¹

Funding priority is given in the following order:⁵²

- Businesses that provide employees with opportunities to acquire new or improved skills by earning a credential on the Master Credentials List;

⁴¹ 29 U.S.C. s. 3111.

⁴² Section 445.004(2), F.S.

⁴³ Section 445.004(3)(a), F.S.

⁴⁴ See 29 U.S.C. s. 3121.

⁴⁵ 29 U.S.C. s. 3122.

⁴⁶ See 29 U.S.C. ss. 3122 and 3123.

⁴⁷ Primarily through the Division of Workforce Services. See s. 20.60, F.S.

⁴⁸ See s. 20.60(5)(c), F.S. and s. 445.009(3)(c), F.S.

⁴⁹ See s. 20.60(5)(c), F.S. and s. 445.003, F.S.

⁵⁰ See s. 445.007(3), F.S.

⁵¹ Section 445.003(3)3., F.S.

⁵² *Id.*

- Hospitals operated by nonprofit or local government entities that provide nursing opportunities to acquire new or improved skills;
- Businesses whose grant proposals represent a significant upgrade in employee skills;
- Businesses with 25 employees or fewer, businesses in rural areas, and businesses in distressed inner-city areas; and
- Businesses in a qualified targeted industry or businesses whose grant proposals represent a significant layoff avoidance strategy.

Effect of Proposed Changes

The bill amends s. 445.003, F.S., to revise the term “businesses” under the program to include healthcare facilities and allied health care opportunities. The bill also revises the funding priority for grant purposes to provide that health care facilities, in addition to hospitals, operated by nonprofit or local government entities that provide opportunities in health care, rather than nursing opportunities, are eligible for the funding.

The bill amends s. 445.004, F.S., to specify that WIOA state board members are voting members.

DCM Review of Revitalization of Homeowner Association Covenants (Section 10)

Present Situation

Parcel owners in a community that was previously subject to a declaration of covenants that has ceased to govern one or more parcels in the community may revive the declaration and the association for the community upon approval by the parcel owners to be governed as provided in the Covenant Revitalization Act⁵³ and upon approval of the declaration and the other governing documents for the association by the DCM.⁵⁴

No later than 60 days after the date after the date the proposed revived declaration and other governing documents are approved by the affected parcel owners, the organizing committee must submit the proposed revived governing documents and any supporting materials to the DCM to review and determine whether to approve or disapprove of the proposal to preserve the residential community.⁵⁵

The DCM must make a determination no later than 60 days and must notify the organizing committee in writing of its approval or reasons for the disapproval.⁵⁶

Effect of Proposed Changes

The bill amends s. 720.406, F.S., to specify that a homeowner’s association’s proposed revived declaration of covenants and articles of incorporation and bylaws must be submitted to the DCM within 60 days after obtaining valid written consent from a majority of the affected parcel

⁵³ Chapter 720, Part III, F.S.

⁵⁴ Section 720.403(2), F.S.

⁵⁵ Section 720.406(1), F.S.

⁵⁶ Section 720.406(2), F.S.

owners, or within 60 days after the date the documents are approved by affected parcel owners by a vote at a meeting.

Miscellaneous Provisions

Section 1 amends s. 163.3175, F.S., to update a cross reference.

Section 5 amends s. 288.980, F.S., to update a cross reference.

Section 12 provides an effective date of July 1, 2024, except section 11, which directs the DCM to amend any existing loans executed before Feb. 1, 2024, in order to increase the loan term to a total of 10 years from the original date of execution, takes effect upon becoming 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:

None.

E. Other Constitutional Issues:

Article II, section 5(a) of the Florida Constitution prohibits a person from holding at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers.

A direct support organization (DSO) is a statutorily created private entity, generally required to be a non-profit corporation, and authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support.

This bill creates a DSO to support Florida's military and defense industries and communities. The DSO is governed by a board of directors composed of the Governor, or

his or her designee, and members appointed by the Governor, the Speaker, and the President. Currently serving members of the Legislature may only vote on advisory matters, but this restriction does not apply to the Governor. Though created as a private entity, the DSO is organized and operated to, among other things, manage and make expenditures for the operation of the activities, services, functions, and programs of this state.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 163.3175, 163.3184, 288.066, 288.1229, 288.980, 288.985, 288.987, 445.003, 445.004, 720.406, 721.97 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 Committee on January 23, 2024:

The committee substitute:

- Extends the repayment period of the Local Government Emergency Revolving Bridge Loan Program from 5 to 10 years and directs the DCM to amend existing loans executed before Feb. 1, 2024, in order to increase the loan term to a total of 10 years from the original date of execution; and
- Removes a provision requiring the Secretary of the DCM, rather than the Governor, to appoint commissioners of deeds who authenticate acknowledgements in certain real estate transactions in other states or foreign countries.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate . House
Comm: RCS .
01/23/2024 .

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

Senate Amendment (with title amendment)

Delete lines 544 - 677

and insert:

Section 9. Section 720.406, Florida Statutes, is amended to read:

720.406 Department of ~~Commerce Economic Opportunity~~; submission; review and determination.—

(1) ~~Within No later than 60 days after obtaining valid~~ written consent from a majority of the affected parcel owners,



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or within 60 days after the date the proposed revived declaration and other governing documents are approved by the affected parcel owners by vote at a meeting, the organizing committee or its designee must submit the proposed revived governing documents and supporting materials to the Department of Commerce Economic Opportunity to review and determine whether to approve or disapprove of the proposal to preserve the residential community. The submission to the department must include:

(a) The full text of the proposed revived declaration of covenants and articles of incorporation and bylaws of the homeowners' association;†

(b) A verified copy of the previous declaration of covenants and other previous governing documents for the community, including any amendments thereto;†

(c) The legal description of each parcel to be subject to the revived declaration and other governing documents and a plat or other graphic depiction of the affected properties in the community;†

(d) A verified copy of the written consents of the requisite number of the affected parcel owners approving the revived declaration and other governing documents or, if approval was obtained by a vote at a meeting of affected parcel owners, verified copies of the notice of the meeting, attendance, and voting results;†

(e) An affidavit by a current or former officer of the association or by a member of the organizing committee verifying that the requirements for the revived declaration set forth in s. 720.404 have been satisfied;† and



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(f) Such other documentation that the organizing committee believes is supportive of the policy of preserving the residential community and operating, managing, and maintaining the infrastructure, aesthetic character, and common areas serving the residential community.

(2) ~~Within No later than 60 days after receiving the~~ submission, the department must determine whether the proposed revived declaration of covenants and other governing documents comply with the requirements of this act.

(a) If the department determines that the proposed revived declaration and other governing documents comply with the act and have been approved by the parcel owners as required by this act, the department shall notify the organizing committee in writing of its approval.

(b) If the department determines that the proposed revived declaration and other governing documents do not comply with ~~this act~~ or have not been approved as required by this act, the department shall notify the organizing committee in writing that it does not approve the governing documents and shall state the reasons for the disapproval.

Section 10. Effective upon becoming a law, paragraph (c) of subsection (3) of section 288.066, Florida Statutes, is amended to read:

288.066 Local Government Emergency Revolving Bridge Loan Program.—

(3) LOAN TERMS.—

(c) The term of the loan is up to 10 years ~~5 years~~.

Section 11. Effective upon becoming a law, the Department of Commerce is authorized to amend a loan agreement executed



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before February 1, 2024, and made pursuant to s. 288.066, Florida Statutes, in order to increase the loan term to a total of 10 years from the original date of execution, as authorized by this act, upon request of the local government and as determined by the department to be in the best interests of the state.

Section 12. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete lines 42 - 48

and insert:

of the board; amending s. 720.406, F.S.; specifying required actions for a proposed revived declaration and other governing documents; making technical changes; amending s. 288.066, F.S.; revising the maximum length of a loan term under the Local Government Emergency Revolving Bridge Loan Program; authorizing the Department of Commerce to amend certain previously executed loan agreements under certain circumstances; providing effective dates.

By Senator Burgess

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1 A bill to be entitled
 2 An act relating to the Department of Commerce;
 3 amending s. 163.3175, F.S.; conforming a provision to
 4 changes made by the act; amending s. 163.3184, F.S.;
 5 revising the procedure for adopting comprehensive plan
 6 amendments; providing that amendments are deemed
 7 withdrawn if the local government fails to transmit
 8 the comprehensive plan amendments to the department,
 9 in its role as the state land planning agency, within
 10 a certain time period; amending s. 288.1229, F.S.;
 11 revising the duties of the Florida Sports Foundation;
 12 amending ss. 288.980 and 288.985, F.S.; conforming
 13 provisions to changes made by the act; amending s.
 14 288.987, F.S.; requiring the department to establish a
 15 direct-support organization; renaming the Florida
 16 Defense Support Task Force as the direct-support
 17 organization; specifying that the organization is a
 18 direct-support organization of the department and a
 19 corporation not for profit; requiring the organization
 20 to operate under contract with the department;
 21 specifying requirements for such contract; specifying
 22 the organization's fiscal year; specifying audit
 23 requirements applicable to the organization;
 24 authorizing the organization to take certain actions
 25 regarding administration of property and expenditures;
 26 specifying that the organization is not an agency for
 27 purposes of specified provisions of law; authorizing
 28 the department to allow the organization to use
 29 certain departmental resources, if certain conditions

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

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30 are met; revising the mission of the organization;
 31 modifying provisions governing the composition of the
 32 organization; revising the date by which the
 33 organization's annual report is due; providing certain
 34 powers and duties of the organization, subject to
 35 certain requirements and limitations; providing for
 36 future repeal; amending s. 445.003, F.S.; revising the
 37 definition of the term "businesses"; revising funding
 38 priority for purposes of funding grants under the
 39 Incumbent Worker Training Program; amending s.
 40 445.004, F.S.; specifying that certain members of the
 41 state workforce development board are voting members
 42 of the board; amending s. 695.03, F.S.; authorizing
 43 the Secretary of Commerce to appoint commissioners of
 44 deeds; amending s. 720.406, F.S.; specifying required
 45 actions for a proposed revived declaration and other
 46 governing documents; making technical changes;
 47 amending s. 721.97, F.S.; conforming provisions to
 48 changes made by the act; providing an effective date.
 49
 50 Be It Enacted by the Legislature of the State of Florida:
 51
 52 Section 1. Subsection (3) of section 163.3175, Florida
 53 Statutes, is amended to read:
 54 163.3175 Legislative findings on compatibility of
 55 development with military installations; exchange of information
 56 between local governments and military installations.—
 57 (3) The direct-support organization created in s. 288.987
 58 ~~Florida Defense Support Task Force~~ may recommend to the

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Legislature changes to the military installations and local governments specified in subsection (2) based on a military base's potential for impacts from encroachment, and incompatible land uses and development.

Section 2. Paragraph (c) of subsection (3) and paragraph (e) of subsection (4) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS.—

(c)1. The local government shall hold a its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, and to adopt the comprehensive plan amendments, the amendments are ~~shall be~~ deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, shall be transmitted within 10 working days after the final adoption ~~second public~~ hearing to the state land planning agency and any other agency or local government that provided timely comments under subparagraph (b)2. If the local government fails to transmit the comprehensive plan amendments within 10 working days after the final adoption hearing, the amendments are deemed

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withdrawn.

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of:

a. The adoption ordinance or ordinances;

b. In the case of a text amendment, ~~a full copy of~~ the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens;

c. In the case of a future land use map amendment, ~~a copy of~~ the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and

d. ~~a copy of~~ Any data and analyses the local government deems appropriate.

4. An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

(4) STATE COORDINATED REVIEW PROCESS.—

(e) *Local government review of comments; adoption of plan or amendments and transmittal.*—

1. The local government shall review the report submitted to it by the state land planning agency, if any, and written comments submitted to it by any other person, agency, or

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government. The local government shall, upon receipt of the report from the state land planning agency, ~~shall~~ hold its second public hearing, ~~which shall be a hearing~~ to determine whether to adopt the comprehensive plan or one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails to hold the second hearing and adopt the amendments within 180 days after receipt of the state land planning agency's report, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, shall be transmitted within 10 working days after the final adoption ~~second public~~ hearing to the state land planning agency and any other agency or local government that provided timely comments under paragraph (c). If the local government fails to transmit the comprehensive plan amendments within 10 working days after the final adoption hearing, the amendments are deemed withdrawn.

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of a plan or plan amendment package. For purposes of completeness, a plan or plan amendment shall be deemed complete if it contains a full, executed copy of each of the following:

a. The adoption ordinance or ordinances;

b. In the case of a text amendment, ~~a full copy of~~ the amended language in legislative format with new words inserted

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in the text underlined, and words deleted stricken with hyphens;
c. In the case of a future land use map amendment, ~~a copy~~ of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and

d. ~~a copy of~~ Any data and analyses the local government deems appropriate.

4. After the state land planning agency makes a determination of completeness regarding the adopted plan or plan amendment, the state land planning agency shall have 45 days to determine whether ~~if~~ the plan or plan amendment is in compliance with this act. Unless the plan or plan amendment is substantially changed from the one commented on, the state land planning agency's compliance determination shall be limited to objections raised in the objections, recommendations, and comments report. During the period provided for in this subparagraph, the state land planning agency shall issue, through a senior administrator or the secretary, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. The state land planning agency shall post a copy of the notice of intent on the agency's Internet website. Publication by the state land planning agency of the notice of intent on the state land planning agency's Internet site is ~~shall be~~ prima facie evidence of compliance with the publication requirements of this subparagraph.

5. A plan or plan amendment adopted under the state coordinated review process shall go into effect pursuant to the state land planning agency's notice of intent. If timely challenged, an amendment does not become effective until the

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state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

Section 3. Paragraph (g) of subsection (7) of section 288.1229, Florida Statutes, is amended to read:

288.1229 Promotion and development of sports-related industries and amateur athletics; direct-support organization established; powers and duties.—

(7) To promote amateur sports and physical fitness, the foundation shall:

~~(g) Continue the successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports created under former s. 14.22.~~

Section 4. Paragraph (b) of subsection (2) of section 288.980, Florida Statutes, is amended to read:

288.980 Military base retention; legislative intent; grants program.—

(2)

(b)1. The department shall, annually by October 1, request military installations in this the state to provide the department with a list of base buffering encroachment lands for fee simple or less-than-fee simple acquisitions ~~before October 1~~.

2. The department shall submit the list of base buffering encroachment lands to the direct-support organization ~~Florida Defense Support Task Force~~ created in s. 288.987.

3. The direct-support organization created in s. 288.987 ~~Florida Defense Support Task Force~~ shall, annually by December

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1, review the list of base buffering encroachment lands submitted by the military installations and provide its recommendations for ranking the lands for acquisition to the department.

4. The department shall annually submit the list of base buffering encroachment lands provided by the direct-support organization created in s. 288.987 ~~Florida Defense Support Task Force~~ to the Board of Trustees of the Internal Improvement Trust Fund, which may acquire the lands pursuant to s. 253.025. At a minimum, the annual list must contain all of the following for each recommended land acquisition:

a. A legal description of the land and its property identification number.~~+~~

b. A detailed map of the land.~~+~~ and

c. A management and monitoring agreement to ensure the land serves a base buffering purpose.

Section 5. Subsection (1) and paragraph (a) of subsection (2) of section 288.985, Florida Statutes, are amended to read:

288.985 Exemptions from public records and public meetings requirements.—

(1) The following records held by the direct-support organization created in s. 288.987 ~~Florida Defense Support Task Force~~ are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) That portion of a record which relates to strengths and weaknesses of military installations or military missions in this state relative to the selection criteria for the realignment and closure of military bases and missions under any United States Department of Defense base realignment and closure

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process.

(b) That portion of a record which relates to strengths and weaknesses of military installations or military missions in other states or territories and the vulnerability of such installations or missions to base realignment or closure under the United States Department of Defense base realignment and closure process, and any agreements or proposals to relocate or realign military units and missions from other states or territories.

(c) That portion of a record which relates to the state's strategy to retain its military bases during any United States Department of Defense base realignment and closure process and any agreements or proposals to relocate or realign military units and missions.

(2) (a) Meetings or portions of meetings of the direct-support organization created in s. 288.987 ~~Florida Defense Support Task Force~~, or a workgroup of the direct-support organization task force, at which records are presented or discussed that are exempt under subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

Section 6. Section 288.987, Florida Statutes, is amended to read:

288.987 Florida Defense Support ~~Task Force~~.

(1) The Department of Commerce shall establish a direct-support organization to support Florida's military and defense industries and communities ~~The Florida Defense Support Task Force is created.~~

(a) The direct-support organization is a corporation not for profit, as defined in s. 501(c)(3) of the Internal Revenue

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Code, which is incorporated under chapter 617 and approved by the Department of State. The direct-support organization is exempt from paying filing fees under chapter 617.

(b) The direct-support organization shall operate under contract with the department. The contract must provide that:

1. The department may review the direct-support organization's articles of incorporation.

2. The direct-support organization shall submit an annual budget proposal to the department, on a form provided by the department, in accordance with department procedures for filing budget proposals based on recommendations of the department.

3. Any funds that the direct-support organization holds in trust must revert to the state upon the expiration or cancellation of the contract.

4. The direct-support organization is subject to an annual financial and performance review by the department to determine whether the direct-support organization is complying with the terms of the contract and is acting in a manner consistent with the goals of the department and in the best interest of the state.

(c) The fiscal year of the direct-support organization begins on July 1 and ends on June 30 of the next succeeding year.

(d) The direct-support organization shall provide an annual financial audit in accordance with s. 215.981.

(e) The direct-support organization is not an agency for purposes of parts I, II, and IV-VIII of chapter 112; chapter 120; s. 215.31; chapter 216; ss. 255.21, 255.25, and 255.254, relating to leasing of buildings; ss. 283.33 and 283.35,

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relating to bids for printing; and chapter 287. However, the direct-support organization shall comply with the per diem and travel expense provisions of s. 112.061.

(f) Subject to the approval of the Secretary of Commerce, the department may allow the direct-support organization to use the property, facilities, personnel, and services of the department if the direct-support organization provides equal employment opportunities to all persons regardless of race, color, religion, sex, or national origin.

(2) The mission of the direct-support organization ~~task force~~ is to carry out the provisions of this section, to make recommendations to preserve and protect military installations, to assist with the coordination of economic and workforce development efforts in military communities, to assist in the planning and research and development related to military missions, businesses, and military families ~~to support the state's position in research and development related to or arising out of military missions and contracting~~, and to improve the state's military-friendly environment for servicemembers, military dependents, military retirees, and businesses that bring military and base-related jobs to the state. The direct-support organization is organized and operated to request, receive, hold, invest, and administer property and to manage and make expenditures for the operation of the activities, services, functions, and programs of this state for economic and product research and development, joint planning with host communities to accommodate military missions and prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing

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a smooth transition for large numbers of additional military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers.

(3) The direct-support organization shall be governed by a board of directors.

(a) The board of directors is composed of the Governor, or his or her designee, and the following members ~~task force~~ shall be comprised of the Governor or his or her designee, and 12 members appointed as follows:

1. ~~(a)~~ Four members appointed by the Governor.

2. ~~(b)~~ Four members appointed by the President of the Senate.

3. ~~(c)~~ Four members appointed by the Speaker of the House of Representatives.

(b) ~~(d)~~ Appointed members must represent defense-related industries or communities that host military bases and installations. All appointments in place as of July 1, 2024, must continue in effect until the expiration of the term ~~must be made by August 1, 2011~~. Members shall serve for a term of 4 years, ~~with the first term ending July 1, 2015~~. However, if members of the Legislature are appointed to the direct-support organization ~~task force~~, those members shall serve until the expiration of their legislative term and may be reappointed once. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the initial appointment. ~~All members of the council are eligible for reappointment. A member who serves in the Legislature may participate in all~~

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direct-support organization ~~task force~~ activities but may only vote on matters that are advisory.

(c)(4) The President of the Senate and the Speaker of the House of Representatives shall each designate one of their appointees to serve as chair of the direct-support organization ~~task force~~. The chair shall serve a 2-year term, rotating on ~~rotate each~~ July 1 of each odd-numbered year. The appointee designated by the President of the Senate shall serve as initial chair. If the Governor, instead of his or her designee, participates in the activities of the direct-support organization ~~task force~~, ~~then~~ the Governor shall serve as chair.

(d)(5) The Secretary of Commerce Economic Opportunity, or his or her designee, shall serve as the ex officio, nonvoting executive director of the direct-support organization ~~task force~~.

(4)(6) The direct-support organization ~~task force~~ shall submit an annual ~~progress~~ report and ~~work plan~~ to the Governor, the President of the Senate, and the Speaker of the House of Representatives each December ~~February~~ 1.

(5) The direct-support organization, in the performance of its duties, may:

(a) Make and enter into contracts and assume such other functions as are necessary to carry out the mission of the direct-support organization and its contract with the department, provided that any such contracts and assumptions are not inconsistent with this section or any other applicable provision of law governing the direct-support organization. A proposed contract with a total cost of \$750,000 or more is subject to the notice, review, and objection procedures of s.

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216.177. If the chair and vice chair of the Legislative Budget Commission, or the President of the Senate and the Speaker of the House of Representatives, timely advise the direct-support organization in writing that such proposed contract is contrary to legislative policy and intent, the direct-support organization may not enter into such proposed contract. The direct-support organization may not divide one proposed contract with a total cost of \$750,000 or more into multiple contracts to circumvent the requirements of this paragraph.

(b) Establish grant programs and administer grant awards to support its mission.

(7) ~~The department shall support the task force and contract with the task force for expenditure of appropriated funds, which may be used by the task force for economic and product research and development, joint planning with host communities to accommodate military missions and prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing a smooth transition for large numbers of additional military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers. The task force may~~

(c) Annually spend up to \$250,000 of funds appropriated to the department for the direct-support organization ~~task force~~ for staffing and administrative expenses of the direct-support organization ~~task force~~, including travel and per diem costs incurred by direct-support organization ~~task force~~ members who are not otherwise eligible for state reimbursement.

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(6) This section is repealed October 1, 2029, unless reviewed and saved from repeal by the Legislature.

Section 7. Paragraph (a) of subsection (3) of section 445.003, Florida Statutes, is amended to read:

445.003 Implementation of the federal Workforce Innovation and Opportunity Act.—

(3) FUNDING.—

(a) Title I, Workforce Innovation and Opportunity Act funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be expended based on the 4-year plan of the state board. The plan must outline and direct the method used to administer and coordinate various funds and programs that are operated by various agencies. The following provisions apply to these funds:

1. At least 50 percent of the Title I funds for Adults and Dislocated Workers which are passed through to local workforce development boards shall be allocated to and expended on Individual Training Accounts unless a local workforce development board obtains a waiver from the state board. Tuition, books, and fees of training providers and other training services prescribed and authorized by the Workforce Innovation and Opportunity Act qualify as Individual Training Account expenditures.

2. Fifteen percent of Title I funding shall be retained at the state level and dedicated to state administration and shall be used to design, develop, induce, fund, and evaluate the long-term impact of innovative Individual Training Account pilots, demonstrations, and programs to enable participants to attain self-sufficiency and to evaluate the effectiveness of performance-based contracts used by local workforce development

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boards under s. 445.024(5) on increasing wages and employment over the long term. Of such funds retained at the state level, \$2 million may be reserved for the Incumbent Worker Training Program created under subparagraph 3. Eligible state administration costs include the costs of funding for the state board and state board staff; operating fiscal, compliance, and management accountability systems through the department; conducting evaluation and research on workforce development activities; and providing technical and capacity building assistance to local workforce development areas at the direction of the state board. Notwithstanding s. 445.004, such administrative costs may not exceed 25 percent of these funds. An amount not to exceed 75 percent of these funds shall be allocated to Individual Training Accounts and other workforce development strategies for other training designed and tailored by the state board in consultation with the department, including, but not limited to, programs for incumbent workers, nontraditional employment, and enterprise zones. The state board, in consultation with the department, shall design, adopt, and fund Individual Training Accounts for distressed urban and rural communities.

3. The Incumbent Worker Training Program is created for the purpose of providing grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program will provide reimbursement grants to businesses that pay for preapproved, direct, training-related costs. For purposes of this subparagraph, the term "businesses" includes hospitals and health care facilities operated by nonprofit or local government entities which provide nursing or allied health

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465 care opportunities to acquire new or improved skills.

466 a. The Incumbent Worker Training Program will be
467 administered by CareerSource Florida, Inc., which may, at its
468 discretion, contract with a private business organization to
469 serve as grant administrator.

470 b. The program shall be administered under s. 134(d)(4) of
471 the Workforce Innovation and Opportunity Act. Funding priority
472 shall be given in the following order:

473 (I) Businesses that provide employees with opportunities to
474 acquire new or improved skills by earning a credential on the
475 Master Credentials List.

476 (II) Hospitals or health care facilities operated by
477 nonprofit or local government entities that provide ~~nursing~~
478 opportunities in health care to acquire new or improved skills.

479 (III) Businesses whose grant proposals represent a
480 significant upgrade in employee skills.

481 (IV) Businesses with 25 employees or fewer, businesses in
482 rural areas, and businesses in distressed inner-city areas.

483 (V) Businesses in a qualified targeted industry or
484 businesses whose grant proposals represent a significant layoff
485 avoidance strategy.

486 c. All costs reimbursed by the program must be preapproved
487 by CareerSource Florida, Inc., or the grant administrator. The
488 program may not reimburse businesses for trainee wages, the
489 purchase of capital equipment, or the purchase of any item or
490 service that may possibly be used outside the training project.
491 A business approved for a grant may be reimbursed for
492 preapproved, direct, training-related costs including tuition,
493 fees, books and training materials, and overhead or indirect

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494 costs not to exceed 5 percent of the grant amount.

495 d. A business that is selected to receive grant funding
496 must provide a matching contribution to the training project,
497 including, but not limited to, wages paid to trainees or the
498 purchase of capital equipment used in the training project; must
499 sign an agreement with CareerSource Florida, Inc., or the grant
500 administrator to complete the training project as proposed in
501 the application; must keep accurate records of the project's
502 implementation process; and must submit monthly or quarterly
503 reimbursement requests with required documentation.

504 e. All Incumbent Worker Training Program grant projects
505 shall be performance-based with specific measurable performance
506 outcomes, including completion of the training project and job
507 retention. CareerSource Florida, Inc., or the grant
508 administrator shall withhold the final payment to the grantee
509 until a final grant report is submitted and all performance
510 criteria specified in the grant contract have been achieved.

511 f. The state board may establish guidelines necessary to
512 implement the Incumbent Worker Training Program.

513 g. No more than 10 percent of the Incumbent Worker Training
514 Program's total appropriation may be used for overhead or
515 indirect purposes.

516 4. At least 50 percent of Rapid Response funding shall be
517 dedicated to Intensive Services Accounts and Individual Training
518 Accounts for dislocated workers and incumbent workers who are at
519 risk of dislocation. The department shall also maintain an
520 Emergency Preparedness Fund from Rapid Response funds, which
521 will immediately issue Intensive Service Accounts, Individual
522 Training Accounts, and other federally authorized assistance to

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eligible victims of natural or other disasters. At the direction of the Governor, these Rapid Response funds shall be released to local workforce development boards for immediate use after events that qualify under federal law. Funding shall also be dedicated to maintain a unit at the state level to respond to Rapid Response emergencies and to work with state emergency management officials and local workforce development boards. All Rapid Response funds must be expended based on a plan developed by the state board in consultation with the department and approved by the Governor.

Section 8. Paragraph (a) of subsection (3) of section 445.004, Florida Statutes, is amended to read:

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

(3)(a) Members of the state board described in Pub. L. No. 113-128, Title I, s. 101(b)(1)(C)(iii)(I)(aa) are voting ~~nonvoting~~ members. The number of members is determined by the Governor, who shall consider the importance of minority, gender, and geographic representation in making appointments to the state board. When the Governor is in attendance, he or she shall preside at all meetings of the state board.

Section 9. Subsections (2) and (3) of section 695.03, Florida Statutes, are amended to read:

695.03 Acknowledgment and proof; validation of certain acknowledgments; legalization or authentication before foreign officials.—To entitle any instrument concerning real property to be recorded, the execution must be acknowledged by the party executing it, proved by a subscribing witness to it, or legalized or authenticated in one of the following forms:

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(2) OUTSIDE THIS STATE BUT WITHIN THE UNITED STATES.—An acknowledgment or a proof taken, administered, or made outside of this state but within the United States may be taken, administered, or made by or before a civil-law notary of this state or a commissioner of deeds appointed by the Secretary of Commerce ~~Governor of this state~~; by a judge or clerk of any court of the United States or of any state, territory, or district; by or before a United States commissioner or magistrate; or by or before any notary public, justice of the peace, master in chancery, or registrar or recorder of deeds of any state, territory, or district having a seal, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. If the acknowledgment or proof is taken, administered, or made by or before a notary public who does not affix a seal, it is sufficient for the notary public to type, print, or write by hand on the instrument, "I am a Notary Public of the State of ...(state)..., and my commission expires on ...(date)...."

(3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN COUNTRIES.—An acknowledgment, an affidavit, an oath, a legalization, an authentication, or a proof taken, administered, or made outside the United States or in a foreign country may be taken, administered, or made by or before a commissioner of deeds appointed by the Secretary of Commerce ~~Governor of this state~~ to act in such country; before a notary public of such foreign country or a civil-law notary of this state or of such foreign country who has an official seal; before an ambassador, envoy extraordinary, minister plenipotentiary, minister, commissioner, charge d'affaires, consul general, consul, vice

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581 consul, consular agent, or other diplomatic or consular officer
 582 of the United States appointed to reside in such country; or
 583 before a military or naval officer authorized by 10 U.S.C. s.
 584 1044a to perform the duties of notary public, and the
 585 certificate of acknowledgment, legalization, authentication, or
 586 proof must be under the seal of the officer. A certificate
 587 legalizing or authenticating the signature of a person executing
 588 an instrument concerning real property and to which a civil-law
 589 notary or notary public of that country has affixed her or his
 590 official seal is sufficient as an acknowledgment. For the
 591 purposes of this section, the term "civil-law notary" means a
 592 civil-law notary as defined in chapter 118 or an official of a
 593 foreign country who has an official seal and who is authorized
 594 to make legal or lawful the execution of any document in that
 595 jurisdiction, in which jurisdiction the affixing of her or his
 596 official seal is deemed proof of the execution of the document
 597 or deed in full compliance with the laws of that jurisdiction.

598 Section 10. Section 720.406, Florida Statutes, is amended
 599 to read:

600 720.406 Department of Commerce ~~Economic Opportunity~~;
 601 submission; review and determination.—

602 (1) Within No later than 60 days after obtaining valid
 603 written consent from a majority of the affected parcel owners,
 604 or within 60 days after the date the proposed revived
 605 declaration and other governing documents are approved by the
 606 affected parcel owners by vote at a meeting, the organizing
 607 committee or its designee must submit the proposed revived
 608 governing documents and supporting materials to the Department
 609 of Commerce ~~Economic Opportunity~~ to review and determine whether

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610 to approve or disapprove of the proposal to preserve the
 611 residential community. The submission to the department must
 612 include:

613 (a) The full text of the proposed revived declaration of
 614 covenants and articles of incorporation and bylaws of the
 615 homeowners' association. ~~+~~

616 (b) A verified copy of the previous declaration of
 617 covenants and other previous governing documents for the
 618 community, including any amendments thereto. ~~+~~

619 (c) The legal description of each parcel to be subject to
 620 the revived declaration and other governing documents and a plat
 621 or other graphic depiction of the affected properties in the
 622 community. ~~+~~

623 (d) A verified copy of the written consents of the
 624 requisite number of the affected parcel owners approving the
 625 revived declaration and other governing documents or, if
 626 approval was obtained by a vote at a meeting of affected parcel
 627 owners, verified copies of the notice of the meeting,
 628 attendance, and voting results. ~~+~~

629 (e) An affidavit by a current or former officer of the
 630 association or by a member of the organizing committee verifying
 631 that the requirements for the revived declaration set forth in
 632 s. 720.404 have been satisfied. ~~+~~ ~~and~~

633 (f) Such other documentation that the organizing committee
 634 believes is supportive of the policy of preserving the
 635 residential community and operating, managing, and maintaining
 636 the infrastructure, aesthetic character, and common areas
 637 serving the residential community.

638 (2) Within No later than 60 days after receiving the

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639 submission, the department must determine whether the proposed
 640 revived declaration of covenants and other governing documents
 641 comply with the requirements of this act.

642 (a) If the department determines that the proposed revived
 643 declaration and other governing documents comply with the act
 644 and have been approved by the parcel owners as required by this
 645 act, the department shall notify the organizing committee in
 646 writing of its approval.

647 (b) If the department determines that the proposed revived
 648 declaration and other governing documents do not comply with,
 649 ~~this act~~ or have not been approved as required by, this act, the
 650 department shall notify the organizing committee in writing that
 651 it does not approve the governing documents and shall state the
 652 reasons for the disapproval.

653 Section 11. Subsection (1) of section 721.97, Florida
 654 Statutes, is amended to read:

655 721.97 Timeshare commissioner of deeds.—

656 (1) The Secretary of Commerce ~~Governor~~ may appoint
 657 commissioners of deeds to take acknowledgments, proofs of
 658 execution, or oaths in any foreign country, in international
 659 waters, or in any possession, territory, or commonwealth of the
 660 United States outside the 50 states. The term of office is 4
 661 years. Commissioners of deeds shall have authority to take
 662 acknowledgments, proofs of execution, and oaths in connection
 663 with the execution of any deed, mortgage, deed of trust,
 664 contract, power of attorney, or any other writing to be used or
 665 recorded in connection with a timeshare estate, personal
 666 property timeshare interest, timeshare license, any property
 667 subject to a timeshare plan, or the operation of a timeshare

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668 plan located within this state; provided such instrument or
 669 writing is executed outside the United States. Such
 670 acknowledgments, proofs of execution, and oaths must be taken or
 671 made in the manner directed by the laws of this state,
 672 including, but not limited to, s. 117.05(4), (5)(a), and (6),
 673 Florida Statutes 1997, and certified by a commissioner of deeds.
 674 The certification must be endorsed on or annexed to the
 675 instrument or writing aforesaid and has the same effect as if
 676 made or taken by a notary public licensed in this state.

677 Section 12. This act shall take effect July 1, 2024.

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The Florida Senate

Committee Agenda Request

To: Senator Jay Trumbull, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 10, 2024

I respectfully request that **Senate Bill #1420**, relating to Department of Commerce, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Danny", written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 23

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 1748

INTRODUCER: Senator Brodeur

SUBJECT: Tourist Development Tax

DATE: January 22, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 1748 prohibits a tourist development council's plan for tourist development, which is required for the allocation of tourist development tax revenue, from allocating more than 25 percent of the tax revenue received for a fiscal year to fund an individual project unless the governing board of the county approves the use by a supermajority vote.

The bill takes effect July 1, 2024.

II. Present Situation:

Tourist Development Taxes

Pursuant to the Local Option Tourist Development Act,¹ counties are authorized to levy five separate taxes on transient rental² transactions (tourist development taxes or TDTs). Depending on a county's eligibility to levy such taxes, the maximum potential tax rate varies:

- The original TDT may be levied at the rate of 1 or 2 percent.³
- An additional 1 percent tax may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least three years.⁴

¹ Section 125.0104, F.S.

² Section 125.0104(3)(a)1., F.S., considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.

³ Section 125.0104(3)(c), F.S. All 67 of Florida's counties are eligible to levy this tax, but only 62 counties have done so, all at a rate of 2 percent. Office of Economic and Demographic Research (EDR), *2024 Local Option Tourist Tax Rates*, <http://edr.state.fl.us/Content/local-government/data/county-municipal/2024LOTTRates.pdf> (last visited Jan 22, 2024). These counties are estimated to realize \$583 million in revenue from these taxes in the 2023-2024 fiscal year. EDR *2023 Florida Tax Handbook*, p. 289, <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Jan. 22, 2024).

⁴ Section 125.0104(3)(d), F.S. Fifty-six of the eligible 59 counties levy this tax, with an estimated 2023-2024 state fiscal year collection of \$254 million in revenue. EDR *2023 Florida Tax Handbook*, *supra* note 3 at.293.

- A high tourism impact tax may be levied at an additional 1 percent.⁵
- A professional sports franchise facility tax may be levied up to an additional 1 percent.⁶
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.⁷

TDT Process

Each county that levies the original 1 or 2 percent TDT is required to have a tourist development council consisting of county residents who are appointed by the county governing board.⁸ The tourist development council makes recommendations to the county governing board for the effective operation of special projects or for uses of the TDT revenue.⁹

Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum held at a general election,¹⁰ and additional TDT levies must be authorized by a vote of the county's governing board or by voter approval in a countywide referendum.¹¹ Each county proposing to levy the original 1 or 2 percent tax must then adopt an ordinance for the levy and imposition of the tax,¹² which must include a plan for tourist development prepared by the tourist development council.¹³ The plan must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, the tax district in which the enactment or renewal of the ordinance levying and imposing the TDT is proposed; and a list of the proposed uses of the tax and the approximate cost for each project or use.¹⁴ The plan must also include the approximate cost or expense allocation for each specific project or special use.¹⁵ The county governing board must adopt the plan as part of the ordinance levying the tax. The plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.¹⁶

TDT Uses

The revenues derived from TDTs may be used for:¹⁷

⁵ Section 125.0104(3)(m), F.S. Ten of the 14 eligible counties levy this tax with an estimated 2023-2024 state fiscal collection of \$161 million in revenue. EDR 2023 *Florida Tax Handbook*, *supra* note 3 at 300.

⁶ Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-six of the 67 counties levy this additional tax, with an estimated 2023-2024 state fiscal year collection of \$259 million in revenue. EDR 2023 *Florida Tax Handbook*, *supra* note 3 at 297.

⁷ Section 125.0104(3)(n), F.S. Thirty-six of the eligible 65 counties levy the additional professional sports franchise facility tax, with an estimated 2023-2024 state fiscal year collection of \$226 million in revenue. EDR 2023 *Florida Tax Handbook*, *supra* note 3 at 303.

⁸ Section 125.0104(4)(e), F.S.

⁹ *Id.*

¹⁰ Section 125.0104(6), F.S.

¹¹ Section 125.0104(3)(d), F.S.

¹² Section 125.0104(4)(a), F.S.

¹³ Section 125.0104(4), F.S.

¹⁴ Section 125.0104(4)(c), F.S.

¹⁵ *Id.*

¹⁶ Section 125.0104(4)(d), F.S. The provisions found in s. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

¹⁷ Section 125.0104(5), F.S.

- The acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, or promotion of a zoo.
- Promoting and advertising tourism in the state.
- Funding of convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county.
- Financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river.¹⁸
- In counties with populations less than 950,000, the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-private organization and open to the public.¹⁹
- Securing revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum, or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

III. Effect of Proposed Changes:

The bill amends s. 125.0104, F.S., to prohibit a tourist development plan from allocating more than 25 percent of the tax revenue received for a fiscal year to fund an individual project unless the governing board of the county approves the use by a supermajority vote.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

¹⁸ In counties with populations less than 100,000, up to 10 percent of TDT revenues may be used for financing beach park facilities. *See* s. 125.0104(5)(a), F.S.

¹⁹ Section 125.0104(5)(b), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

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

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 125.0104 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Brodeur

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1 A bill to be entitled
2 An act relating to tourist development tax; amending
3 s. 125.0104, F.S.; prohibiting a plan for tourist
4 development from allocating more than a certain
5 percentage of the tax revenue to an individual project
6 unless the governing board of the county approves such
7 use by supermajority vote; providing an effective
8 date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Paragraph (c) of subsection (4) of section
13 125.0104, Florida Statutes, is amended to read:
14 125.0104 Tourist development tax; procedure for levying;
15 authorized uses; referendum; enforcement.—
16 (4) ORDINANCE LEVY TAX; PROCEDURE.—
17 (c) Before a referendum to enact or renew the ordinance
18 levying and imposing the tax, the county tourist development
19 council shall prepare and submit to the governing board of the
20 county for its approval a plan for tourist development. The plan
21 shall set forth the anticipated net tourist development tax
22 revenue to be derived by the county for the 24 months following
23 the levy of the tax; the tax district in which the enactment or
24 renewal of the ordinance levying and imposing the tourist
25 development tax is proposed; and a list, in the order of
26 priority, of the proposed uses of the tax revenue by specific
27 project or special use as the same are authorized under
28 subsection (5). The plan shall include the approximate cost or
29 expense allocation for each specific project or special use. The

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30 plan may not allocate more than 25 percent of the tax revenue
31 received for a fiscal year to fund an individual project unless
32 the governing board of the county approves such use by
33 supermajority vote.
34 Section 2. This act shall take effect July 1, 2024.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JASON BRODEUR
10th District

COMMITTEES:
Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

January 11, 2024

The Honorable Jay Trumbull
Chair, Committee on Commerce and Tourism
313 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Trumbull,

I respectfully request that **Senate Bill 1748, Tourist Development Tax**, be placed on the agenda of the Commerce and Tourism Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

Senator Jason Brodeur – District 10

CC: Todd McKay – Staff Director
Jennifer Renner – Deputy Staff Director
Renita Hayes – Administrative Assistant

REPLY TO:

- ☐ 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- ☐ 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 58

INTRODUCER: Commerce and Tourism Committee and Senator Stewart

SUBJECT: Sales Tax Holiday for Items Related to Electric Transportation

DATE: January 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 58 exempts from the sales and use tax the retail sale of electric bicycles, electric scooters, and protective clothing and equipment during the 45-day period from August 1, 2024, through September 14, 2024, and the 45-day period from November 1, 2024, through December 15, 2024.

The sales price is limited to:

- \$1,750 or less for electric bicycles;
- \$500 or less for electric scooters;
- \$150 or less for helmets;
- \$50 or less for knee and elbow pads;
- \$75 or less for shirts, pants, jackets, or gloves.

The exemption does not apply to sales within a theme park or entertainment complex, within a public lodging establishment, or within an airport. The lease or rental of an electric bicycle, electric scooter, or protective clothing and equipment does not qualify as an exempt retail sale under the exemption.

The Revenue Estimating Conference has not reviewed the bill.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida Sales and Use 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, and a 5.5 percent sales and use tax on the rental of commercial real estate.⁴ Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sale and use tax, as well as 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.⁵

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁶ 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."⁷ 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 0.0 to 1.5 percent.⁸

Electric-powered bicycles and scooters, helmets, knee and elbow pads, shirts, pants, jackets, and gloves are subject to Florida sales tax. However, the sale of bicycle helmets marketed for use by youth are exempt from the sales and use tax.⁹

Electric Bicycles and Scooters

Florida law defines the term "electric bicycle" as a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

- "Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- "Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- "Class 3 bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.¹⁰

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.04(1)(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ Section 212.031, F.S.

⁵ Section 212.07(2), F.S.

⁶ Section 212.055, F.S.

⁷ Section 212.054(2)(a), F.S.

⁸ Florida Department of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2024*, https://floridarevenue.com/Forms_library/current/dr15dss_24.pdf (last visited Jan. 23, 2024).

⁹ Section 212.08(7)(III), F.S.

¹⁰ Section 316.003(23), F.S.

A “motorized scooter” (also referred to as an electric scooter) is defined as any vehicle or micromobility device¹¹ that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.¹²

Over the years electric scooters and bicycles have become a popular transportation option, especially for those who live in cities.¹³ They also offer an alternative mode of transportation for people who would otherwise be prevented from using more traditional modes of transportation.¹⁴

III. Effect of Proposed Changes:

The bill exempts from the sales and use tax the retail sale of electric bicycles, electric scooters, and protective clothing and equipment during the 45-day period from August 1, 2024, through September 14, 2024, and the 45-day period from November 1, 2024, through December 15, 2024.

The sales price is limited to:

- \$1,750 or less for electric bicycles;
- \$500 or less for electric scooters;
- \$150 or less for helmets;
- \$50 or less for knee and elbow pads;
- \$75 or less for shirts, pants, jackets, or gloves.

The bill specifies that the sales tax exemption does not apply to sales within a theme park or entertainment complex,¹⁵ within a public lodging establishment,¹⁶ or within an airport.¹⁷ The lease or rental of an electric bicycle, electric scooter, or protective clothing and equipment does not qualify as an exempt retail sale under the exemption.

The Department of Revenue is authorized to adopt emergency rules.

The bill takes effect upon becoming a law.

¹¹ The term “micromobility device” is defined as any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed greater than 20 miles per hour on level ground. The term includes motorized scooters and bicycles. Section 316.003(41), F.S.

¹² Section 316.003(48), F.S.

¹³ U.S. Department of Transportation, Federal Highway Administration, *Public Roads- 2021*, [https://highways.dot.gov/public-roads/spring-2021/02#:~:text=Other%20definitions%20of%20micromobility%20focus,%5B1%20meter%5D%20wide\).](https://highways.dot.gov/public-roads/spring-2021/02#:~:text=Other%20definitions%20of%20micromobility%20focus,%5B1%20meter%5D%20wide).) (last visited Jan. 23, 2024).

¹⁴ *Id.*

¹⁵ See section 509.013(9), F.S.

¹⁶ See section 509.013(4), F.S.

¹⁷ See section 330.27(2), F.S.

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

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of Art. VII, s. 18 of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{18,19} which is \$2.3 million or less for Fiscal Year 2024-2025.²⁰

The Revenue Estimating Conference has not reviewed the bill.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees; therefore, the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference has not reviewed this bill.

¹⁸ FLA. CONST. art. VII, s. 18(d).

¹⁹ 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), <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 23, 2024).

²⁰ Based on the Demographic Estimating Conference's estimated population adopted on July 11, 2023, <http://edr.state.fl.us/Content/conferences/population/archives/230711demographic.pdf> (last visited Jan. 23, 2024).

B. Private Sector Impact:

The private sector will experience reduced costs associated with the purchase of electric bicycles and scooters vehicles and related personal safety equipment due to the sales and use tax exemption provided in this legislation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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

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

CS by Commerce and Tourism on January 23, 2024:

The committee substitute exempts from the sales and use tax the retail sale of electric bicycles, electric scooters, and protective clothing and equipment, up to certain dollar amounts, during the 45-day period from August 1, 2024 through September 14, 2024, and the 45-day period from November 1, 2024 through December, 15, 2024.

The committee substitute specifies that the sales tax exemption does not apply to sales within a theme park or entertainment complex, within a public lodging establishment, or within an airport. The lease or rental of an electric bicycle, electric scooter, or protective clothing and equipment does not qualify as an exempt retail sale under the exemption.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/23/2024	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Electric bicycles, electric scooters, and protective clothing and equipment; sales tax holiday.-

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

(a) "Electric bicycle" has the same meaning as in s. 316.003, Florida Statutes.

(b) "Electric scooter" means a vehicle having two or fewer



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wheels, with or without a seat or saddle, which is equipped to be propelled by a motor and which weighs less than 75 pounds, is less than 2 feet wide, and is designed for a maximum speed of less than 35 miles per hour.

(c) "Protective clothing and equipment" means apparel designed and intended for use during the operation of an electric bicycle or electric scooter which incorporates padding to protect from or mitigate injury.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from August 1, 2024, through September 14, 2024, and November 1, 2024, through December 15, 2024, on the retail sale of:

(a) An electric bicycle with a sales price of \$1,750 or less.

(b) An electric scooter with a sales price of \$500 or less.

(c) The following protective clothing and equipment:

1. A helmet with a sales price of \$150 or less.

2. Knee pads with a sales price of \$50 or less.

3. Elbow pads with a sales price of \$50 or less.

4. A shirt, pants, a jacket, or gloves with a sales price of \$75 or less.

(3) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27, Florida Statutes.

(4) The lease or rental of an electric bicycle, an electric scooter, or protective clothing and equipment does not qualify



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as an exempt retail sale under this exemption.

(5) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section. Notwithstanding any other law to the contrary, emergency rules adopted under this section are effective for the length of the exemption period and may be renewed during pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

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

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to a sales tax holiday for items related to electric transportation; defining the terms "electric bicycle," "electric scooter," and "protective clothing and equipment"; providing a sales tax exemption during specified periods on the retail sale of certain electric bicycles, electric scooters, and protective clothing and equipment; providing applicability; authorizing the Department of Revenue to adopt emergency rules; providing an effective date.

By Senator Stewart

17-00055B-24

202458__

A bill to be entitled

An act relating to a sales tax holiday for micromobility vehicles and related personal safety equipment; providing a sales tax exemption during a specified period on the retail sale of micromobility vehicles and related personal safety equipment; defining the terms "micromobility vehicle" and "related personal safety equipment"; authorizing the Department of Revenue to adopt emergency rules; providing an effective date.

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

Section 1. Micromobility vehicles and related personal safety equipment; sales tax holiday.-

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from July 1, 2024, through January 1, 2025, on the retail sale of micromobility vehicles and related personal safety equipment.

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

(a) "Micromobility vehicle" means a human- or electric-powered transportation device, including a bicycle, a scooter, an electric-assist bicycle, an electric scooter, or other small, lightweight, wheeled conveyance, that weighs less than 500 pounds, is less than 3 feet in width, and is designed for a maximum speed of less than 35 miles per hour.

(b) "Related personal safety equipment" includes helmets, knee pads, elbow pads, and other personal safety equipment used for the operation of a micromobility vehicle.

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

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(3) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section.

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

Page 2 of 2

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/23/2024	.	
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The Committee on Commerce and Tourism (Stewart) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Electric bicycles, electric scooters, and
protective clothing and equipment; sales tax holiday.-

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

(a) "Electric bicycle" has the same meaning as in s.
316.003, Florida Statutes.

(b) "Electric scooter" means a vehicle having two or fewer



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wheels, with or without a seat or saddle, which is equipped to be propelled by a motor and which weighs less than 75 pounds, is less than 2 feet wide, and is designed for a maximum speed of less than 35 miles per hour.

(c) "Protective clothing and equipment" means apparel designed and intended for use during the operation of an electric bicycle or electric scooter which incorporates padding to protect from or mitigate injury.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from August 1, 2024, through September 14, 2024, and November 1, 2024, through December 15, 2024, on the retail sale of:

(a) An electric bicycle with a sales price of \$1,750 or less.

(b) An electric scooter with a sales price of \$500 or less.

(c) The following protective clothing and equipment:

1. A helmet with a sales price of \$150 or less.

2. Knee pads with a sales price of \$50 or less.

3. Elbow pads with a sales price of \$50 or less.

4. A shirt, pants, a jacket, or gloves with a sales price of \$75 or less.

(3) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27, Florida Statutes.

(4) The lease or rental of an electric bicycle, an electric scooter, or protective clothing and equipment does not qualify



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as an exempt retail sale under this exemption.

(5) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section. Notwithstanding any other law to the contrary, emergency rules adopted under this section are effective for the length of the exemption period and may be renewed during pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to a sales tax holiday for items related to electric transportation; defining the terms "electric bicycle," "electric scooter," and "protective clothing and equipment"; providing a sales tax exemption during specified periods on the retail sale of certain electric bicycles, electric scooters, and protective clothing and equipment; providing applicability; authorizing the Department of Revenue to adopt emergency rules; providing an effective date.



The Florida Senate

Committee Agenda Request

To: Senator, Chair Trumbull
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: October 17, 2023

I respectfully request that **Senate Bill #58**, relating to a Sales Tax Holiday for Micromobility Vehicles and Related Personal Safety Equipment, be placed on:

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

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
Florida Senate, District 17

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 1260

INTRODUCER: Senator Trumbull

SUBJECT: Verification of Reemployment Assistance Benefit Eligibility

DATE: January 24, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	McKay	CM	Favorable
2.			ATD	
3.			FP	

I. Summary:

SB 1260 makes a number of changes to reemployment assistance eligibility requirements. The bill changes benefit eligibility conditions as follows:

- Requires that non-Florida residents seeking reemployment assistance benefits report to workforce centers in their state of residence.
- Removes language explicitly stating that the online skills assessment offered by the Department of Commerce (the department) is voluntary.
- Requires that weekly, a claimant must complete at least one job application in person with an employer that has an expected job opening, and must certify and attest biweekly that they will appear for all scheduled interviews and actively seek work.

The bill adds more conditions that can disqualify an individual from receiving benefits including:

- Failing to contact at least five prospective employers per week, unless otherwise exempt;
- Failing to appear on three or more occasions for a scheduled job interview;
- Failing to accept suitable work within 2 business days of being offered; or
- Failing to return to the individual's self-employment when directed by the department, or when recalled to work by his or her former employer.

The department must maintain a web page and e-mail address for employers to report known or suspected violations of the disqualification for benefits provisions, and notify employers of the web page and e-mail address.

Additionally, the bill creates a new section in chapter 443, F.S., which requires the department to verify the identity of each claimant who applies for reemployment assistance benefits before paying any benefits to that individual, and to weekly cross-check the information contained in the claim with various specified national and state databases.

The bill also requires that the department to do all of the following:

- Investigate any claim indicating suspicious activity associated with a mailing address, a bank account, an e-mail address, a telephone number, or an internet protocol address that is associated with another existing claim for reemployment assistance benefits and verify that the claim is legitimate before paying any benefits.
- Scrutinize any claim filed from a foreign Internet protocol address before paying any benefits.
- Work with the United States Department of Labor, state workforce agencies, and law enforcement entities to share information related to fraudulent claims to the extent feasible for further investigation and prosecution.
- Submit a yearly report to the Legislature on fraudulent reemployment assistance claims and related information, including the number of fraudulent claims referred for investigation and possible prosecution, and the sources of information that were used to cross-check claims during the reporting period.

Finally, the bill requires the department to procure an online workforce search and match tool that meets certain specified requirements.

The bill takes effect July 1, 2024.

II. Present Situation:

Unemployment Compensation Overview

According to the U.S. Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no-fault of their own (as determined under state law) and who meet the requirements of state law.¹ The program is administered as a partnership of the federal government and the states.² The individual states collect unemployment compensation payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA).³ FUTA collections go to the states for costs of administering state unemployment compensation and job service programs. In addition, FUTA pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.⁴

States are permitted to set benefit eligibility requirements, the amount and duration of benefits, and the state tax structure, as long as state law does not conflict with FUTA or Social Security

¹ USDOL, State Unemployment Insurance Benefits, *available at* <https://oui.doleta.gov/unemploy/uifactsheet.asp> (last visited January 22, 2024).

² There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia. USDOL, Unemployment Compensation, Federal – State Partnership, *available at* <https://oui.doleta.gov/unemploy/pdf/partnership.pdf> (last visited January 22, 2024).

³ FUTA is codified at 26 U.S.C. § 3301-3309.

⁴ USDOL, Unemployment Insurance Tax Topic, *available at* <https://oui.doleta.gov/unemploy/uitaxtopic.asp#:~:text=FUTA%20taxes%20are%20calculated%20by,times%20the%20employer's%20taxable%20wages.&text=Employers%20who%20pay%20their%20state,tax%20paid%20to%20the%20state>, (last visited January 22, 2024).

Act requirements. Florida's program was created by the Legislature in 1937.⁵ The department is the current agency responsible for administering Florida's laws, primarily through its Division of Workforce Services. The department contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collections services.⁶

State Reemployment Assistance Benefits

In Florida, which rebranded the unemployment compensation program as the reemployment assistance program in 2012,⁷ a qualified claimant may receive benefits equal to 25 percent of wages, not to exceed \$6,325 in a benefit year.⁸ Benefits range from a minimum of \$32 per week to a maximum weekly benefit amount⁹ of \$275, for a maximum of between 12 weeks and 23 weeks,¹⁰ depending on the claimant's length of prior employment and wages earned and the unemployment rate.¹¹

The maximum available weeks is set at the beginning of the year and applies for the entire calendar year. The maximum available weeks is based upon the average seasonally adjusted statewide unemployment rate for the months of July, August, and September.¹² If the average rate for that most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12 weeks. For each 0.5 percent step about 5 percent, an additional week of benefits is added to the maximum duration, up to 23 weeks of benefits if that average third quarter unemployment rate is 10.5 percent. On January 1, 2021, the maximum weeks of benefits increased from 12 weeks to 19 weeks based on the three month average of July, August, and September of 2020, which was 8.6 percent.¹³

To receive benefits, a claimant must meet certain monetary and non-monetary eligibility requirements. Key eligibility requirements involve a claimant's earnings during a certain period

⁵ Chapter 18402, Laws of Fla.

⁶ Section 443.1316, F.S.

⁷ Chapter 2012-30, Laws of Fla.

⁸ Section 443.111(5), F.S. The maximum amount of benefits available is calculated by multiplying an individual's weekly benefit amount by the number of available benefit weeks.

⁹ Pursuant to section 443.111(3), F.S., the "weekly benefit amount," is an amount equal to one twenty-sixth of the total wages for insured work paid during the quarter of the base period where the wages paid were highest.

¹⁰ Section 443.111(5)(c), F.S. If the average unemployment rate for the 3 months in the most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12; for each 0.5 percent that the unemployment rate is above 5 percent, an additional week of benefits becomes available up to 23 weeks at an unemployment rate of 10.5 percent. On January 1, 2021, the maximum weeks of benefits increased from 12 weeks to 19 weeks based on the three month average of July, August, and September of 2020, which was 8.7 percent.

¹¹ The average weekly benefit amount for each quarter in 2020 was: first quarter – \$254; second quarter – \$236; third quarter – \$227; and fourth quarter – \$228. USDOL, Unemployment Insurance Data, run report for Florida, *available at* https://oui.doleta.gov/unemploy/data_summary/DataSum.asp, (last visited January 22, 2024).

¹² Section 443.111(5)(c), F.S. Typically in the calculation of monthly unemployment rates, a rate is published about midway through the following month and the revised rate is published about midway through the next month. *See* The Department of Commerce, Unemployment – Local Area Unemployment Statistics (LAUS) – Release Schedule, (2021), *available at* <http://lmsresources.labormarketinfo.com/library/DataReleaseSchedule.pdf>, (last visited January 22, 2024).

¹³ The Department of Commerce, Florida Department of Economic Opportunity Announces Florida Achieves Six Consecutive Months of Month-Over-Month Job Growth, (November 20, 2020), *available at* <https://floridajobs.org/news-center/DEO-Press/2020/11/20/florida-department-of-economic-opportunity-announces-florida-achieves-six-consecutive-months-of-month-over-month-job-growth>, (last visited January 22, 2024).

of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.¹⁴

Benefit Eligibility Conditions

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. Generally, these include efforts related to finding new employment, such as:¹⁵

- Completing the department's online work registration;¹⁶
- Reporting to the One-Stop Career Center when directed to do so by the local CareerSource board;
- Being able to and available for work;¹⁷
- Contacting at least 5 prospective employers each week or going to the One-Stop Career Center for reemployment services; and
- Participating in reemployment services.

For each week of benefits claimed, a claimant must submit to the department the name, address, and telephone number of each prospective employer contacted.¹⁸ A claimant must be actively seeking work to be considered available for work. "This means engaging in systematic and sustained efforts to find work, including contacting at least five prospective employers for each week of unemployment claimed" or three prospective employers for individuals who live in small counties.¹⁹ Proof of work search efforts cannot include the same prospective employer at the same location in three consecutive weeks, unless in the meantime the employer has indicated that it is hiring. The department conducts random audits of the submitted information to verify that claimants are meeting these requirements.

The requirement to be available for work and able to work applies to an individual during the major portion of the individual's customary work week. Consequently, individuals whose benefits are not based on full-time work are not required to seek or be available to accept full-time work.²⁰

An individual must make a thorough and continued effort to obtain work and take positive actions to become reemployed. To aid unemployed individuals, free reemployment services and assistance are available.²¹

¹⁴ See Section 443.101, F.S.

¹⁵ Section 443.091(1), F.S.,

¹⁶ See Section 443.091(1)(b), F.S., and Employ Florida, available at <https://www.employflorida.com/vosnet/Default.aspx>, (last visited January 22, 2024). Employ Florida Marketplace is a partnership of Workforce Florida, Inc., and the Department of Commerce. It provides job-matching and workforce resources.

¹⁷ "Able to work" means physically and mentally capable of performing the duties of the occupation in which work is being sought. "Available for work" means actively seeking and being ready and willing to accept suitable work. See Section 443.036(1) and (6), F.S. See also Rule 73B-11.021(2), F.A.C.

¹⁸ Section 449.091(1)(c)1., F.S.

¹⁹ Section 443.091(1)(d), F.S. A "small county" is a county that has an unincarcerated population of 75,000 or less. Section 120.52(19), F.S.

²⁰ Rule 73B-11.021(2), F.A.C.

²¹ Rule 73B-11.011(12), F.A.C. "Reemployment services" is defined as job search assistance, job and vocational training referrals, employment counseling and testing, labor market information, employability skills enhancement, needs assessment, orientation, and other related services provided by One-Stop Career Centers operated by local regional workforce boards.

The department's website provides links to local, state, and national employment databases and to resources for job training or further educational opportunities. The One-Stop Career Centers provide job search counseling and workshops, occupational and labor market information, referral to potential employers, and job training assistance. Claimants may also receive an e-mail from the Employ Florida Marketplace with information about employment services or available jobs. Additionally, a claimant may be selected to participate in reemployment assistance services, such as the Reemployment Services and Eligibility Assessment (RESEA) program, designed to address the reemployment needs of claimants.²²

Currently, if you are a non-resident of Florida you are exempt from having to complete the department's online work registration and reporting to the one-stop career center as directed by the local workforce development board for reemployment services.

Disqualification for Reemployment Assistance Benefits

Section 443.101, F.S., specifies the circumstances under which an individual would be disqualified from receiving benefits. These circumstances include:

- Voluntarily leaving work without good cause, or being discharged by his or her employing unit for misconduct connected with the work;²³
- Failing to apply for available suitable work when directed by the department or the One-Stop Career Center, to accept suitable work when offered, or to return to suitable self-employment when directed to do so;²⁴
- Making false or fraudulent representations in filing for benefits;
- Being discharged from employment due to drug use or rejection from a job offer for failing a drug test; and
- Becoming unavailable for work due to incarceration or imprisonment.

The statute specifies the duration of the disqualification and the requirements for requalification for an individual's next benefit claim, depending on the reason for the disqualification.

III. Effect of Proposed Changes:

Section 1 specifies that the act may be cited as the "Promoting Work, Deterring Fraud Act of 2024."

Section 2 amends the benefit eligibility conditions in s. 443.091, F.S., to require non-Florida residents seeking reemployment assistance benefits to report to workforce centers in their state of residence. Non-Florida residents are currently exempt from the requirement to report to a workforce center.

²² RESEA services may include an orientation, initial assessment, labor market information, employability development plan, and work search services. The Department of Commerce, Program Description, *available at* <https://floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/reemployment-services-and-eligibility-assessment-program>, (last visited January 22, 2024). Rule 73B-3.028, F.A.C., provides more information on reemployment services and requirements for participation.

²³ An individual is not disqualified for voluntarily leaving temporary work to return to full time work, or to relocate with his or her military spouse due to relocation orders, or due to circumstances related to domestic violence.

²⁴ Section 443.101(2), F.S.

Currently, the department offers an online assessment aimed at identifying an individual's skills, abilities, and career aptitude. The assessment is currently voluntary; the claimant is allowed to choose whether to take it.²⁵ The bill deletes the language providing that the assessment is voluntary.

The bill adds a requirement that weekly, a claimant must complete at least one job application in person with an employer that has an expected job opening, and must certify and attest biweekly that they will appear for all scheduled interviews and actively seek work.

The department must adopt rules regarding work search requirements for the purpose of ensuring claimants' good faith participation.

Section 3 amends the disqualification for benefits provisions in s. 443.101, F.S., to add more conditions that can disqualify an individual from receiving benefits:

- Failing to contact at least five prospective employers per week, unless otherwise exempt;
- Failing to appear on three or more occasions for a scheduled job interview;
- Failing to accept suitable work within 2 business days of being offered; or
- Failing to return to the individual's self-employment when directed by the department, or when recalled to work by their former employer.

The bill provides that the department shall maintain a web page and e-mail address for employers to report known or suspected violations and that the department shall notify employers of this state the web page and e-mail address.

Section 4 creates s. 443.112, F.S., which requires the department to verify the identity of each claimant who applies for reemployment assistance benefits before paying any benefits to that individual and to weekly cross-check the information contained in the claim with various specified national and state databases.

The specified databases for the department to utilize include:

- The National Association of State Workforce Agencies Integrity Data Hub – a free resource to state workforce agency staff with advanced data cross-matching and analysis capabilities that detects and prevents unemployment insurance fraud and improper payments.²⁶
- The United States Department of Health and Human Services National Directory of New Hires – a database that legally requires federal and state workforce agencies to report their new hires, quarterly wages, and unemployment insurance data, and is only available to authorized persons or entities for authorized purposes.²⁷

²⁵ In 2014, the Legislature amended Section 443.091, F.S., to repeal the requirement that applicants for reemployment assistance must complete an initial skills review to receive benefits and then added language that the Department of Economic Opportunity (now the Department of Commerce) to offer a voluntary online assessment that will identify an individual's skills, abilities, and career aptitude. *See* Ch. 2014-218, Laws of Fla. s. 17.

²⁶ National Association of State Workforce Agencies Integrity Data Hub available at <https://www.naswa.org/integrity-center/integrity-data-hub>, (last visited January 22, 2024).

²⁷ A Guide to the National Directory of New Hires, (January 2023), available at https://www.acf.hhs.gov/sites/default/files/documents/ocse/a_guide_to_the_national_directory_of_new_hires.pdf, (last visited January 22, 2024).

- The State Directory of New Hires – a database where employers are required to report newly hired or rehired employees within 20 days of the date of hire.²⁸
- The Department of Corrections inmate database – a database containing public record information on felony offenders sentenced to the Department of Corrections.²⁹
- The Social Security Administration (SSA) Prisoner Update Processing System – which contains data reported to SSA and retained on the Prisoner Update Processing System. Examples of the data are confinement date, released date, reporter name and facility name and address.³⁰
- The Centers for Disease Control and Prevention National Vital Statistics System death records database – which collects and shares statistics about births, deaths, marriages, divorces, and fetal deaths.³¹
- The Department of Health Bureau of Vital Statistics death records database – which collects all birth, marriage, and death certificates in Florida.³²
- The United States Citizenship and Immigration Services SAVE database – which allows federal, state, and local benefit-granting agencies to verify a benefit applicant’s immigration status or naturalized/derived citizenship.³³

The bill provides that the department may not pay any claim that has not been cross-checked against all the sources listed above, or similar sources of information.

The bill also provides that the department must do all of the following:

- Investigate any claim indicating suspicious activity associated with a mailing address, a bank account, an e-mail address, a telephone number, or an internet protocol address that is associated with another existing claim for reemployment assistance benefits and verify that the claim is legitimate and not fraudulent before paying any benefits for the claim.
- Scrutinize any claim filed from a foreign Internet protocol address before paying any benefits for the claim.
- Work with the United States Department of Labor, other workforce agencies outside the state, the Office of the Attorney General, the Department of Law Enforcement, or other relevant law enforcement entities to share information related to fraudulent claims to the extent feasible for further investigation and prosecution.
- Each year, submit to the Legislature and make available on its website, a report identifying the number of fraudulent reemployment assistance claims identified for the prior year, the number of claims not paid due to successful detection of fraudulent intentions, the number of claims and the amount of reemployment assistance benefits paid against claims subsequently

²⁸ The State Directory of New Hires is a database maintained by each state containing information regarding newly hired employees for the respective state. *See* Section 409.2576, F.S. and 42 U.S.C. § 653a.

²⁹ This information only includes offenders sentenced to state prison or state supervision.

³⁰ *See* the Social Security Administration Program Operations Manual System, Developing Prisoner Update Processing System Records and Alerts, GN 02607.600.

³¹ About the National Vital Statistics System, CTRS. FOR DISEASE CONTROL & PREVENTION, *available at* https://www.cdc.gov/nchs/nvss/about_nvss.htm, (last visited January 22, 2024) (indicating that the legal authority for registering vital events, including births, lies with the fifty-seven vital statistics jurisdictions--the fifty states, the District of Columbia, New York City, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

³² *See* Section 20.43(1)(c), F.S.

³³ *See* 42 U.S.C. § 1320b-7.

identified as fraudulent, the amount of fraudulent overpayments recovered, and the number of fraudulent claims referred for investigation and possible prosecution. The report must also list the sources of information that were used to cross-check claims during the reporting period.

Section 5 amends s. 443.151, F.S., to update the section with the revised section number changes that the bill does.

Section 6 amends s. 445.003, F.S., to require the department, in alignment with the Federal Regulations public labor exchange services systems requirements, to procure a modernized online workforce search and match tool that includes artificial intelligence generation for the purpose of matching participants to jobs and training opportunities. The tool must be interoperable through an application programming interface with the consumer-first workplace system implemented in s. 445.011, F.S., and the tool must include a knowledge, skills, and interests assessment for the purpose of guiding participants to jobs and training opportunities.

The bill takes effect July 1, 2024.

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:

Indeterminate. If provisions in the bill function to lower the amount of reemployment assistance benefits paid out, employers could see a reduction in their contribution rates over time.

C. Government Sector Impact:

The department will likely incur initial and reoccurring costs to create and maintain the online workforce search and match tool, the website and e-mail address for employers to report suspected violations, and check the required databases. Provisions in the bill may function to lower the amount of reemployment assistance benefits paid out.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 443.091, 443.101, 443.151, and 445.003.

This bill creates section 443.1112 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 Trumbull

2-00783B-24

20241260__

1 A bill to be entitled
 2 An act relating to verification of reemployment
 3 assistance benefit eligibility; providing a short
 4 title; amending s. 443.091, F.S.; providing
 5 requirements for reemployment assistance benefit
 6 conditions for non-Florida residents; removing
 7 requirements that certain skills assessments of
 8 claimants be voluntary; providing specified
 9 requirements for claimants; requiring the Department
 10 of Commerce to implement rules; amending s. 443.101,
 11 F.S.; making a technical change; revising
 12 circumstances under which the department disqualifies
 13 claimants from benefits; requiring the department to
 14 maintain a web page and an e-mail address for a
 15 specified purpose and to notify employers each year of
 16 the web page and e-mail address; creating s. 443.1112,
 17 F.S.; requiring the department to verify claimants'
 18 identities before paying benefits; requiring the
 19 department to weekly cross-check certain information;
 20 providing sources against which such information is
 21 cross-checked; prohibiting benefits from being paid
 22 for claims that have not been cross-checked; providing
 23 duties of the department; providing annual reporting
 24 requirements; amending s. 443.151, F.S.; conforming a
 25 cross-reference; amending s. 445.003, F.S.; requiring
 26 the department to procure an online workforce search
 27 and match tool for a specified purpose; providing
 28 requirements for such tool; providing an effective
 29 date.

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

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30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. This act may be cited as the "Promoting Work,
 34 Detering Fraud Act of 2024."
 35 Section 2. Present subsections (2) through (5) of section
 36 443.091, Florida Statutes, are redesignated as subsections (3)
 37 through (6), respectively, a new subsection (2) is added to that
 38 section, and subsection (1) of that section is amended, to read:
 39 443.091 Benefit eligibility conditions.—
 40 (1) An unemployed individual is eligible to receive
 41 benefits for any week only if the Department of Commerce finds
 42 that:
 43 (a) She or he has made a claim for benefits for that week
 44 in accordance with the rules adopted by the department.
 45 (b) She or he has completed the department's online work
 46 registration and subsequently reports to the one-stop career
 47 center as directed by the local workforce development board for
 48 reemployment services, or to a workforce center in the state of
 49 his or her residence if he or she is a non-Florida resident.
 50 This requirement does not apply to persons who are:
 51 ~~1. Non-Florida residents;~~
 52 ~~1.2-~~ On a temporary layoff;
 53 ~~2.3-~~ Union members who customarily obtain employment
 54 through a union hiring hall;
 55 ~~3.4-~~ Claiming benefits under an approved short-time
 56 compensation plan as provided in s. 443.1116; or
 57 ~~4.5-~~ Unable to complete the online work registration due to
 58 illiteracy, physical or mental impairment, a legal prohibition

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20241260__

from using a computer, or a language impediment. If a person is exempted from the online work registration under this subparagraph, then the filing of his or her claim constitutes registration for work.

(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 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 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

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opportunities. Aggregate data on assessment outcomes may be made available to CareerSource 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 competitive bidding requirements in s. 287.057. The online assessment must work seamlessly with the Reemployment Assistance Claims and Benefits Information System.

(d) She or he is able to work and is available for work. In order to assess eligibility for a claimed week of unemployment, the department shall develop criteria to determine a claimant's ability to work and availability for work. A claimant must be actively seeking work in order to be considered available for work. This means engaging in systematic and sustained efforts to find work, including contacting at least five prospective employers for each week of unemployment claimed. Each week, a claimant must complete at least one job application in person

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with an employer that has an expected job opening. A claimant must certify and attest biweekly that he or she will, to the best of his or her ability, appear for all scheduled interviews and is actively seeking work. The department may require the claimant to provide proof of such efforts to the one-stop career center as part of reemployment services. A claimant's proof of work search efforts may not include the same prospective employer at the same location in 3 consecutive weeks, unless the employer has indicated since the time of the initial contact that the employer is hiring. The department shall conduct random reviews of work search information provided by claimants. As an alternative to contacting at least five prospective employers for any week of unemployment claimed, a claimant may, for that same week, report in person to a one-stop career center to meet with a representative of the center and access reemployment services of the center. The center shall keep a record of the services or information provided to the claimant and shall provide the records to the department upon request by the department. However:

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

2. Notwithstanding any other provision of this chapter, an

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otherwise eligible individual who is in training approved under s. 236(a)(1) of the Trade Act of 1974, as amended, may not be determined ineligible or disqualified for benefits due to enrollment in such training or because of leaving work that is not suitable employment to enter such training. As used in this subparagraph, the term "suitable employment" means work of a substantially equal or higher skill level than the worker's past adversely affected employment, as defined for purposes of the Trade Act of 1974, as amended, the wages for which are at least 80 percent of the worker's average weekly wage as determined for purposes of the Trade Act of 1974, as amended.

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

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

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

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

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

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(e) She or he participates in reemployment services, such as job search assistance services, whenever the individual has been determined, by a profiling system established by the rules of the department, to be likely to exhaust regular benefits and to be in need of reemployment services.

(f) She or he has been unemployed for a waiting period of 1 week. A week may be counted as a waiting week under this subsection only if:

1. It occurs within the benefit year that includes the week for which she or he claims payment of benefits;

2. Benefits have not been paid for that week; and

3. The individual was eligible for benefits for that week as provided in this section and s. 443.101, except for the requirements of this subsection and s. 443.101(5).

(g) She or he has been paid wages for insured work equal to 1.5 times her or his high quarter wages during her or his base period, except that an unemployed individual is not eligible to receive benefits if the base period wages are less than \$3,400.

(h) She or he submitted to the department a valid social security number assigned to her or him. The department may verify the social security number with the United States Social Security Administration and may deny benefits if the department is unable to verify the individual's social security number, the social security number is invalid, or the social security number is not assigned to the individual.

(2) The department shall adopt rules regarding work search requirements for the purpose of ensuring claimants' good faith participation.

Section 3. Subsection (2) of section 443.101, Florida

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Statutes, is amended to read:

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

(2) If the Department of ~~Commerce~~ Economic Opportunity finds that the individual has failed without good cause to apply for available suitable work, failed to contact at least five prospective employers per week in accordance with s. 443.091 unless otherwise exempt, failed to appear on three or more occasions for a scheduled job interview, failed to accept within 2 business days suitable work ~~when~~ offered to him or her, or failed to return to the individual's customary self-employment when directed by the department or when recalled to work by his or her former employer, the disqualification continues for the full period of unemployment next ensuing after he or she failed without good cause to apply for available suitable work, accept suitable work, or return to his or her customary self-employment, and until the individual has earned income of at least 17 times his or her weekly benefit amount. The department shall by rule adopt criteria for determining the "suitability of work," as used in this section. In developing these rules, the department shall consider the duration of a claimant's unemployment in determining the suitability of work and the suitability of proposed rates of compensation for available work. Further, after an individual has received 25 weeks of benefits in a single year, suitable work is a job that pays the minimum wage and is 120 percent or more of the weekly benefit amount the individual is drawing.

(a) In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk

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to the individual's health, safety, and morals; the individual's physical fitness, prior training, experience, prior earnings, length of unemployment, and prospects for securing local work in his or her customary occupation; and the distance of the available work from his or her residence.

(b) Notwithstanding any other provisions of this chapter, work is not deemed suitable and benefits may not be denied to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

1. The position offered is vacant due directly to a strike, lockout, or other labor dispute.

2. The wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

3. As a condition of being employed, the individual is required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(c) If the department finds that an individual was rejected for offered employment as the direct result of a positive, confirmed drug test required as a condition of employment, the individual is disqualified for refusing to accept an offer of suitable work.

(d) The department shall maintain a web page and an e-mail address through which employers may report known or suspected violations of this section. Each year the department shall notify employers in the state of this web page and e-mail address for reporting violations.

Section 4. Section 443.1112, Florida Statutes, is created to read:

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443.1112 Verification of reemployment assistance benefit eligibility.—

(1) The Department of Commerce shall verify the identity of each claimant who applies for reemployment assistance benefits before paying any benefits to that individual.

(2) In determining the eligibility of a claim for reemployment assistance benefits, the department shall weekly cross-check the information contained in the claim with all of the following sources or similar sources of information:

(a) The National Association of State Workforce Agencies Integrity Data Hub.

(b) The United States Department of Health and Human Services National Directory of New Hires.

(c) The State Directory of New Hires created in s. 409.2576.

(d) The Department of Corrections inmate database.

(e) The Social Security Administration Prisoner Update Processing System.

(f) The Centers for Disease Control and Prevention National Vital Statistics System death records database.

(g) The Department of Health Bureau of Vital Statistics death records database.

(h) The United States Citizenship and Immigration Services SAVE database.

(3) Reemployment assistance benefits administered by the department may not be paid for any claim that has not been cross-checked against all the sources specified in subsection (2) or similar sources of information.

(4) The department shall do all of the following:

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(a) Investigate any claim indicating suspicious activity associated with a mailing address, a bank account, an e-mail address, a telephone number, or an Internet protocol address that is associated with another existing claim for reemployment assistance benefits and verify that the claim is legitimate and not fraudulent before paying any benefits for the claim.

(b) Scrutinize any claim filed from a foreign Internet protocol address before paying any benefits for the claim.

(c) Work with the United States Department of Labor, other workforce agencies outside the state, the Office of the Attorney General, the Department of Law Enforcement, or other relevant law enforcement entities to share information related to fraudulent claims or attempted fraudulent claims to the extent feasible for further investigation and prosecution.

(d) Each year, submit to the Legislature and make available on its website, a report identifying the number of fraudulent reemployment assistance claims identified for the prior year, the number of claims not paid due to successful detection of fraudulent intentions, the number of claims and the amount of reemployment assistance benefits paid against claims subsequently identified as fraudulent, the amount of fraudulent overpayments recovered, and the number of fraudulent claims referred for investigation and possible prosecution. The report must also list the sources of information that were used to cross-check claims during the reporting period.

Section 5. Paragraph (b) of subsection (2) of section 443.151, Florida Statutes, is amended to read:

443.151 Procedure concerning claims.—

(2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF

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CLAIMANTS AND EMPLOYERS.—

(b) *Process.*—When the Reemployment Assistance Claims and Benefits Information System described in s. 443.1113 is fully operational, the process for filing claims must incorporate the process for registering for work with the consumer-first workforce system established under s. 445.011. Unless exempted under s. 443.091(1)(b)4. ~~s. 443.091(1)(b)5.~~, a claim for benefits may not be processed until the work registration requirement is satisfied. The department may adopt rules as necessary to administer the work registration requirement set forth in this paragraph.

Section 6. Subsection (8) is added to section 445.003, Florida Statutes, to read:

445.003 Implementation of the federal Workforce Innovation and Opportunity Act.—

(8) ONLINE WORKFORCE SEARCH AND MATCH TOOL.—The department, in alignment with the implementation of 20 C.F.R. s. 652.3 to administer a public labor exchange services system, shall procure a modernized online workforce search and match tool that includes artificial intelligence generation for the purpose of matching participants to jobs and training opportunities. The tool must be interoperable through an application programming interface with the consumer-first workforce system implemented in s. 445.011, and the tool must include a knowledge, skills, and interests assessment for the purpose of guiding participants to jobs and training opportunities.

Section 7. This act shall take effect July 1, 2024.

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Meeting Date

Commerce and Tourism

Committee

The Florida Senate
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1260

Bill Number or Topic

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Amendment Barcode (if applicable)

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Email huddleston@floridapolicy.org

TL

FL

32312

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Meeting Date

SB 1260

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

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Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.☒ I am a registered lobbyist, representing:

Florida AFL-CIO

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

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SB 1260

Bill Number or Topic

Meeting Date

Commerce Tourism

Committee

Amendment Barcode (if applicable)

Name Jackson Oberlink

Phone 772-532-1371

Address

Street

Email

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida
Rising

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

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

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S-001 (08/10/2021)

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1260

Bill Number or Topic

Meeting Date

Commerce

Committee

Amendment Barcode (if applicable)

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State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

FL Center for
Fiscal + Economic Policy

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

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

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S-001 (08/10/2021)

1/23/24

Meeting Date

Commerce and Tourism

Committee

The Florida Senate
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1260

Bill Number or Topic

Amendment Barcode (if applicable)

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Tallahassee

City

State

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Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Chamber
of Commerce

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

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S-001 (08/10/2021)

The Florida Senate
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 1492

INTRODUCER: Senator Trumbull

SUBJECT: Employment Regulations

DATE: January 24, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	McKay	CM	Fav/CS
2.			CA	
3.			RC	

I. Summary:

CS/SB 1492 creates a new section of law regarding workplace heat exposure requirements by prohibiting a political subdivision from requiring an employer or contractor to meet or provide heat exposure requirements that are not already required under state or federal law, and prohibiting a political subdivision from giving preference in solicitations based upon employer heat exposure requirements. The bill does not limit the authority of a local government to provide workplace heat exposure requirements not otherwise required under state or federal law for direct employees of the political subdivision. These heat exposure provisions do not apply if compliance will prevent the political subdivision from receiving federal funds.

The effective date of the bill is July 1, 2024.

II. Present Situation:

Workplace Heat Exposure

The OSHA Act, is the federal labor law governing occupational health and safety in the private sector and federal government.¹ Under the OSHA Act, two federal agencies are responsible for promoting occupational safety and health in the United States. The National Institute for Occupational Safety and Health (NIOSH) conducts research and recommends occupational safety and health standards.² The Occupational Safety and Health Administration (OSHA) is responsible for the promulgation and enforcement of standards.³

¹ Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, 84 STAT. 1590, 91st Cong. (Jan. 1, 2004).

² 29 U.S.C. § 671.

³ 29 U.S.C. § 655.

Currently, there are no specific laws in Florida that provide heat exposure protections for outdoor workers. NIOSH and OSHA provide certain recommendations that employers provide heat exposure protections.

In 2013, NIOSH published “Preventing Heat-related Illness or Death of Outdoor Workers.” This recommended standard recommends that employers have a plan in place to prevent heat-related illness. The plan should include hydration (drinking plenty of water), acclimatization (getting used to weather conditions), and schedules that alternate work with rest. It recommends that employers should also train workers about the hazards of working in hot environments.⁴

OSHA does not currently have any specific heat exposure standards. In the absence of a specific standard, OSHA is authorized to enforce the “general duty clause” of the OSHA Act, which requires each employer to provide a workplace that is free of “recognized hazards” causing or likely to cause “death or serious physical harm” to its employees.⁵

In 2011, OSHA launched a heat illness prevention campaign that includes guidance to employers and employees, a smartphone app that provides location-specific information on heat conditions and heat exposure prevention and first aid, and educational materials such as posters and pamphlets in English, Spanish, and other languages.⁶

On October 27, 2021, OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) for a potential standard on Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings.⁷ OSHA solicited public comments on the ANPRM through January 26, 2022, and received over 1,000 comments on the ANPRM.

In March 2021, OSHA cited a company for a willful violation of the general duty clause by exposing sugar cane harvesting employees in Florida to “excessive heat, elevated temperature working conditions, direct sun radiation and thermal stress” while working outdoors in September 2020. OSHA assessed the maximum allowable civil monetary penalty of \$136,532 for this violation, which was later reduced through an informal settlement with the employer to \$81,919.20. The citation provides, “the employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to excessive heat, elevated temperature working conditions, direct sun radiation and thermal stress.”⁸

In April 2022, OSHA began a National Emphasis Program (NEP) of enforcement of the general duty clause and compliance assistance to focus on indoor and outdoor heat exposure. The NEP expands on OSHA’s ongoing heat-related illness prevention initiative and campaign by creating a targeted enforcement component and reiterating its compliance assistance and outreach efforts.

⁴ NIOSH 1986, 2008, 2010; OSHA-NIOSH 2011.

⁵ 29 U.S.C. § 654.

⁶ Occupational Safety and Health Administration, Heat Illness Prevention, *available at* <https://www.osha.gov/heat/>, (last visited January 22, 2024).

⁷ 86 FR 59309.

⁸ Occupational Safety and Health Administration, Violation Detail, *available at* https://www.osha.gov/ords/imis/establishment.violation_detail?id=1495595.015&citation_id=02001, (last visited January 22, 2024).

This approach is intended to encourage early interventions by employers to prevent illnesses and deaths among workers during high heat conditions, such as working outdoors in a local area experiencing a heat wave, as announced by the National Weather Service. Early interventions include, but are not limited to, implementing water, rest, shade, training, and acclimatization procedures for new or returning employees.⁹

Local Heat Regulation

On November 11, 2023, the Miami-Dade County Board of County Commissioners considered a proposal that would require construction and agriculture companies with five or more employees to guarantee workers access to water and give them 10-minute breaks in the shade every two hours on days when the heat index equals or exceeds 95 degrees Fahrenheit. The proposal would also require employers to train workers to recognize the signs of heat illness, administer first aid and call for help in an emergency. Enforcement includes a warning, fines of up to \$2,000 per day per violation, and debarment of contractors from county work for certain repeated violations and unpaid penalties.¹⁰

According to reports:¹¹

- The proposal was deferred until March, 2024.
- Some South Florida employers have expressed that they already provide such protections.
- Miami-Dade County would have been the only local government in the nation to adopt such requirements.

Preemption

A local government enactment may be inconsistent with state law if the:

- Local enactment conflicts with state statutes; or
- The Legislature has preempted the particular area of law that is the subject of the enactment.

Such state preemption precludes a local government from exercising authority in the preempted area.¹²

Florida law recognizes two types of state preemption: express and implied. Express preemption requires an express legislative statement of intent to preempt a specific area of law; it cannot be implied or inferred.¹³ Implied preemption, on the other hand, exists where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the legislature.¹⁴

⁹ Occupational Safety and Health Administration, OSHA Instruction, *available at* https://www.osha.gov/sites/default/files/enforcement/directives/CPL_03-00-024.pdf, (last visited January 22, 2024).

¹⁰ Miami-Dade Legislative Item, File Number: 231773.

¹¹ Miami Herald, After industry pressure, Miami-Dade puts heat protections for outdoor workers on ice, *available at* <https://www.miamiherald.com/news/local/environment/article281487003.html>, (last visited January 22, 2024).

¹² Wolf, The Effectiveness of Home Rule: A Preemptions and Conflict Analysis, 83 Fla. B.J. 92 (June 2009), *available at* <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited January 22, 2024).

¹³ See *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).

¹⁴ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880 (Fla. 2010).

Courts determining the validity of local government ordinances enacted in the face of state preemption, whether express or implied, have found such ordinances to be null and void.¹⁵

III. Effect of Proposed Changes:

Workplace Heat Exposure Requirements

The bill prohibits political subdivisions from:

- Mandating or otherwise imposing heat exposure requirements on an employer or a political subdivision contractor.
- Considering or seeking information relating to a contractor's or subcontractor's heat exposure requirements in any procurement for goods or services.

The bill provides that it does not:

- Limit the authority of a political subdivision to mandate or impose workplace heat exposure requirements for the employees of the local government.
- Apply if it is determined that compliance would prevent the distribution of federal funds to a local government or would otherwise be inconsistent with federal requirements pertaining to receiving federal funds, but only to the extent necessary to allow a local government to receive federal funds or to eliminate the inconsistency with federal requirements.

The bill provides the following definitions:

- “Competitive solicitation” means an invitation to bid, a request for proposals, or an invitation to negotiate.
- “Heat exposure requirement” means a standard mandated or otherwise imposed on employers, employees, contractors, or subcontractors to control an employee's exposure to heat or sun, or to otherwise address or moderate the effects of such exposure. The term includes, but is not limited to, standards relating to all of the following:
 - Employee monitoring and protection.
 - Water consumption.
 - Cooling measures.
 - Acclimatization and recovery periods or practices.
 - Posting or distributing notices or materials that inform employees how to protect themselves from heat exposure.
 - Implementation and maintenance of heat exposure programs or training.
 - Appropriate first-aid measures or emergency responses related to heat exposure.
 - Protections for employees who report that they have experienced excessive heat exposure.
 - Reporting and recordkeeping requirements.
- “Political subdivision” means a county, municipality, department, commission, district, board, or other public body, whether corporate or otherwise, created by or under state law.

The bill provides an effective date of July 1, 2024.

¹⁵ See, e.g., Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami, 812 So. 2d 504 (Fla. 3d DCA 2002).

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:

Under Florida law, statutes are presumed to operate prospectively, not retroactively. In other words, statutes generally apply only to actions that occur on or after the effective date of the legislation, not before the legislation becomes effective. The Florida Supreme Court has noted that, under the rules of statutory construction, if statutes are to operate retroactively, the Legislature must clearly express that intent for the statute to be valid.¹⁶ When statutes that are expressly retroactive have been litigated and appealed, the courts have been asked to determine whether the statute applies to cases that were pending at the time the statute went into effect. The conclusion often depends on whether the statute is procedural or substantive.

In a recent Florida Supreme Court case, the Court acknowledged that “[t]he distinction between substantive and procedural law is neither simple nor certain.”¹⁷ The Court further acknowledged that their previous pronouncements regarding the retroactivity of procedural laws have been less than precise and have been unclear.¹⁸

Courts, however, have invalidated the retroactive application of a statute if the statute impairs vested rights, creates new obligations, or imposes new penalties.¹⁹ Still, in other cases, the courts have permitted statutes to be applied retroactively if they do not create new, or take away, vested rights, but only operate to further a remedy or confirm rights that already exist.²⁰

¹⁶ *Walker & LaBerge, Inc., v. Halligan*, 344 So. 2d 239 (Fla. 1977).

¹⁷ *Love v. State*, 286 So. 3d 177, 183 (Fla. 2019) (quoting *Caple v. Tuttle’s Design-Build, Inc.*, 753 So. 2d 49, 53 (Fla. 2000)).

¹⁸ *Love*, at 184.

¹⁹ *R.A.M. of South Florida, Inc. v. WCI Communities, Inc.*, 869 So. 2d 1210, 1217 (Fla. 2004) (quoting *LaForet* 658 So. 2d 55, 61 (Fla. 1995)).

²⁰ *Ziccardi v. Strother*, 570 So. 2d 1319 (Fla. 2d DCA 1990).

Florida's contracts clause states that "no bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed."²¹ Regarding the impairment of an existing contract by the retroactive application of a statute, the Florida Supreme Court recently said:

"[V]irtually no degree of contract impairment is tolerable." However, we also recognized that the holding that "virtually" no impairment is tolerable "necessarily implies that some impairment is tolerable." The question thus becomes how much impairment is tolerable and how to determine that amount. To answer that question, in *Pomponio* we proposed a balancing test that "allow[ed] the court to consider the actual effect of the provision on the contract and to balance a party's interest in not having the contract impaired against the State's source of authority and the evil sought to be remedied." "[T]his becomes a balancing process to determine whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the State's objective, or whether it unreasonably intrudes into the parties' bargain to a degree greater than is necessary to achieve that objective."

An impairment may be constitutional if it is reasonable and necessary to serve an important public purpose. However, where the impairment is severe, "[t]he severity of the impairment is said to increase the level of scrutiny to which the legislation will be subjected." There must be a "significant and legitimate public purpose behind the regulation."²²

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

²¹ FLA. CONST. art. I, s. 10.

²² *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181, 1192 (Fla. 2017) (internal citations omitted for clarity).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 448.106 of the Florida Statutes.

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

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

CS by Commerce and Tourism on January 23, 2024:

The committee substitute removes provisions relating to wage and employment benefits by political subdivisions.

B. Amendments:

None.



709582

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 21 - 54.

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

And the title is amended as follows:

Delete lines 2 - 8

and insert:

An act relating to employment regulations; creating s.

By Senator Trumbull

2-01189A-24

20241492__

1 A bill to be entitled
 2 An act relating to employment regulations; amending s.
 3 218.077, F.S.; prohibiting political subdivisions from
 4 maintaining a certain minimum wage; prohibiting
 5 political subdivisions from controlling, affecting, or
 6 awarding preferences relating to wages or employment
 7 benefits of entities contracting with the political
 8 subdivision; revising applicability; creating s.
 9 448.106, F.S.; defining terms; prohibiting a political
 10 subdivision from requiring employers to meet or
 11 provide heat exposure requirements beyond those
 12 required by law; prohibiting a political subdivision
 13 from giving preference to or considering or seeking
 14 information from an employer in a competitive
 15 solicitation based on or relating to an employer's
 16 heat exposure requirements; providing construction;
 17 providing applicability; providing an effective date.
 18
 19 Be It Enacted by the Legislature of the State of Florida:
 20
 21 Section 1. Subsection (2) and paragraph (a) of subsection
 22 (3) of section 218.077, Florida Statutes, are amended to read:
 23 218.077 Wage and employment benefits requirements by
 24 political subdivisions; restrictions.—
 25 (2)(a) Except as otherwise provided in subsection (3), a
 26 political subdivision may not establish, mandate, maintain, or
 27 otherwise require an employer to pay a minimum wage, other than
 28 a state or federal minimum wage, to apply a state or federal
 29 minimum wage to wages exempt from a state or federal minimum

Page 1 of 4

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

2-01189A-24

20241492__

30 wage, or to provide employment benefits not otherwise required
 31 by state or federal law.
 32 (b) A political subdivision may not, through its purchasing
 33 or contracting procedures, seek to control or affect the wages
 34 or employment benefits provided by its vendors, contractors,
 35 service providers, or other parties doing business with the
 36 political subdivision. A political subdivision may not, through
 37 the use of evaluation factors, qualification of bidders, or
 38 otherwise, award preferences on the basis of wages or employment
 39 benefits provided by its vendors, contractors, service
 40 providers, or other parties doing business with the political
 41 subdivision.
 42 (3) This section does not:
 43 (a) Limit the authority of a political subdivision to
 44 establish a minimum wage other than a state or federal minimum
 45 wage or to provide employment benefits not otherwise required
 46 under state or federal law:
 47 1. For the employees of the political subdivision; or
 48 2. ~~For the employees of an employer contracting to provide~~
 49 ~~goods or services for the political subdivision, or for the~~
 50 ~~employees of a subcontractor of such an employer, under the~~
 51 ~~terms of a contract with the political subdivision; or~~
 52 3. For the employees of an employer receiving a direct tax
 53 abatement or subsidy from the political subdivision, as a
 54 condition of the direct tax abatement or subsidy.
 55 Section 2. Section 448.106, Florida Statutes is created to
 56 read:
 57 448.106 Workplace heat exposure requirements.—
 58 (1) As used in this section, the term:

Page 2 of 4

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

2-01189A-24

20241492

(a) "Competitive solicitation" means an invitation to bid, a request for proposals, or an invitation to negotiate.

(b) "Heat exposure requirement" means a standard to control an employee's exposure to heat or sun, or to otherwise address or moderate the effects of such exposure. The term includes, but is not limited to, standards relating to any of the following:

1. Employee monitoring and protection.

2. Water consumption.

3. Cooling measures.

4. Acclimation and recovery periods or practices.

5. Posting or distributing notices or materials that inform employees how to protect themselves from heat exposure.

6. Implementation and maintenance of heat exposure programs or training.

7. Appropriate first-aid measures or emergency responses related to heat exposure.

8. Protections for employees who report that they have experienced excessive heat exposure.

9. Reporting and recordkeeping requirements.

(c) "Political subdivision" means a county, municipality, department, commission, district, board, or other public body, whether corporate or otherwise, created by or under state law.

(2)(a) A political subdivision may not establish, mandate, or otherwise require an employer, including an employer contracting to provide goods or services to the political subdivision, to meet or provide heat exposure requirements not otherwise required under state or federal law.

(b) A political subdivision may not give preference in a competitive solicitation to an employer based on the employer's

2-01189A-24

20241492

heat exposure requirements and may not consider or seek information relating to the employer's heat exposure requirements.

(3) This section does not limit the authority of a political subdivision to establish or otherwise provide heat exposure requirements not otherwise required under state or federal law for direct employees of the political subdivision.

(4) This section does not apply if it is determined that compliance with this section will prevent the distribution of federal funds to a political subdivision or would otherwise be inconsistent with federal requirements pertaining to receiving federal funds, but only to the extent necessary to allow a political subdivision to receive federal funds or to eliminate inconsistency with federal requirements.

Section 3. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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1/23/24

Meeting Date

Commerce & Tourism

Committee

SB 1492

Bill Number or Topic

Amendment Barcode (if applicable)

Name Carolyn Johnson

Phone 850-521-1200

Address 136 S Bronough St

Street

Email cjohnson@flchamber.com

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Chamber
of Commerce

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

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

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S-001 (08/10/2021)

The Florida Senate

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1/23/2024

Meeting Date

Commerce & Tourism

Committee

1492

Bill Number or Topic

Amendment Barcode (if applicable)

Name Carol Bowen

Phone (954) 465-681

Address PO Box 880448

Street

Email cbowen@abcfloida.com

Boca Raton FL 33488

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Associated Builders and
Contractors of Florida

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

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

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S-001 (08/10/2021)

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1/23
Meeting Date
Commerce & Tourism
Committee
Name Adam Basford
Phone 352 538 4299
Address 516 N Adams
Street
Tallahassee FL 32301
City State Zip
Bill Number or Topic 1492
Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Associated Industries of FL

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

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1/23/24
Meeting Date
Commerce
Committee
Name Karen Woodall
Phone 850-321-9386
Address 579 E. Call St.
Street
Tallahassee FL 32301
City State Zip
Bill Number or Topic 1492
Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

FI Center for Fiscal
& Economic Policy

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

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S-001 (08/10/2021)

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Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date
1/23/24
Committee
Derek Sinder

Name _____ Phone _____

Address _____ Email _____

Street
Mt. Dora
City _____ State _____ Zip _____

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Paraphrase of FL

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date
1/23/24
Committee
Commerce

Name Dr. Rich Templin Phone 850-224-6926

Address 135 S. Monroe Email _____

City Tallahassee State FL Zip 32301

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

Florida AFL-CIO

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

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The Florida Senate
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1492

Bill Number or Topic

1/23/24
Meeting Date

Committee

Amendment Barcode (if applicable)

Name

Rev Dr Russell Meyer

Phone

813 435 5335

Address

3838 W Cypress St

Email

advocacy@floridachurches.org

Street

Tampa

FL

33607

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

FLORIDA FAITH ADVOCACY OFFICE

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

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The Florida Senate
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SB 1492

Bill Number or Topic

January 23, 2024

Meeting Date

Commerce and Tourism

Committee

Amendment Barcode (if applicable)

Name

Jonathan Webber

Phone

954-593-4449

Address

400 Washington Ave

Email

jonathan.webber@splcactionfund.org

Street

Montgomery

AL

36104

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SPLC Action Fund

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

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01/23/24
Meeting Date

SB 1492
Bill Number or Topic

Commerce + Tourism
Committee

Amendment Barcode (if applicable)

Name Jackson Oberlinck Phone 772-532-1371

Address _____ Email _____
Street

City _____ State _____ Zip _____

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida
Rising

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

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

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01/23/24
Meeting Date

SB 1492
Bill Number or Topic

Commerce + Tourism
Committee

Amendment Barcode (if applicable)

Name Yenisbel Vilorio Phone _____

Address _____ Email _____
Street

City _____ State _____ Zip _____

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

State Innovation
Exchange Action

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

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

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Meeting Date 1/23/24 Bill Number or Topic HB 12
Committee Commerce & Tourism
Name Christopher Tripp Hunter Phone 850-468-6611
Address 201 S. Marast Email Tripp.Hunter@FSA.com
City Tallahassee State FL Zip 32308

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Fruit & Vegetable ASN.

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

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

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S-001 (08/10/2021)

The Florida Senate
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Meeting Date 1/23/24 Bill Number or Topic SB 1492
Committee Commerce & Tourism
Name Andrew Walmsley Phone 202-430-0188
Address 310 W College Ave Email andrew.walmsley@FFB.org
City Tallahassee State FL Zip 32301

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Farm Bureau Federation

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

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

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S-001 (08/10/2021)

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1-23-24
Meeting Date
Commerce & Tourism
Committee

1492
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bill Herrle Phone 850 681 0416
Address 110 E Jefferson St. Email bill.herrle@nfb.org
Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing: NFIB

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

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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1/23/24
Meeting Date
Commerce
Committee

1492
Bill Number or Topic

Amendment Barcode (if applicable)

Name Doug Bell Phone 850 205 1000
Address 114 S. Monroe St Email Doug.Bell@nfbinc.com

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing: Associated General Contractors

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

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

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S-001 (08/10/2021)

The Florida Senate
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1/23/2024
Meeting Date
Commerce
Committee

1492
Bill Number or Topic
709522
Amendment Barcode (if applicable)

Name Bob McKee Phone 850 922-4300
Address 100 S Monroe Email bmckee@fl-counties.com
Tallahassee FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Association of Counties

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

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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Meeting Date
Committee

DUPLICATE
1492
Bill Number or Topic
709852
Amendment Barcode (if applicable)

Name Jess McCarty, Executive Assistant County Attorney Phone 305-979-7110
Address 111 NW 1st Street, Suite 2800 Email jmm2@miamidade.gov
Miami FL 33128
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Miami-Dade County

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

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

1-23-24
Meeting Date
Commerce & Tourism
Committee
Name KARI HEBRANK
Phone 566-7824
Address 215 S. MONROE # 500
TALLAHASSEE FL 32301
Email khebrank@carltonfields.com
Bill Number or Topic SB 1492
Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

National Utility Contractors Association

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

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

1/23/24
Meeting Date
Commerce & Tourism
Committee
Name Ashton Mears
Phone 352-843-0248
Address 1319 Thomaswood Drive
Tallahassee FL 32308
Email amears@fhba.com
Bill Number or Topic SB 1492
Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Florida Home Builders Assoc

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/24

Meeting Date

S. Commerce

Committee

SB 1492

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jon Harris Maurer

Phone

Address 201 E. Park Ave

Street

Email

TLH

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.☒ I am a registered lobbyist, representing:

Equality Florida

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

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

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S-001 (08/10/2021)

The Florida Senate

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1/23/24

Meeting Date

Commerce

Committee

1492

Bill Number or Topic

Amendment Barcode (if applicable)

Name Juanita Gómez

Phone

Address Crescent City FL

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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

Farmworker Association

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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1/23/24
Meeting Date
Commerce
Committee

1492
Bill Number or Topic
Amendment Barcode (if applicable)

Name Rosalva Damian - Estrada Phone _____

Address Satsuma FL Email _____
Street

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Farmworker Association of FL

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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1/23/24
Meeting Date
Commerce
Committee

1492
Bill Number or Topic
Amendment Barcode (if applicable)

Name JOHN FRANK Phone 904-705-4322

Address 1552 Greenridge Cir. W. Email johnfrank904@gmail.com
Street

City St. Johns State FL Zip 32259

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

PAY CHRISTI - FLORIDA

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

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Commerce

Committee

1492

Bill Number or Topic

Amendment Barcode (if applicable)

Name DORA LUZ Burtolon

Phone 386 336 8330

Address 132 Ivey St Satsuma

Street

FL

State

32189

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Farmworker Association of FL

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The Florida Senate
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1/23/24

Meeting Date

Commerce

Committee

1492

Bill Number or Topic

Amendment Barcode (if applicable)

Name Victoria Martinez

Phone

Address De Leon Spring

Street

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Farmworker Association of Florida

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The Florida Senate
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1/23/24

Meeting Date

Commerce

Committee

1492

Bill Number or Topic

Amendment Barcode (if applicable)

Name Lu2 Torres Phone _____

Address De Leon Spring Email _____

Street

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Farmworker Assoc
Florida

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

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1540

INTRODUCER: Senator Torres

SUBJECT: Workforce Retention

DATE: January 22, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	Favorable
2.			AEG	
3.			FP	

I. Summary:

SB 1540 creates the “Florida Jobs Retention Act of 2024,” which provides that employers will be required to notify the Department of Business and Professional Regulation (DBPR) if they intend to relocate a Florida business or cease operation of such business. The DBPR must compile and publish on its website a semiannual list of all employers that relocate or cease operation.

An employer that intends to relocate a Florida business or cease operation of such business is ineligible for any direct or indirect state grant, state-guaranteed loan, or state tax benefit for 5 years after the publication of the list.

The bill requires the head of each state agency to ensure that all state-business-related customer service work is performed by state contractors or their agents or subcontractors entirely within Florida.

The bill takes effect 240 days after becoming a law.

II. Present Situation:

The Department of Business and Professional Regulation

The DBPR is charged with licensing and regulating businesses and professionals in Florida.¹ Section 20.165, F.S., establishes the organizational structure of the DBPR, which has the following 11 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;

¹ The Department of Business and Professional Regulation, *Department Overview*, available at <http://www.myfloridalicense.com/DBPR/about-us/departments-overview/> (last visited Jan. 22, 2024).

- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

Economic Development Programs

The Division of Economic Development within the Department of Commerce (DCM) provides tools for attracting out-of-state businesses to Florida, promoting the creation and expansion of Florida businesses, and facilitating economic development.²

Currently the DCM provides economic development grant programs, tax credits, tax refunds, tax exemptions, and loan programs, which includes but are not limited to the following:

- High Impact Performance Incentive;³
- Capital Investment Tax Credit;⁴
- Research and Development Tax Credit;⁵
- Renewable Energy Technologies Investment Tax Credit;⁶
- Rural Job Tax Credit Program;⁷
- Urban Job Tax Credit Program;⁸
- Brownfield Redevelopment Bonus Refunds;⁹
- Manufacturing Machinery and Equipment Sales Tax Exemption;¹⁰
- Florida Entertainment Industry Sales Tax Exemption;¹¹
- Microfinance Guarantee Program; and ¹²

² The Department of Commerce, *Division of Economic Development*, available at <https://www.floridajobs.org/office-directory/division-of-economic-development/division-of-economic-development> (last visited Jan. 22, 2024).

³ This program provides grants to spur capital investment and job creation. *See* s. 220.196, F.S.

⁴ This program is used to attract and grow capital-intensive industries. *See* s. 220.191, F.S.

⁵ This program provides a corporate income tax credit for qualified research expenses in Florida for eligible businesses in targeted industries. *See* s. 220.196, F.S.

⁶ This is credit against the corporate income tax for 75 percent of all capital costs, operation and maintenance costs, and research and development costs in connection with an investment in the production, storage, and distribution of biodiesel, ethanol, and other renewable fuel in Florida. *See* s. 220.193, F.S.,

⁷ This program is a tax credit for eligible businesses located within one of 36 designated Qualified Rural Areas to create new jobs. *See* s. 212.098, F.S.

⁸ Offers a tax credit for eligible businesses located within one of 13 designated urban areas to create new jobs. *See* s. 212.097, F.S.

⁹ This is to spur job creation and capital investment in designated brownfield areas eligible for bonus refunds, and approved applicants receive tax refunds up to \$2,500 for each job created. *See* s. 287.107, F.S.

¹⁰ This is available to facilities that burn boiler fuels, other than residual oil. *See* s. 212.08(5)(c), F.S.

¹¹ This is available to qualified purchases made by production companies for motion pictures. *See* s. 288.1258, F.S.

¹² This program stimulates access to credit for entrepreneurs and small businesses in Florida. *See* s. 288.9935, F.S.

- Rebuild Florida Business Loan Fund.¹³

III. Effect of Proposed Changes:

The Florida Jobs Retention Act of 2024

Section 1 of the bill creates s. 559.953, F.S., which provides that sections 559.953, 559.9531, 559.9532, 559.9532, 559.9534, and 559.9535, of the Florida Statutes, may be cited as the “Florida Jobs Retention Act of 2024.”

Section 2 of the bill creates s. 559.9531, F.S., to provide the following definitions:

- “Department” means the Department of Business and Professional Regulation (DBPR); and
- “Employer” means a business enterprise that:
 - Has been in operation in Florida for at least 6 months;
 - Employs 75 or more individuals who, in the aggregate, work at least 1,500 hours per week, not including hours of overtime, for the purpose of providing customer service or conducting back-office operations; and
 - Receives any direct or indirect state grant, state-guaranteed loan, or state tax benefit.

Section 3 of the bill creates s. 559.9532, F.S., to require an employer who intends to relocate out of state or cease operation to provide notice to the DBPR. The bill provides that an employer who intends to relocate a Florida business, or one or more facilities operating units within such business comprising at least 30 percent of the business’s or operating unit’s total volume when measured against the previous 12-month average volume of operations, out of Florida, or intends to cease operation of such business, facilities, or operating units must notify the DBPR at least 180 days before such relocation or cessation. Additionally, the DBPR is required to compile and publish on its website a semiannual list of all employers that relocate or cease operation.

Section 4 of the bill creates s. 559.9533, F.S., to provide that an employer included on the list described in s. 559.9532, F.S., is ineligible for any direct or indirect state grant, state-guaranteed loan, or state tax benefit for 5 years after the date that such list is published.

The bill requires an employer included on the list described in s. 559.9532, F.S., to remit to the DBPR the remaining prorated value of any state grant, state-guaranteed loan, state tax benefit, or other state governmental support received on or after the effective date of this bill.

The bill provides that the DBPR, in consultation with the appropriate state agency providing a grant, loan, or tax benefit, may waive the requirements of s. 559.9533, F.S., if the employer applying for such grant, loan, or benefit would result in substantial job loss in Florida, or harm to the environment.

Section 5 of the bill creates s. 559.9534, F.S., to require the head of each state agency to ensure that all state-business-related customer service work is performed by state contractors or their agents or subcontractors entirely within Florida. A state contractor who currently performs state-

¹³ This program addresses the current gap in available, affordable capital for businesses. See The Florida Department of Commerce, *Economic and Workforce Development Resources*, available at [summary-of-economic-and-workforce-development-resources.pdf \(floridajobs.org\)](https://www.floridajobs.org/summary-of-economic-and-workforce-development-resources.pdf) (last visited Jan. 22, 2024)

business-related customer service work outside of Florida must comply with the provisions of this bill within 2 years after the effective date of this bill. Additionally, if such a contractor hires additional customer service employees who will perform work on Florida agency contracts, those new employees must immediately be employed within Florida.

Section 6 of the bill creates s. 559.9535, F.S., to provide that the provisions of the bill may not be construed to allow withholding or denial of payments, compensation, or benefits under any other state law, including state unemployment compensation, disability payments, or worker retraining or readjustment funds, to workers employed by employers that relocate out of Florida or that cease operation.

Section 7 of the bill directs the Division of Law Revision to replace the phrase “the effective date of this act” wherever it occurs in the Florida Jobs Retention Act of 2024 with the date the act becomes effective.

Section 8 provides that the bill must take effect 240 days after becoming 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:

None.

E. Other Constitutional Issues:

None Identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Employers will be required to notify the DBPR if they intend to relocate a Florida business or cease operation of such business. Additionally, an employer that intends to

relocate a Florida business or cease operation of such business is ineligible for any direct or indirect state grant, state-guaranteed loan, or state tax benefit for 5 years after the date of such list is published.

C. Government Sector Impact:

The DBPR will be required to administer the Florida Jobs Retention Act of 2024, which includes compiling and publishing on its website a semiannual list of all employers that relocate or cease operation. Additionally, the head of each state agency will be required to ensure that all state-business-related customer service work is performed by state contractors or their agents or subcontractors entirely within Florida, which could impact the cost of those services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 559.953, 559.9531, 559.9532, 559.9533, 559.9534, 559.9535.

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 Torres

25-00895-24

20241540__

A bill to be entitled

An act relating to workforce retention; creating s. 559.953, F.S.; providing a short title; creating s. 559.9531, F.S.; defining the terms "department" and "employer"; creating s. 559.9532, F.S.; requiring employers that intend to relocate out of state or cease operation to notify the Department of Business and Professional Regulation within a specified timeframe before taking such action; requiring the department to compile and publish a semiannual list of employers that relocate out of state or cease operation; creating s. 559.9533, F.S.; providing that such employers are ineligible for state grants, loans, or tax benefits for a specified timeframe; requiring such employers to remit certain funds to the department under certain circumstances; providing exceptions; creating s. 559.9534, F.S.; requiring the head of each state agency to ensure that certain services are performed by state contractors within the state; requiring compliance by certain contractors by a specified date; requiring that certain customer service employees immediately be employed within the state; creating s. 559.9535, F.S.; providing construction; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Section 559.953, Florida Statutes, is created to

Page 1 of 4

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

25-00895-24

20241540__

read:

559.953 Short title.—Sections 559.953-559.9535 may be cited as the "Florida Jobs Retention Act of 2024."

Section 2. Section 559.9531, Florida Statutes, is created to read:

559.9531 Definitions.—As used in this act, the term:

(1) "Department" means the Department of Business and Professional Regulation.

(2) "Employer" means a business enterprise that:

(a) Has been in operation in this state for at least 6 months;

(b) Employs 75 or more individuals who, in the aggregate, work at least 1,500 hours per week, not including hours of overtime, for the purpose of providing customer service or conducting back-office operations; and

(c) Receives any direct or indirect state grant, state-guaranteed loan, or state tax benefit.

Section 3. Section 559.9532, Florida Statutes, is created to read:

559.9532 Employers intending to relocate out of state or cease operation.—

(1) NOTICE REQUIREMENT.—An employer that intends to:

(a) Relocate a Florida business, or one or more facilities or operating units within such business comprising at least 30 percent of the business's or operating unit's total volume when measured against the previous 12-month average volume of

operations, out of the state; or

(b) Cease operation of such business, facilities, or operating units

Page 2 of 4

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

25-00895-24

20241540__

59 must notify the department at least 180 days before such
60 relocation or cessation.

61 (2) LIST COMPILATION.—The department shall compile and
62 publish on its website a semiannual list of all employers that
63 relocate or cease operation as described in subsection (1).

64 Section 4. Section 559.9533, Florida Statutes, is created
65 to read:

66 559.9533 Grants and guaranteed loans.—

67 (1) INELIGIBILITY.—Except as provided in subsection (3) and
68 notwithstanding any other law, an employer included on the list
69 described in s. 559.9532 is ineligible for any direct or
70 indirect state grant, state-guaranteed loan, or state tax
71 benefit for 5 years after the date such list is published.

72 (2) REVERSION.—Except as provided in subsection (3) and
73 notwithstanding any other law, an employer included on the list
74 described in s. 559.9532 shall remit to the department the
75 remaining prorated value of any state grant, state-guaranteed
76 loan, state tax benefit, or other state governmental support
77 received on or after the effective date of this act.

78 (3) EXCEPTIONS.—The department, in consultation with the
79 appropriate state agency providing a grant, loan, or tax
80 benefit, may waive the requirements of this section if the
81 employer applying for such grant, loan, or benefit demonstrates
82 that returning such grant, loan, or benefit would result in:

83 (a) Substantial job loss in this state; or

84 (b) Harm to the environment.

85 Section 5. Section 559.9534, Florida Statutes, is created
86 to read:

25-00895-24

20241540__

88 559.9534 In-state procurement.—The head of each state
89 agency shall ensure that all state-business-related customer
90 service work is performed by state contractors or their agents
91 or subcontractors entirely within the state. A state contractor
92 who currently performs state-business-related customer service
93 work outside the state must comply with this act within 2 years
94 after the effective date of this act. If such a contractor hires
95 additional customer service employees who will perform work on
96 state agency contracts, those new employees must immediately be
97 employed within the state.

98 Section 6. Section 559.9535, Florida Statutes, is created
99 to read:

100 559.9535 State benefits for workers.—This act may not be
101 construed to allow withholding or denial of payments,
102 compensation, or benefits under any other state law, including
103 state unemployment compensation, disability payments, or worker
104 retraining or readjustment funds, to workers employed by
105 employers that relocate out of this state or that cease
106 operation.

107 Section 7. The Division of Law Revision is directed to
108 replace the phrase “the effective date of this act” wherever it
109 occurs in this act with the date the act becomes effective.

110 Section 8. This act shall take effect 240 days after
111 becoming a law.

584

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

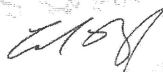
James Alexander Kelly

is duly appointed

**Secretary,
Department of Commerce**

for a term beginning on the Twelfth day of June, A.D., 2023, to
serve at the pleasure of the Governor and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eighteenth day of October, A.D. 2023.*



Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.



RON DeSANTIS
GOVERNOR

RECEIVED
THE DEPARTMENT OF STATE
2023 AUG 10 PM 12:04
DIVISION OF ELECTIONS
TALLAHASSEE, FL

May 31, 2023

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

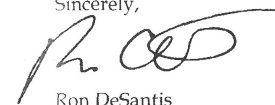
Dear Secretary Byrd:

Please be advised I have made the following appointment under the provisions
of Section 20.60, Florida Statutes:

Mr. J. Alex Kelly
107 East Madison Street
Tallahassee, Florida 32399

as Secretary of the Florida Department of Commerce, subject to confirmation by the
Senate. This appointment is effective June 12, 2023 for a term ending at the pleasure of
the Governor.

Sincerely,



Ron DeSantis
Governor

RD/ch

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 717-9249

HAND DELIVERED

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2023 OCT 16 AM 9:05
DIVISION OF ELECTIONS

STATE OF FLORIDA

County of Leon

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

Secretary of Commerce

(Full Name of Office - Abbreviations Not Accepted)

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

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

Signature


(Affix Seal Below)

Sworn to and subscribed before me by means of ☒ physical presence

Or ☐ online notarization this 9th day of October, 2023

Harriet B. Moore

Signature of Officer Administering Oath or of Notary Public


Commission # HH 217956
Expires January 19, 2026

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ or Produced Identification ☐

Type of Identification Produced _____

ACCEPTANCE

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

Mailing Address: Home ☐ Office ☒

107 E. Madison Street

Street or Post Office Box Caldwell Building Print Name

Tallahassee, FL 32399

City, State, Zip Code

Signature

CERTIFICATION

STATE OF FLORIDA
COUNTY OF Leon

RECEIVED
DEPARTMENT OF STATE
2023 OCT 16 AM 9:06
DIVISION OF ELECTIONS
TALLAHASSEE, FL

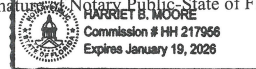
Before me, the undersigned Notary Public of Florida, personally appeared

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

Signature of Applicant-Affiant

Sworn to and subscribed before me this 16th day of October, 2023

Signature of Notary Public, State of Florida



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

My commission expires: 1/19/26

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
James Alexander Kelly
Secretary of Commerce

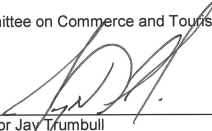
NOTICE OF HEARING

TO: Mr. James Alexander Kelly

YOU ARE HEREBY NOTIFIED that the Committee on Commerce and Tourism of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, January 23, 2024, in the Toni Jennings Committee Room, 110 Senate Building, commencing at 1:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 18th day of January, 2024

Committee on Commerce and Tourism



Senator Jay Trumbull
As Chair and by authority of the committee

cc: Members, Committee on Commerce and Tourism
Office of the Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

**Please raise your right hand and be
sworn in as a witness.**

**Do you swear or affirm that the evidence
you are about to give will be the truth, the
whole truth, and nothing but the truth?**

WITNESS'S NAME: James Alexander Kelly

ANSWER: I do.

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Commerce and Tourism

DATE: January 23, 2024

CourtSmart Tag Report

Room: SB 110 Case No.:
Caption: Committee on Commerce and Tourism

Type:
Judge:

Started: 1/23/2024 1:03:38 PM
Ends: 1/23/2024 2:43:30 PM Length: 01:39:53

1:03:37 PM Chair Trumbull calls meeting to order
1:03:47 PM Roll call
1:03:55 PM Quorum
1:04:04 PM Remarks by Chair Trumbull
1:04:09 PM Tab 7- SB 1748 Tourist Development Tax
1:04:31 PM Senator Brodeur explains the bill
1:04:51 PM Chair Trumbull
1:05:50 PM Questions
1:05:53 PM Senator Stewart
1:05:56 PM Senator Brodeur
1:06:25 PM Senator Stewart
1:07:25 PM Senator Torres
1:07:32 PM Senator Brodeur
1:07:40 PM Chair Trumbull
1:08:10 PM Debate
1:08:14 PM No debate
1:08:17 PM Roll call
1:08:21 PM Tab 7 reported
1:08:39 PM Tab 2- SB 542 Boards of Directors of Banks
1:08:50 PM Senator Ingoglia explains the bill
1:08:58 PM Questions
1:09:37 PM Senator Gruters
1:09:42 PM Senator Ingoglia
1:09:49 PM Senator Gruters
1:10:34 PM Senator Ingoglia
1:10:40 PM Senator Stewart
1:11:13 PM Senator Ingoglia
1:11:29 PM Senator Stewart
1:11:54 PM Senator Torres
1:12:01 PM Senator Ingoglia
1:12:09 PM Amendment #191300
1:12:40 PM Senator Ingoglia explains the amendment
1:12:45 PM Remarks by Chair Trumbull
1:13:15 PM Questions
1:13:20 PM No public testimony or debate
1:13:28 PM Senator Ingoglia waives close on the amendment
1:13:32 PM Amendment adopted
1:13:40 PM Debate
1:13:51 PM Roll call
1:13:55 PM Tab 2 reported
1:14:13 PM Tab 5- SB 1218 Broadband
1:14:23 PM Senator Burgess explains the bill
1:14:28 PM No questions
1:14:45 PM Public testimony
1:14:50 PM Meredith Pelton, Florida Tax Watch
1:15:03 PM Edda Ivonne Fernandez, AARP
1:15:54 PM Adam Basford, Associated Industries of Florida
1:16:04 PM No debate
1:16:07 PM Senator Burgess waives close on the bill
1:16:10 PM Roll call
1:16:18 PM Tab 5 reported
1:16:31 PM Tab 6- SB 1420 Department of Commerce

1:16:41 PM Senator Burgess explains the bill
1:17:03 PM Amendment #180646
1:17:46 PM Senator Burgess explains the amendment
1:17:52 PM No questions on the amendment
1:18:26 PM Senator Burgess waives close on the amendment
1:18:36 PM Amendment adopted
1:18:41 PM Back on the bill as amended
1:18:47 PM Remarks by Chair Trumbull
1:18:52 PM No debate
1:18:56 PM Senator Burgess closes on the bill as amended
1:19:05 PM Roll call
1:19:13 PM Tab 6 reported
1:19:28 PM Tab 8- SB 58 Sales Tax Holiday for Micromobility Vehicles and Related Personal Safety Equipment
1:19:45 PM Senator Stewart explains the bill
1:20:04 PM Amendment #258478
1:20:10 PM Senator Stewart explains the amendment
1:21:09 PM No questions
1:21:43 PM No debate
1:21:51 PM Senator Stewart closes on the amendment
1:21:58 PM Amendment adopted
1:22:38 PM Back on the bill as amended
1:22:44 PM No questions, public testimony, or debate
1:22:47 PM Senator Stewart waives close on the bill as amended
1:22:53 PM Roll call
1:22:59 PM Tab 8 reported
1:23:15 PM Tab 11- SB 1540 Workforce Retention
1:23:21 PM Senator Torres explains the bill
1:24:57 PM Remarks by Chair Trumbull
1:25:00 PM No questions
1:25:05 PM No public testimony
1:25:08 PM No debate
1:25:10 PM Senator Torres waives close on the bill
1:25:14 PM Roll call
1:25:23 PM Tab 11 reported
1:25:31 PM Tab 12- Appointments to the Secretary of Commerce
1:25:38 PM Chair Trumbull calls James Alexander Kelly forward
1:25:46 PM James Alexander Kelly sworn in
1:25:53 PM Mr. Kelly addresses the committee
1:31:04 PM Remarks by Chair Trumbull
1:32:06 PM Senator Wright moves to confirm Mr. Kelly
1:32:28 PM Roll call
1:32:32 PM Confirmation of Mr. Kelly reported
1:32:42 PM Chair passed to Vice Chair Wright
1:32:59 PM Remarks by Chair Wright
1:33:03 PM Tab 10- SB 1492 Employment Regulations
1:33:07 PM Senator Trumbull explains the bill
1:33:14 PM No questions
1:34:00 PM Amendment #709582
1:34:09 PM Senator Trumbull explains the amendment
1:34:16 PM Remarks by Chair Wright
1:34:25 PM No questions
1:34:28 PM Public testimony
1:34:34 PM Jess McCarty waives speaking time
1:34:47 PM Bob McKee waives speaking time
1:34:58 PM Debate
1:35:02 PM Senator Gruters
1:35:24 PM Senator Stewart
1:35:34 PM Senator Rodriguez
1:35:53 PM Senator Trumbull closes on the amendment
1:36:18 PM Remarks by Chair Wright
1:36:47 PM Amendment adopted
1:36:55 PM Back on the bill as amended

1:37:03 PM Remarks by Chair Wright
1:37:12 PM Questions
1:37:29 PM Senator Torres
1:37:34 PM Senator Trumbull
1:37:56 PM Senator Torres
1:37:59 PM Senator Trumbull
1:38:27 PM Remarks by Chair Wright
1:39:15 PM Public testimony
1:39:21 PM Doug Bell, Associated General Contractors waives speaking time
1:39:26 PM Jackson Oberlink, Florida Rising
1:40:53 PM Adam Basford, Associated Industries of Florida
1:42:05 PM Jonathan Webber, SPLC Action Fund
1:43:08 PM Reverend Russell Meyer, Florida Faith Advocacy Office
1:46:01 PM Dr. Rich Templin, Florida AFL-CIO
1:47:50 PM Derek Sindler, Farmworker Association of Florida
1:51:18 PM Karen Woodall, Florida Center for Fiscal and Economic Policy
1:53:36 PM Carol Bowen, Associated Builders and Contractors
1:56:11 PM Carolyn Johnson, Florida Chamber of Commerce
1:56:59 PM Chair reads waiving appearance forms
1:59:06 PM Dolce, Farmworker Association of Florida
2:00:45 PM Yensibel Vilorio, State Innovation Exchange Action
2:00:57 PM Chair reads waiving appearance forms
2:04:16 PM Debate
2:05:15 PM Senator Rodriguez
2:05:51 PM Senator Stewart
2:07:32 PM Senator Torres
2:10:22 PM Senator Trumbull closes on the bill as amended
2:13:01 PM Roll call
2:14:02 PM Tab 10 reported
2:14:23 PM Tab 9- SB 1260 Verification of Reemployment Assistance Benefit Eligibility
2:14:36 PM Senator Trumbull explains the bill
2:14:54 PM Questions
2:15:23 PM Senator Torres
2:15:29 PM Senator Trumbull
2:15:42 PM Senator Torres
2:15:47 PM Senator Trumbull
2:16:27 PM Senator Stewart
2:16:53 PM Senator Trumbull
2:17:03 PM Public testimony
2:17:32 PM Cindy Huddleston, Florida Policy Institute
2:19:42 PM Dr. Rich Templin, Florida AFL-CIO
2:23:34 PM Jackson Oberlink, Florida Rising
2:26:25 PM Karen Woodall, Florida Centers for Fiscal and Economic Policy
2:27:07 PM Chad Kunde, Florida Chamber of Commerce
2:27:07 PM
2:27:07 PM
2:28:04 PM Debate
2:28:36 PM Senator Torres
2:29:08 PM Senator Stewart
2:29:31 PM Senator Trumbull closes on the bill
2:30:43 PM Roll call
2:31:12 PM Tab 9 reported
2:31:32 PM Tab 1- SB 356 Notaries Public
2:31:37 PM Senator Avila explains the bill
2:32:29 PM Amendment #281962
2:33:30 PM Senator Avila explains the amendment
2:33:50 PM Amendment adopted
2:34:08 PM Back on the bill as amended
2:34:14 PM Public testimony
2:34:22 PM Chair reads waiving appearance forms
2:34:37 PM Roll call
2:35:11 PM Tab 1 reported

2:35:16 PM Tab 3- SB 998 Sale of Liquefied Petroleum Gas
2:35:22 PM Senator Collins explains the bill
2:36:48 PM Questions
2:37:11 PM Chair Wright
2:37:17 PM Senator Collins
2:37:40 PM Public testimony
2:37:56 PM Chair reads waiving appearance forms
2:38:13 PM Senator Collins waives close on the bill
2:38:18 PM Roll call
2:38:27 PM Tab 3 reported
2:38:38 PM Tab 4- SB 1198 Corporate Actions
2:38:48 PM Senator Martin explains the bill
2:39:34 PM Amendment #400960
2:40:34 PM Senator Martin explains the amendment
2:40:46 PM Senator Martin waives close on the amendment
2:41:13 PM Amendment adopted
2:41:18 PM Back on the bill as amended
2:41:23 PM Public testimony
2:41:29 PM Chair reads waiving appearance forms
2:41:46 PM Senator Martin waives close on the bill as amended
2:41:52 PM Roll call
2:41:55 PM Senator Stewart wishes to be recorded voting
2:42:40 PM Senator Wright wishes to be recorded voting
2:43:07 PM Senator Gruters moves to adjourn
2:43:20 PM Meeting adjourned