

Tab 1	CS/SB 210 by CF, Passidomo ; Public Records/Public Guardians						
316304	D	S	RCS	GO, Passidomo	Delete everything after	03/06	06:20 PM

Tab 2	CS/SB 346 by CM, Stargel ; (Similar to CS/H 00169) Fictitious Name Registration						
334308	A	S	RCS	GO, Stargel	Delete L.52 - 110:	03/06	06:20 PM

Tab 3	SB 404 by Simmons ; Legislative Ratification						
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Tab 4	SB 612 by Gibson ; (Identical to H 00417) Federal Matching Funds Information						
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Tab 5	SB 1020 by Powell ; Collective Bargaining Impasses						
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Tab 6	SB 764 by Baxley ; (Similar to H 00455) Tax Exemptions for First Responders and Surviving Spouses						
451138	D	S	RCS	GO, Baxley	Delete everything after	03/06	06:21 PM

Tab 7	SPB 7022 by GO ; State-administered Retirement Systems						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Baxley, Chair
Senator Artiles, Vice Chair

MEETING DATE: Monday, March 6, 2017
TIME: 4:00—6:00 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Baxley, Chair; Senator Artiles, Vice Chair; Senators Galvano, Grimsley, Rader, Rouson, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 210 Children, Families, and Elder Affairs / Passidomo	Public Records/Public Guardians; Providing an exemption from public records requirements for certain identifying and location information of current or former public guardians and the spouses and children thereof; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CF 02/21/2017 Fav/CS GO 03/06/2017 Fav/CS RC	Fav/CS Yeas 6 Nays 0
2	CS/SB 346 Commerce and Tourism / Stargel (Similar CS/H 169)	Fictitious Name Registration; Revising the information required to register a fictitious name; prohibiting a renewal of a registration if the registered fictitious name is prohibited by specified provisions; clarifying that the Division of Corporations administers the provisions of ch. 865, F.S., relating to fictitious name registration, etc. CM 02/21/2017 Fav/CS GO 03/06/2017 Fav/CS RC	Fav/CS Yeas 6 Nays 0
3	SB 404 Simmons	Legislative Ratification; Providing that the maximum reimbursement allowances and manuals approved by a three-member panel for purposes of the Workers' Compensation Law are exempt from legislative ratification under the Administrative Procedure Act when the adverse impact or regulatory costs of such allowances or manuals exceed any criteria specified in provisions, etc. BI 02/21/2017 Favorable GO 03/06/2017 Favorable RC	Favorable Yeas 6 Nays 0
4	SB 612 Gibson (Identical H 417)	Federal Matching Funds Information; Requiring each state agency and the judicial branch to provide, as a part of the legislative budget request, specified information concerning federal programs, etc. GO 03/06/2017 Favorable JU AP	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Monday, March 6, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 1020 Powell	Collective Bargaining Impasses; Revising notice requirements for issues at impasse, etc. GO 03/06/2017 Favorable AP	Favorable Yeas 6 Nays 0
6	SB 764 Baxley (Similar H 455)	Tax Exemptions for First Responders and Surviving Spouses; Providing an exemption from ad valorem taxation for certain first responders under specified conditions; providing an exemption from ad valorem taxation for certain surviving spouses of first responders who have died; specifying the documentation required to receive the exemption, etc. GO 03/06/2017 Fav/CS CA AFT AP	Fav/CS Yeas 6 Nays 0
Consideration of proposed bill:			
7	SPB 7022	State-administered Retirement Systems; Revising required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 0
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 Governmental Oversight and Accountability

BILL: CS/CS/SB 210

INTRODUCER: Governmental Oversight and Accountability Committee; Children, Families, and Elder Affairs Committee and Senator Passidomo

SUBJECT: Public Records/Public Guardians

DATE: March 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.	Kim	Ferrin	GO	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 210 creates a public records exemption for the identifying and location information of current and former public guardians and their spouses and children. The bill provides for retroactive application, and includes a constitutionally required public necessity statement. The exemption will stand repealed on October 2, 2022, pursuant to the Open Government Sunset Review Act and unless it is reenacted.

This bill requires a two-thirds vote from each chamber for passage.

There is an effective date of July 1, 2017, and there is no fiscal impact as a result of the legislation.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business

¹ FLA. CONST., art. I, s. 24(a).

of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.²

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

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

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

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

² *Id.*

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

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

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

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

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). See also *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004).

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹⁴

Open Government Sunset Review Act

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁷ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁸
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁹ or
- It protects trade or business secrets.²⁰

The OGSR also requires specified questions to be considered during the review process.²¹ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

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

¹⁴ *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(b)1., F.S.

¹⁹ Section 119.15(6)(b)2., F.S.

²⁰ Section 119.15(6)(b)3., F.S.

²¹ Section 119.15(6)(a), F.S. The specified questions are:

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

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²² If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.²³

Guardianship

Guardianship is a concept whereby a “guardian” acts for another, called a “ward,” whom the law regards as incapable of managing his or her own affairs due to age or incapacity. Guardianships are generally disfavored due to the loss of individual civil rights, and a guardian may be appointed only if the court finds there is no sufficient alternative to guardianship.

There are two main forms of guardianship: guardianship over the person or guardianship over the property, which may be limited or plenary.²⁴ For adults, a guardianship may be established when a person has demonstrated that he or she is unable to manage his or her own affairs. If the adult is competent, this can be accomplished voluntarily. However, in situations where an individual’s mental competence is in question, an involuntary guardianship may be established through the adjudication of incompetence which is based on the determination of a court appointed examination committee.²⁵

Florida courts have long recognized the relationship between a guardian and his or her ward as a classic fiduciary relationship.²⁶ A fiduciary relationship exists between two persons when one of them is under a duty to act for or to give advice for the benefit of another upon matters within the scope of that relationship.²⁷ The most basic duty of a fiduciary is the duty of loyalty: a fiduciary must refrain from self-dealing, must not take unfair advantage of the ward, must act in the best interest of the ward, and must disclose material facts.²⁸ In addition to the duty of loyalty, a fiduciary also owes a duty of care to carry out its responsibilities in an informed and considered manner.

Section 744.361, F.S., imposes specific duties upon a guardian consistent with the basic duties of a fiduciary including protecting and preserving the property of the ward’s overall physical and social health. A guardian must file with the court an initial guardianship report,²⁹ an annual guardianship report,³⁰ and an annual accounting of the ward’s property.³¹ The reports provide evidence of the guardian’s faithful execution of his or her fiduciary duties.³²

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

²⁴ Section 744.102(9)(a) and (b), F.S.

²⁵ Sections 744.102(12), 744.3201, 744.341, F.S.

²⁶ *Lawrence v. Norris*, 563 So. 2d 195, 197 (Fla. 1st DCA 1990). Section 744.361(1), F.S.

²⁷ *Doe v. Evans*, 814 So. 2d 370, 374 (Fla. 2002).

²⁸ *Capital Bank v. MVP, Inc.* 644 So. 2d 515, 520 (Fla. 3d DCA 1994).

²⁹ Section 744.362, F.S.

³⁰ Section 744.367, F.S.

³¹ Section 744.3678, F.S.

³² Sections 744.368(1) and 744.369, F.S.

At the heart of a court's interpretation of a fiduciary relationship is a concern that persons who assume trustee-like positions with discretionary power over the interests of others might breach their duties and abuse their position. Section 744.446(1), F.S., explicitly states that the "fiduciary relationship which exists between the guardian and the ward may not be used for the private gain of the guardian other than the remuneration for fees and expenses provided by law." If a guardian breaches his or her fiduciary duty, a court will intervene and "take the necessary actions to protect the ward and the ward's assets."³³

Office of the Public and Professional Guardians

The Legislature created the Statewide Public Guardianship Office in 1999 to provide oversight for all public guardians.³⁴ The Statewide Public Guardianship Office was renamed the Office of the Public and Professional Guardians in 2006.³⁵ A public guardian may serve "an incapacitated person if there is no family member or friend, other person, bank, or corporation willing and qualified to serve as guardian."³⁶ A person serving as a public guardian is considered a professional guardian for purposes of regulation, education, and registration.³⁷ A public guardian may be an appointee of the Office of the Public and Professional Guardians or a contract employee of a nonprofit corporation.³⁸ Public guardianship offices are located in all 20 judicial circuits in the state.³⁹

Currently, the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of public guardians as well as the names and location of schools and day care facilities of the children of public guardians are subject to release pursuant to a public records request.

Wards, by definition, lack capacity and occasionally become disgruntled. Wards have threatened and harmed their public guardians. For example, in June of 2011, a ward found his guardian's home address through Miami-Dade property records. The ward called the police and told them that the guardian was attempting suicide. The police arrived at the guardian's home at 1:30 a.m. and tried looking inside of the house, which alarmed the public guardian. The guardian had to prove to the police that she was not a danger to herself. The ward later confessed that he hoped to have the guardian Baker Acted. In addition, wards have pointed guns at guardians and kicked and hit them. Wards have also left voice messages threatening to kill themselves and their guardians and have used the internet to offer money to have people killed.⁴⁰

Effect of Proposed Changes:

Section 1 creates s. 744.21031, F.S., to allow the home addresses, telephone numbers, dates of birth, places of employment, and photographs of current or former public guardians; the names,

³³ Section 744.446(4), F.S.

³⁴ Chapter 99-277, Laws of Fla.

³⁵ Chapter 2016-40, Laws of Fla.

³⁶ Section 744.2007(1), F.S.

³⁷ Section 744.102(17), F.S.

³⁸ Section 744.2006, F.S.

³⁹ Children, Families, and Elder Affairs Committee staff meeting with the Department of Elder Affairs on February 2, 2015.

⁴⁰ Email packet from Carlos McDonald, Executive Director, Guardianship Program of Dade County, Inc., on file with the Senate Committee on Governmental Oversight.

home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former guardians; and the names and locations of schools and day care facilities attend by the children of current and former public guardians to be exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The bill also provides that the public records exemption has retroactive effect.

The public records exemption is subject to the Open Government Sunset Review Act pursuant to s. 119.15, F.S., and will be repealed October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 states that the Legislature finds it is a public necessity that the identifying and location information of current and former public guardians, their spouses and children be exempt from s. 119.07(1) and s. 24(a), Article I of the State Constitution. The bill includes examples of how public guardians have been threatened and injured by their wards. The bill provides that the release of identifying and location information of current and former public guardians and their family members places them in danger of physical and emotional harm from disgruntled individuals who make act inappropriately or seek revenge due to actions taken by public guardians. Section 2 also states that the harm that may result from the release of such personal identifying and location information outweighs any public benefit that may be derived from the disclosure of the information.

Section 3 provides an effective date of July 1, 2017.

III. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, Section 24(c) of the Florida Constitution requires a two-thirds vote of each chamber for public records exemptions to pass.

Breadth of Exemption

Article I, Section 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the state purpose of the law. The bill exempts certain identifying and location information of current and former public guardians, their spouses and children. The public necessity for the exemption provides that guardians and their family members are subject to threats of emotional and physical harm from disgruntled individuals. The exemption from disclosure would help protect guardians and their families. This bill appears to be no broader than necessary to accomplish the public necessity for this public records exemption.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private contractors will have to redact public guardian's information if a public records request is made. This cost will be absorbed through existing resources.

C. Government Sector Impact:

Government entities will have to redact a public guardian's information if a public records request is made. This cost will be absorbed through existing resources.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill creates section 744.21031 of the Florida Statutes.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Governmental Oversight and Accountability on March 6, 2017:

- The amendment removes the requirement that public guardians submit a written request in order for the public records exemption to go into effect.
- The amendment also adds to the statement of public necessity several examples of injuries that public guardians have sustained.

CS by Children, Families, and Elder Affairs on February 21, 2017:

The amendment moves the public records exemption for current and former public guardians from s. 119.071, F.S. and creates s. 744.21031, F.S., placing the public records exemption in Part II of the Professional and Public Guardianship statutes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2017	.	
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The Committee on Governmental Oversight and Accountability
(Passidomo) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 744.21031, Florida Statutes, is created
to read:

744.21031 Public records exemption.—The home addresses,
telephone numbers, dates of birth, places of employment, and
photographs of current or former public guardians; the names,
home addresses, telephone numbers, dates of birth, and places of



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11 employment of the spouses and children of such persons; and the
12 names and locations of schools and day care facilities attended
13 by the children of such persons are exempt from s. 119.07(1) and
14 s. 24(a), Art. I of the State Constitution. The exemption in
15 this section applies to information held by an agency before,
16 on, or after the effective date of the exemption. This section
17 is subject to the Open Government Sunset Review Act in
18 accordance with s. 119.15 and shall stand repealed on October 2,
19 2022, unless reviewed and saved from repeal through reenactment
20 by the Legislature.

21 Section 2. (1) The Legislature finds that it is a public
22 necessity that the following identifying and location
23 information be exempt from s. 119.07(1), Florida Statutes, and
24 s. 24(a), Article I of the State Constitution:

25 (a) The home addresses, telephone numbers, dates of birth,
26 places of employment, and photographs of current or former
27 public guardians;

28 (b) The names, home addresses, telephone numbers, dates of
29 birth, and places of employment of spouses and children of such
30 guardians; and

31 (c) The names and locations of schools and day care
32 facilities attended by the children of such guardians.

33 (2) The Legislature finds that the release of such
34 identifying and location information might place current or
35 former public guardians and their family members in danger of
36 physical and emotional harm from disgruntled individuals who
37 react inappropriately to actions taken by the public guardians.
38 Public guardians provide a valuable service to the community by
39 helping some of the state's most vulnerable residents who lack



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40 the physical or mental capacity to take care of most aspects of
41 their own personal affairs. Public guardians help those who lack
42 a willing and qualified family member or friend and do not have
43 the income or assets to pay a professional guardian.

44 (3) Despite the value of this service, however, some
45 persons, including a public guardian's own wards, become
46 disgruntled with the assistance provided or the decisions a
47 public guardian makes, which result in a guardian or the
48 guardian's family members becoming potential targets for an act
49 of revenge. In one instance, a ward became angry that his public
50 guardian had taken him to the hospital for a psychological
51 evaluation. Thereafter, the ward used public records to locate
52 his public guardian's home. The ward proceeded to call law
53 enforcement and requested officers to go to the public
54 guardian's home after the ward falsely stated that the public
55 guardian was suicidal in an effort to get her involuntarily
56 committed under the Baker Act. The ward continued to make death
57 threats against this public guardian in the weeks following this
58 incident. Other wards have harassed their public guardians with
59 threats of incarceration, violence, and death through voicemail
60 messages and social media. Wards have also left voicemail
61 messages threatening to kill themselves and others, as well as the
62 public guardian. In the course of their duties, public guardians
63 have also been subject to being physically assaulted.

64 (4) The risk continues after a public guardian concludes
65 his or her service because a disgruntled individual may wait to
66 commit an act of revenge until the guardian concludes his or her
67 service. The harm that may result from the release of a public
68 guardian's personal identifying and location information



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69 outweighs any public benefit that may be derived from the
70 disclosure of the information.

71 Section 3. This act shall take effect July 1, 2017.

72

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

74 And the title is amended as follows:

75 Delete everything before the enacting clause
76 and insert:

77

A bill to be entitled

78

An act relating to public records; creating s.

79

744.21031, F.S.; providing an exemption from public

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records requirements for certain identifying and

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location information of current or former public

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guardians and the spouses and children thereof;

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providing for retroactive application; providing for

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future legislative review and repeal of the exemption;

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providing a statement of public necessity; providing

86

an effective date.

By the Committee on Children, Families, and Elder Affairs; and
Senator Passidomo

586-01905-17

2017210c1

A bill to be entitled

An act relating to public records; creating s. 744.21031, F.S.; providing an exemption from public records requirements for certain identifying and location information of current or former public guardians and the spouses and children thereof; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 744.21031, Florida Statutes, is created to read:

744.21031 Public records exemption.—The home addresses, telephone numbers, dates of birth, places of employment, and photographs of current or former public guardians; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. An agency that is the custodian of information specified in this section shall maintain the exempt status of that information only if the current or former public guardian submits a written request for maintenance of the exemption to the custodial agency. The exemption in this section applies to information held by an agency before, on, or after the effective date of the exemption.

Page 1 of 3

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

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This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that the following identifying and location information be exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution:

(a) The home addresses, telephone numbers, dates of birth, places of employment, and photographs of current or former public guardians;

(b) The names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such guardians; and

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

(2) The Legislature finds that the release of such identifying and location information might place current or former public guardians and their family members in danger of physical and emotional harm from disgruntled individuals who may react inappropriately to actions taken by the public guardians. Public guardians provide a valuable service to the community by helping some of the state's most vulnerable residents. Public guardians help those who lack a willing and qualified family member or friend and do not have the income or assets to pay a professional guardian. Despite the value of this service, however, some persons may become disgruntled with the assistance provided or the decisions a public guardian makes, which may result in a guardian or the guardian's family members becoming

Page 2 of 3

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

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59 potential targets for an act of revenge. The risk continues
60 after a public guardian concludes his or her service because a
61 disgruntled individual may wait to commit an act of revenge
62 until the guardian concludes his or her service. The harm that
63 may result from the release of such personal identifying and
64 location information outweighs any public benefit that may be
65 derived from the disclosure of the information.

66 Section 3. This act shall take effect July 1, 2017.



The Florida Senate

Committee Agenda Request

To: Senator Dennis Baxley, Chair
Committee on Governmental Oversight & Accountability

Subject: Committee Agenda Request

Date: February 22, 2017

I respectfully request that **Senate Bill #210**, relating to Public Records/Public Guardians, be placed on the:

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

A handwritten signature in black ink, appearing to read "K. Passidomo", with a horizontal line extending to the right.

Senator Kathleen Passidomo
Florida Senate, District 28

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 346

INTRODUCER: Governmental Oversight and Accountability Committee; Commerce and Tourism Committee and Senator Stargel

SUBJECT: Fictitious Name Registration

DATE: March 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Peacock</u>	<u>Ferrin</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 346 updates the Florida Fictitious Name Act, s. 865.09, F.S., which requires any person or business entity doing business in Florida under a name other than their legal name to register a fictitious name with the Division of Corporations of the Department of State.

Specifically, the bill:

- Defines the term “registrant” to clarify and standardize who is required to file a fictitious name;
- Clarifies that foreign business entities must be in active status with the Division of Corporations to file a fictitious name;
- Updates the process for cancellation, registration, and renewal of a fictitious name, including clarifying the term of registration;
- Standardizes language to include varied business entities, rather than just corporations;
- Changes the penalty for failure to comply with the Fictitious Name Act from a misdemeanor to a noncriminal violation; and
- Makes technical and conforming changes throughout.

The bill takes effect on July 1, 2017.

II. Present Situation:

The Florida Department of State

The Florida Department of State (Department) consists of six divisions: the Division of Elections; Division of Historical Resources; Division of Library and Information Services; Division of Cultural Affairs; Division of Administration; and Division of Corporations.¹

The Division of Corporations (Division) maintains a registry for recording and retrieving commercial information that is filed or registered with the Department. In total, the Division maintains more than eight million records, including a variety of business entity filings such as articles of incorporation or other forms of business entity organization, annual reports, trade and service mark registrations, judgment lien filings, and fictitious name registrations.² The Division determines whether submitted filings and forms meet the pertinent statutory requirements and then records and indexes those filings in its database of records.

Florida Fictitious Name Act

A fictitious name is any name other than the person's or business entity's legal name (a business entity's legal name is that which is registered with the Department of State).³ A fictitious name is also known as a "doing business as," "dba," or "assumed" name.⁴

The Florida Fictitious Name Act⁵ (Act) was enacted in 1941 to provide notice to the public and creditors of the names and addresses of those conducting business under a fictitious name.⁶ From 1941 through 1990, the Act required a business to register its fictitious name in the county circuit court located in the business' principal place of business. This decentralized process made it difficult for interested parties to search for a business' fictitious name. As a result, the Legislature transferred the duty of registering fictitious names to the Florida Department of State (Department) in 1991.⁷ As of January 2017, the Division had 606,586 active registered fictitious names; in 2016 alone, the Division processed 101,604 fictitious name registrations.⁸

The current Act requires any person or business entity to register their fictitious name with the Division prior to conducting business in Florida by:

- Advertising the intention to register the business at least once in a newspaper in the county where the business' principal place of business is located;

¹ Section 20.10, F.S.

² Florida Department of State, *Overview of the Division of Corporations*, (Dec. 2016), (on file with the Committee on Commerce and Tourism).

³ Section 865.09(2)(a), F.S.

⁴ United States Small Business Administration, *Starting and Managing a Business; Register Your Business Name*, available at <https://www.sba.gov/starting-business/choose-register-your-business/register-your-business-name> (last visited Feb. 21, 2017).

⁵ Section 865.09, F.S. This act was formerly known as the "Florida Fictitious Name Statute." *See*, s. 865.09, F.S.(1990).

⁶ *Jackson v. Jones*, 423 So. 2d 972, 973 (Fla. 4th DCA 1982), rev. denied, 436 So. 2d 99 (Fla. 1983).

⁷ Ch. 90-267, Laws of Fla.

⁸ Florida Department of State, Division of Corporations, *Yearly Statistics, from 2011 to Present*, (Jan. 23, 2017). Available at <http://dos.myflorida.com/sunbiz/about-us/yearly-statistics/> (last visited Feb. 21, 2017).

- Filing a sworn statement with the Division that lists the name to be registered, the business' mailing address, the name and address of each business owner, and, if a corporation, its federal employer's identification number (FEIN) and Florida incorporation or registration number; and
- Paying a \$50 filing fee to the Division.⁹

A fictitious name registration is valid for five years, but expires on December 31 of the fifth year.¹⁰ As a result, depending on when the business initially registers its fictitious name, it may not realize a full five-year registration term. Should a business operating under a fictitious name change ownership during this period, the current owner is obligated to file a cancellation and reregistration to notify of the new ownership within 30 days after the occurrence of such change.¹¹

Businesses that fail to register a fictitious name under which they are doing business may not maintain any action, suit, or proceeding in any Florida court until they comply with the Act.¹² Additionally, any person who fails to comply with the Act commits a second-degree misdemeanor.¹³ No business may register a fictitious name with the words "corporation," "incorporated," or any form thereof unless the business is actually incorporated.¹⁴

Certain businesses are exempt from registration under the Act,¹⁵ including:

- Entities registered with the Department that also operate under their full, registered name;
- Any business formed by and operated under the name of an attorney licensed by the Florida Bar, for the purpose of practicing law; and
- Any person or business actively licensed by the Department of Business and Professional Regulation or the Department of Health for the purpose of practicing said licensed profession; the person or entity must conduct business under the name as licensed with the State.

The Rise of Non-Corporate Business Entities

Non-corporate business entity structures have risen in popularity since the IRS clarified tax rules governing such entities in the 1990's and states adopted permitting legislation.¹⁶ These structures include the limited liability company (LLC), limited liability partnership (LLP), and the limited liability limited partnership (LLLP). Businesses have begun to favor these alternate business

⁹ Section 865.09(3), F.S.

¹⁰ Section 865.09(5), F.S.

¹¹ Section 865.09(4), F.S.

¹² Section 865.09(9)(a), F.S.

¹³ Section 965.09(9)(c), F.S.

¹⁴ Section 865.09(14), F.S.

¹⁵ Section 865.09(7), F.S.

¹⁶ Stephen Bainbridge, *the Inexorable (?) Rise of the LLC* (June 9, 2010). Available at: <http://www.professorbainbridge.com/professorbainbridgecom/2010/06/the-inexorable-rise-of-the-llc.html> (last visited Feb. 21, 2017). See also, Florida Department of State, Division of Corporations, *Yearly Statistics, from 2011 to Present*, (Jan. 23, 2017). Available at <http://dos.myflorida.com/sunbiz/about-us/yearly-statistics/> (last visited Feb. 21, 2017). The total number of domestic LLCs registered with the Division has risen from 145,780 in 2011 to 233,077 in 2016.

structures because they provide flexibility for purposes of taxation, and protection of the partners' personal assets.¹⁷

An LLC is a hybrid business entity that provides its members with limited liability against the entity's debts and obligations, as a corporation does, but also provides its members with the flexibility to choose the federal income tax classification of the entity.¹⁸ An LLC must file Articles of Incorporation with the Division to commence its legal existence.¹⁹ A Professional Limited Liability Company ("PLLC" or "PL") is an LLC that is formed by licensed professionals for the specific purpose of practicing business in that licensed area.²⁰

An LLP is a general partnership that limits the liability of each partner (but not the general partner) from liabilities of the other, and is taxed like a partnership.²¹ A partnership that agrees to operate as an LLP must file a statement of qualification with the Division to be granted legal status as an LLP.²²

An LLLP is a partnership that limits the liability of all of its partners, and instead places the duty of any obligations of the LLLP on the partnership itself. The LLLP is also taxed like a partnership.²³

Some business entities choose to remain under the corporate form as a Professional Association ("PA" or "chartered" corporation). A PA consists of shareholders who are licensed to perform a licensed service, and who formed their business entity for the purpose of practicing said service.²⁴

III. Effect of Proposed Changes:

Section 1 of the bill makes changes throughout Florida's Fictitious Name Act, s. 865.09, F.S., to incorporate clarifications and other recommendations made by the Division and the Business Law Section of the Florida Bar (Business Law Section).²⁵

Defines "Registrant"

The bill defines a "registrant" as a person who registers a fictitious name with the division. The bill adopts this term throughout the Act to standardize the language formerly used to refer to those who may register a fictitious name, including "applicant," "owner," and "person."

¹⁷ Susan Pace Hamill, *The Story of LLCs: Combining the Best Features of a Flawed Business Tax Structure*. Available at: [https://www.law.ua.edu/misc/hamill/Chapter%2010--Business%20Tax%20Stories%20\(Foundation\).pdf](https://www.law.ua.edu/misc/hamill/Chapter%2010--Business%20Tax%20Stories%20(Foundation).pdf) (last visited Feb. 21, 2017).

¹⁸ *Id.*

¹⁹ Section 605.0201, F.S.

²⁰ Section 621.03(3), F.S.

²¹ Section 620.8306(3), F.S.; Gregory Yadley, Christina Nethero, *1-1 Florida Small Business Practice*, s. 1.3 (2013 edition).

²² Section 620.9001, F.S.

²³ Gregory Yadley, Christina Nethero, *1-1 Florida Small Business Practice*, s. 1.3 (2013 edition).

²⁴ Section 621.05, F.S.

²⁵ Stefan Rubin, Florida Bar Business Law Section, *Proposed Amendments to Florida Statute Section 865.09, Fictitious Name Act: Executive Summary*, (Oct., 2016) (Copy on file with the Committee on Commerce and Tourism).

The bill clarifies that the registrant of a general partnership that is not registered with the Division are the partners, not the partnership entity; however, the registrant of a general partnership that is registered and in active status with the Division is the partnership itself.

Registration, Renewal, and Cancellation of a Fictitious Name

The bill amends the registration process to require a “registration” rather than a “sworn statement.” According to the Business Law Section, this amendment conforms the law to current practice, as the Division does not currently require submission of a sworn statement.²⁶

The bill clarifies the term of initial registration to be a period of “up to five years,” and that the first year of registration is the period from initial registration through December 31 of that year. The bill additionally requires the Division to notify registrants of fictitious names that their registered fictitious name is due to expire by September 1 of the fifth year.

The bill clarifies that business entity registrants, including foreign entities, must be in active status with the Division. The bill further requires business entity registrants to provide the Division with their Florida document number assigned by the Division and FEIN. This requirement does not apply to general partnerships that are not registered with the Division, but does apply to general partnerships that have chosen to register under the permissive registration statute.²⁷

The bill amends the process to transfer ownership of a fictitious name. Under the bill, a current owner is only obligated to file a notice of cancellation with the Division; the new owner may file a reregistration in accordance with the Act at the same time of the cancellation. This conforms to the Division’s use of one form for both the cancellation and reregistration of a fictitious name.²⁸ The bill changes the deadline for a registrant to timely file a renewal of a fictitious name registration and pay the processing fees from prior to December 31 to on or before December 31 of the year of the expiration.

Non-Corporate Business Entities

The bill generally replaces the term “corporation” with “business entity” to broaden application of the Act to not only corporate entities, but also LLC’s, LLP’s, LLLP’s, and other business entities. For the same purpose, the bill expands the words prohibited from use in a fictitious name to include “Limited Partnership,” “Limited Liability Limited Partnership,” “Limited Liability Partnership,” “Limited Liability Company,” “Professional Associations,” “Professional Limited Liability Companies,” and any other forms thereof, in cases where the business entity is not legally registered or organized as such. The words “corporation” and “incorporated” are already prohibited if the business entity is not registered as a corporation.

²⁶ Stefan Rubin, Florida Bar Business Law Section, *Proposed Amendments to Florida Statute Section 865.09, Fictitious Name Act: Executive Summary*, (Oct., 2016) (Copy on file with the Committee on Commerce and Tourism).

²⁷ Section 620.8105, F.S. “A partnership may file a partnership registration statement with the Department of State...”

²⁸ See, Florida Department of State, *Application for Registration of Fictitious Name*. Available at: <http://form.sunbiz.org/pdf/CR4E001.pdf> (last visited Feb. 21, 2017).

Under the bill, a fictitious name may not be renewed if it is prohibited under the Act at the time of its renewal.

Penalties

The bill reduces the penalty for failure to comply with the Act from a second-degree misdemeanor to a noncriminal violation, which is punishable only by a fine, forfeiture, or other civil penalty.²⁹

Section 2 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department foresees a minimal impact required to make necessary changes to the Division's Sunbiz online filing system to prevent the use of prohibited terms in fictitious names.³⁰

VI. Technical Deficiencies:

None.

²⁹ Section 775.08, F.S. Noncriminal violations do not constitute a crime.

³⁰ Department of State, *Senate Bill 346 Agency Analysis* (Feb. 6, 2017). On file with the Committee on Commerce and Tourism.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 865.09 of the Florida Statutes.

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

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

CS/CS by Governmental Oversight and Accountability on March 6, 2017:

The Committee Substitute:

- Clarifies that the business entity must provide its Florida document number assigned by the Florida Division of Corporations with its fictitious name registration; and
- Changes the deadline for a registrant to timely file a renewal of a fictitious name registration and pay the processing fees from prior to December 31 of the year of expiration to on or before December 31 of the year of expiration.

CS by Commerce and Tourism on February 21, 2017:

- Removes a requirement that foreign business entities file their incorporation number, document registration number, or other identifying number from their home jurisdiction;
- Clarifies that the entity must be in active registered status with the Florida Division of Corporations and must provide a Florida incorporation number with its fictitious name registration;
- Requires the Division to notify registrants of an upcoming expiration of a fictitious name by September 1 of the last year of the fictitious name's term of registration;
- Prohibits the use of "Professional Association," "Professional Limited Liability Company," and any form thereof in fictitious names where the business entity is not legally registered or organized as such; and
- Makes technical and conforming changes throughout.

B. Amendments:

None.



334308

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 52 - 110
and insert:
division, provide its Florida document number assigned by the
division, and provide its federal employer identification number
if the entity has such a number.

5.-(d) Certification by at least one registrant ~~the~~
applicant that the intention to register such fictitious name
has been advertised at least once in a newspaper as defined in



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11 chapter 50 in the county in which ~~where~~ the principal place of
12 business of the registrant is or applicant will be located.

13 6.(e) Any other information the division may reasonably
14 deem necessary to adequately inform other governmental agencies
15 and the public as to the registrant persons so conducting
16 business.

17 (b) Such registration statement shall be accompanied by the
18 applicable processing fees and any other taxes or penalties owed
19 to the state.

20 (c) If the registrant is a general partnership that is not
21 registered with the division, its partners are the registrants
22 and not the partnership entity. If the registrant is a general
23 partnership that is registered with the division, the
24 partnership is the registrant and must be in active status with
25 the division.

26 (4) CANCELLATION AND REREGISTRATION CHANGE OF OWNERSHIP.—If
27 a registrant ceases to engage in business under a registered
28 fictitious name, such registrant the ownership of a business
29 registered under this section changes, the owner of record with
30 the division shall file a cancellation with the division and
31 reregistration that meets the requirements set forth in
32 subsection (3) within 30 days after the cessation occurs the
33 occurrence of such change. If such cessation is in connection
34 with a transfer of the business and, as a result, a new person
35 will engage in business under the registered fictitious name,
36 such new person may reregister the name pursuant to subsection
37 (3) at the same time as the cancellation is filed.

38 (5) TERM.—

39 (a) A fictitious name registered under this section shall



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40 be valid for a period beginning on the date of registration and
41 expiring on December 31 of the 5th calendar year thereafter,
42 counting the period from registration through December 31 of the
43 year of registration as the first calendar year.

44 (b) Each renewal under subsection (6) is valid for a period
45 of 5 years beginning on January 1 of the year following the
46 prior registration expiration date and expiring ~~of 5 years and~~
47 ~~expires~~ on December 31 of the 5th calendar year.

48 (6) RENEWAL.—

49 (a) Renewal of a fictitious name registration shall occur
50 on or after January 1 and on or before December 31 of the
51 expiration year. Upon timely filing of a renewal statement, the
52 effectiveness of the name registration is continued for 5 years
53 as provided in subsection (5).

54 (b) In the ~~last~~ year that a ~~of the~~ registration is to
55 expire, the division shall notify the ~~owner or~~ registrant of the
56 fictitious name registration of the upcoming expiration of the
57 fictitious name no later than September 1. If the ~~owner or~~
58 registrant of the fictitious name has provided the division
59 ~~department~~ with an electronic mail address, such notice shall be
60 by electronic transmission.

61 (c) If a registrant ~~the owner~~ of the fictitious name
62 registration fails to timely file a renewal and pay the
63 appropriate processing fees on or before ~~prior to~~ December 31 of
64 the year of

By the Committee on Commerce and Tourism; and Senator Stargel

577-01904-17

2017346c1

1 A bill to be entitled
 2 An act relating to fictitious name registration;
 3 reordering and amending s. 865.09, F.S.; defining the
 4 term "registrant"; revising the information required
 5 to register a fictitious name; revising requirements
 6 for a change in registration; revising provisions
 7 concerning the expiration of a registration;
 8 prohibiting a renewal of a registration if the
 9 registered fictitious name is prohibited by specified
 10 provisions; specifying additional forms of business
 11 organization that may not be required to register
 12 under certain circumstances; revising provisions
 13 concerning penalties for violations; clarifying that
 14 the Division of Corporations administers the
 15 provisions of ch. 865, F.S., relating to fictitious
 16 name registration; specifying additional terms that
 17 may not be included in a fictitious name; providing an
 18 effective date.
 19
 20 Be It Enacted by the Legislature of the State of Florida:
 21
 22 Section 1. Section 865.09, Florida Statutes, is reordered
 23 and amended to read:
 24 865.09 Fictitious name registration.—
 25 (1) SHORT TITLE.—This section may be cited as the
 26 "Fictitious Name Act."
 27 (2) DEFINITIONS.—As used in this section, the term:
 28 (c)(a) "Fictitious name" means any name under which a
 29 person transacts business in this state, other than the person's

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30 legal name.
 31 (a)(b) "Business" means any enterprise or venture in which
 32 a person sells, buys, exchanges, barter, deals, or represents
 33 the dealing in any thing or article of value, or renders
 34 services for compensation.
 35 (b)(e) "Division" means the Division of Corporations of the
 36 Department of State.
 37 (d) "Registrant" means a person who registers a fictitious
 38 name with the division.
 39 (3) REGISTRATION.—
 40 (a) A person may not engage in business under a fictitious
 41 name unless the person first registers the name with the
 42 division by filing a registration sworn statement listing:
 43 1.(a) The name to be registered.
 44 2.(b) The mailing address of the business.
 45 3.(e) The name and address of each registrant owner and, if
 46 a corporation, its federal employer's identification number and
 47 Florida incorporation or registration number.
 48 4. If the registrant is a business entity that was required
 49 to file incorporation or similar documents with its state of
 50 organization when it was organized, such entity must be
 51 registered with the division and in active status with the
 52 division, provide its incorporation number, and provide its
 53 federal employer identification number if the entity has such a
 54 number.
 55 5.(d) Certification by at least one registrant the
 56 applicant that the intention to register such fictitious name
 57 has been advertised at least once in a newspaper as defined in
 58 chapter 50 in the county in which where the principal place of

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59 business of the registrant is or applicant will be located.

60 ~~6. (e)~~ Any other information the division may reasonably
61 deem necessary to adequately inform other governmental agencies
62 and the public as to the registrant persons so conducting
63 business.

64 (b) Such registration statement shall be accompanied by the
65 applicable processing fees and any other taxes or penalties owed
66 to the state.

67 (c) If the registrant is a general partnership that is not
68 registered with the division, its partners are the registrants
69 and not the partnership entity. If the registrant is a general
70 partnership that is registered with the division, the
71 partnership is the registrant and it must be in active status
72 with the division.

73 (4) CANCELLATION AND REREGISTRATION CHANGE OF OWNERSHIP.—If
74 a registrant ceases to engage in business under a registered
75 fictitious name, such registrant the ownership of a business
76 registered under this section changes, the owner of record with
77 the division shall file a cancellation with the division and
78 reregistration that meets the requirements set forth in
79 subsection (3) within 30 days after the cessation occurs the
80 occurrence of such change. If such cessation is in connection
81 with a transfer of the business and, as a result, a new person
82 will engage in business under the registered fictitious name,
83 such new person may reregister the name pursuant to subsection
84 (3) at the same time as the cancellation is filed.

85 (5) TERM.—

86 (a) A fictitious name registered under this section shall
87 be valid for a period beginning on the date of registration and

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88 expiring on December 31 of the 5th calendar year thereafter,
89 counting the period from registration through December 31 of the
90 year of registration as the first calendar year.

91 (b) Each renewal under subsection (6) is valid for a period
92 of 5 years beginning on January 1 of the year following the
93 prior registration expiration date and expiring of 5 years and
94 expires on December 31 of the 5th calendar year.

95 (6) RENEWAL.—

96 (a) Renewal of a fictitious name registration shall occur
97 on or after January 1 and on or before December 31 of the
98 expiration year. Upon timely filing of a renewal statement, the
99 effectiveness of the name registration is continued for 5 years
100 as provided in subsection (5).

101 (b) In the ~~last~~ year that a of the registration is to
102 expire, the division shall notify the ~~owner of~~ registrant of the
103 fictitious name registration of the upcoming expiration of the
104 fictitious name no later than September 1. If the owner of
105 registrant of the fictitious name has provided the division
106 department with an electronic mail address, such notice shall be
107 by electronic transmission.

108 (c) If a registrant the owner of the fictitious name
109 registration fails to timely file a renewal and pay the
110 appropriate processing fees prior to December 31 of the year of
111 expiration, the fictitious name registration expires. The
112 division shall remove any expired or canceled fictitious name
113 registration from its records and may purge such registrations.
114 Failure to receive the notice statement of expiration renewal
115 required by paragraph (b) ~~does shall~~ not constitute grounds for
116 appeal of a registration's expiration or removal from the

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117 division's records.

118 (d) If a registered fictitious name is prohibited by
 119 subsection (14) at the time of renewal, the fictitious name may
 120 not be renewed.

121 (7) EXEMPTIONS.—A business formed by an attorney actively
 122 licensed to practice law in this state, by a person actively
 123 licensed by the Department of Business and Professional
 124 Regulation or the Department of Health for the purpose of
 125 practicing his or her licensed profession, or by any
 126 corporation, limited liability company, partnership, or other
 127 business ~~commercial~~ entity that is ~~actively~~ organized or
 128 registered and in active status with the division ~~Department of~~
 129 ~~State~~ is not required to register its name pursuant to this
 130 section, unless the name under which business is to be conducted
 131 differs from the name as licensed or registered.

132 (8) EFFECT OF REGISTRATION.—Notwithstanding ~~the provisions~~
 133 ~~of~~ any other law, registration under this section is for public
 134 notice only, and does not give ~~gives~~ rise to a ~~no~~ presumption of
 135 the registrant's rights to own or use the name registered, nor
 136 does it affect trademark, service mark, trade name, or corporate
 137 or other business entity name rights previously acquired by
 138 others in the same or a similar name. Registration under this
 139 section does not reserve a fictitious name against future use.

140 (9) PENALTIES.—

141 (a) If a business fails to comply with this section, the
 142 business or the person or persons engaging in the, ~~its members,~~
 143 ~~and those interested in doing such~~ business may not maintain any
 144 action, suit, or proceeding in any court of this state with
 145 respect to or on behalf of such business until this section is

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146 complied with. An action, suit, or proceeding may not be
 147 maintained in any court of this state by any successor or
 148 assignee of such business on any right, claim, or demand arising
 149 out of the transaction of business by such business in this
 150 state until this section has been complied with.

151 (b) The failure of a business to comply with this section
 152 does not impair the validity of any contract, deed, mortgage,
 153 security interest, lien, or act of such business and does not
 154 prevent such business from defending any action, suit, or
 155 proceeding in any court of this state. However, a party
 156 aggrieved by a noncomplying business may be awarded reasonable
 157 attorney ~~attorney's~~ fees and court costs necessitated by the
 158 noncomplying business.

159 (c) Any person who fails to comply with this section
 160 commits a noncriminal violation as defined in s. 775.08
 161 ~~misdemeanor of the second degree~~, punishable as provided in ~~s.~~
 162 ~~775.082~~ or s. 775.083.

163 (10) POWERS OF DIVISION ~~DEPARTMENT~~.—The division ~~Department~~
 164 ~~of State~~ is granted the power reasonably necessary to enable it
 165 to administer this section efficiently and, to perform the
 166 duties herein imposed upon it.

167 (11) FORMS.—Registration, cancellation, and renewal shall
 168 be made on forms prescribed by the division ~~Department of State~~,
 169 which may include the uniform business report, pursuant to s.
 170 606.06, as a means of satisfying the requirement of this
 171 section.

172 (12) PROCESSING FEES.—The division ~~Department of State~~
 173 shall charge and collect nonrefundable processing fees as
 174 follows:

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- 175 (a) For registration of a fictitious name, \$50.
- 176 (b) For cancellation or for cancellation and reregistration
- 177 of a fictitious name, \$50.
- 178 (c) For renewal of a fictitious name registration, \$50.
- 179 (d) For furnishing a certified copy of a fictitious name
- 180 registration document, \$30.
- 181 (e) For furnishing a certificate of status, \$10.
- 182 (13) DEPOSIT OF FUNDS.—All funds required to be paid to the
- 183 division ~~Department of State~~ pursuant to this section shall be
- 184 collected and deposited into the General Revenue Fund.
- 185 (14) PROHIBITION.—A fictitious name registered as provided
- 186 in this section may not contain the following words,
- 187 abbreviations, or designations:
- 188 (a) "Corporation," ~~or~~ "incorporated," ~~or~~ the abbreviations
- 189 "Corp.," or "Inc.," unless the person or business for which the
- 190 name is registered is incorporated or has obtained a certificate
- 191 of authority to transact business in this state pursuant to ~~part~~
- 192 ~~of~~ chapter 607 or chapter 617.
- 193 (b) "Limited liability company," "LLC," or "L.L.C.," unless
- 194 the person or business for which the name is registered is
- 195 organized as a limited liability company or has obtained a
- 196 certificate of authority to transact business in this state
- 197 pursuant to chapter 605.
- 198 (c) "Limited liability partnership," "LLP," or "L.L.P.,"
- 199 unless the person or business for which the name is registered
- 200 is organized as a limited liability partnership or has in effect
- 201 a statement of foreign qualification in this state pursuant to
- 202 ss. 620.81001-620.9902.
- 203 (d) "Limited partnership," "limited liability limited

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- 204 partnership," "LP," "L.P.," "LLLP," or "L.L.L.P.," unless the
- 205 person or business for which the name is registered is organized
- 206 as a limited partnership or has obtained a certificate of
- 207 authority to transact business in this state pursuant to ss.
- 208 620.1101-620.2205.
- 209 (e) "Professional association," "P.A.," or "chartered,"
- 210 unless the person or business for which the name is registered
- 211 is organized as a professional corporation pursuant to chapter
- 212 621, or is organized as a professional corporation pursuant to a
- 213 similar law of another jurisdiction and has obtained a
- 214 certificate of authority to transact business in this state
- 215 pursuant to chapter 607.
- 216 (f) "Professional limited liability company," "PLLC,"
- 217 "P.L.L.C.," "PL," or "P.L.," unless the person or business for
- 218 which the name is registered is organized as a professional
- 219 limited liability company pursuant to chapter 621, or is
- 220 organized as a professional limited liability company pursuant
- 221 to a similar law of another jurisdiction and has obtained a
- 222 certificate of authority to transact business in this state
- 223 pursuant to chapter 605.
- 224 (15) LEGAL DESIGNATION OF ENTITY.—Notwithstanding any other
- 225 ~~provision of~~ law to the contrary, a fictitious name registered
- 226 as provided in this section for a corporation, limited liability
- 227 company, limited liability partnership, or limited partnership
- 228 is not required to contain the designation of the type of legal
- 229 entity in which the person or business is organized, including
- 230 the terms "corporation," "limited liability company," "limited
- 231 liability partnership," "limited partnership," or any
- 232 abbreviation or derivative thereof.

577-01904-17

2017346c1

233

Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

346

Meeting Date

Bill Number (if applicable)

Topic Fictitious Names Registration

Amendment Barcode (if applicable)

Name Greg Black

Job Title Attorney

Address 119 S. Monroe Street, Suite 200

Phone 8502059000

Street

Tallahassee

FL

32301

Email greg.black@mhdfirm.com

City

State

Zip

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

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

Representing Business Law Section of the Florida Bar

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

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

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL
22nd District

COMMITTEES:

Appropriations Subcommittee on Finance and Tax,
Chair
Appropriations Subcommittee on Health and
Human Services, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Military and Veterans Affairs, Space, and Domestic
Security

February 24, 2017

The Honorable Dennis Baxley
Senate Committee on Governmental Oversight and Accountability, Chair
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Baxley:

I respectfully request that SB 346, related to *Fictitious Names*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Jay Ferrin/ Staff Director
Tamra Redig/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 404

INTRODUCER: Senator Simmons

SUBJECT: Legislative Ratification

DATE: March 3, 2017

REVISED: _____

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

I. Summary:

SB 404 exempts the adoption of workers' compensation maximum reimbursement allowances and manuals approved by a three-member panel from the legislative ratification requirement of s. 120.541(3), F.S.

II. Present Situation:

Rulemaking Authority and Legislative Ratification

A rule is an "agency statement of general applicability that implements, interprets, or prescribes law or policy."¹ Rulemaking authority is delegated by the Legislature in law to an agency, and authorizes an agency to adopt, develop, establish, or otherwise create a rule.² An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.³ The statutory authority for rulemaking must be specific enough to guide an agency's rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.⁴

Prior to the adoption, amendment, or repeal of any rule, an agency must file a notice of the proposed rule in the Florida Administrative Register.⁵ The notice of the proposed rule must include:

- An explanation of the purpose and effect;
- The specific legal authority for the rule;
- The full text of the rule; and

¹ Section 120.52(16), F.S.

² Section 120.52(17), F.S.

³ See ss. 120.52(8) and 120.536, F.S.

⁴ See *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26 (Fla. 1st DCA 2008) and *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So.2d 594 (Fla 1st DCA 2000).

⁵ See ss. 120.54(2)(a) and 120.55(1)(b), F.S.

- A summary of the agency's statement of estimated regulatory costs (SERC), if one is prepared.⁶

Within 21 days of the notice, the public may provide an agency with information regarding the SERC or provide proposals for a lower cost alternative to the rule.⁷

SERC Requirements

Agencies must prepare the SERC for a rule that has an adverse impact on small businesses or that increases regulatory costs more than \$200,000 within one year after implementation of the rule.⁸

A SERC must include estimates of:

- The number of people and entities effected by the proposed rule;
- The cost to the agency and other governmental entities to implement the proposed rule;
- Transactional costs likely to be incurred by people, entities, and governmental agencies for compliance; and
- An analysis of the proposed rule's impact on small businesses, counties, and cities.⁹

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

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,¹⁰ productivity, or innovation; or
- Regulatory costs, including any transactional costs.¹¹

If the economic analysis results in an adverse impact or regulatory costs in excess of \$1 million within five years after implementation of the rule, then the Legislature must ratify the rule in order for it to take effect.¹²

Workers' Compensation Maximum Reimbursement Allowances

The Department of Financial Services (DFS), Division of Workers' Compensation, provides regulatory oversight of Florida's workers' compensation system. Florida's workers' compensation law provides medically necessary treatment and care for injured employees, including medications. The law provides reimbursement formulas and methodologies to compensate providers of health services, subject to maximum reimbursement allowances (MRAs).

⁶ Section 120.54(3)(a)1., F.S.

⁷ See ss. 120.54(3)(a)1., and 120.541(1)(a), F.S.

⁸ Section 120.541(1)(a), F.S.

⁹ Section 120.541(2)(b)-(e), F.S. A small city has an unincarcerated population of 10,000 or less. A small county has an unincarcerated population of 75,000 or less. A small business employs less than 200 people, and has a net worth of \$5 million or less.

¹⁰ Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

¹¹ Section 120.541(2)(a), F.S.

¹² Section 120.541(3), F.S. Legislative ratification is not required for adoption of federal standards, amendments to the Florida Building Code, or amendments to the Florida Fire Prevention Code. See s. 120.541(4), F.S.

A three-member panel (panel) consisting of the CFO or CFO's designee and two Governor's appointees sets the MRAs.¹³ The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals. In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for treatment, services, and care;¹⁴ the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care;¹⁵ the financial impact of the MRAs on healthcare providers and facilities;¹⁶ and the Health Care Board's most recent maximum allowable rate of increase for hospitals.¹⁷ Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.¹⁸

The panel develops four different reimbursement manuals to determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,¹⁹ while reimbursement for surgical procedures is limited to 140 percent of Medicare.²⁰ The hospital manual sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,²¹ while other outpatient services are limited to 75 percent of usual and customary charges.²² Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.²³ The ambulatory surgical centers manual limits reimbursement to 60 percent of usual and customary as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a \$4.18 dispensing fee.²⁴ Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an \$8.00 dispensing fee.²⁵ Fees may not exceed the schedules adopted under Ch. 440, F.S., and department rule.²⁶

The 2016 Legislature ratified Rule 69L-7.020, F.A.C., which incorporates by reference the Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition, (manual) providing for reimbursement of healthcare providers under the increased MRAs approved by the panel. According to the Statement of Estimated Regulatory Costs (SERC), the

¹³ Section 440.13(12)(a), F.S.

¹⁴ Section 440.13(12)(d)1., F.S.

¹⁵ Section 440.13(12)(d)2., F.S.

¹⁶ Section 440.13(12)(d)3., F.S.

¹⁷ Section 440.13(12)(d)4., F.S.

¹⁸ Section 440.13(12)(d)3., F.S.

¹⁹ Section 440.13(12)(b)4., F.S.

²⁰ Section 440.13(12)(b)5., F.S.

²¹ Section 440.13(12)(b)3., F.S.

²² Section 440.13(12)(a), F.S.

²³ Section 440.13(12)(a), F.S.

²⁴ Section 440.13(12)(c), F.S.

²⁵ *Id.*

²⁶ Section 440.13(13)(b), F.S. The department also has broad rulemaking authority under s. 440.591, F.S.

revisions to MRAs in the updated manual were projected to result in increased costs to the overall compensation system of \$272 million over the next five years.²⁷

The DFS has subsequently adopted amended versions of Rule 69L-7.501, F.A.C., incorporating by reference the 2016 Edition of the Manual for Hospitals and Rule 69L-7.100, incorporating by reference the 2016 Edition of the Manual for Ambulatory Surgical Centers. The rules also update incorporating references to other materials used for provider reimbursement together with the manual. The National Council on Compensation Insurance, Inc. (NCCI) estimates that the 2016 hospital manual will increase workers' compensation system costs by 2.2 percent (\$80 million) and that the 2016 ambulatory surgical center manual will increase workers' compensation system costs by 0.6 percent (\$22 million). Because the SERC for these rules exceeds \$1 million within five years of adoption, Legislative ratification is required for these rules to become effective, pursuant to s. 120.541(3), F.S.

III. Effect of Proposed Changes:

The bill exempts the adoption of workers' compensation maximum reimbursement allowances and manuals approved by a three-member panel from the legislative ratification requirement of s. 120.541(3), F.S.

The effective date is July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²⁷ Department of Financial Services Statement of Estimated Regulatory Costs, Workers' Compensation, *Rule 69L-7.020, F.A.C., Florida's Workers' Compensation Health Care Provider Reimbursement Manual* (on file with the Senate Committee on Banking and Insurance).

B. Private Sector Impact:

The NCCI estimates that implementing the 2016 Edition of the Manual for the Ambulatory Surgical Center Reimbursement will increase workers' compensation costs by \$22 million.²⁸ The NCCI also estimates that implementing the 2016 Edition of the Reimbursement Manual for Hospitals will increase overall workers' compensation costs by \$80 million.²⁹

C. Government Sector Impact:

The Department of Financial Services estimates that adoption of the hospital reimbursement manual and the ambulatory surgical center reimbursement manual will have the following financial impact on the workers' compensation expenses of the Department of Risk Management:³⁰

- Hospital reimbursement manual:
 - Fiscal year 2017-18 = \$2,356,502
 - Fiscal year 2018-19 = \$2,437,902
 - Fiscal year 2019-20 = \$2,517,102
- Ambulatory surgical center reimbursement manual:
 - Fiscal year 2017-18 = \$642,682
 - Fiscal year 2018-19 = \$664,882
 - Fiscal year 2019-20 = \$686,482

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 120.80 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.

²⁸ National Council on Compensation Insurance, Inc., *Analysis of Proposed Changes to the Florida ASC Maximum Reimbursements Proposed to be Effective July 1, 2017*, April 13, 2016 (on file with the Senate Committee on Banking and Insurance).

²⁹ National Council on Compensation Insurance, Inc., *Analysis of Proposed Changes to the Florida Reimbursement Manual for Hospitals Proposed to be Effective July 1, 2017*, April 14, 2016 (on file with the Senate Committee on Banking and Insurance).

³⁰ Florida Department of Financial Services, *Analysis of SB 404 to the Senate Budget Committee*, February 7, 2017 (on file with the Senate Committee on Banking and Insurance).

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 Simmons

9-00490-17

2017404__

1 A bill to be entitled
2 An act relating to legislative ratification; amending
3 s. 120.80, F.S.; providing that the maximum
4 reimbursement allowances and manuals approved by a
5 three-member panel for purposes of the Workers'
6 Compensation Law are exempt from legislative
7 ratification under the Administrative Procedure Act
8 when the adverse impact or regulatory costs of such
9 allowances or manuals exceed any criteria specified in
10 s. 120.541(2)(a), F.S.; providing an effective date.
11

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

13
14 Section 1. Subsection (19) is added to section 120.80,
15 Florida Statutes, to read:
16 120.80 Exceptions and special requirements; agencies.-
17 (19) DEPARTMENT OF FINANCIAL SERVICES.-Section 120.541(3)
18 does not apply to the adoption of maximum reimbursement
19 allowances and manuals approved by a three-member panel pursuant
20 to s. 440.13(12).
21 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17 Meeting Date

404 Bill Number (if applicable)

Topic Workers' Comp Manual Ratification

Amendment Barcode (if applicable)

Name Kimberly Renspie

Job Title Legislative Analyst

Address 200 E. Gaines St.

Phone 850-413-5939

Street

Tallahassee, FL

32301

City

State

Zip

Email kimberly.renspie@myfloridacfo.com

Speaking: [] For [] Against [] Information

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

Representing DFS

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

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

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

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



The Florida Senate

Committee Agenda Request

To: Senator Dennis Baxley, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: February 23, 2017

I respectfully request that **Senate Bill 404**, relating to Legislative Ratification, be placed on the:

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

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

Senator David Simmons
Florida Senate, District 9

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 612

INTRODUCER: Senator Gibson

SUBJECT: Federal Matching Funds Information

DATE: March 3, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Ferrin	GO	Favorable
2.			JU	
3.			AP	

I. Summary:

SB 612 requires each state agency and the judicial branch to provide, as part of its annual legislative budget request, specified information concerning federally funded programs.

The bill has an effective date of July 1, 2017.

II. Present Situation:

Planning and Budgeting

Chapter 216, F.S., relates to planning and budgeting, provides guidance to the Governor, the judicial branch, and state agencies for developing and submitting legislative budget requests and administering legislative appropriations.

Section 216.023, F.S., requires the head of each state agency to submit a final legislative budget request to the Legislature and to the Governor based on the agency's independent judgment of its needs by October 15 of each year. The legislative budget request must include specified information for each program such as the authority for the program, details on trust funds and fees, and the total number of positions.

Section 216.103, F.S., directs state agencies which receive federal funds to:

- Designate a senior official having a direct reporting relationship to the agency head to be responsible for the internal coordination of the agency's efforts to maximize the amount of federally derived dollars the agency receives.
- Create and maintain an inventory of all programs which are partially or fully funded from federal sources and provide reports to the Executive Office of the Governor or legislative committees, as requested.

- Develop, document, and implement, in a manner prescribed by the Executive Office of the Governor, an internal process whereby information on all federal funds received, as well as the impact of congressional initiatives on the state, can be collected, assimilated, and evaluated rapidly.
- Establish and maintain a process to identify and monitor specific opportunities to preserve or enhance the state's share of federal grant-in-aid programs, improve the delivery of services utilizing federal funds, and realize the benefits of additional flexibility given to the state in federal programs.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 216.013, F.S., to conform a cross-reference.

Section 2 of the bill amends s. 216.023, F.S., to provide legislative intent to ensure adequate information is available to make informed budget decisions regarding federal programs that offer matching funding for states that participate in such programs.

This section of the bill further amends s. 216.023, F.S., to require each state agency and the judicial branch to include the following information in its annual legislative budget request for each appropriation category:

- An identification of each program that receives some, but does not maximize available federal matching funding.
- An identification of the amount of state or local funds that would be required to maximize the amount of federal matching funds provided to the state.
- A listing of federal programs that the agency or judicial branch does not participate in, but for which the agency could receive federal funding by participating in such programs.
- An estimate of the amount of federal funds the agency or state does not draw down as a result of non-participation in the federal match programs identified.

Section 3 of the bill provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 216.013 and 216.023 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 Gibson

6-01002-17

2017612__

1 A bill to be entitled
2 An act relating to federal matching funds information;
3 amending s. 216.013, F.S.; conforming a cross-
4 reference; amending s. 216.023, F.S.; requiring each
5 state agency and the judicial branch to provide, as a
6 part of the legislative budget request, specified
7 information concerning federal programs; providing an
8 effective date.

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

12 Section 1. Paragraph (h) of subsection (1) of section
13 216.013, Florida Statutes, is amended to read:

14 216.013 Long-range program plan.—State agencies and the
15 judicial branch shall develop long-range program plans to
16 achieve state goals using an interagency planning process that
17 includes the development of integrated agency program service
18 outcomes. The plans shall be policy based, priority driven,
19 accountable, and developed through careful examination and
20 justification of all agency and judicial branch programs.

21 (1) Long-range program plans shall provide the framework
22 for the development of budget requests and shall identify or
23 update:

24 (h) Legislatively approved output and outcome performance
25 measures. Each performance measure must identify the associated
26 activity contributing to the measure from those identified in
27 accordance with s. 216.023(4)(c) ~~216.023(4)(b)~~.

28 Section 2. Present paragraph (b) of subsection (4) of
29 section 216.023, Florida Statutes, is redesignated as paragraph
30 (c), and a new paragraph (b) is added to that subsection, to
31 read:

32 216.023 Legislative budget requests to be furnished to

Page 1 of 2

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

6-01002-17

2017612__

33 Legislature by agencies.—

34 (4)

35 (b) It is the intent of the Legislature to ensure that
36 adequate information is made available to allow it to make
37 informed budget decisions regarding federal programs that offer
38 funding matches for states that participate in such programs.
39 Therefore, each state agency and the judicial branch must submit
40 for each appropriation category within its respective
41 jurisdiction the following information as part of the annual
42 legislative budget request:

43 1. An identification of each program that receives some,
44 but does not maximize, available federal matching funds.

45 2. An identification of the amount of state or local funds
46 that would be required to maximize the amount of federal
47 matching funds provided to the state.

48 3. A listing of federal programs that the agency or
49 judicial branch does not participate in, but for which the
50 agency could receive federal funding by participating in such
51 programs.

52 4. An estimate of the amount of federal funds that the
53 agency or state does not draw down as a result of non-
54 participation in the federal match programs identified in
55 subparagraph 3.

56 Section 3. This act shall take effect July 1, 2017.

Page 2 of 2

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



THE FLORIDA SENATE

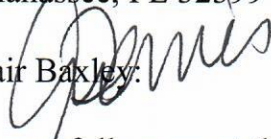
Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Judiciary
Regulated Industries
Joint Legislative Auditing Committee

SENATOR AUDREY GIBSON
6th District

February 9, 2017

Senator Dennis Baxley, Chair
Committee on Government Oversight and Accountability
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

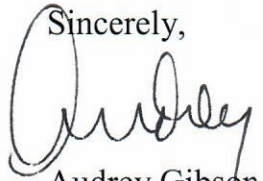
Chair Baxley: 

I respectfully request that SB 612, relating to federal matching funds information, be placed on the next committee agenda.

SB 612, requires each state agency and judicial branch to provide, as a part of the legislative budget request, specific information concerning federal programs that allow the state to draw down federal dollars.

Thank you for your time and consideration.

More money for us!

Sincerely,

Audrey Gibson
State Senator
District 6

REPLY TO:
 101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904)359-2553 FAX: (904) 359-2532
 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1020
INTRODUCER: Senator Powell
SUBJECT: Collective Bargaining Impasses
DATE: March 3, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ferrin	Ferrin	GO	Favorable
2.			AP	

I. Summary:

SB 1020 changes the timeline for the Legislature’s resolution of impasses in collective bargaining negotiations between public employees and the state. The bill requires the parties at impasse to notify the presiding officers of the legislature of all unresolved issues by the first day of the regular session instead of five days after an impasse is declared.

The bill also changes the date by which a committee of the legislature must meet to conduct a public hearing and take testimony regarding the issues at impasse to no later than the 14th day of the regular session.

The bill has an effective date of July 1, 2017.

II. Present Situation:

Collective Bargaining

Public employees in Florida may not strike, but have a constitutional right to collectively bargain.¹ Statewide regulations for collective bargaining amongst public employees are addressed in part II of chapter 447, F.S.² The purpose of collective bargaining is to encourage “cooperative relationships between the government and its employees,” and provide public employees with a means to participate in the establishment of their employment conditions.³ Section 447.309, F.S., requires any matter addressing a public employee’s “wages, hours, and terms and conditions of employment” to be collectively bargained in good faith.

¹ FLA. CONST. Art. I, s. 6.

² See s. 447.201, F.S., The Public Employees Relations Act provides statutory implementation of the 1968 amendment to Art. I, s. 6 of the State Constitution.

³ Section 447.201, F.S., See also, Public Employees Relations Commission, A Practical Handbook on Florida’s Public Employment Collective Bargaining Law, at 3 (2d ed. 2004).

Collective bargaining pursuant to chapter 447, F.S., consists of a series of negotiations between a public employer's chief executive officer⁴ and the selected bargaining agent⁵ for an employee organization regarding the terms and conditions of employment.⁶

Any collective bargaining agreement that is reached must be placed in writing and signed by both the chief executive officer and the bargaining agent. The agreement is effective for a period of not more than three years, at which point the contract must be renegotiated.⁷

Impasse

If the parties cannot reach a collective bargaining agreement after a reasonable period of negotiation, an impasse is declared. The procedural guidelines to resolve a collective bargaining impasse between the parties are outlined in s. 447.403, F.S.

When the public employer is not the state, either party can declare a written impasse to the Public Employees Relations Commission (PERC)⁸. The PERC is an independent agency created to assist in resolving disputes between public employers and their employees.⁹ The impasse may be resolved through mediation or the use of a Special Magistrate¹⁰. Should mediation fail to achieve resolution, and either party rejects all or part of the Special Magistrate's recommendations, the employer's chief executive officer is required to direct the dispute to the appropriate legislative body¹¹ for a final disposition.¹² The legislative body will hold a public hearing where each party has an opportunity to present their argument before the legislative body issues a final resolution pursuant to "the public interest [and] the interest of the public employees involved."¹³

When the Governor is the public employer, either party may declare impasse. However, if there are unresolved issues at the time the Governor is required to submit the recommended budget, a

⁴ Section 447.203(9), F.S., defines "chief executive officer" as the Governor for the state and for all other public employees, the person selected or appointed that is "responsible to the legislative body of the public employer for the administration of the governmental affairs of the public employer."

⁵ The term "bargaining agent" is defined in s. 447.203(12), F.S., as the employee organization certified by the Public Employees Relations Commission (PERC) to represent the employees in the bargaining unit, as provided in s. 447.307, F.S., or its representative. Section 447.203(8), F.S., defines "bargaining unit" as a unit determined by either the PERC, through local regulations promulgated pursuant to s. 447.603, F.S., or by the public employer and the public employee organization; that is approved by the PERC to be appropriate for the purposes of collective bargaining.

⁶ Section 447.203(14), F.S.

⁷ Section 447.309(5), F.S.

⁸ Section 447.403(1), F.S.

⁹ Section 447.201(3), F.S.

¹⁰ Sections 447.403(1)-(3), F.S.

¹¹ Section 447.203(10), F.S., defines "legislative body" as the State Legislature, the board of county commissioners, the district school board, the governing body of a municipality, or the governing body of an instrumentality or unit of government having authority to appropriate funds and establish policy governing the terms and conditions of employment and, which as the case may be, is the appropriate legislative body for the bargaining unit. For purposes of s. 447.403, F.S., the Board of Governors of the State University System, or the board's designee, shall be deemed to be the legislative body with respect to all employees of each constituent state university. For purposes of s. 447.403, F.S., the board of trustees of a community college shall be deemed to be the legislative body with respect to all employees of a community college.

¹² Section 447.403(4), F.S.

¹³ Section 447.403(4)(c)-(e), F.S.

“statutory” impasse is declared in all collective bargaining negotiations.¹⁴ Absent written approval from the President of the Senate and the Speaker of the House of Representatives, the Governor must submit a recommended budget to the Legislature at least 30 days before the start of the scheduled annual legislative session.¹⁵ After a declaration of impasse, the parties proceed directly to the Legislature for resolution.¹⁶ Section 447.403(5)(a), F.S., requires parties at impasse to send unresolved issues to the President of the Senate and the Speaker of the House of Representatives within five days of the declaration of impasse. The presiding officers then appoint a joint select committee to review the parties’ positions and return a report no later than ten days before the start of the legislative session.¹⁷ During the Session, the Legislature is required to issue a final resolution pursuant to “the public interest [and] the interest of the public employees involved.”¹⁸

Sessions of the Legislature

The time to convene the 60-day Regular Session¹⁹ of the Legislature is prescribed by the State Constitution. Specifically, Subsection (b) of Section 3 of Article III of the State Constitution provides:

A regular session of the legislature shall convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year.²⁰

Chapter 2016-218, Laws of Florida, set January 9, 2018, as the date to convene the 2018 Regular Session. That law applies only to the 2018 Regular Session, however, the legislature historically convenes in January during reapportionment years²¹ and elected to begin its regular session in January in 2016 as well.²²

III. Effect of Proposed Changes:

Section 1 amends 447.403(a), F.S., to require the parties at impasse to notify the presiding officers of the legislature of all unresolved issues by the first day of the regular session instead of five days after the Governor is required to produce a recommended budget. The bill also changes the date by which a committee of the legislature must meet to conduct a public hearing and take testimony regarding the issues at impasse to no later than the 14th day of the regular session.

Section 2 provides an effective date of July 1, 2017.

¹⁴ Section 216.163(6), F.S.

¹⁵ Section 216.162(1).

¹⁶ Section 447.403(2)(b), F.S.

¹⁷ Section 447.403(5)(a), F.S.

¹⁸ Section 447.403(4)(c)-(e), F.S.

¹⁹ The length of the regular session is prescribed in Article III, s. 3(d), Florida Constitution.

²⁰ FLA. CONST Art. III, s. 3(b).

²¹ Chapter 2010-91, Laws of Fla.

²² Chapter 2014-106, Laws of Fla.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Changes in the bill provide impacted parties with 30 days to continue negotiating issues at impasse before sending those issues to the legislature for resolution, which may result in additional agreements being reached prior to legislative resolution. However, it is likely that economic issues like salaries, overtime compensation, retirement benefits, health insurance benefits, deferred compensation benefits, leave policies, and other compensation issues will still require legislative resolution.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill allows the legislative committee to meet during the first two weeks of regular session instead of ten days before the start of session. When the legislature opts to convene itself in January, this will prevent the jointly appointed committee from having to conduct a public hearing the week between the Christmas and New Year's holidays.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes:
447.403.

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 Powell

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A bill to be entitled

An act relating to collective bargaining impasses;
amending s. 447.403, F.S.; revising notice
requirements for issues at impasse; providing an
effective date.

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

Section 1. Paragraph (a) of subsection (5) of section
447.403, Florida Statutes, is amended to read:

447.403 Resolution of impasses.—

(5) (a) By the first day of the regular session of the
Legislature ~~Within 5 days after the beginning of the impasse
period in accordance with s. 216.163(6), each party shall notify
the President of the Senate and the Speaker of the House of
Representatives as to all unresolved issues. Upon receipt of the
notification, the presiding officers shall appoint a joint
~~select~~ committee to review the position of the parties relating
to and render a recommended resolution of all issues remaining
at impasse. No later than the 14th day of the regular session of
the Legislature, the committee shall conduct a public hearing to
take testimony regarding the issues at impasse ~~The recommended
resolution shall be returned by the joint select committee to
the presiding officers not later than 10 days prior to the date
upon which the legislative session is scheduled to commence.~~
During the legislative session, the Legislature shall take
action in accordance with this section.~~

Section 2. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 764

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Baxley

SUBJECT: Tax Exemptions for First Responders and Surviving Spouses

DATE: March 7, 2017 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Ferrin	GO	Fav/CS
2.			CA	
3.			AFT	
4.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 764 provides an exemption from ad valorem taxation for first responders who are totally and permanently disabled as a result of injuries sustained in the line of duty and to their surviving spouses.

The bill also provides application requirements and specifies documentation required to receive the exemption, including a physician's and an employer's certificate. Additionally, the bill provides penalties for any person submitting false information for purposes of claiming the exemption.

The bill authorizes the Department of Revenue to adopt emergency rules for initial implementation. The bill also provides rulemaking authority, provides procedures for applying for the exemption, and provides circumstances for denying the exemption.

The bill takes effect upon becoming a law.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵ Accordingly, the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution.

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Overview of the Value Adjustment Board Process

Each property appraiser submits the county’s tax roll to the Department of Revenue (DOR) for review by July 1 of each year for assessments as of the prior January 1.¹¹ In August, the property appraiser sends a Truth in Millage (TRIM) notice to all taxpayers providing specific tax

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Section 193.1142(1), F.S.

information about their parcel.¹² Taxpayers who disagree with the property appraiser's assessment or the denial of an exemption or property classification may:

- Request an informal meeting with the property appraiser;¹³
- Appeal the assessment by filing a petition with the county Value Adjustment Board (VAB);¹⁴ or
- Challenge the assessment in circuit court.¹⁵

Each county has a VAB, comprised of two members of the governing body of the county, one member of the school board and two citizen members appointed by the governing body of the county.¹⁶ The county clerk acts as the clerk of the VAB.¹⁷ A property owner may initiate a review by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.¹⁸

The clerk of the VAB is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling hearings.

Current law requires VABs to render a written decision within 20 calendar days after the last day the board is in session.¹⁹ The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.²⁰ If a special magistrate has been appointed, the recommendations of the special magistrate must be considered by the VAB.²¹ The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB. If requested by the Department of Revenue (DOR), the clerk must provide to the DOR a copy of the decision or information relating to the tax impact of the findings and results of the board as described in s. 194.037, F.S., in the manner and form requested.

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.²² The following information discusses the constitutional authority for exemptions that disabled persons may receive.

¹² Section 200.069, F.S.

¹³ Section 194.011(2), F.S.

¹⁴ Section 194.011(3), F.S.

¹⁵ Section 194.171, F.S.

¹⁶ Section 194.015, F.S.

¹⁷ *Id.*

¹⁸ Section 194.011(3)(d), F.S.

¹⁹ Section 194.034(2), F.S.

²⁰ *Id.*; See also Rules 12D-9.030, 12D-9.032, and 12D-10.003(3), F.A.C.

²¹ Section 194.034(2), F.S.

²² *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); See also *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

Homestead Exemption

Although not specific to disabled persons, the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies, including levies by school districts.²³ An additional \$25,000 homestead exemption applies to a homestead's property value between \$50,000 and \$75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.²⁴

General Disability Exemption

The Florida Constitution provides broad authority for exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled.²⁵ The Legislature has implemented this provision through various property tax exemptions in ch. 196, F.S.

Full Homestead Exemption for Paraplegic, Hemiplegic and Totally and Permanently Disabled Persons confined to Wheelchairs

Section 196.101, F.S., provides a full property tax exemption for any real estate used and owned as a homestead by any quadriplegic, and any real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair for mobility, or who is legally blind.²⁶ Generally, in order to qualify for the exemption, the taxpayer must submit evidence of such disability as certified by two licensed physicians of this state or the United States Department of Veterans Affairs or its predecessor.²⁷ Except for a quadriplegic, applicants must also show that they meet certain income limitations.²⁸

Full Homestead Exemption for Totally and Permanently Disabled Veterans

Section 196.081(1), F.S., provides a full property tax exemption for the homesteads of totally and permanently disabled veterans who were honorably discharged with a service-connected disability and have a letter from the United States Government certifying their disability are also exempt.

Full Homestead Exemption for Veterans confined to Wheelchairs

Section 196.091, F.S., provides a full property tax exemption for the homesteads of totally disabled veterans who were honorably discharged with a service-connected disability and have a letter from the United States Government certifying that the ex-service member is receiving or has received special pecuniary assistance for specially adopted housing due to the ex-service member's need for a wheelchair.

²³ FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

²⁴ FLA. CONST. art VII, s. 6(a)

²⁵ FLA. CONST. art. VII, s. 3(b)

²⁶ Section 196.101(1)-(2), F.S.

²⁷ Section 196.101(3), F.S.

²⁸ Section 196.101(4), F.S.

Proportional Homestead Discount for Combat-disabled Veterans

The Florida Constitution provides a property tax discount to honorably discharged veterans, age 65 or older who are permanently disabled due to a combat-related injury.²⁹ The discount applies for partial or total disabilities. For partially disabled persons, the discount is in proportion to the percentage of their disability.

Homestead Exemption for Surviving Spouses of Veterans and First Responders

The Florida Constitution also authorizes the Legislature to provide, by general law, ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces, as well as the surviving spouse of a first responder who died in the line of duty.³⁰ This constitutional provision is implemented in s. 196.081, F.S. The Constitution defines “first responder” as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.³¹

The Constitution defines “in the line of duty” as arising out of and in the actual performance of duty required by employment as a first responder.³² This term is further defined in statute to include:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities listed above if the training has been authorized by the employing entity.³³

The Administrative Procedure Act

The Administrative Procedure Act (APA) in ch. 120, F.S., sets forth uniform procedures that agencies must follow when exercising rulemaking authority. A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency.³⁴ Rulemaking authority is delegated by the Legislature³⁵ through statute and authorizes an agency to “adopt, develop, establish, or otherwise create”³⁶ a rule. Agencies do not have discretion whether to engage in rulemaking.³⁷ To adopt a rule, an agency must have a general grant of authority to implement a specific law through

²⁹ FLA. CONST. art. VII, s. 6(e); s. 196.082, F.S.

³⁰ FLA. CONST. art. VII, s. 6(f).

³¹ FLA. CONST. art. VII, s. 6(f)(3).

³² FLA. CONST. art. VII, s. 6(f)(3).

³³ Section 196.081(6)(c)2.a.-h., F.S.

³⁴ Section 120.52(16), F.S.; *Florida Dep’t of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).

³⁵ *Southwest Fla. Water Mgmt. Dist. v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).

³⁶ Section 120.52(17), F.S.

³⁷ Section 120.54(1)(a), F.S.

rulemaking.³⁸ The grant of rulemaking authority itself need not be detailed.³⁹ The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.⁴⁰ A delegation of authority to an administrative agency by a law that is vague, uncertain, or so broad as to give no notice of what actions would violate the law, may unconstitutionally allow the agency to make the law.⁴¹ Because of this constitutional limitation on delegated rulemaking, the Legislature must provide minimal standards and guidelines in the law creating a program to provide for its proper administration by the assigned executive agency. The Legislature may delegate rulemaking authority to agencies but not the authority to determine what should be the law.⁴²

In 1996, the Legislature extensively revised⁴³ agency rulemaking under the Administrative Procedure Act (APA)⁴⁴ to require both an express grant of rulemaking authority and a specific law to be implemented by the rule.

Emergency rules are effective for a maximum of 90 days and are not renewable, except when the agency has proposed rules addressing the subject of the emergency rule and either a challenge to the proposed rule is pending or the proposed rule requires legislative ratification.⁴⁵ An emergency rule becomes effective immediately upon filing or a date less than 20 days after filing, if specified in the rule.⁴⁶

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 196.011(1)(b), F.S., to add a reference to the exemption for certain totally and permanently disabled first responders and for their surviving spouses contained in newly created s. 196.102, F.S., to the list of exemptions for which the application form must include a space for social security numbers of the applicant and the applicant's spouse.

Section 2 of the bill implements the language of Amendment 3 passed in the November 8, 2016, general election by creating s. 196.102, F.S.

This section defines "disabled" as a physical or cognitive impairment that constitutes or results in a substantial impediment to employment as a first responder. The term does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

³⁸ Sections 120.52(8) and 120.536(1), F.S.

³⁹ *Southwest Fla. Water Mgmt. Dist.*, Supra at 599.

⁴⁰ *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008) (internal citations omitted); *Bd. of Trustees of the Internal Improvement Trust Fund v. Day Cruise Assoc., Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

⁴¹ *Conner v. Joe Hatton, Inc.*, 216 So.2d 209 (Fla.1968).

⁴² *Sarasota County. v. Barg*, 302 So.2d 737 (Fla. 1974).

⁴³ Ch. 96-159, Laws of Fla.

⁴⁴ Chapter 120, F.S.

⁴⁵ Section 120.54(4)(c), F.S.

⁴⁶ Section 120.54(4)(d), F.S.

This section defines “first responder” as a law enforcement officer or correctional officer as defined in s. 943.10, F.S.,⁴⁷ a firefighter as defined in s. 633.102, F.S.,⁴⁸ or an emergency medical technician or paramedic as defined in s. 401.23, F.S.,⁴⁹ who is a full-time paid employee, part-time paid employee, or unpaid volunteer.

This section defines “cardiac event” as a heart attack, stroke or vascular rupture.

This section defines “in the line of duty” to mean:

- While engaging in activities within the course and scope of employment as a first responder;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities enumerated in this paragraph if the training has been authorized by the employing entity.

The bill provides that total and permanent disability that results from a cardiac event does not qualify for the exemption unless the cardiac event occurs no later than 24 hours after the first responder performed nonroutine stressful or strenuous physical activity in the line of duty and the first responder provides the employer with competent medical evidence showing that:

- The nonroutine stressful or strenuous activity directly and proximately caused the cardiac event that gave rise to the first responder’s total and permanent disability; and
- The cardiac event was not caused by preexisting vascular disease.

⁴⁷ Section 943.10(1), F.S., defines “law enforcement officer” as any person who is elected, appointed, or employed full-time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. Section 943.10(2), F.S., defines “correctional officer” as any person who is appointed or employed full-time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.

⁴⁸ Section 633.102(9), F.S. defines “firefighter” as an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division [of State Fire Marshal within the Department of Financial Services] under s. 633.408, F.S.

⁴⁹ Section 401.23(11), F.S., defines “emergency medical technician” as a person who is certified by the department [of Health] to perform basic life support pursuant to this part. Section 401.23(17), F.S., defines “Paramedic” as a person who is certified by the department [of Health] to perform basic and advanced life support pursuant to this part.

This section notes that these definitions are not applicable to the payment of benefits under ss. 112.19⁵⁰ and 112.191, F.S.⁵¹

The bill exempts from taxation any real estate that is owned and used as a homestead by a person who is totally and permanently disabled because of an injury or injuries sustained in the line of duty as a first responder. The first responder must be a permanent resident of Florida on January 1 of the tax year for which the exemption is claimed.

If the first responder provides the following documents to the property appraiser of the county where the property is located, they serve as prima facie evidence that the first responder is entitled to the exemption:

- A certificate of total and permanent disability, in a specified form, from two licensed physicians of this state who are professionally unrelated attesting to the applicant’s total and permanent disability.
- A certificate from the organization that employed the first responder at the time that the injury or injuries occurred.

Physician’s Certification of Total and Permanent Disability

The bill requires the physician’s certificate to read as follows:

Physician’s Certification of Total and Permanent Disability

I,...(name of physician)..., a physician licensed pursuant to chapter 458 or chapter 459, Florida Statutes, hereby certify that Mr.....Mrs.....Miss.... Ms.....(applicant name and social security number), is totally and permanently disabled, due to the following mental or physical condition(s):

It is my professional belief that the above-named condition(s) render Mr.....Mrs.....Miss.... Ms.....(applicant name)... totally and permanently disabled, and that the foregoing statements are true, correct, and complete to the best of my knowledge and professional belief.

Signature. . . .

Address (print). . . .

Date. . . .

Florida Board of Medicine or Osteopathic Medicine license number issued on. . . .

⁵⁰ Death benefits for law enforcement, correctional and probation officers.

⁵¹ Death benefits for firefighters.

Employer Certificate

The employer certificate must, at a minimum, attest and include the title of the person signing the certificate, the name and address of the employing entity, a description of the incident that caused the injury or injuries, and a statement that the first responder's injury or injuries were:

- Directly and proximately caused by service in the line of duty.
- Without willful negligence on the part of the first responder.
- The sole cause of the first responder's total and permanent disability.

In addition, the employer certificate must be supplemented with extant documentation of the incident or event that caused the injury, such as an accident or incident report. The first responder may deliver the original employer certificate to the property appraiser's office or the first responder's employer may directly transmit the employer certificate to the applicable property appraiser.

Surviving Spouse

The bill provides that any real estate owned and used as a homestead by the surviving spouse of a first responder who dies but who had been receiving a tax exemption under the provision for first responders who were totally and permanently disabled because of injuries received in the line of duty is exempt from taxation.

The above tax exemptions for the surviving spouse apply as long as the surviving spouse holds the legal or beneficial title to the homestead, permanently resides thereon as specified in s. 196.031, F.S.,⁵² and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted under the most recent ad valorem tax roll may be transferred to the new residence if it is used as the surviving spouse's primary residence and he or she does not remarry.

Application for Exemption

The bill provides that a first responder may apply for the exemption before producing the necessary documentation. Upon receipt of the documentation, the property appraiser will grant the exemption as of the date of the original application and the excess taxes paid shall be refunded. Any refund of excess taxes paid shall be limited to those paid during the 4-year period of limitation set forth in s. 197.182(1)(e), F.S.

The provisions of s. 196.011(9), F.S., for waiving the requirement for property owners to submit an annual application to the property appraiser also apply to applications made under this section.

Penalties

The bill provides that any person who knowingly or willfully gives false information for the purpose of claiming homestead exemption under this section is guilty of a misdemeanor of the

⁵² Exemption of homesteads.

first degree, punishable as provided in s. 775.082, F.S.,⁵³ or by fine of not more than \$5,000, or both.

Administrative Rules

This section authorizes and provides that the Department of Revenue may adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., for the administration the application process for the 2017 calendar year. This provision is repealed on August 30, 2018.

The bill also authorizes and provides that the Department of Revenue may adopt rules to administer this section.

The bill provides that notwithstanding the provisions of ss. 196.011 and 196.102, F.S., the deadline for a first responder to file an application with the property appraiser for an exemption under s. 196.102, F.S., for the 2017 tax year is August 1, 2017.

The property appraiser may grant an application for an exemption that is filed untimely if:

- The applicant is qualified for the exemption; and
- The applicant produces sufficient evidence, as determined by the property appraiser, which demonstrates that the applicant was unable to apply for the exemption in a timely manner or otherwise demonstrates extenuating circumstances that warrant granting the exemption.

The deadline for the property appraiser to serve notice setting forth grounds for denial of exemption, as provided in s. 196.011(6)(a), F.S., is extended to 30 days after the date the application for exemption is submitted. If the property appraiser denies an application under this section, the applicant may file a petition with the value adjustment board as set forth in s. 194.011(3), F.S. The petition must be filed on or before the 25th day after the mailing by the property appraiser during the 2017 calendar year of the notice required under s. 194.011(1), F.S. Notwithstanding s. 194.013, F.S., the eligible first responder is not required to pay a filing fee for such petition. Upon review of the petition, the value adjustment board shall grant the exemption if it determines the applicant is qualified and has demonstrated the existence of extenuating circumstances warranting the exemption

Section 3 of the bill specifies that this act operates prospectively to the 2017 tax roll and does not provide a basis for relief from an assessment of unpaid taxes or create a right to a refund of taxes paid before January 1, 2017.

Section 4 of the bill provides that it takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of section 18, Article VII of the Florida Constitution that prohibit the Legislature from reducing the authority that municipalities or counties have to raise

⁵³ A person convicted of a misdemeanor of the first degree may be sentenced by a definite term of imprisonment not exceeding 1 year.

revenue may apply because this bill reduces ad valorem tax bases compared to the tax bases that would exist under current law. However, an exception exists for laws having an insignificant fiscal impact⁵⁴, which for Fiscal Year 2016-2017 was \$2 million or less.⁵⁵

The Revenue Estimating Conference has not examined the fiscal impact of this bill. If the fiscal impact is not insignificant, the bill may qualify as a mandate because it does not appear to qualify under any other exemption or exception, and final passage by two-thirds of the membership of each house of the Legislature would be required for the law to take effect.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill. Staff estimates that it will reduce local property taxes for assessments as of January 1, 2017.

B. Private Sector Impact:

Totally and permanently disabled first responders that qualify for homestead exemption will pay less property taxes.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁵⁴ FLA. CONST. art. VII, s. 18(d).

⁵⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 13, 2017). Based on the Demographic Estimating Conference's population adopted on November 1, 2016. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 13, 2017).

VIII. Statutes Affected:

This bill substantially amends sections 196.011 and 196.081 of the Florida Statutes.

This bill creates section 196.102 of the Florida Statutes.

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

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

CS by Governmental Oversight and Accountability on March 6, 2017:

The Committee Substitute:

- Leaves s. 196.091(6), F.S.(exemption for surviving spouse of first responder who dies in the line of duty) where it is in statute and does not move this exemption to newly created s. 196.02, F.S.;
- Adds definition of “cardiac event” and revises definition of “in the line of duty”;
- Revises application requirements to remove Department of Veteran Affairs as an option for providing physician letter;
- Revises application procedures to allow first responder to deliver employer certification to property appraiser;
- Revises procedures for denying exemption by property appraiser and provides additional time to issue notice of denial from date of application;
- Changes effective date from July 1, 2017, to effective upon becoming a law.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (1) of section
196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.—

(1)

(b) The form to apply for an exemption under s. 196.031, s.
196.081, s. 196.091, s. 196.101, 196.102, s. 196.173, or s.



11 196.202 must include a space for the applicant to list the
12 social security number of the applicant and of the applicant's
13 spouse, if any. If an applicant files a timely and otherwise
14 complete application, and omits the required social security
15 numbers, the application is incomplete. In that event, the
16 property appraiser shall contact the applicant, who may refile a
17 complete application by April 1. Failure to file a complete
18 application by that date constitutes a waiver of the exemption
19 privilege for that year, except as provided in subsection (7) or
20 subsection (8).

21 Section 2. Section 196.102, Florida Statutes, is created to
22 read:

23 196.102 Exemption for certain totally and permanently
24 disabled first responders and their surviving spouses.-

25 (1) As used in this section, and not applicable to the
26 payment of benefits under s. 112.19 or s. 112.191, the term:

27 (a) "Disabled" means a physical or cognitive impairment
28 that constitutes or results in a substantial impediment to
29 employment as a first responder. The term does not include a
30 chronic condition or chronic disease, unless the injury
31 sustained in the line of duty was the sole cause of the chronic
32 condition or chronic disease.

33 (b) "First responder" means a law enforcement officer or
34 correctional officer as defined in s. 943.10, a firefighter as
35 defined in s. 633.102, or an emergency medical technician or
36 paramedic as defined in s. 401.23 who is a full-time paid
37 employee, part-time paid employee, or unpaid volunteer.

38 (c) "Cardiac event" means a heart attack, stroke or
39 vascular rupture.



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40 (d) "In the line of duty" means:

41 1. While engaging in activities within the course and scope
42 of employment as a first responder;

43 2. While performing an activity relating to fire
44 suppression and prevention;

45 3. While responding to a hazardous material emergency;

46 4. While performing rescue activity;

47 5. While providing emergency medical services;

48 6. While performing disaster relief activity;

49 7. While otherwise engaging in emergency response activity;

50 or

51 8. While engaging in a training exercise related to any of
52 the events or activities enumerated in this paragraph if the
53 training has been authorized by the employing entity.

54 (2) Any real estate that is owned and used as a homestead
55 by a person who is totally and permanently disabled as a result
56 of an injury or injuries sustained in the line of duty while
57 serving as a first responder is exempt from taxation if the
58 first responder is a permanent resident of this state on January
59 1 of the tax year for which the exemption is being claimed. (3)
60 The following documents, if provided Certification to the
61 property appraiser of the county where the property is located,
62 serve as prima facie evidence that the first responder is
63 entitled to the exemption:

64 (a) A certificate of total and permanent disability, in the
65 form set forth in subsection (7), from two licensed physicians
66 of this state who are professionally unrelated, attesting to the
67 applicant's total and permanent disability.

68 (b) A certificate from the organization that employed the



69 first responder at the time that the injury or injuries
70 occurred. The employer certificate must contain, at a minimum,
71 the information identified in subsection (8). The employer
72 certificate shall be supplemented with extant documentation of
73 the incident or event that caused the injury, such as an
74 accident or incident report. The first responder may deliver the
75 original employer certificate to the property appraiser's office
76 or the first responder's employer may directly transmit the
77 employer certificate to the applicable property appraiser.

78
79 Total and permanent disability that results from a cardiac event
80 does not qualify for the exemption provided in this section
81 unless the cardiac event occurs no later than 24 hours after the
82 first responder performed non-routine stressful or strenuous
83 physical activity in the line of duty and the first responder
84 provides the employer with competent medical evidence showing
85 that:

86 1. The non-routine stressful or strenuous activity directly
87 and proximately caused the cardiac event that gave rise to the
88 first responder's total and permanent disability; and

89 2. The cardiac event was not caused by pre-existing
90 vascular disease.

91 (4) (a) Any real estate owned and used as a homestead by the
92 surviving spouse of a first responder who dies but who had been
93 receiving a tax exemption under subsection (2), is exempt from
94 taxation.

95 (b) The tax exemption provided in paragraph (a) applies as
96 long as the surviving spouse holds the legal or beneficial title
97 to the homestead, permanently resides thereon as specified in s.



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98 196.031, and does not remarry. If the surviving spouse sells the
99 property, an exemption not to exceed the amount granted under
100 the most recent ad valorem tax roll may be transferred to the
101 new residence if it is used as the surviving spouse's primary
102 residence and he or she does not remarry.

103 (5) A first responder may apply for the exemption before
104 producing the necessary documentation described in paragraphs
105 (3) (a) or (b). Upon receipt of the documentation, the exemption
106 shall be granted as of the date of the original application and
107 the excess taxes paid shall be refunded. Any refund of excess
108 taxes paid shall be limited to those paid during the 4-year
109 period of limitation set forth in s. 197.182(1) (e).

110 (6) The provisions of s. 196.011(9) waiving the requirement
111 that an annual application be submitted to the property
112 appraiser and providing lien authority are applicable to
113 applications submitted pursuant to this section.

114 (7) The physician's certification shall read as follows:

115
116 PHYSICIAN'S CERTIFICATION OF
117 TOTAL AND PERMANENT DISABILITY

118
119 I, (name of physician), a physician licensed pursuant to chapter
120 458 or chapter 459, Florida Statutes, hereby certify that Mr.
121 Mrs. Miss Ms. (applicant name and social security
122 number), is totally and permanently disabled, due to the
123 following mental or physical condition(s):

124
125 It is my professional belief that the above-named condition(s)
126 render Mr. Mrs. Miss Ms. (applicant name) totally



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127 and permanently disabled, and that the foregoing statements are
128 true, correct, and complete to the best of my knowledge and
129 professional belief.

130
131 Signature

132 Address (print)

133 Date

134 Florida Board of Medicine or Osteopathic Medicine license number

135 Issued on .

136 (8) An employer for whom the first responder worked at the
137 time of the injury must provide a certificate that, at a
138 minimum, attests and includes:

139 (a) The title of the person signing the certificate.

140 (b) The name and address of the employing entity.

141 (c) A description of the incident which caused the injury
142 or injuries.

143 (d) A statement that the first responder's injury or
144 injuries were:

145 1. Directly and proximately caused by service in the line
146 of duty.

147 2. Without willful negligence on the part of the first
148 responder.

149 3. The sole cause of the first responder's total and
150 permanent disability.

151 (9) Any person who knowingly or willfully gives false
152 information for the purpose of claiming homestead exemption as
153 set forth in this section is guilty of a misdemeanor of the
154 first degree, punishable as provided in s. 775.082 or by fine of
155 not more than \$5,000, or both.



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156 (10) The Department of Revenue may, and all conditions are
157 deemed to be met to, adopt emergency rules pursuant to ss.
158 120.536(1) and 120.54 to administer the application process for
159 the 2017 calendar year. This subsection is repealed on August
160 30, 2018.

161 (11) The Department of Revenue may adopt rules to
162 administer this section.

163 (12) Notwithstanding the provisions of ss. 196.011 and
164 196.102 the deadline for a first responder to file an
165 application with the property appraiser for an exemption under
166 s. 196.102 for the 2017 tax year is August 1, 2017. The property
167 appraiser may grant an application for an exemption that is
168 filed untimely if:

169 (a) The applicant is qualified for the exemption; and

170 (b) The applicant produces sufficient evidence, as
171 determined by the property appraiser, which demonstrates that
172 the applicant was unable to apply for the exemption in a timely
173 manner or otherwise demonstrates extenuating circumstances that
174 warrant granting the exemption.

175 (13) If the property appraiser denies an application under
176 subsection (12), the deadline to serve notice setting forth the
177 grounds for denial as provided in s. 196.011(6) (a) is extended
178 to 30 days after the date on which the application for exemption
179 is submitted. A denied applicant may file a petition with the
180 value adjustment board as set forth in s. 194.011(3). The
181 petition must be filed on or before the 25th day after the
182 mailing by the property appraiser during the 2017 calendar year
183 of the notice required under s. 194.011(1). Notwithstanding s.
184 194.013, the eligible first responder is not required to pay a



185 filing fee for such petition. Upon review of the petition, the
186 value adjustment board shall grant the exemption if it
187 determines the applicant is qualified and has demonstrated the
188 existence of extenuating circumstances warranting the exemption.

189 Section 3. This act operates prospectively to the 2017 tax
190 roll and does not provide a basis for relief from an assessment
191 of taxes not paid or create a right to a refund of taxes paid
192 before January 1, 2017.

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

194
195 ===== T I T L E A M E N D M E N T =====

196 And the title is amended as follows:

197 Delete everything before the enacting clause
198 and insert:

199 A bill to be entitled
200 An act relating to ad valorem taxation; amending s.
201 196.011, F.S.; specifying the information to be
202 included in an application for certain tax exemptions;
203 creating s. 196.102, F.S.; providing definitions;
204 providing an exemption from ad valorem taxation for
205 certain first responders under specified conditions;
206 providing an exemption from ad valorem taxation for
207 certain surviving spouses of first responders who have
208 died; specifying the documentation required to receive
209 the exemption; granting rulemaking authority;
210 specifying procedures for receiving a tax exemption
211 for 2017; specifying procedures for denials of tax
212 exemptions; providing applicability; providing an
213 effective date.

By Senator Baxley

12-00939-17

2017764__

A bill to be entitled

An act relating to tax exemptions for first responders and surviving spouses; amending s. 196.011, F.S.; specifying the information to be included in an application for certain tax exemptions; amending s. 196.081, F.S.; deleting an exemption from ad valorem taxation for surviving spouses of first responders who have died in the line of duty; deleting definitions; creating s. 196.102, F.S.; providing definitions; providing an exemption from ad valorem taxation for certain first responders under specified conditions; providing an exemption from ad valorem taxation for certain surviving spouses of first responders who have died; specifying the documentation required to receive the exemption; requiring the use of a physician's certification under certain circumstances; providing penalties for certain acts of giving false information; authorizing the Department of Revenue to adopt emergency rules until a specified date; specifying procedures for receiving a tax exemption for 2017; specifying procedures for denials of tax exemptions; providing applicability; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.—

(1)

(b) The form to apply for an exemption under s. 196.031, s. 196.081, s. 196.091, s. 196.101, s. 196.102, s. 196.173, or s.

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

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196.202 must include a space for the applicant to list the social security number of the applicant and of the applicant's spouse, if any. If an applicant files a timely and otherwise complete application, and omits the required social security numbers, the application is incomplete. In that event, the property appraiser shall contact the applicant, who may refile a complete application by April 1. Failure to file a complete application by that date constitutes a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

Section 2. Subsection (6) of section 196.081, Florida Statutes, is amended to read:

196.081 Exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans; ~~exemption for surviving spouses of first responders who die in the line of duty.—~~

~~(6) Any real estate that is owned and used as a homestead by the surviving spouse of a first responder who died in the line of duty while employed by the state or any political subdivision of the state, including authorities and special districts, and for whom a letter from the state or appropriate political subdivision of the state, or other authority or special district, has been issued which legally recognizes and certifies that the first responder died in the line of duty while employed as a first responder is exempt from taxation if the first responder and his or her surviving spouse were permanent residents of this state on January 1 of the year in which the first responder died.~~

~~(a) The production of the letter by the surviving spouse~~

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

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62 which attests to the first responder's death in the line of duty
63 is prima facie evidence that the surviving spouse is entitled to
64 the exemption.

65 ~~(b) The tax exemption applies as long as the surviving~~
66 ~~spouse holds the legal or beneficial title to the homestead,~~
67 ~~permanently resides thereon as specified in s. 196.031, and does~~
68 ~~not remarry. If the surviving spouse sells the property, an~~
69 ~~exemption not to exceed the amount granted under the most recent~~
70 ~~ad-valorem tax roll may be transferred to his or her new~~
71 ~~residence if it is used as his or her primary residence and he~~
72 ~~or she does not remarry.~~

73 ~~(c) As used in this subsection only, and not applicable to~~
74 ~~the payment of benefits under s. 112.19 or s. 112.191, the term:~~

75 ~~1. "First responder" means a law enforcement officer or~~
76 ~~correctional officer as defined in s. 943.10, a firefighter as~~
77 ~~defined in s. 633.102, or an emergency medical technician or~~
78 ~~paramedic as defined in s. 401.23 who is a full-time paid~~
79 ~~employee, part-time paid employee, or unpaid volunteer.~~

80 ~~2. "In the line of duty" means:~~

81 ~~a. While engaging in law enforcement;~~

82 ~~b. While performing an activity relating to fire~~
83 ~~suppression and prevention;~~

84 ~~c. While responding to a hazardous material emergency;~~

85 ~~d. While performing rescue activity;~~

86 ~~e. While providing emergency medical services;~~

87 ~~f. While performing disaster relief activity;~~

88 ~~g. While otherwise engaging in emergency response activity;~~

89 ~~or~~

90 ~~h. While engaging in a training exercise related to any of~~

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91 ~~the events or activities enumerated in this subparagraph if the~~
92 ~~training has been authorized by the employing entity.~~

93
94 ~~A heart attack or stroke that causes death or causes an injury~~
95 ~~resulting in death must occur within 24 hours after an event or~~
96 ~~activity enumerated in this subparagraph and must be directly~~
97 ~~and proximately caused by the event or activity in order to be~~
98 ~~considered as having occurred in the line of duty.~~

99 Section 3. Section 196.102, Florida Statutes, is created to
100 read:

101 196.102 Exemption for certain totally and permanently
102 disabled first responders; surviving spouses of first
103 responders.—

104 (1) As used in this section, and not applicable to the
105 payment of benefits under s. 112.19 or s. 112.191, the term:

106 (a) "Disabled" means a physical or cognitive impairment
107 that constitutes or results in a substantial impediment to
108 employment as a first responder. The term does not include a
109 chronic condition or chronic disease, unless the injury
110 sustained in the line of duty was the sole cause of the chronic
111 condition or chronic disease.

112 (b) "First responder" means a law enforcement officer or
113 correctional officer as defined in s. 943.10, a firefighter as
114 defined in s. 633.102, or an emergency medical technician or
115 paramedic as defined in s. 401.23 who is a full-time paid
116 employee, part-time paid employee, or unpaid volunteer.

117 (c) "In the line of duty" means:

118 1. While engaging in law enforcement;

119 2. While performing an activity relating to fire

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120 suppression and prevention;

121 3. While responding to a hazardous material emergency;

122 4. While performing rescue activity;

123 5. While providing emergency medical services;

124 6. While performing disaster relief activity;

125 7. While otherwise engaging in emergency response activity;

126 or

127 8. While engaging in a training exercise related to any of
 128 the events or activities enumerated in this paragraph if the
 129 training has been authorized by the employing entity.

130
 131 A heart attack or stroke that causes death or causes an injury
 132 resulting in death must occur within 24 hours after an event or
 133 activity enumerated in this paragraph and must be directly and
 134 proximately caused by the event or activity in order to be
 135 considered as having occurred in the line of duty.

136 (2) Any real estate that is owned and used as a homestead
 137 by a person who is totally and permanently disabled as a result
 138 of an injury or injuries sustained in the line of duty while
 139 serving as a first responder is exempt from taxation if the
 140 first responder is a permanent resident of this state on January
 141 1 of the tax year for which the exemption is being claimed.

142 (3) The following documents, if provided by a first
 143 responder to the property appraiser of the county where the
 144 property is located, serve as prima facie evidence that the
 145 first responder is entitled to the exemption:

146 (a) A certificate of total and permanent disability, in the
 147 form set forth in subsection (7), from two licensed physicians
 148 of this state who are professionally unrelated or a letter from

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149 the United States Department of Veterans Affairs attesting to
 150 the applicant's total and permanent disability.

151 (b) A certificate from the organization that employed the
 152 first responder at the time that the injury or injuries
 153 occurred. The employer certificate must contain, at a minimum,
 154 the information identified in subsection (8). The employer
 155 certificate shall be supplemented with documentation of the
 156 incident or event that caused the injury, such as an accident or
 157 incident report. The first responder's employer must directly
 158 transmit the employer certificate to the applicable property
 159 appraiser.

160 (4) (a) Any real estate that is owned and used as a
 161 homestead by the surviving spouse of a first responder who died
 162 in the line of duty is exempt from taxation if the first
 163 responder and his or her surviving spouse were permanent
 164 residents of this state on January 1 of the year in which the
 165 first responder died. The production of a letter by the
 166 surviving spouse which attests to the first responder's death in
 167 the line of duty is prima facie evidence that the surviving
 168 spouse is entitled to the exemption.

169 (b) Any real estate owned and used as a homestead by the
 170 surviving spouse of a first responder who dies but who had been
 171 receiving a tax exemption under subsection (2) is exempt from
 172 taxation.

173 (c) The tax exemptions under paragraphs (a) and (b) apply
 174 as long as the surviving spouse holds the legal or beneficial
 175 title to the homestead, permanently resides thereon as specified
 176 in s. 196.031, and does not remarry. If the surviving spouse
 177 sells the property, an exemption not to exceed the amount

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178 granted under the most recent ad valorem tax roll may be
 179 transferred to the new residence if it is used as the surviving
 180 spouse's primary residence and he or she does not remarry.

181 (5) A surviving spouse or first responder may apply for the
 182 exemption before producing the necessary documentation described
 183 in paragraphs (3) (a) or (b) or (4) (a). Upon receipt of the
 184 documentation, the exemption shall be granted as of the date of
 185 the original application and the excess taxes paid shall be
 186 refunded. Any refund of excess taxes paid shall be limited to
 187 those paid during the 4-year period of limitation set forth in
 188 s. 197.182(1) (e).

189 (6) The provisions of s. 196.011(9) for waiving the
 190 requirement that an annual application be submitted to the
 191 property appraiser also apply to applications made under this
 192 section.

193 (7) The physician's certification shall read as follows:

194 PHYSICIAN'S CERTIFICATION OF
 195 TOTAL AND PERMANENT DISABILITY

196
 197
 198 I, ... (name of physician) ..., a physician licensed pursuant to
 199 chapter 458 or chapter 459, Florida Statutes, hereby certify
 200 that Mr....Mrs....Miss.... Ms..... (applicant name and
 201 social security number) ..., is totally and permanently disabled,
 202 due to the following mental or physical condition(s):

203
 204 It is my professional belief that the above-named condition(s)
 205 render Mr....Mrs....Miss.... Ms..... (applicant name)...
 206 totally and permanently disabled, and that the foregoing

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207 statements are true, correct, and complete to the best of my
 208 knowledge and professional belief.

209
 210 Signature....

211 Address... (print)...

212 Date....

213 Florida Board of Medicine or Osteopathic Medicine license number
 214 Issued on....

215 (8) An employer for whom the first responder worked at the
 216 time of the injury must provide a certificate that, at a
 217 minimum, attests and includes:

218 (a) The title of the person signing the certificate.

219 (b) The name and address of the employing entity.

220 (c) A description of the incident that caused the injury or
 221 injuries.

222 (d) A statement that the first responder's injury or
 223 injuries were:

224 1. Directly and proximately caused by service in the line
 225 of duty.

226 2. Without willful negligence on the part of the first
 227 responder.

228 3. The sole cause of the first responder's total and
 229 permanent disability.

230 (9) Any person who knowingly or willfully gives false
 231 information for the purpose of claiming homestead exemption as
 232 set forth in this section is guilty of a misdemeanor of the
 233 first degree, punishable as provided in s. 775.082 or by fine of
 234 not more than \$5,000, or both.

235 (10) The Department of Revenue may, and all conditions are

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236 deemed to be met to, adopt emergency rules pursuant to ss.
 237 120.536(1) and 120.54, Florida Statutes, to administer the
 238 application process for the 2017 calendar year. This subsection
 239 is repealed on August 30, 2018.

240 (11) The Department of Revenue may adopt rules to
 241 administer this section.

242 Section 4. (1) Notwithstanding the provisions of ss.
 243 196.011 and 196.102, Florida Statutes, the deadline for a first
 244 responder to file an application with the property appraiser for
 245 an exemption under s. 196.102, Florida Statutes, for the 2017
 246 tax year is August 1, 2017. The property appraiser may grant an
 247 application for an exemption that is filed untimely if:

248 (a) The applicant is qualified for the exemption; and
 249 (b) The applicant produces sufficient evidence, as
 250 determined by the property appraiser, which demonstrates that
 251 the applicant was unable to apply for the exemption in a timely
 252 manner or otherwise demonstrates extenuating circumstances that
 253 warrant granting the exemption.

254 (2) If the property appraiser denies an application under
 255 subsection (1), the applicant may file a petition with the value
 256 adjustment board as set forth in s. 194.011(3), Florida
 257 Statutes. The petition must be filed on or before the 25th day
 258 after the mailing by the property appraiser during the 2017
 259 calendar year of the notice required under s. 194.011(1),
 260 Florida Statutes. Notwithstanding s. 194.013, Florida Statutes,
 261 the eligible first responder is not required to pay a filing fee
 262 for such petition. Upon review of the petition, the value
 263 adjustment board shall grant the exemption if it determines the
 264 applicant is qualified and has demonstrated the existence of

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265 extenuating circumstances warranting the exemption.

266 Section 5. This act operates prospectively to the 2017 tax
 267 roll and does not provide a basis for relief from an assessment
 268 of taxes not paid or create a right to a refund of taxes paid
 269 before January 1, 2017.

270 Section 6. This act shall take effect July 1, 2017.

APPEARANCE RECORD

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

3-6-17
Meeting Date

764
Bill Number (if applicable)

Topic TAX Exemptions for First Responder

Amendment Barcode (if applicable)

Name GARY BRADFORD

Job Title Government Relations

Address 300 E. Broadway

Phone 800-733-3722

Street

Tallahassee FL 34639

Email GARY@FLPBA.com

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA POLICE Benevolent Association (PBA)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7022

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: State-administered Retirement Systems

DATE: March 3, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Ferrin	Ferrin		GO Submitted as Committee Bill

I. Summary:

SPB 7022 establishes the contribution rates paid by employers participating in the Florida Retirement System (FRS) beginning July 1, 2017. These rates are intended to fund the full normal cost and the amortization of the unfunded actuarial liability of the FRS. With these modifications to employer contribution rates, the FRS Trust Fund will receive roughly \$149.5 million more in revenue on an annual basis beginning July 1, 2017. The public employers that will incur these additional costs are state agencies, state universities and colleges, school districts, counties, and certain municipalities and other governmental entities.

II. Present Situation:

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with most members contributing three percent of their salaries.²

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2016, the FRS had 630,350 active members, 394,907 annuitants, 16,248 disabled retirees, and 29,602 active participants of the Deferred Retirement

¹ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at p. 29. Available online at: https://www.rol.frs.state.fl.us/forms/2015-16_CAFR.pdf.

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

Option Program (DROP).³ As of June 30, 2016, the FRS consisted of 1,029 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 193 cities and 270 special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- The Regular Class⁵ consists of 545,680 active members, plus 3,709 in renewed membership;
- The Special Risk Class⁶ includes 70,695 active members;
- The Special Risk Administrative Support Class⁷ has 76 active members;
- The Elected Officers' Class⁸ has 2,026 active members, plus 115 in renewed membership; and
- The Senior Management Service Class⁹ has 7,876 members, plus 143 in renewed membership.¹⁰

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.¹¹ With respect to the employer contributions, a member vests after completing one work year of

³ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 120.

⁴ *Id.*, at 154.

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁷ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁸ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹⁰ All figures from Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 123.

¹¹ Section 121.4501(6)(a), F.S.

employment with an FRS employer.¹² Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹³ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.¹⁴ An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁵

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁶ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁷

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.¹⁸ Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁹ For members enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.²⁰ Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.²¹ For most members of the pension plan, normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.²² For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²³ Members initially enrolled in the pension plan on or after July 1, 2011, have longer service requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.²⁴

¹² If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.

¹³ Section 121.591, F.S.

¹⁴ See s. 121.4501(16), F.S.

¹⁵ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

¹⁶ Section 121.4501(8), F.S.

¹⁷ FLA CONST. art. IV, s. 4.

¹⁸ Section 121.025, F.S.

¹⁹ Section 121.021(45)(a), F.S.

²⁰ Section 121.021(45)(b), F.S.

²¹ Section 121.091, F.S.

²² Section 121.021(29)(a)1., F.S.

²³ Section 121.021(29)(b)1., F.S.

²⁴ Sections 121.021(29)(a)2. and (b)2., F.S.

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;²⁵
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;²⁶ and
- Members in specified positions at a Florida College institution may elect to enroll in the State Community College System Optional Retirement Program.²⁷

Contribution Rates

FRS employers are responsible for contributing a specified percentage of the member’s monthly compensation to the Division of Retirement to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.²⁸ The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

In the annual actuarial valuation of the Florida Retirement System based on July 1, 2016, plan assets and liabilities, Milliman, Inc., the state actuary, determined the following key data relating to the FRS pension plan.²⁹

	Valuation Results (in \$ billions)			
	July 1, 2013	July 1, 2014	July 1, 2015	July 1, 2016
Actuarial Liability	\$153.3	\$160.1	\$165.5	\$170.4
Actuarial Value of Assets	\$131.7	\$138.6	\$143.2	\$145.5
Unfunded Actuarial Liability	\$ 21.6	\$21.5	\$22.3	\$24.9
Funded Percentage (Actuarial Value of Assets/Actuarial Liability)	85.9%	86.6%	86.5%	85.4%

²⁵ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

²⁶ Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

²⁷ If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

²⁸ Section 121.70(1), F.S.

²⁹ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 101.

The state actuary determines a rate associated with the normal cost of the pension plan (funding the prospective benefits) and a rate necessary to amortize the unfunded actuarial liabilities (UAL) over a thirty year period. The following are the current employer contribution rates³⁰ for each class and the blended rates recommended by the state actuary beginning in July 2017:³¹

Membership Class	Current Rates Effective July 1, 2016		Recommended Rates to be effective July 1, 2017	
	Normal Cost	UAL Rate	Normal Cost	UAL Rate
Regular Class	2.97%	2.83%	2.89%	3.30%
Special Risk Class	11.80%	9.05%	11.81%	9.57%
Special Risk Administrative Support Class	3.87%	22.47%	3.81%	29.08%
Elected Officer’s Class				
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	6.63%	33.75%	6.41%	42.69%
• Justices and Judges	11.68%	23.30%	11.66%	26.25%
• County Officers	8.55%	32.20%	8.48%	35.24%
Senior Management Service Class	4.38%	15.67%	4.28%	16.70%
Deferred Retirement Option Program	4.23%	7.10%	4.17%	7.43%

For all membership classes, except the DROP and certain members with renewed membership, employees contribute three percent of their compensation towards retirement.³²

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee’s individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.³³

III. Effect of Proposed Changes:

The bill modifies the employer-paid contributions for FRS retirement benefits.

Section 1 amends s. 121.71, F.S., to set the employer-paid contributions to the Florida Retirement System Trust Fund for each membership class of the FRS.

Section 2 provides findings that the bill fulfills an important state interest.

³⁰ Section 121.71(4) and (5), F.S.

³¹ Letter to Ms. Elizabeth Stevens, *Re: Blended Proposed Statutory Rates for the 2017-2018 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP*, dated December 2, 2016 (on file with the Senate Committee on Governmental Accountability and Oversight).

³² Section 121.71(3), F.S.

³³ See ss. 121.4503 and 121.72(1), F.S.

The bill provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the Florida Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the expenditure is required to comply with a law that applies to all persons similarly situated...”

This bill includes legislative findings that the bill fulfills important state interests, and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, community colleges, counties, and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Florida Retirement System

The aggregate employer contributions anticipated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2017-2018 will increase by approximately \$149.5 million when compared to the employer contributions paid in Fiscal Year 2016-2017. The impacts by employer group for Fiscal Year 2017-2018 are noted below.

Employer Group	Additional Contributions
State Agencies	\$25.2 m
Universities	\$18.3 m
Colleges	\$4.9 m
School Boards	\$54.1 m
Counties	\$39.3 m
Other	\$7.7 m
Total	\$149.5 m

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 121.71 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-00170A-17 20177022pb

1 A bill to be entitled
 2 An act relating to state-administered retirement
 3 systems; amending s. 121.71, F.S.; revising required
 4 employer retirement contribution rates for each
 5 membership class and subclass of the Florida
 6 Retirement System; providing a declaration of
 7 important state interest; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Subsections (4) and (5) of section 121.71,
 12 Florida Statutes, are amended to read:
 13 121.71 Uniform rates; process; calculations; levy.-
 14 (4) Required employer retirement contribution rates for
 15 each membership class and subclass of the Florida Retirement
 16 System for both retirement plans are as follows:
 17

	Percentage of Gross Compensation, Effective
Membership Class	July 1, <u>2017</u> 2016
Regular Class	<u>2.89%</u> 2.97%
Special Risk Class	<u>11.81%</u> 11.80%

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Special Risk
 Administrative
 Support Class 3.81% ~~3.87%~~
 22
 Elected Officers' Class-
 Legislators, Governor,
 Lt. Governor,
 Cabinet Officers,
 State Attorneys,
 Public Defenders 6.41% ~~6.63%~~
 23
 Elected Officers' Class-
 Justices, Judges 11.66% ~~11.68%~~
 24
 Elected Officers' Class-
 County Elected Officers 8.48% ~~8.55%~~
 25
 Senior Management Class 4.28% ~~4.38%~~
 26
 DROP 4.17% ~~4.23%~~
 27
 28 (5)
 29 In order to address unfunded actuarial liabilities of the
 30 system, the required employer retirement contribution rates for
 31 each membership class and subclass of the Florida Retirement
 32 System for both retirement plans are as follows:
 33
 34

	Percentage of
Membership Class	

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	Gross Compensation, Effective July 1, <u>2017</u> 2016	
35		
36		
37	Regular Class	<u>3.30%</u> 2.83%
38	Special Risk Class	<u>9.57%</u> 9.05%
	Special Risk Administrative Support Class	<u>29.08%</u> 22.47%
39	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>42.69%</u> 33.75%
40	Elected Officers' Class— Justices, Judges	<u>26.25%</u> 23.30%
41	Elected Officers' Class— County Elected Officers	<u>35.24%</u> 32.20%
42	Senior Management Service	<u>16.70%</u> 15.67%

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	Class	
43		
44	DROP	<u>7.43%</u> 7.10%
45	Section 2. <u>The Legislature finds that a proper and</u>	
46	<u>legitimate state interest is served when employees, officers,</u>	
47	<u>and retirees of the state and its political subdivisions, and</u>	
48	<u>the dependents, survivors, and beneficiaries of such employees,</u>	
49	<u>officers, and retirees, are extended the basic protections</u>	
50	<u>afforded by governmental retirement systems. These persons must</u>	
51	<u>be provided benefits that are fair and adequate and that are</u>	
52	<u>managed, administered, and funded in an actuarially sound</u>	
53	<u>manner, as required by s. 14, Article X of the State</u>	
54	<u>Constitution and part VII of chapter 112, Florida Statutes.</u>	
55	<u>Therefore, the Legislature determines and declares that this act</u>	
56	<u>fulfills an important state interest.</u>	
57	Section 3. This act shall take effect July 1, 2017.	



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DENISE GRIMSLEY
26th District

COMMITTEES:

Appropriations Subcommittee on General
Government, *Chair*
Ethics and Elections, *Vice Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Pre-K - 12
Education
Governmental Oversight and Accountability

SELECT COMMITTEE:

Joint Select Committee on Collective Bargaining

March 3, 2017

The Honorable Dennis Baxley
Chairman
Governmental Oversight and
Accountability Committee
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Baxley:

I am respectfully requesting permission to be excused from the Governmental Oversight and Accountability Committee meeting Monday, March 6, 2017, due to a previously scheduled commitment.

Sincerely,

Denise Grimsley
State Senate, District 26

cc: Jay Ferrin
Tamra Redig

REPLY TO:

- 295 E. Interlake Boulevard, Lake Placid, Florida 33852 (863) 465-2626
- 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- 413 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 3/6/2017 4:01:37 PM

Ends: 3/6/2017 4:25:09 PM Length: 00:23:33

4:01:41 PM Meeting Called to Order- Roll Call
4:01:49 PM Quorum
4:02:00 PM Tab 1 CS/SB 210 by CF, Passidomo; Public Records/Public Guardians
4:02:43 PM Senator Passidomo recognized
4:04:01 PM Delete-all Amendment Barcode 316304
4:04:04 PM Senator Rader
4:04:30 PM Roll Call
4:05:09 PM CS/SB 210 passes favorably as a Committee Substitute
4:05:16 PM Tab 2 CS/SB 346; Fictitious Name Registration
4:05:23 PM Senator Stargel recognized
4:05:53 PM Amendment Barcode 334308
4:06:15 PM Greg Black, Business Law Section of the Florida Bar waives in support
4:07:10 PM Roll Call
4:07:14 PM CS/SB 346 Reported Favorable as a Committee Substitute
4:07:28 PM Tab 4 Senate Bill 612 by Gibson, Federal Matching Funds Information
4:07:52 PM Senator Gibson recognized
4:09:03 PM Roll Call
4:09:33 PM Senate Bill 612 Reported Favorable
4:09:47 PM Tab 5 Senate Bill 1020 by Powell; Collective Bargaining Impasses
4:10:00 PM Senator Powell recognized
4:11:01 PM Roll Call
4:11:15 PM Senate Bill 1020 Reported Favorable
4:11:29 PM Tab 6 Senate Bill 764 by Baxley; Tax Exemptions for First Responders and Surviving Spouses
4:12:04 PM Senator Baxley recognized
4:12:43 PM Delete-all Amendment Barcode 451138
4:12:50 PM Senator Baxley
4:13:17 PM Gary Bradford waives in support
4:13:41 PM Senator Baxley
4:14:10 PM Roll Call
4:14:14 PM SB 764 passes favorably as a Committee Substitute
4:14:26 PM Tab 7 Senate Proposed Bill 7022 by Governmental Oversight; State-administered Retirement Systems
4:16:02 PM Roll Call
4:16:29 PM Senate Proposed Bill 7022 Reported Favorable as a Committee Substitute
4:16:36 PM Tab 3 Senate Bill 404 by Simmons; Legislative Ratification
4:17:06 PM Recording Paused
4:21:03 PM Recording Resumed
4:21:15 PM Senator Simmons Recognized
4:22:16 PM Senator Rader
4:24:07 PM Kimberly Renspie, Department of Financial Services waives in support
4:24:37 PM Roll Call
4:25:09 PM Senate Bill 404 Reported Favorable
4:25:09 PM Meeting adjourned