

Tab 1	SB 7044 by CJ ; (Identical to H 07059) OGSR/Concealed Carry License/Department of Agriculture and Consumer Services
Tab 2	SB 7050 by BI ; (Identical to H 07049) OGSR/Investigations and Examinations by the Office of Financial Regulation
Tab 3	SB 7052 by BI ; (Compare to H 00759) OGSR/Informal Enforcement Actions/Trade Secrets/Office of Financial Regulation
Tab 4	SB 7054 by BI ; (Compare to H 00759) OGSR/Hurricane or Flood Loss Models
Tab 5	SB 7056 by BI ; (Identical to H 07033) OGSR/Family Trust Companies/Office of Financial Regulation
Tab 6	SB 7000 by HP ; OGSR/Dental Workforce Surveys/Department of Health
Tab 7	CS/SB 498 by CJ, Powell ; (Similar to H 00433) Fire Safety and Prevention
Tab 8	SB 432 by Gruters ; (Similar to H 00847) Employment Conditions
Tab 9	SB 490 by Albritton ; Statewide Procurement Efficiency Task Force
Tab 10	SB 494 by Hooper (CO-INTRODUCERS) Broxson ; (Similar to H 00161) Firefighters' Bill of Rights
858972	A S RCS GO, Hooper Delete L.97 - 100: 03/12 04:26 PM
Tab 11	SPB 7074 by GO ; Support Organizations

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Hooper, Chair
Senator Rader, Vice Chair

MEETING DATE: Tuesday, March 12, 2019

TIME: 1:30—3:30 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Hooper, Chair; Senator Rader, Vice Chair; Senators Albritton, Bean, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 7044 Criminal Justice (Identical H 7059)	OGSR/Concealed Carry License/Department of Agriculture and Consumer Services; Amending provisions relating to an exemption from public records requirements for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm through a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees; abrogating the scheduled repeal of the exemption, etc. GO 03/12/2019 Favorable RC	Favorable Yeas 5 Nays 0
2	SB 7050 Banking and Insurance (Identical H 7049)	OGSR/Investigations and Examinations by the Office of Financial Regulation; Amending a provision which provides an exemption from public records requirements for information collected in connection with investigations and examinations by the Office of Financial Regulation of the Financial Services Commission; removing the scheduled repeal of the exemption, etc. GO 03/12/2019 Favorable RC	Favorable Yeas 5 Nays 0
3	SB 7052 Banking and Insurance (Compare H 759, S 1416)	OGSR/Informal Enforcement Actions/Trade Secrets/Office of Financial Regulation; Amending provisions relating to exemptions from public records requirements for informal enforcement actions by the Office of Financial Regulation and certain trade secrets held by the office under the financial institutions codes; removing the scheduled repeal of the exemptions, etc. GO 03/12/2019 Favorable RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDAGovernmental Oversight and Accountability
Tuesday, March 12, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 7054 Banking and Insurance (Compare H 759, S 1416)	OGSR/Hurricane or Flood Loss Models; Amending provisions relating to exemptions from public records and public meetings requirements for certain trade secrets used in designing and constructing hurricane or flood loss models and provided to the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, or the Insurance Consumer Advocate, and for certain portions and recordings of meetings at which the trade secrets are discussed; removing the scheduled repeal of the exemptions, etc. GO 03/12/2019 Favorable RC	Favorable Yeas 5 Nays 0
5	SB 7056 Banking and Insurance (Identical H 7033)	OGSR/Family Trust Companies/Office of Financial Regulation; Amending provisions relating to an exemption from public records requirements for certain information held by the Office of Financial Regulation relating to family trust companies, licensed family trust companies, and foreign licensed family trust companies; removing the scheduled repeal of the exemption, etc. GO 03/12/2019 Favorable RC	Favorable Yeas 5 Nays 0
6	SB 7000 Health Policy	OGSR/Dental Workforce Surveys/Department of Health; Amending provisions relating to an exemption from the public records requirements for personal identifying information contained in dental workforce surveys held by the Department of Health; removing the scheduled repeal of the exemption, etc. GO 03/12/2019 Favorable RC	Favorable Yeas 4 Nays 0
7	CS/SB 498 Criminal Justice / Powell (Similar H 433)	Fire Safety and Prevention; Prohibiting a person from committing or attempting to commit certain acts to influence firesafety inspectors, etc. CJ 02/19/2019 Fav/CS GO 03/12/2019 Favorable RC	Favorable Yeas 4 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
 Tuesday, March 12, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 432 Gruters (Similar H 847)	Employment Conditions; Prohibiting a political subdivision from establishing, mandating, or otherwise requiring an employer to offer conditions of employment not otherwise required by state or federal law; specifying that certain requirements related to minimum wage and other conditions of employment are expressly preempted to the state, etc. GO 03/12/2019 Favorable CA RC	Favorable Yeas 3 Nays 2
9	SB 490 Albritton	Statewide Procurement Efficiency Task Force; Creating the task force to evaluate procurement laws and policies and make specified recommendations; specifying membership of the task force; providing for administrative and technical support of the task force; requiring task force members to serve without compensation or reimbursement of expenses, etc. GO 03/12/2019 Favorable AEG AP	Favorable Yeas 4 Nays 0
10	SB 494 Hooper (Similar H 161)	Firefighters' Bill of Rights; Revising the definition of the term "interrogation" to include questioning pursuant to an informal inquiry; requiring that witnesses be interviewed and certain information be provided to a firefighter subjected to interrogation before the interrogation is conducted; prohibiting a firefighter from being threatened with certain disciplinary action during the course of an interrogation, etc. CA 03/05/2019 Favorable GO 03/12/2019 Fav/CS RC	Fav/CS Yeas 3 Nays 0
Consideration of proposed bill:			
11	SPB 7074	Support Organizations; Removing the scheduled repeal of provisions governing the citizen support organization providing support for the Division of Library and Information Services of the Department of State; removing the scheduled repeal of provisions governing citizen support organizations providing support for the Division of Cultural Affairs of the Department of State; repealing a provision relating to the Florida Intergovernmental Relations Foundation, etc.	Submitted and Reported Favorably as Committee Bill Yeas 3 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: SB 7044

INTRODUCER: Criminal Justice Committee

SUBJECT: OGSR/Concealed Carry License/Department of Agriculture and Consumer Services

DATE: March 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Cellon	Jones		CJ Submitted as Committee Bill
1.	Ponder	McVaney	GO	Favorable
2.			RC	

I. Summary:

SB 7044 amends s. 790.0601, F.S., to save from repeal the current exemption from public records disclosure for the personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm, by removing the October 2, 2019, repeal date.

The exemption was created in conjunction with s. 790.0625, F.S., which authorizes the Division of Licensing (DOL) of the Department of Agriculture and Consumer Services (DACS) to enter into agreements with local tax collector's offices to accept and submit concealed weapon or firearm license applications or renewal applications to the DOL of the DACS for processing and decisions on whether the license should be issued.

The same information is exempted from the public records law if the applicant provides it directly to the DOL of the DACS at one of the DACS regional offices.

The bill requires a majority vote for passage.

The bill takes effect October 1, 2019.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that

[i]t 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.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹²

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

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” 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 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹⁴ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁸ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹⁹

Public Records Exemption Under Review

The personal identifying information of persons who apply for a concealed weapon or firearm license, or renew an existing license, through a local tax collector’s office was made confidential and exempt from public disclosure in 2014.²⁰ The exemption is scheduled to repeal on October 2, 2019, unless it is reviewed and saved from repeal by the Legislature in accordance with s. 119.15, F.S.²¹

The exemption was created in conjunction with a bill authorizing the Division of Licensing (DOL) of the Department of Agriculture and Consumer Services (DACS), which administers the concealed weapon and firearm licensure program, to enter into agreements with local tax collectors to accept applications on behalf of the DOL of the DACS.²²

¹³ FLA. CONST., art. I, s. 24(c).

¹⁴ 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 Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹⁷ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 790.0601(2), F.S.

²¹ Section 790.0601(4), F.S.

²² Section 790.0625, F.S., Appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties; Section 790.06, F.S., License to carry concealed weapon or firearm; [As of June 30, 2018 there were 1,927,724 concealed weapon or firearm licensees in Florida. DACS, DOL, *Number of Valid Florida Concealed Weapon Licenses As Reported at the End of Each Fiscal Year (June 30) Since Program Inception in October 1987*, available at https://www.freshfromflorida.com/content/download/7504/118881/NumberOfValidCWLicenses_FiscalYearEndSince1987-1988.pdf (last visited January 17, 2019)].

The exemption was created as an extension of the public records exemption for the same personal identifying information of an applicant or a person who has received a concealed weapon or firearm license, by applying for the license directly through the DOL of the DACS. The exemption for the information held by the DOL of the DACS was created in s. 790.0601(1), F.S., in 2006 and reenacted in 2011.²³

On behalf of the DOL of the DACS, tax collectors obtain the following personal identifying information from a person who is applying for a new concealed weapons or firearms license through the tax collector's office, pursuant to s. 790.06, F.S., including, in part:

- The name, address, place of birth, date of birth, and race of the applicant;
- A full set of fingerprints of the applicant; and
- A full frontal view color photograph of the applicant taken within the preceding 30 days, in which the head, including hair, measures 7/8 of an inch wide and 1 1/8 inches high.²⁴

The application and accompanying information required by s. 790.06, F.S., is submitted to the DOL of the DACS via the Concealed Weapon Intake System (CWIS) by the tax collector's office.²⁵ The tax collector only performs the ministerial function of submitting applications and information to the DOL of the DACS for processing, as a convenience for the applicant.

Currently, 55 of Florida's 67 county tax collectors are providing the concealed weapon and firearm license application submission process authorized in s. 790.0625, F.S.²⁶ Twenty eight of the 35 tax collectors responding to legislative staff's questionnaire reported a total of 194,078 applications for new licenses and renewals have been processed and submitted to the DOL of the DACS from July 2014 to December 2019.²⁷

The tax collectors have entered into a memoranda of understanding with the DOL of the DACS, memorializing the duties and responsibilities of the two parties.²⁸ For instance, the DOL of the DACS provides tax collector employee training, a computer configuration, and network equipment such as CWIS which is necessary for the tax collector's office to submit completed applications to the DOL of the DACS. The tax collectors provide a secure location for the

²³ Chapters 2006-102 and 2011-136, L.O.F.

²⁴ Sections 790.06(4) and (5), F.S.

²⁵ The process is explained in the tax collectors' answers to questions sent to them by legislative staff. The completed questionnaires are on file with the Senate Committee on Criminal Justice. An application can be downloaded and additional eligibility requirements and application instructions are available at DACS, *Applying for a Concealed Weapon License*, available at <https://www.freshfromflorida.com/Consumer-Resources/Concealed-Weapon-License/Applying-for-a-Concealed-Weapon-License> (last visited January 17, 2019).

²⁶ In addition to the participating local tax collectors, the DACS has nine regional offices throughout the state that perform the same function as the tax collectors. DACS, *Concealed Weapon License Service Locations*, available at <https://www.freshfromflorida.com/Consumer-Resources/Concealed-Weapon-License/Concealed-Weapon-License-Service-Locations> (last visited January 17, 2019).

²⁷ The completed questionnaires are on file with the Senate Committee on Criminal Justice. It should be noted that not all 28 of the tax collectors responding to the questionnaire began participation in the program at the same time.

²⁸ Section 790.0625(3), F.S.

computer configuration and the CWIS, remit application and fingerprint processing fees to the DOL of the DACS, and agree to abide by the confidentiality requirements in s. 790.0601, F.S.²⁹

Pursuant to s. 790.0625, F.S., the tax collector may collect and retain a convenience fee of \$22 for new license applications and \$12 for each license renewal.³⁰ Tax collectors are authorized in s. 790.0625, F.S., to print and deliver license renewals if the renewal applicant provides a completed application and new color photograph, and pays the appropriate fees, and if the DOL of the DACS approves issuance of the license.³¹

Section 790.0601, F.S., provides that the confidential and exempt personal identifying information held by a tax collector shall be disclosed under the following circumstances:

- With the express written consent of the applicant or licensee or his or her legally authorized representative;
- By court order upon a showing of good cause; or
- Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the DACS.³²

III. Effect of Proposed Changes:

The bill amends s. 790.0601(2), F.S., to continue the public record exemption for the personal identifying information of applicants for a new or renewal license to carry a concealed weapon or firearm, held by a tax collector for submission to the DOL of the DACS.³³

Specifically, the bill continues the exemption by deleting the October 2, 2019, repeal date.

The bill requires a majority vote for passage.

The bill takes effect October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

²⁹ Copies of memoranda of understanding, provided by tax collector's offices pursuant to request by legislative staff, are on file with the Senate Committee on Criminal Justice.

³⁰ Section 790.0625(5), F.S.

³¹ Section 790.0625(8), F.S.

³² Section 790.0601(3), F.S.

³³ Section 790.0601(2), F.S.

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

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public meetings exemption without expansion.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The bill preserves the public records exemption for the personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm. The private sector will continue to be subject to the cost associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

By preserving the public records exemption for the personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm, an agency in possession of these records will continue to incur costs related to the redaction of records in response to a public records request.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.0601 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 the Committee on Criminal Justice

591-02475-19

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A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 790.0601, F.S., relating to an exemption from public records requirements for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm through a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees; abrogating the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 790.0601, Florida Statutes, is amended to read:

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services

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to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

~~(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2019.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-12-19

Meeting Date

7049

Bill Number (if applicable)

Topic UGSP / Concealed Carry

Amendment Barcode (if applicable)

Name Carlos Nathan

Job Title Deputy Leg Affairs Director

Address PL 10 Capitol

Phone 850-607-7700

Street

Tallahassee

City

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State

32399

Zip

Email carlos.nathan@freshfromflorida.com

Speaking: For Against Information

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

Representing DACS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 7050

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Investigations and Examinations by the Office of Financial Regulation

DATE: March 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Johnson</u>	<u>Knudson</u>		BI Submitted as Committee Bill
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 7050 continues the public records exemption for information collected in connection with an investigation or examination conducted by the Office of Financial Regulation (OFR), pursuant to the Florida Consumer Collection Practices Act (act), by removing the October 2, 2019, repeal date.

Currently, s. 559.5558, F.S., provides that any information held by the OFR pursuant to an investigation or examination of a violation of the act is confidential and exempt from s. 119.07(1), F.S., and article I, section 24 of the Florida Constitution. Information made confidential and exempt may be disclosed by the OFR to a law enforcement agency or another administrative agency in the performance of its official duties and responsibilities. Once the investigation or examination is completed or ceases to be active, such information is no longer confidential and exempt unless certain circumstances exist.

Pursuant to the Open Government Sunset Review, the public records exemption is scheduled to repeal October 2, 2019, unless reenacted by the Legislature. Since the bill continues the exemption and does not expand the scope of the public records exemption, the bill requires a majority vote of each chamber for passage.

This bill takes effect October 1, 2019.

II. Present Situation:

Florida's Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including state and local governmental entities, and any person acting on behalf of the government.² In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.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 by passing a general law by a two-thirds vote of each of the House and the Senate.⁹ The exemption must explicitly explain the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰ A statutory exemption that does not meet these two criteria may be unconstitutional and may not be judicially saved.¹¹

¹ FLA. CONST., art. I, s. 24(a).

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 Legislature 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” 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 and penalties for violation of these laws are found throughout the Florida Statutes.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d

An exemption may provide that a record is “confidential and exempt” or “exempt.”¹² Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” may be released at the discretion of the records custodian.¹³

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records or open meetings exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR Act). The OGSR Act prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁴ The OGSR Act 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.¹⁵ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁶ 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;¹⁷
- 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;¹⁸ or
- It protects trade or business secrets.¹⁹

Further, the OGSR Act requires specified questions to be considered during the review process.²⁰ In examining an exemption, the OGSR Act asks the Legislature to question carefully the purpose and necessity of reenacting the exemption.

189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹² 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).

¹³ *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).

¹⁴ 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 records or 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.

¹⁵ Section 119.15(3), F.S.

¹⁶ Section 119.15(6)(b), F.S.

¹⁷ Section 119.15(6)(b)1., F.S.

¹⁸ Section 119.15(6)(b)2., F.S.

¹⁹ Section 119.15(6)(b)3., F.S.

²⁰ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²¹ If the exemption is reenacted or saved from repeal 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 provided for by law.²²

Regulation of Consumer Collection Agencies and Debt Collectors

Consumer debt covers non-business debt such as mortgages, credit cards, medical debts, and other debts primarily for personal, family, or household purposes. If a borrower defaults on a consumer debt, the lender may initiate collection efforts, usually through the sale or assignment of the asset to a third-party debt collector.

The Florida Consumer Collection Practices Act²³ (act) regulates consumer collection agencies. The act gives primary oversight authority to the Office of Financial Regulation (OFR).²⁴ The act defines the term, “consumer collection agency,” to mean any debt collector or business entity engaged in the business of soliciting consumer debts for collection or of collecting consumer debts that is not exempted by the act.²⁵ The term, “debt collector,” is defined to mean any person who uses any instrumentality of interstate commerce in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due to asserted to be owed or due another.²⁶ The act contains registration²⁷ and recordkeeping²⁸ requirements and prohibits certain collection practices. According to the OFR, there are 1,283 licensed consumer collectors.²⁹

The OFR may conduct examinations and investigations to determine whether a person has violated the provisions of the act. Section 559.5558, F.S., provides that any information held by the OFR pursuant to an investigation or examination of a violation the act is confidential and

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

²¹ FLA. CONST. art. I, s. 24(c).

²² Section 119.15(7), F.S.

²³ Part VI of Ch. 559, F.S., Section 559.551, F.S.

²⁴ The Office of Financial Regulation is established within the Financial Services Commission, which is composed of the Governor, the Attorney General, and Chief Financial Officer, and the Commissioner of Agriculture. Commission members serve as the agency head of the OFR. The Financial Services Commission is created within the Department of Financial Services and is not subject to control, supervision, or direction by the Department of Financial Services. Section 20.121(3), F.S.

²⁵ Section 559.55(3), F.S.

²⁶ Section 559.55(7), F.S.

²⁷ Sections 559.553 and 559.555, F.S.

²⁸ Section 559.5556, F.S.

²⁹ Correspondence from the Office of Financial Regulation, dated January 7, 2019. On file with Senate Banking and Insurance Committee.

exempt from s. 119.07(1), F.S., and article I, section 24 of the Florida Constitution. Information made confidential and exempt may be disclosed by the office to a law enforcement agency or another administrative agency in the performance of its official duties and responsibilities. Once the investigation or examination is completed or ceases to be active, such information is no longer confidential and exempt, unless disclosure of the information would:

- Jeopardize the integrity of another active investigation or examination.
- Reveal the personal identifying information of a consumer, unless the consumer is also the complainant. The complainant's personal identifying information is subject to disclosure after the investigation or examination is completed or ceases to be active. However, the complainant's personal financial and health information remains confidential and exempt.
- Reveal the identity of a confidential source.
- Reveal investigative or examination techniques or procedures.
- Reveal trade secrets, as defined in s. 688.002, F.S.

Further, s. 559.5588, F.S., is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2019, if not reenacted.

OGSR Survey and Results

In 2018, Senate professional staff sent out a survey to the Office of Financial Regulation and other stakeholders to ascertain if s. 559.5558, F.S., remains necessary, pursuant to the OGSR Act.³⁰ Subsequent meetings were held with the OFR staff. The OFR provided the following information to professional staff concerning public record requests for information relating to s. 559.5558, F.S. The OFR stated that it had received 684 public records requests related to s. 559.5558, F.S., which may contain exempt information. According to the OFR, those requests were received from attorneys (201 or 29.4 percent), industry (196 or 28.7 percent), administrative agencies (167 or 24.4 percent), law enforcement (55 or 8 percent), consumers (48 or 7 percent), and media (17 or 2.5 percent). The OFR indicated that documents were provided in 679 (or 99.3 percent) of those requests, and in the remainder of the requests, six were withdrawn, four were closed when documents were not available and in two cases, the requests were closed due to documents being exempt or confidential. These two cases were exempt or confidential due to possible disclosure of personal health information or due to the entity being under investigation.

The OFR recommends reenacting the public records exemption without changes. Further, the OFR indicates that this exemption is vital to protecting the public from phishing and other types of identity theft. The release of financial or medical records collected during an examination or investigation could result in the release of personal financial and medical information.

III. Effect of Proposed Changes:

Section 1 amends s. 559.5558, F.S., to continue the public records exemption relating to OFR investigations and examinations of consumer collection practices to continue, as they currently exist.

³⁰ See OFR survey correspondence, dated July 13, 2018, on file with the Senate Committee on Banking and Insurance.

Section 2 provides an effective date of October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public meetings requirements. This bill continues a current public meetings exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public meetings requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public meetings exemption without expansion.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect proposals seeking research funding from the organization or a plan or program for either initiating or supporting research. This bill exempts from the public records information collected in connection with an investigation or examination conducted by the OFR. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The continuation of the public records exemption would prevent the release of sensitive personal medical information and financial information of individuals. The private sector will continue to be subject to any cost associated with the OFR making redactions in response to a public records request.

C. Government Sector Impact:

The OFR will continue to incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 559.5558 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 the Committee on Banking and Insurance

597-02481-19

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1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 559.5558, F.S., which
 4 provides an exemption from public records requirements
 5 for information collected in connection with
 6 investigations and examinations by the Office of
 7 Financial Regulation of the Financial Services
 8 Commission; removing the scheduled repeal of the
 9 exemption; providing an effective date.

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

12
 13 Section 1. Section 559.5558, Florida Statutes, is amended
 14 to read:

15 559.5558 Public records exemption; investigations and
 16 examinations.—

17 (1) As used in this section, the term "personal financial
 18 and health information" means:

19 (a) Information relating to the existence, nature, source,
 20 or amount of a consumer's personal income, expenses, and debt;

21 (b) Information relating to a consumer's financial
 22 transactions of any kind;

23 (c) Information relating to the existence, identification,
 24 nature, or value of a consumer's assets, liabilities, or net
 25 worth;

26 (d) A consumer's personal health condition, disease, or
 27 injury; or

28 (e) A history of a consumer's personal medical diagnosis or
 29 treatment.

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30 (2) (a) Except as otherwise provided by this section,
 31 information held by the office pursuant to an investigation or
 32 examination of a violation of this part is confidential and
 33 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 34 Constitution. However, information made confidential and exempt
 35 pursuant to this section may be disclosed by the office to a law
 36 enforcement agency or another administrative agency in the
 37 performance of its official duties and responsibilities.

38 (b) Information made confidential and exempt pursuant to
 39 this section is no longer confidential and exempt once the
 40 investigation or examination is completed or ceases to be active
 41 unless disclosure of the information would:

42 1. Jeopardize the integrity of another active investigation
 43 or examination.

44 2. Reveal the personal identifying information of a
 45 consumer, unless the consumer is also the complainant. A
 46 complainant's personal identifying information is subject to
 47 disclosure after the investigation or examination is completed
 48 or ceases to be active. However, a complainant's personal
 49 financial and health information remains confidential and
 50 exempt.

51 3. Reveal the identity of a confidential source.

52 4. Reveal investigative or examination techniques or
 53 procedures.

54 5. Reveal trade secrets, as defined in s. 688.002.

55 (c) For purposes of this subsection, an investigation or
 56 examination is considered active if the investigation or
 57 examination is proceeding with reasonable dispatch and the
 58 office has a reasonable good faith belief that the investigation

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59 or examination may lead to the filing of an administrative,
60 civil, or criminal proceeding or to the denial or conditional
61 grant of an application for registration or other approval
62 required under this part.

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

67 Section 2. This act shall take effect October 1, 2019.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Governmental Oversight and Accountability Committee

Subject: Committee Agenda Request

Date: March 4, 2019

I respectfully request that **Senate Bill # 7050**, relating to OGSR/Investigations and Examinations by the Office of Financial Regulation, be placed on the:

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

A handwritten signature in blue ink that reads "Darryl Rouson".

Senator Darryl Rouson
Florida Senate, District 19

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 7052
INTRODUCER: Banking and Insurance Committee
SUBJECT: OGSR/Informal Enforcement Actions/Trade Secrets/Office of Financial Regulation
DATE: March 11, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Knudson</u>	<u>Knudson</u>		BI Submitted as Committee Bill
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 7052 amends s. 655.037(3) and (4), F.S., to save from repeal the exemptions to public record disclosure for informal enforcement actions performed by the Office of Financial Regulation, for trade secrets held by the Office of Financial Regulation in accordance with its statutory duties under the financial institutions codes.

These exemptions are subject to the Open Government Sunset Review Act and will be repealed on October 2, 2019, unless saved from repeal by the Legislature. The bill removes the scheduled repeal date of the exemption.

The bill takes effect October 1, 2019.

II. Present Situation:

Public Records Law

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

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

[i]t 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.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹² and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995).

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” 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 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

¹³ FLA. CONST., art. I, s. 24(c)

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹⁴ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁸ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹⁹

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records or open meetings exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR Act). The OGSR Act prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.²⁰ The OGSR Act 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.²¹ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²² 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:

¹⁴ 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 Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹⁷ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ 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 records or 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.

²¹ Section 119.15(3), F.S.

²² Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²³
- 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;²⁴ or
- It protects trade or business secrets.²⁵

Further, the OGSR Act requires specified questions to be considered during the review process.²⁶ In examining an exemption, the OGSR Act asks the Legislature to question carefully the purpose and necessity of reenacting the exemption.

If in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁷ If the exemption is reenacted or saved from repeal 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 provided for by law.²⁸

Regulation of State-Chartered Financial Institutions

The Office of Financial Regulation (OFR) regulates and charters banks, trust companies, credit unions, and other financial institutions pursuant to the Financial Institutions Codes (Codes) in chapter 655 through chapter 667 of the Florida Statutes. Section 655.032 of the Codes authorizes the OFR to make investigations and examinations pursuant to its authority to ensure compliance with, and prevent violations of, the Codes and the administrative rules adopted pursuant to the Codes.²⁹ The Codes direct the OFR to take into account the appropriateness of an administrative remedy or penalty provided for the Codes with respect to the size of the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and other matters as justice may require.³⁰ Accordingly, the OFR will sometimes impose an “informal enforcement action” which the public records exemption in s. 655.057, F.S., defines to mean a board resolution, document of resolution, or an agreement in writing between the OFR and a financial institution which the OFR imposes when it determines that a formal enforcement

²³ Section 119.15(6)(b)1., F.S.

²⁴ Section 119.15(6)(b)2., F.S.

²⁵ Section 119.15(6)(b)3., F.S.

²⁶ Section 119.15(6)(a), F.S. The specified questions are:

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

²⁷ FLA. CONST. art. I, s. 24(c).

²⁸ Section 119.15(7), F.S.

²⁹ See s. 655.032, F.S., and s. 655.045, F.S.

³⁰ Section 655.031(1), F.S.

action is not an appropriate administrative remedy.³¹ The informal enforcement action must set forth a program of corrective action to address safety and soundness deficiencies or violations of law or rule of the institution. Informal enforcement actions are not subject to enforcement by imposition of an administrative fine under s. 655.041, F.S.

Public Records Exemptions for Informal Enforcement Actions and Trade Secrets

Chapter 655.057, F.S., exempts from public records requirements various records held by the OFR related to its authority and duties to enforce the Codes, including records related to investigations and examinations. The Legislature in 2014 created a public records exemption for informal enforcement actions of the OFR and trade secrets as defined by s. 688.002, F.S., held by the OFR in accordance with its statutory duties with respect to the financial institutions codes.³² A trade secret is defined by s. 688.002(4), F.S., to mean information,³³ that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Such information must also be the subject of efforts that are reasonable under the circumstances to maintain its secrecy to be a trade secret.

The public records exemption for “informal enforcement actions” continues to hold informal enforcement actions confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution after the investigation relating to the informal enforcement action is completed or ceases to be active if the disclosure would:

- Jeopardize the integrity of another active investigation.
- Impair the safety and soundness of the financial institution.
- Reveal personal financial information.
- Reveal the identity of a confidential source.
- Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual.
- Reveal investigative techniques or procedures.

The Legislature stated that the exemption was necessary because disclosure of informal enforcement actions could erode public confidence in financial institutions in this state and would place Florida-chartered institutions at a competitive disadvantage because financial institutions chartered federally or in other states are generally protected by the laws of those jurisdictions from the disclosure of informal enforcement actions. The Legislature stated that the public records exemption for trade secrets was necessary to prevent disclosures that could result in a competitive disadvantage and economic loss to a financial institution.

Professional Staff of the Banking and Insurance Committee submitted a questionnaire to the OFR regarding the public records exemptions for informal enforcement actions and trade secrets held by the office.³⁴ The OFR reported that it uses informal enforcement actions to address weak

³¹ Section 655.057(12)(b), F.S.

³² Chapter 2014-99, L.O.F.

³³ Including a formula, pattern, compilation, program, device, method, technique, or process

³⁴ *Open Government Sunset Review Questionnaire for Subsection (3) and (4) of Section 655.057, F.S.*, Senate Banking and Insurance Committee (November 16, 2018). On file with the Senate Banking and Insurance Committee.

operating practices, deteriorating financial conditions, violations of the Codes, or activity that impairs the safety and soundness of a financial institution. The OFR receives public records requests for information that would include informal enforcement actions and that the OFR responds to such requests by redacting all information deemed confidential and exempt under s. 655.057, F.S. The OFR indicated that the public records exemption for informal enforcement actions remains necessary and that its repeal is necessary to ensure that new financial institutions are willing to be chartered in Florida and to prevent existing Florida-chartered or licensed entities from converting to an entity regulated by a different state or the federal government. The OFR also indicated that the public records exemption for trade secrets is also necessary to allow the agency to perform its statutorily mandated regulatory oversight, some of which requires the OFR to collect trade secret information. Entities regulated by the office may claim a trade secret in order to keep proprietary information private.

III. Effect of Proposed Changes:

This bill saves from repeal the public records exemptions in s. 655.037(3), F.S., for informal enforcement actions performed by the Office of Financial Regulation, and s. 655.037(4), F.S., for trade secrets held by the Office of Financial Regulation in accordance with its statutory duties under the financial institutions codes, by removing the repeal date.

These exemptions are subject to the Open Government Sunset Review Act and will be repealed on October 2, 2019, unless re-enacted and saved from repeal by the Legislature.

The bill takes effect October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill reenacts and does not create or expand an existing exemption, thus the bill only requires a majority of the members present to re-enact the public records exemption.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity

justifying the exemption. This bill does not create or expand an exemption to public records requirements and thus does not require a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect proposals seeking research funding from the organization or a plan or program for either initiating or supporting research. This bill exempts from the public records informal enforcement actions and trade secrets held by the Office of Financial Regulation. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to any cost associated with the OFR making redactions in response to a public records request.

C. Government Sector Impact:

The OFR will continue to incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 655.057 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By the Committee on Banking and Insurance

597-02482-19

20197052__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 655.057, F.S., relating
 4 to exemptions from public records requirements for
 5 informal enforcement actions by the Office of
 6 Financial Regulation and certain trade secrets held by
 7 the office under the financial institutions codes;
 8 removing the scheduled repeal of the exemptions;
 9 providing an effective date.

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

11 Section 1. Subsection (14) of section 655.057, Florida
 12 Statutes, is amended, and subsections (3) and (4) of that
 13 section are republished, to read:
 14 655.057 Records; limited restrictions upon public access.—
 15 (3) Except as otherwise provided in this section and except
 16 for those portions that are otherwise public record, after an
 17 investigation relating to an informal enforcement action is
 18 completed or ceases to be active, informal enforcement actions
 19 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
 20 I of the State Constitution to the extent that disclosure would:
 21 (a) Jeopardize the integrity of another active
 22 investigation.
 23 (b) Impair the safety and soundness of the financial
 24 institution.
 25 (c) Reveal personal financial information.
 26 (d) Reveal the identity of a confidential source.
 27 (e) Defame or cause unwarranted damage to the good name or
 28
 29

Page 1 of 2

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

597-02482-19

20197052__

30 reputation of an individual or jeopardize the safety of an
 31 individual.
 32 (f) Reveal investigative techniques or procedures.
 33 (4) Except as otherwise provided in this section and except
 34 for those portions that are otherwise public record, trade
 35 secrets as defined in s. 688.002 which comply with s. 655.0591
 36 and which are held by the office in accordance with its
 37 statutory duties with respect to the financial institutions
 38 codes are confidential and exempt from s. 119.07(1) and s.
 39 24(a), Art. I of the State Constitution.
 40 ~~(14) Subsections (3) and (4) are subject to the Open~~
 41 ~~Government Sunset Review Act in accordance with s. 119.15 and~~
 42 ~~are repealed on October 2, 2019, unless reviewed and saved from~~
 43 ~~repeal through reenactment by the Legislature.~~
 44 Section 2. This act shall take effect October 1, 2019.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Governmental Oversight and Accountability Committee

Subject: Committee Agenda Request

Date: March 4, 2019

I respectfully request that **Senate Bill # 7052**, relating to OGSR/Informal Enforcement Actions/Trade Secrets/Office of Financial Regulation, be placed on the:

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

A handwritten signature in blue ink that reads "Darryl Rouson".

Senator Darryl Rouson
Florida Senate, District 19

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 7054

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Hurricane or Flood Loss Models

DATE: March 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Matiyow</u>	<u>Knudson</u>		BI Submitted as Committee Bill
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 7054 amends s. 627.0628(3)(g), F.S., to save from repeal the current exemption from public records disclosure for trade secrets used in designing and constructing hurricane and flood loss models that are provided by a private company to the Florida Commission on Hurricane Loss Projection Methodology (methodology commission), the Office of Insurance Regulation (OIR), or the consumer advocate under s. 627.0628, F.S., by removing the October 2, 2019, repeal date.

The bill also saves from repeal the public meetings exemption for those portions of a meeting by the methodology commission or a rate filing by an insurer in which trade secrets pertaining to hurricane or flood models are discussed.

Pursuant to the Open Government Sunset Review Act, the public records exemption is scheduled to repeal October 2, 2019, unless reenacted by the Legislature. Since the bill continues the exemption and does not expand the scope of the public records exemption, the bill requires a majority vote of each chamber for passage.

This bill takes effect October 1, 2019.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that

[i]t 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.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹²

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

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” 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 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA CONST., art. I, s. 24(c).

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

When creating or expanding a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹⁴ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as ‘exempt’ may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Meetings Laws

The Florida Constitution also provides that the public has a right to access governmental meetings.¹⁶ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁷ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.¹⁸

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”¹⁹ or the “Sunshine Law,”²⁰ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²¹ The board or commission must provide the public reasonable notice of such meetings.²² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²³ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁴ Failure to abide by open meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.²⁵ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁶

¹³ FLA. CONST., art. I, s. 24(c)

¹⁴ 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 Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).

¹⁶ FLA. CONST., art. I, s. 24(b).

¹⁷ *Id.*

¹⁸ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

¹⁹ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²⁰ *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²¹ Section 286.011(1)-(2), F.S.

²² *Id.*

²³ Section 286.011(6), F.S.

²⁴ Section 286.011(2), F.S.

²⁵ Section 286.011(1), F.S.

²⁶ Section 286.011(3), F.S.

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of both the Senate and the House of Representatives.²⁷ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.²⁸ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁹

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,³⁰ with specified exceptions.³¹ The Act 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 or repeal the sunset date.³² In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³³ 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;³⁴
- 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;³⁵ or
- It protects trade or business secrets.³⁶

²⁷ FLA. CONST., art. I, s. 24(c).

²⁸ *Id.*

²⁹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

³⁰ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

³¹ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

³² Section 119.15(3), F.S.

³³ Section 119.15(6)(b), F.S.

³⁴ Section 119.15(6)(b)1., F.S.

³⁵ Section 119.15(6)(b)2., F.S.

³⁶ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.³⁷ In examining an exemption, the Act asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.³⁸ If the exemption is reenacted or saved from repeal 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 provided for by law.³⁹

Florida Commission on Hurricane Loss Projection Methodology

In 1995, the Florida Legislature created the Florida Commission on Hurricane Loss Projection Methodology (methodology commission), under s. 627.0628, F.S., which declares the legislative intent is “to encourage the use of the most sophisticated actuarial methods to assure that consumers are charged lawful rates for residential property insurance coverage.”⁴⁰ The methodology commission is administratively housed within the State Board of Administration, but independently exercises its powers and duties as specified in the statute.

A number of vendors produce highly complex computer models that purport to reflect an average annual expected loss from hurricanes, floods and other perils. Models of this nature are driven by an array of internal assumptions, within a variety of scientific disciplines (e.g., meteorology, structural engineering, actuarial science, statistics, computer science). Although some basic assumptions may be common to more than one model, many of the detailed internal assumptions have been developed only after considerable research by each vendor, which closely guards that information as a trade secret. If all internal information of a model were published, that model could be replicated, and the vendor that produced the model would lose the entirety of its value.

Initially, s. 627.0628, F.S., did not contain an exemption from public records or public meetings. Accordingly, the methodology commission undertook a process to evaluate the participating computer models, which contained proprietary information, without the ability to exempt either records or meetings from full public disclosure. The methodology commission first established detailed standards that a model was required to meet in order to obtain approval. For the portion of the model that was nonproprietary, the methodology commission members questioned the vendor in open meetings; for the portion that was proprietary, the methodology commission hired a “professional team” of experts which went on-site to determine whether the model met

³⁷ Section 119.15(6)(a), F.S. The specified questions are:

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

³⁸ FLA. CONST. art. I, s. 24(c).

³⁹ Section 119.15(7), F.S.

⁴⁰ Ch. 95-276, s. 6, Laws of Fla.

the applicable standards, and reported its findings to the methodology commission in an open hearing.

In 2005, the Legislature enacted s. 627.0628(3)(f), which pertains to public records exemptions for the methodology commission.⁴¹ The public records exemptions are:

- Section 627.0628(3)(f)1., F.S., which provides that trade secrets used in designing and constructing a hurricane loss model and submitted by a private company to the methodology commission, the OIR, or the consumer advocate are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.
- Section 627.0628(3)(f)2., F.S., which provides that a portion of a meeting of the methodology commission or of a rate proceeding at which trade secrets used in designing and constructing a hurricane loss model are discussed is exempt from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution.

In 2014⁴², the Legislature expanded the methodology commission's oversight to include flood models submitted by insurers wanting to offer private flood insurance in competition with the National Flood Insurance Program. The Legislature that year also expanded the current public records exemptions for hurricane models to include flood models submitted to the methodology commission, the OIR and the office of the consumer advocate.⁴³ As a result of amending the current exemptions to include flood models, all exempt materials will sunset of October 2, 2019, unless saved from repeal by the Legislature.

Staff reviewed the methodology commission responses⁴⁴ to the questions to be considered in accordance with s. 119.15(6)(a), F.S. The commission stated that the exemption prevents the disclosure of trade secrets that would negatively impact the business interests of companies that develop hurricane and flood models. The commission stated that such trade secrets are not readily obtainable through alternative means and are not protected by another exemption.

III. Effect of Proposed Changes:

Section 1 amends s. 627.0628, F.S., to continue the public records exemption for the scheduled repeal trade secrets used in designing and constructing hurricane and flood loss models that are provided to the methodology commission, the OIR, or the consumer advocate under s. 627.0628, F.S.

The bill also continues the public meeting exemption for that portion of a meeting of the methodology commission or a rate filing by an insurer in which trade secrets pertaining to hurricane and flood loss models are discussed.

Section 2 provides that the bill takes effect October 1, 2019.

⁴¹ Ch. 2005-264, s. 3, Laws of Fla.

⁴² Ch. 2014-80, Laws of Fla.

⁴³ Ch. 2014-98, Laws of Fla.

⁴⁴ Email from Leonard Schulte, Commission Representative, to Scott Matiyow, Senior Legislative Analyst for the Senate Committee on Banking and Insurance (September 25, 2018) (on file with the Senate Committee on Banking and Insurance).

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

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

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

Article 1, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption and public meeting exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues current public records and public meetings exemptions without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect trade secrets used in designing and constructing hurricane and flood loss models that are provided by a private company to the methodology commission, the OIR, or the consumer advocate under s. 627.0628, F.S. Additionally, the law protects that portion of a meeting with the methodology commission or of a rate proceeding on an insurer's rate filing in which trade secrets pertaining to hurricane and flood loss models are discussed. The exemptions do not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

Private vendors that produce hurricane and flood loss models to the methodology commission would continue to have their sensitive development data and information protected. The private sector will continue to be subject to the cost associated with the agency making redactions in response to public records request.

C. Government Sector Impact:

The exemptions will continue to allow members of the methodology commission, the OIR, and the consumer advocate's office to have access to all information pertaining to the development of models that project hurricane and flood losses. The agency will continue to incur costs related to the redaction of records in response to public records request.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.0628 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 the Committee on Banking and Insurance

597-02483-19

20197054__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 627.0628, F.S.,
 4 relating to exemptions from public records and public
 5 meetings requirements for certain trade secrets used
 6 in designing and constructing hurricane or flood loss
 7 models and provided to the Florida Commission on
 8 Hurricane Loss Projection Methodology, the Office of
 9 Insurance Regulation, or the Insurance Consumer
 10 Advocate, and for certain portions and recordings of
 11 meetings at which the trade secrets are discussed;
 12 removing the scheduled repeal of the exemptions;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Paragraph (g) of subsection (3) of section
 18 627.0628, Florida Statutes, is amended to read:
 19 627.0628 Florida Commission on Hurricane Loss Projection
 20 Methodology; public records exemption; public meetings
 21 exemption.—

22 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—
 23 (g)1. A trade secret, as defined in s. 688.002, which is
 24 used in designing and constructing a hurricane or flood loss
 25 model and which is provided pursuant to this section, by a
 26 private company, to the commission, office, or consumer advocate
 27 appointed pursuant to s. 627.0613 is confidential and exempt
 28 from s. 119.07(1) and s. 24(a), Art. I of the State
 29 Constitution.

Page 1 of 2

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597-02483-19

20197054__

30 2.a. That portion of a meeting of the commission or of a
 31 rate proceeding on an insurer's rate filing at which a trade
 32 secret made confidential and exempt by this paragraph is
 33 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
 34 State Constitution. The closed meeting must be recorded, and no
 35 portion of the closed meeting may be off the record.

36 b. The recording of a closed portion of a meeting is exempt
 37 from s. 119.07(1) and s. 24(a), Art. I of the State
 38 Constitution.

39 ~~e. This paragraph is subject to the Open Government Sunset~~
 40 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 41 ~~on October 2, 2019, unless reviewed and saved from repeal~~
 42 ~~through reenactment by the Legislature.~~

43 Section 2. This act shall take effect October 1, 2019.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Governmental Oversight and Accountability Committee

Subject: Committee Agenda Request

Date: March 4, 2019

I respectfully request that **Senate Bill # 7054**, relating to OGSR/Hurricane or Flood Loss Models, be placed on the:

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

A handwritten signature in blue ink that reads "Darryl Rouson".

Senator Darryl Rouson
Florida Senate, District 19

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 7056

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Family Trust Companies/Office of Financial Regulation

DATE: March 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Billmeier</u>	<u>Knudson</u>		BI Submitted as Committee Bill
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 7056 amends s. 662.148, F.S. to save from repeal the current exemption from public records disclosure for certain information relating to family trust companies held by the Office of Financial Regulation, removing the October 2, 2019, repeal date. Family trust companies provide trust company services to high net worth families. They are not allowed to provide services to the general public. The Office of Financial Regulation's regulatory role is limited to ensuring that fiduciary services are not provided to the general public unless the family trust company desires more regulation.

Section 662.148, F.S., provides that personal identifying information contained in family trust company applications, registrations, certifications, and examinations is confidential and exempt from public disclosure. It also provides that family trust company shareholder or member names are confidential and exempt.

The Legislature made such personal identifying information confidential and exempt because disclosure of financial information and names of family members, qualified participants, and shareholders of family trust companies could jeopardize the financial safety of the family members. Families with a high net worth are frequently the targets of criminals and placing family personal identifying information into the public domain would increase the risk that a family could become the target of criminal activity.

This bill takes effect October 1, 2019.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.² In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

[i]t 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

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

¹ FLA. CONST., art. I, s. 24(a).

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 Legislature 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” 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 *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹² Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian under certain circumstances.¹³

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁴ The Act 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 or repeal the sunset date.¹⁵ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁶ 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;¹⁷
- 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;¹⁸ or
- It protects trade or business secrets.¹⁹

The Act also requires specified questions to be considered during the review process.²⁰ In examining an exemption, the Act asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹² 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).

¹³ *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).

¹⁴ 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 records or 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.

¹⁵ Section 119.15(3), F.S.

¹⁶ Section 119.15(6)(b), F.S.

¹⁷ Section 119.15(6)(b)1., F.S.

¹⁸ Section 119.15(6)(b)2., F.S.

¹⁹ Section 119.15(6)(b)3., F.S.

²⁰ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²¹ If the exemption is reenacted or saved from repeal 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 provided for by law.²²

The Family Trust Company

A family trust company provides trust services to wealthy families and cannot provide services to the general public. These services include serving as a trustee of trusts held for the benefit of the family members, as well as providing other fiduciary, investment advisory, wealth management, and administrative services to the family. A family might wish to form a family trust company in order to keep family matters more private than they would be if turned over to an independent trustee, to gain liability protection, to establish its own trust fee structure, and to obtain tax advantages. Traditional trust companies require regulatory oversight, licensing of investment personnel, public disclosure and capitalization requirements considered by practitioners to be overbroad and intrusive for the family trust.

In 2014, the Legislature authorized the creation of family trust companies in Florida.²³ The Florida Family Trust Company Act is codified in chapter 662, F.S. The Act allows for the creation of family trust companies in Florida and provides differing degrees of regulatory oversight by the Office of Financial Regulation (OFR).

Chapter 662, F.S., creates three types of family trust companies: family trust companies, licensed family trust companies, and foreign licensed family trust companies. A “family trust company” is a corporation or limited liability company that is exclusively owned by one or more family member and acts or proposes to act as a fiduciary to serve one or more family members.²⁴ A “licensed family trust company” means a family trust company that has been issued a license that has not been revoked or suspended by the OFR.²⁵ A “foreign licensed family trust company” means a family trust company that is licensed by a state other than Florida.²⁶ Family trust companies that are not licensed and foreign family trust companies must register annually with the OFR.²⁷

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

²¹ FLA. CONST. art. I, s. 24(c).

²² Section 119.15(7), F.S.

²³ Ch. 2014-97, Laws of Fla.

²⁴ See s. 662.111(12), F.S. and does not serve as a fiduciary for a person, entity, trust, or estate that is not a family member, except that it may serve as a fiduciary for up to 35 individuals who are not family members if the individuals are current or former employees of the family trust company or one or more trusts, companies, or other entities that are family members

²⁵ See s. 662.111(16), F.S.

²⁶ See s. 662.111(15), F.S.

²⁷ See ss. 662.122, 662.128, F.S.

A licensed family trust company is subject to regulation by the OFR, including examinations and investigations.²⁸ If a family trust company is not licensed or is a foreign family trust company, the OFR role is limited to ensuring fiduciary services are not provided to the general public and are restricted to family members.²⁹

There are no licensed family trust companies in Florida. There are ten registered family trust companies in Florida. The OFR has identified one public records request relating to family trust companies in 2018, two requests in 2017, two requests in 2016, and one request in 2014. The OFR responded to each request by redacting confidential and exempt information.³⁰

Public Records Exemption

Section 662.148, F.S., provides that the following information in records relating to family trust companies held by the OFR are confidential and exempt from public disclosure:

- Personal identifying information appearing in records relating to a registration, an application, or an annual certification.
- Personal identifying information appearing in records relating to an examination.
- Personal identifying information appearing in reports of examinations, operations, or conditions of trust companies.
- Personal identifying information appearing in working papers held by the OFR.
- Any portion of a list of names of the shareholders or members.
- Information received from a person from another state or nation or the federal government which is otherwise confidential or exempt pursuant to the laws of that state or nation or pursuant to federal law.
- Emergency cease and desist orders. However, an emergency cease and desist order may be made public if it is made permanent or if continued confidentially will place the public at substantial risk of financial loss.

Subsection 662.148(3), F.S., provides that the OFR may disclose confidential and exempt information relating to family trust companies to the following:

- An authorized representative of a trust company during an examination.
- A fidelity insurance company, upon written consent of a trust company.
- An independent auditor, upon written consent of a trust company.
- A liquidator, receiver, or conservator for a trust company. However, any information which discloses the identity of a bondholder, customer, family member, member, or stockholder must be redacted by the OFR before being released.
- Any other state, federal, or foreign agency responsible for the regulation or supervision of a trust company.
- A law enforcement agency in the furtherance of the agency's official duties or for the purpose of reporting suspected criminal activity.
- A prosecutorial agency for the purpose of reporting suspected criminal activity.

²⁸ See s. 662.141, F.S.

²⁹ See s. 662.102(3)(b), F.S.

³⁰ Letter from the Office of Financial Regulation to Senate Committee on Banking and Insurance Staff dated August 23, 2018 (on file with the Senate Committee on Banking and Insurance).

- A legislative body or committee pursuant to a legislative subpoena. The legislative body or committee must maintain the confidentiality of the records it receives, except in cases involving a public official who is subject to impeachment or removal.

The exemption does not prevent or restrict the publication of a report required by federal law, nor does this bill prevent or restrict the publication of a trust company's name, or the name and address of its registered agent.³¹

Public Necessity Statement

The Legislature found that the exemption is necessary because:

- Financial information and lists of names of family members, qualified participants, and shareholders, if available for public access could jeopardize the financial safety of the family members who are the subject of the information. Families with a high net worth are frequently the targets of criminal predators seeking access to their assets. It is important that the exposure of such families and family members to threats of extortion, kidnapping, and other crimes not be increased. Placing family names, private family business records and methodologies into the public domain would increase the security risk that a family could become the target of criminal activity.
- Public disclosure of an examination, report of examination, or emergency cease and desist order could expose families to security risks, and could defame or cause unwarranted damage to the good name or reputation of the family that is the subject of the information.
- Family trust companies often provide a consolidated structure for the ownership of an operating business owned by multiple family members. Placing those private business operations and methods in the public domain could jeopardize their business assets, methodologies, and practices.³²

III. Effect of Proposed Changes:

This bill amends 662.148, F.S., to continue the public records exemption for certain personal identifying information relating to family trust companies held by the OFR. Specifically, the bill continues the exemption by deleting the October 2, 2019, repeal date. The Legislature found that the exemption is necessary to protect families from criminal activity, to avoid unnecessary embarrassment to families, and to avoid exposing family business practices to the public. If the bill passes, the exemption would be permanent. The bill takes effect October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

³¹ See s. 662.148(4), F.S.

³² See ch. 2014-102, L.O.F.

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

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public meetings exemption without expansion.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency making redactions in response to a public records request.

C. **Government Sector Impact:**

The OFR will continue to incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 662.148 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 the Committee on Banking and Insurance

597-02484-19

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A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 662.148, F.S., relating to an exemption from public records requirements for certain information held by the Office of Financial Regulation relating to family trust companies, licensed family trust companies, and foreign licensed family trust companies; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 662.148, Florida Statutes, is amended to read:

662.148 Public records exemption.—

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

(a) "Reports of examinations, operations, or conditions" means records submitted to or prepared by the office as part of the office's duties performed pursuant to s. 655.012 or s. 655.045(1).

(b) "Working papers" means the records of the procedure followed, the tests performed, the information obtained, and the conclusions reached in an examination under s. 655.032 or s. 655.045. The term also includes books and records.

(2) PUBLIC RECORDS EXEMPTION.—The following information held by the office is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Any personal identifying information appearing in records relating to a registration, an application, or an annual

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certification of a family trust company, licensed family trust company, or foreign licensed family trust company.

(b) Any personal identifying information appearing in records relating to an examination of a family trust company, licensed family trust company, or foreign licensed family trust company.

(c) Any personal identifying information appearing in reports of examinations, operations, or conditions of a family trust company, licensed family trust company, or foreign licensed family trust company, including working papers.

(d) Any portion of a list of names of the shareholders or members of a family trust company, licensed family trust company, or foreign licensed family trust company.

(e) Information received by the office from a person from another state or nation or the Federal Government which is otherwise confidential or exempt pursuant to the laws of that state or nation or pursuant to federal law.

(f) An emergency cease and desist order issued under s. 662.143 until the emergency order is made permanent unless the office finds that such confidentiality will result in substantial risk of financial loss to the public.

(3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT INFORMATION.—Information made confidential and exempt under subsection (2) may be disclosed by the office:

(a) To the authorized representative or representatives of the family trust company, licensed family trust company, or foreign licensed family trust company under examination. The authorized representative or representatives shall be identified in a resolution or by written consent of the board of directors

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59 if the trust company is a corporation, or of the managers if the
60 trust company is a limited liability company.

61 (b) To a fidelity insurance company, upon written consent
62 of the trust company's board of directors if a corporation, or
63 its managers if a limited liability company.

64 (c) To an independent auditor, upon written consent of the
65 trust company's board of directors if a corporation, or its
66 managers if a limited liability company.

67 (d) To a liquidator, receiver, or conservator for a family
68 trust company, licensed family trust company, or foreign
69 licensed family trust company if a liquidator, receiver, or
70 conservator is appointed. However, any portion of the
71 information which discloses the identity of a bondholder,
72 customer, family member, member, or stockholder must be redacted
73 by the office before releasing such portion to the liquidator,
74 receiver, or conservator.

75 (e) To any other state, federal, or foreign agency
76 responsible for the regulation or supervision of family trust
77 companies, licensed family trust companies, or foreign licensed
78 family trust companies.

79 (f) To a law enforcement agency in the furtherance of the
80 agency's official duties and responsibilities.

81 (g) To the appropriate law enforcement or prosecutorial
82 agency for the purpose of reporting any suspected criminal
83 activity.

84 (h) Pursuant to a legislative subpoena. A legislative body
85 or committee that receives records or information pursuant to
86 such a subpoena must maintain the confidential status of such
87 records or information, except in a case involving the

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88 investigation of charges against a public official subject to
89 impeachment or removal, in which case records or information
90 shall only be disclosed to the extent necessary as determined by
91 such legislative body or committee.

92 (4) PUBLICATION OF INFORMATION.—This section does not
93 prevent or restrict the publication of:

94 (a) A report required by federal law.

95 (b) The name of the family trust company, licensed family
96 trust company, or foreign licensed family trust company and the
97 name and address of the registered agent of that company.

98 (5) PENALTY.—A person who willfully discloses information
99 made confidential and exempt by this section commits a felony of
100 the third degree, punishable as provided in s. 775.082, s.
101 775.083, or s. 775.084.

102 ~~(6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject~~
103 ~~to the Open Government Sunset Review Act in accordance with s.~~
104 ~~119.15 and is repealed on October 2, 2019, unless reviewed and~~
105 ~~saved from repeal through reenactment by the Legislature.~~

106 Section 2. This act shall take effect October 1, 2019.

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The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Governmental Oversight and Accountability Committee

Subject: Committee Agenda Request

Date: March 4, 2019

I respectfully request that **Senate Bill # 7056**, relating to OGSR/Family Trust Companies/Office of Financial Regulation, be placed on the:

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

A handwritten signature in blue ink that reads "Darryl Rouson".

Senator Darryl Rouson
Florida Senate, District 19

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 7000

INTRODUCER: Health Policy Committee

SUBJECT: OGSR/Dental Workforce Surveys/Department of Health

DATE: March 11, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Rossitto-Van Winkle	Brown		HP Submitted as Committee Bill
1.	Ponder	McVaney	GO	Favorable
2.			RC	

I. Summary:

SB 7000 amends s. 466.051, F.S., to save from repeal the public records exemption for personal identifying information contained in records provided by dentists or dental hygienists licensed under ch. 466, F.S., in response to Department of Health (DOH) dental workforce surveys. The bill continues the exemption from public disclosure by removing the scheduled repeal of the exemption.

The bill takes effect October 1, 2019.

II. Present Situation:

Public Records Law

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

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws, and is known as the Public Records Act.³ The Public Records Act states that

[i]t 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.⁴

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹² Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature.

⁵ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

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

¹² 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).

Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹³

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁴ with specified exceptions.¹⁵ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁶

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.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 Act also requires specified questions to be considered during the review process.²¹ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

¹³ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁴ Section 119.15, F.S. Section 119.15(4)(b), F.S. An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the OGSR do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹⁵ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

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:

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

If, the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²² If the exemption is continued without substantive changes or if the exemption is continued and 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 provided for by law.²³

Workforce Surveys

In 2009, DOH developed a workforce survey for dentists and dental hygienists to complete on a voluntary basis in conjunction with the biennial renewal of dental licenses.²⁴ The survey was designed to obtain information unavailable elsewhere on key workforce characteristics in order to better inform and shape public healthcare policy. The survey consists of questions soliciting responses regarding demographics, professional education, practice characteristics, productivity, services to vulnerable population, and retention and attrition.²⁵

The DOH first offered the survey to dentists and dental hygienists in 2010²⁶ and has had the following percentage participation rates (among those with active licenses) by year and population as follows:²⁷

Population	2009-2010	2011-2012	2013-2014	2015-2016
Dentist	89%	87%	85%	65%
Dental Hygienist	93%	89%	78%	89%

The Public Health Dental Program is housed within the DOH Division of Community Health Promotion.²⁸ The program leads the DOH's efforts to improve and maintain the oral health of all persons in Florida. The program has four primary functions:

- Providing a statewide direction for policy related to oral health issues;
- Promoting and administering oral health education and preventive dental programs;
- Collecting and analyzing data on oral health; and
- Supporting the provision of direct dental care services through the county health departments (CHD) and other public and private organizations.²⁹

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

²⁴ Section 466.013(2), F.S., authorizes DOH to adopt rules for the biennial renewal of licenses.

²⁵ Florida Department of Health, *Report on the 2015-2016 Workforce Survey of Dentist*, January 2017 at 8, http://www.floridahealth.gov/programs-and-services/community-health/dental-health/reports/_documents/florida-workforce-survey-dentists-2015-2016.pdf (last visited February 13, 2019).

²⁶ Florida Department of Health, *Response to Open Government Sunset Review Questionnaire* (Aug. 1, 2018), at p. 2 (on file with the Senate Committee on Health Policy).

²⁷ *Id.* The Public Health Dental Program recently received the data from the 2017-2018 reporting period but has not published those data as of this writing.

²⁸ Section 381.0052, F.S.

²⁹ The Department of Health, *Dental Health, Division of Community Health Promotion, Public Health Dental Program*, Available at <http://www.floridahealth.gov/programs-and-services/community-health/dental-health/index.html> (last visited Dec. 14, 2018).

The Public Health Dental Program works with the DOH Office of Information Technology and the DOH Division of Medical Quality Assurance (MQA) every two years to administer the survey. The program develops the survey questions with the assistance of CHD's which are approved by DOH leadership. Then MQA dental staff administers the survey. The DOH then links demographic information from the MQA licensure date base via unique identifiers so that results can be stratified by age, gender, and race/ethnicity. The data files are stored on the DOH secure network drives for data analysis. The reports, published on the DOH website,³⁰ contain only summary (aggregate) information.

In 2018, the Public Health Dental Program used the 2015-2016 survey information in a federal grant application to support programs to address Florida's dental workforce needs, particularly in health professional shortage areas.³¹

Information Protected from Disclosure

Section 466.051, F.S., provides that all personal identifying information contained in records provided by dentists or dental hygienists licensed under ch. 466, F.S., in response to a dental workforce survey and held by the DOH, are confidential and exempt³² from public disclosure. However, the DOH must disclose the information under the following circumstances:

- With the express written consent of the person who is identified or the person's legally authorized representative; or
- By court order upon a showing of good cause.

In addition, the DOH may disclose the information to a research entity, if the entity:

- Seeks the record or data pursuant to a research protocol approved by the DOH;
- Maintains the records in accordance with the protocol; and
- Enters into a purchase and data-use agreement with DOH. The agreement must restrict the release of information that would identify individuals, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data.

Section 466.051, F.S., authorizes the DOH to deny a research entity's request if the protocol provides for intrusive follow-back contacts, does not plan for the destruction of confidential records after the research has concluded, is administratively burdensome, or does not have scientific merit.

³⁰ The Department of Health, Programs and Services, Community Health, Reports, *Work Force Reports – Dentist and Hygienist*, available at <http://www.floridahealth.gov/programs-and-services/community-health/dental-health/reports/index.html> (last visited Dec. 14, 2018).

³¹ See note 23.

³² FLA. CONST. art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (see *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (see Attorney General Opinion 85-62, August 1, 1985).

Section 466.051, F.S., provides for repeal of the exemption pursuant to the OGSR on October 2, 2019, unless reviewed and saved from repeal by the Legislature. The statute also provides a statement of public necessity as required by the Florida Constitution.³³ The statement finds that preserving the confidentiality of the information will result in more participation and candid responses to the surveys, which, in turn, are important to addressing the availability and areas of need for the dental workforce in Florida.³⁴

The DOH reports that it has received no requests for personal information gathered in the surveys; however, the DOH recommends reenacting the public records exemption to encourage dentists and dental hygienists to voluntarily participate in the survey to better measure public health needs and resources relating to the dentistry workforce.³⁵ Unlike dentists and dental hygienists, medical and osteopathic physicians are *required* to respond to a workforce survey as a condition of license renewal,³⁶ and all personal identifying information contained in records provided by physicians in response to the survey is confidential and exempt.³⁷

III. Effect of Proposed Changes:

This bill saves from repeal the public records exemption in s. 466.051, F.S., which makes confidential and exempt from s. 119.07(1), F.S., and s. 24, Art. I, of the State Constitution, personal identifying information held by the DOH that is contained in records provided by a licensed dentist or dental hygienist in response to a dental workforce survey. The bill continues the exemption from public disclosure by removing the repeal date.

The bill takes effect October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. The bill continues a current public records exemption

³³ FLA CONST. art 1, s. 24(c).

³⁴ Chapter 2014-78, s. 2, Laws of Fla.

³⁵ Florida Department of Health, *Response to Open Government Sunset Review Questionnaire* (Aug. 1, 2018), at p. 4 (on file with the Senate Committee on Health Policy). The first dental workforce survey was administered in 2010 to be reflective of the dental workforce in Florida for the preceding 2 years (2009 and 2010).

³⁶ See ss. 458.3191 and 459.0081, F.S.

³⁷ See ss. 458.3193 and 459.0083, F.S.

beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without an expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the personal identifying information contained in a record provided by a dentist or dental hygienist licensed under ch. 466, F.S., who responds to a dental workforce survey to ensure timely and accurate information is available to the DOH. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill preserves the public records exemption for personal identifying information contained in a record provided by a dentist or dental hygienist in response to a dental workforce survey. The private sector will continue to be subject to the cost associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

By preserving the public records exemption for personal identifying information contained in a record provided in response to a dental workforce survey by a dentist or dental hygienist, the agency will continue to experience a cost associated with

administering the Dental Workforce Survey. The DOH reports that annual expenditures for the dental workforce surveys amount to \$15,200 per year. Additionally, the agency will continue to incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 461.051(2) 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 the Committee on Health Policy

588-00834-19

20197000__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 466.051, F.S., relating
 4 to an exemption from the public records requirements
 5 for personal identifying information contained in
 6 dental workforce surveys held by the Department of
 7 Health; removing the scheduled repeal of the
 8 exemption; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Section 466.051, Florida Statutes, is amended to
 13 read:
 14 466.051 Confidentiality of certain information contained in
 15 dental workforce surveys.—
 16 ~~(1)~~ Personal identifying information that is contained in a
 17 record provided by a dentist or dental hygienist licensed under
 18 this chapter in response to a dental workforce survey and held
 19 by the Department of Health is confidential and exempt from s.
 20 119.07(1) and s. 24(a), Art. I of the State Constitution.
 21 Personal identifying information in such a record:
 22 (1)(a) Shall be disclosed with the express written consent
 23 of the individual to whom the information pertains or the
 24 individual's legally authorized representative.
 25 (2)(b) Shall be disclosed by court order upon a showing of
 26 good cause.
 27 (3)(c) May be disclosed to a research entity, if the entity
 28 seeks the records or data pursuant to a research protocol
 29 approved by the Department of Health, maintains the records or

Page 1 of 2

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

588-00834-19

20197000__

30 data in accordance with the approved protocol, and enters into a
 31 purchase and data-use agreement with the department, the fee
 32 provisions of which are consistent with s. 119.07(4). The
 33 department may deny a request for records or data if the
 34 protocol provides for intrusive follow-back contacts, does not
 35 plan for the destruction of the confidential records after the
 36 research is concluded, is administratively burdensome, or does
 37 not have scientific merit. The agreement must prohibit the
 38 release of information by the research entity which would
 39 identify individuals, limit the use of records or data to the
 40 approved research protocol, and prohibit any other use of the
 41 records or data. Copies of records or data issued pursuant to
 42 this subsection ~~paragraph~~ remain the property of the department.
 43 ~~(2) This section is subject to the Open Government Sunset~~
 44 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 45 ~~on October 2, 2019, unless reviewed and saved from repeal~~
 46 ~~through reenactment by the Legislature.~~
 47 Section 2. This act shall take effect October 1, 2019.

Page 2 of 2

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



THE FLORIDA SENATE
COMMITTEE ON HEALTH POLICY

Location

530 Knott Building

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5824

Senator Gayle Harrell, *Chair*
Senator Lori Berman, *Vice Chair*

Professional Staff: Allen Brown, *Staff Director*

Senate's Website: www.flsenate.gov

January 31, 2019

Senator Ed Hooper
Chairman
Governmental Oversight and Accountability
Committee
404 South Monroe Street
303 Knott Building
Tallahassee, FL 32399-1100

Dear Chairman Hooper:

I am requesting that SB 7000 (OGSR/Dental Workforce Surveys/Department of Health), a Health Policy committee bill, be placed on the agenda of the committee's next scheduled meeting. Your consideration would be greatly appreciated.

If you have questions, please call 487-5824.

Respectively,

Gail Harrell
State Senator, District 25

cc: Joe McVaney, Staff Director
Governmental Oversight and Accountability
Committee

THE FLORIDA SENATE

APPEARANCE RECORD

3/12/19

Meeting Date

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

SB 7000

Bill Number (if applicable)

Topic OGRSR/ Dental workforce survey

Amendment Barcode (if applicable)

Name Alexandra Abboud

Job Title Governmental Affairs Liaison

Address 118 E. Jefferson St

Phone 850-224-1089

Street

Tallahassee

FL

32301

City

State

Zip

Email aabboud@floridadental.org

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

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

Representing Florida Dental Association

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
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 498

INTRODUCER: Criminal Justice Committee and Senator Powell

SUBJECT: Fire Safety and Prevention

DATE: March 11, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Fav/CS
2.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 498 creates s. 633.217, F.S., to criminalize certain actions taken to influence a firesafety inspector to violate the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S.

The bill provides that a first violation of the new statute is a second degree misdemeanor, and a second or subsequent violation is a first degree misdemeanor.

The bill does not have a state prison bed impact because no felony penalties are imposed. The misdemeanor penalties in the bill may have an indeterminate impact on county jails.

The bill takes effect October 1, 2019.

II. Present Situation:

Division of the State Fire Marshal

State law on fire prevention and control¹ designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal (Division).²

Pursuant to this authority, the State Fire Marshal:

- Regulates, educates or trains, and certifies fire service personnel;³
- Investigates the causes of fires;⁴
- Enforces arson laws;⁵
- Regulates the installation and maintenance of fire equipment;⁶
- Conducts firesafety inspections of state buildings;⁷
- Develops firesafety standards;⁸
- Provides testing facilities for testing firefighting equipment;⁹ and
- Operates the Florida State Fire College.¹⁰

The Division consists of two bureaus: the Bureau of Fire Standards and Training (BFST), and the Bureau of Fire Prevention.¹¹ The Florida Fire College, part of the BFST, trains over 6,000 students per year.¹² The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.¹³

Florida Fire Prevention Code

The State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC), which contains all firesafety laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.¹⁴ The State Fire Marshal adopts a new edition of the FFPC every three years.¹⁵ The FFPC includes national firesafety and life

¹ Chapter 633, F.S.; s. 633.104(1), F.S.

² The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of the State Fire Marshal is located within the DFS. *See* s. 20.121, F.S.

³ Section 633.128(1), F.S. *See* Part IV, ch. 633, F.S. (Fire Standards and Training).

⁴ Sections 633.104(2)(e) and 633.112, F.S.

⁵ Section 633.104(2), F.S.

⁶ Section 633.104(2)(b), F.S. *See* s. 633.104(2)(c), F.S., and part II, ch. 633, F.S. (Fire Protection and Suppression).

⁷ Section 633.218, F.S.

⁸ Part II, ch. 633, F.S. (Fire Safety and Prevention).

⁹ Section 633.432, F.S.

¹⁰ Section 633.128(1)(h)–(q), F.S. *See* ss. 633.428–633.434, F.S.

¹¹ *What We Do*, State Fire Marshall, available at <https://www.myfloridacfo.com/Division/sfm/> (last visited on Feb. 11, 2019).

¹² *About the Florida State Fire Marshall*, Division of State Fire Marshal, *About the Florida State Fire Marshal*, available at <http://www.myfloridacfo.com/division/sfm/AbouttheStateFireMarshal.htm> (last visited on Feb. 11, 2019).

¹³ *Id.*

¹⁴ Section 633.202(1), F.S. *See* ch. 69A-60, F.A.C.

¹⁵ *Id.*

safety standards set forth by the National Fire Protection Association (NFPA),¹⁶ including the NFPA's Fire Code (1), Life Safety Code (101), and Guide on Alternative Approaches to Life Safety (101A).¹⁷

Firesafety Enforcement by Local Governments

State law requires all municipalities, counties, and special districts with firesafety responsibilities to enforce the FFPC as the minimum fire prevention code, which operates uniformly among local governments and in conjunction with the Florida Building Code.¹⁸ These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S.,¹⁹ but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.²⁰

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and the rules prescribed by the State Fire Marshal within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.²¹ Each county, municipality, and special district with firesafety enforcement responsibilities is also required to employ or contract with a firesafety inspector (certified by the State Fire Marshal) to conduct all firesafety inspections required by law.²²

Firesafety Inspectors

Section 633.102(12), F.S., defines a firesafety inspector as an individual who holds a current and valid Fire Safety Inspector Certificate of Compliance issued by the Division under s. 633.216, F.S., who is officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district with fire safety responsibilities.²³ The BFST issues certifications for Firesafety Inspector I and Firesafety Inspector II.²⁴

A person applying for certification as a Firesafety Inspector I must:

¹⁶ Section 633.202(2), F.S. Founded in 1896, the NFPA is a global, nonprofit organization devoted to eliminating death, injury, property and economic loss due to fire, electrical and related hazards. It has developed over 300 voluntary consensus codes and standards in the areas of fire, electrical, and building safety which are widely used by state and local officials. *About NFPA*, National Fire Protection Association, available at <http://www.nfpa.org/about-nfpa> (last visited on Feb. 11, 2019).

¹⁷ The NFPA states that the Guide on Alternative Approaches to Life Safety "is intended to be used in conjunction with the NFPA 101: Life Safety Code, not as a substitute." *NFPA 101A: Guide on Alternative Approaches to Life Safety*, National Fire Protection Association, available at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=101A> (last visited on Feb 11, 2019).

¹⁸ Sections 633.108 and 633.208, F.S.

¹⁹ See Rule 69A-60.002, F.A.C.

²⁰ Section 633.214(4), F.S. The State Fire Marshal maintains a list of local amendments to the FFPC. This information is available at <https://www.myfloridacfo.com/Division/SFM/bfp/LocalAmendments.htm> (last visited on Feb. 11, 2019).

²¹ Section 633.118, F.S.

²² Section 633.216(1), F.S.

²³ See s. 633.214(1)(a), F.S.

²⁴ Section 633.216(2), F.S., and ch. 69A-39, F.A.C. See *Certification and Testing*, Division of State Fire Marshal, Bureau of Firefighter Standards and Training, available at <https://www.myfloridacfo.com/Division/SFM/BFST/Standards/default.htm> (last visited on Feb 11, 2019).

- Be a high school graduate or the equivalent and at least 18 years of age;
- Not have been convicted of a misdemeanor relating to the certification or to perjury or false statements, or a felony or a crime punishable by imprisonment of one year or more, or be dishonorably discharged from the Armed Forces of the United States;
- Submit a set of fingerprints to the Division with a current processing fee; and
- Have a good moral character.²⁵

A Firesafety Inspector I Certificate of Compliance will be issued by the Division to an individual who:

- Successfully completes a minimum of 200 hours of basic certification training for firesafety inspectors, or has received equivalent training in another state; and
- Passes a state written examination.²⁶

The Firesafety Inspector I Certificate of Compliance is valid for a period of four years from the date of issuance. Renewal of this certificate includes completion of at least 54 hours of continuing education during the preceding four-year period.²⁷

A Firesafety Inspector II Certificate of Compliance will be issued by the Division to an individual who:

- Is certified as a Firesafety Inspector I; and
- Successfully completes a minimum of 160 hours of certification training for Firesafety Inspector II, or has received equivalent training in another state.²⁸

Criminal Penalties

Section 633.122, F.S., prohibits a person from falsely assuming or pretending to be the State Fire Marshal, an agent of the State Fire Marshal, a firefighter, a volunteer firefighter, or a firesafety inspector by identifying herself or himself as the State Fire Marshal, an agent of the State Fire Marshal, a firefighter, a volunteer firefighter, or a firesafety inspector by wearing a uniform or presenting or displaying a badge as credentials that would cause a reasonable person to believe that she or he is a State Fire Marshal, an agent of the State Fire Marshal, a firefighter, a volunteer firefighter, or firesafety inspector. A violation of this section is a third degree felony.²⁹ However, it is a first degree felony³⁰ if the impersonation occurs during the commission of a separate felony by that person.

Section 468.629, F.S., prohibits a person from influencing a building code enforcement official³¹ by coercion or compensation. Any person who violates any provision of Part XII of ch. 468,

²⁵ Sections 633.216(2) and 633.412(1)-(4), F.S.

²⁶ *Supra*, n. 23.

²⁷ Section 633.216(4), F.S., and Rule 69A-39.009(1)(b), F.A.C.

²⁸ *See supra*, n. 24, and s. 633.216(8), F.S.

²⁹ A third degree felony is punishable by a term of imprisonment not to exceed 5 years and a fine not to exceed \$5,000. Sections 775.082 and 775.083, F.S.

³⁰ A first degree felony is generally punishable by a term of imprisonment not to exceed 30 years and a fine not to exceed \$10,000. Sections 775.082 and 775.083, F.S.

³¹ Section 468.603(3), F.S., defines “building code enforcement official” (or “enforcement official”) as a licensed building code administrator, building code inspector, or plans examiner.

F.S.,³² relating to building code administrators and inspectors, commits a first degree misdemeanor.³³ A person who violates any provision of Part XII of ch. 468, F.S., after a previous conviction for such violation commits a third degree felony.

III. Effect of Proposed Changes:

The bill creates s. 633.217, F.S., to prohibit a person from:

- Influencing a firesafety inspector by threatening, coercing, tricking, persuading, interfering with, or otherwise influencing; or attempting to threaten, coerce, trick, persuade, interfere with, or otherwise attempting to influence, the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S.; and
- Offering any compensation to the firesafety inspector to induce a violation of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S.

The bill provides that a first violation of the new statute is a second degree misdemeanor,³⁴ and a second or subsequent violation is a first degree misdemeanor.

The bill takes effect October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill may require counties or municipalities to expend funds relating to persons sentenced to jail for violations of this new law. However, Art. VII, s. 18(d) of the State Constitution exempts criminal laws from the constitutional mandate requirements.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³² Sections 468.601-468.633, F.S.

³³ A first degree misdemeanor is punishable by a jail term not to exceed one year and a fine not to exceed \$1,000. Sections 775.082 and 775.083, F.S.

³⁴ A second degree misdemeanor is punishable by a jail term not to exceed 60 days and a fine not to exceed \$500. Sections 775.082 and 775.083, F.S.

E. Other Constitutional Issues:

None identified.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not create felony penalties so the bill does not have a state prison bed impact. The misdemeanor penalties in the bill may have an indeterminate impact on county jails.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates section 633.217 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 Criminal Justice on February 19, 2019:

The committee substitute revises penalties in the bill to provide that a first violation of newly created s. 633.217, F.S., is a second degree misdemeanor, and a second or subsequent violation is a first degree misdemeanor.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Powell

591-02467-19

2019498c1

1 A bill to be entitled
 2 An act relating to fire safety and prevention;
 3 creating s. 633.217, F.S.; prohibiting a person from
 4 committing or attempting to commit certain acts to
 5 influence firesafety inspectors; providing criminal
 6 penalties; providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Section 633.217, Florida Statutes, is created to
 11 read:
 12 633.217 Influencing a firesafety inspector.-
 13 (1) A person may not influence a firesafety inspector by:
 14 (a) Threatening, coercing, tricking, persuading,
 15 interfering with, or otherwise influencing, or attempting to
 16 threaten, coerce, trick, persuade, interfere with, or otherwise
 17 influence, the firesafety inspector into violating any provision
 18 of the Florida Fire Prevention Code, any rule adopted by the
 19 State Fire Marshal, or any provision of this chapter.
 20 (b) Offering any compensation to the firesafety inspector
 21 to induce a violation of the Florida Fire Prevention Code, any
 22 rule adopted by the State Fire Marshal, or any provision of this
 23 chapter.
 24 (2) A person who violates subsection (1) commits a
 25 misdemeanor of the second degree, punishable as provided in s.
 26 775.082 or s. 775.083. A person who commits a second or
 27 subsequent violation of subsection (1) commits a misdemeanor of
 28 the first degree, punishable as provided in s. 775.082 or s.
 29 775.083.

Page 1 of 2

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591-02467-19

2019498c1

30 Section 2. This act shall take effect October 1, 2019.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: February 20, 2019

I respectfully request that **Senate Bill #498**, relating to Fire Safety and Prevention, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Bobby Powell".

Senator Bobby Powell
Florida Senate, District 30

APPEARANCE RECORD

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

3/12/19

Meeting Date

498

Bill Number (if applicable)

Topic Fire Safety & Prevention

Amendment Barcode (if applicable)

Name Jim Milligan

Job Title Fire Marshal

Address 4360-55 AV N

Phone 727-526-5650

Street

St Pete FL

State

33709

Zip

Email jmilligan@realmenfire.com

Speaking: For Against Information

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

Representing Florida fire chiefs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

498

Bill Number (if applicable)

Topic FIRE SAFETY

Amendment Barcode (if applicable)

Name JOHN PASQUALONE

Job Title EXECUTIVE DIRECTOR

Address PO BOX 345

Phone 772 932 1555

Street

CITY HOME SOUND, FL 33475

State

Zip

Email INFO@FFMIA.ORG

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

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

Representing FL FIRE MARSHALS & INSPECTORS ASSOC.

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

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

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

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The Florida Senate
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 432

INTRODUCER: Senator Gruters

SUBJECT: Employment Conditions

DATE: March 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	McVaney	GO	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	RC	_____

I. Summary:

SB 432 amends s. 218.077, F.S., regarding state preemption of conditions of employment. The bill:

- Expressly prohibits a county, city, district, or other public body created by state law from requiring an employer to offer conditions of employment. This does not prohibit the political subdivision from requiring conditions of employment for its own employees, the employees of its contractors and subcontractors, and the employees of any entity receiving a direct tax abatement or subsidy;
- Expressly preempts to the state the right to regulate any requirements imposed upon employers relating to a minimum wage and conditions of employment;
- Defines “conditions of employment” to include preemployment screening, job classification, job responsibilities; hours of work; scheduling and schedule changes, wages, payment of wages, leave, paid or unpaid days off for holidays, illness, vacations, and personal necessity, and employee benefits;
- Clarifies the definitions for “employer” and “employee;”
- Substitutes the term “employment benefits” with the term “conditions of employment” throughout s. 218.077, F.S.;
- Voids any ordinance, regulation, or policy currently in existence which is now preempted.

The bill is not expected to impact state or local revenues and expenditures directly.

The bill takes effect upon becoming a law.

II. Present Situation:

Home Rule and Preemption

Counties

Article VIII, s. 1(f) of the State Constitution grants a county not operating under a charter “such power of self-government as is provided by general or special law.” Chapter 125, F.S., codifies the specific powers granted to such counties. Article VIII, s. 1(g) of the State Constitution grants charter counties “all powers of self-government not inconsistent with general law.”

General law authorizes counties “the power to carry on county government”¹ and to “perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law.”²

Municipalities

Article VIII, s. 2(b) of the State Constitution grants a municipality powers to conduct government, perform municipal functions, and render services “except as otherwise provided by law.” Chapter 166, F.S., also known as the Municipal Home Rule Powers Act,³ acknowledges the constitutional grant to municipalities of governmental, corporate, and proprietary power necessary to conduct municipal government, functions, and services.⁴ Chapter 166, F.S., provides municipalities with broad home rule powers, respecting expressed limits on municipal powers established by the Florida Constitution, applicable laws, and county charters.⁵

Section 166.221, F.S., authorizes municipalities to levy reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter.

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies it precludes a local government from exercising authority in that particular area.⁶ Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.⁷ Express preemption of a field by the Legislature must be accomplished by clear

¹ Section 125.01(1), F.S.

² Section 125.01(1)(w), F.S.

³ Section 166.011, F.S.

⁴ Florida House of Representatives, Publications, *The Local Government Formation Manual 2018-2020*, p. 16, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf>.

⁵ Section 166.021(4), F.S.

⁶ Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

⁷ See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

language stating that intent.⁸ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.⁹

In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.¹⁰ Implied preemption is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.¹¹ Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.¹² Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.¹³

Local Wage Ordinances in Florida

In 2003, the Florida Legislature enacted s. 218.077, F.S. This law prohibits local governments from establishing minimum wage levels in their individual jurisdictions. The law retains for the state government the power to set a minimum wage. However, the law does not limit the authority of a political subdivision to establish a minimum wage for:

- Its employees;
- The employees of an employer contracting to provide goods or services for the political subdivision;
- The employees of a subcontractor of such an employer; or
- The employees of an employer receiving a direct tax abatement or subsidy from the political subdivision, as a condition of the direct tax abatement or subsidy.

Furthermore, the law contains an exception for situations where compliance with the law would prevent a political subdivision from receiving federal funds. This allows compliance with the Davis-Bacon and related acts,¹⁴ which direct the Department of Labor to determine fair wages for contractors and subcontractors working on public buildings and public works. The Florida law only allows non-compliance with regard to local minimum wage alterations to the extent necessary to allow receipt of the federal funds.

Section 218.077, Florida Statutes

In 2013, s. 218.077, F.S., was amended to additionally prohibit Florida political subdivisions from requiring an employer to provide employment benefits not required by state or federal law. This provided uniformity throughout the state with regard to mandated non-wage compensation. The amendment maintained the same exemptions and limitations as discussed above.

⁸ *Mulligan*, 934 So.2d at 1243.

⁹ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).

¹⁰ *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

¹¹ *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

¹² *Id.*

¹³ *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.

¹⁴ *See, e.g., 40 U.S.C. 3141 et seq.*

An “employee” is defined by the statute to be any natural person who is entitled under state or federal law to receive a state or federal minimum wage.¹⁵

An “employer” is defined by the statute to be any person who is required under state or federal law to pay a state or federal minimum wage to the person’s employees.¹⁶

“Employment benefits” means anything of value that an employee may receive from an employer in addition to wages and salary.¹⁷ These include, but are not limited to:

- Health benefits;
- Paid or unpaid days off for holidays;
- Sick leave;
- Vacation;
- Retirement benefits; and
- Profit-sharing benefits.

The 2013 law also created the Employer-Sponsored Benefits Study Task Force, which was intended to conduct a study of employment benefits and make a recommendation regarding state preemption policy. The task force considered studies, testimony, and statistics over four months before recommending that the state preempt local governments from setting minimum mandatory employer-sponsored benefits.¹⁸

In 2016, the Florida Retail Federation, Inc., among others, sued the City of Miami Beach for enacting in an ordinance a “City Minimum Living Wage,” raising the minimum wage for all employers subject to the city’s business tax receipt requirement and testing the state’s preemption powers.¹⁹ The city argued that the State Constitution’s Article X, Section 24 (f)²⁰ nullified the preemption provision of s. 218.077, F.S., passed earlier. The appellate court agreed with the Florida Retail Federation, Inc.’s position that the plain text of the State Constitution did not affect the legislature’s authority to preempt municipal powers.

III. Effect of Proposed Changes:

Section 1 amends s. 218.077, F.S., to replace “employment benefits” with “conditions of employment,” which slightly expands the scope of the state’s preemption in this section. The definition provided for “conditions of employment” provides examples of newly included items that municipalities and counties are prohibited from mandating, including but not limited to:

- Pre-employment screening;
- Job classification;

¹⁵ Section 218.077 (1)(a), F.S.

¹⁶ Section 218.077 (1)(b), F.S.

¹⁷ Section 218.077 (1)(d), F.S.

¹⁸ Workforce Florida, Inc., *Employer-Sponsored Benefits Study Task Force Final Report*, January 15, 2014, page 3.

(Available online at <https://careersourceflorida.com/wp-content/uploads/2014/01/TaskForceBenefitsStudyFinalReport.pdf>.)

¹⁹ *City of Miami Beach v. Florida Retail Federation, Inc.*, 233 So.3d 1236 at 1238 (Fla. 3d DCA 2017) (declined for review February 5, 2019).

²⁰ Stating that “[t]his amendment provides for payment of a minimum wage and *shall not be construed to preempt or otherwise limit the authority of the state legislature or any other public body to adopt or enforce any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits...*” (emphasis added).

- Hours of work;
- Scheduling and schedule changes; and
- Payment of wages.

Expressly preempting for the state the right to regulate requirements on conditions of employment shows legislative intent to occupy the space. This clarification in the law will be used for future statutory interpretation by administrators or courts considering whether local governments' regulations are valid.

Section 2 voids any ordinance, regulation, or policy currently in existence which is preempted. This section clarifies that the preemption is intended to be complete as opposed to merely forward-facing.

Section 3 provides that the bill will take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds, nor does it reduce the authority of counties or municipalities to raise revenue.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not impose, authorize, or raise a state tax or fee.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill does not impact state or local taxes or fees.

B. Private Sector Impact:

The bill provides uniformity throughout the state going forward with regard to conditions of employment. A private employer cannot be required by a local government to change its offerings in terms of conditions of employment, except in limited circumstances.

C. Government Sector Impact:

This bill does not appear to impact state and local government revenues and expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 218.077, 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 Gruters

23-00452-19

2019432__

1 A bill to be entitled
 2 An act relating to employment conditions; amending s.
 3 218.077, F.S.; revising, adding, and deleting defined
 4 terms; prohibiting a political subdivision from
 5 establishing, mandating, or otherwise requiring an
 6 employer to offer conditions of employment not
 7 otherwise required by state or federal law; specifying
 8 that certain requirements related to minimum wage and
 9 other conditions of employment are expressly preempted
 10 to the state; revising exceptions to the preemption;
 11 providing for retroactive application; providing an
 12 effective date.

13
 14 WHEREAS, the needs and expectations of job applicants and
 15 employees must be appropriately balanced against the needs and
 16 expectations of employers, who are operating businesses that
 17 must respond to the demands of a dynamic and rapidly changing
 18 economy at the local, state, national, and international level,
 19 and

20 WHEREAS, promoting the economic growth and prosperity of
 21 Florida residents is an important objective of state government,
 22 and this economic growth and prosperity depends upon maintaining
 23 a stable business climate that will attract new employers to the
 24 state and allow existing employers to expand, and

25 WHEREAS, government should insert itself into the
 26 relationship between employer and employee only if a need for
 27 regulation has been clearly demonstrated, and

28 WHEREAS, allowing the multitude of local governments in
 29 this state to each impose requirements on the employment

Page 1 of 5

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

23-00452-19

2019432__

30 relationship could reasonably be expected to drive businesses
 31 out of those communities and out of the state in search of a
 32 more consistent and predictable operating environment, thus
 33 disrupting Florida's economy and threatening the public welfare,
 34 and

35 WHEREAS, in light of these negative impacts, federal and
 36 state governments must be relied upon to adopt uniform
 37 regulations governing the employment relationship which strike
 38 an appropriate balance between the needs and expectations of
 39 employees and employers, NOW, THEREFORE,

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

41
 42
 43 Section 1. Section 218.077, Florida Statutes, is amended to
 44 read:

45 218.077 Wage and other employment conditions required
 46 ~~benefits requirements~~ by political subdivisions; restrictions.-

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

48 (a) "Conditions of employment" means those terms that form
 49 the basis of the relationship between an employer and a
 50 prospective or actual employee, including, but not limited to:
 51 preemployment screening; job classification; job
 52 responsibilities; hours of work; scheduling and schedule
 53 changes; wages; payment of wages; leave; paid or unpaid days off
 54 for holidays, illness, vacations, and personal necessity; and
 55 employee benefits, such as retirement, profit-sharing, health,
 56 disability, death, and insurance benefits.

57 (b)(a) "Employee" means any natural person who is employed
 58 in this state by an employer entitled under state or federal law

Page 2 of 5

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

23-00452-19

2019432__

59 ~~to receive a state or federal minimum wage.~~

60 ~~(c)(b)~~ "Employer" means any person who is engaged in any
61 activity, enterprise, or business in this state and employs at
62 least one employee required under state or federal law to pay a
63 state or federal minimum wage to the person's employees.

64 ~~(d)(e)~~ "Employer contracting to provide goods or services
65 for the political subdivision" means a person contracting with
66 the political subdivision to provide goods or services to, for
67 the benefit of, or on behalf of, the political subdivision in
68 exchange for valuable consideration, and includes a person
69 leasing or subleasing real property owned by the political
70 subdivision.

71 ~~(d)~~ "Employment benefits" means anything of value that an
72 employee may receive from an employer in addition to wages and
73 salary. The term includes, but is not limited to, health
74 benefits; disability benefits; death benefits; group accidental
75 death and dismemberment benefits; paid or unpaid days off for
76 holidays, sick leave, vacation, and personal necessity;
77 ~~retirement benefits; and profit-sharing benefits.~~

78 (e) "Federal minimum wage" means a minimum wage required
79 under federal law, including the federal Fair Labor Standards
80 Act of 1938, as amended, 29 U.S.C. ss. 201 et seq.

81 (f) "Political subdivision" means a county, municipality,
82 department, commission, district, board, or other public body,
83 whether corporate or otherwise, created by or under state law.

84 (g) "Wage" means that compensation for employment to which
85 any state or federal minimum wage applies.

86 (2) Except as otherwise provided in subsection (3), a
87 political subdivision may not establish, mandate, or otherwise

23-00452-19

2019432__

88 require an employer to pay a minimum wage, other than a state or
89 federal minimum wage; 7 to apply a state or federal minimum wage
90 to wages exempt from a state or federal minimum wage; 7 or to
91 offer other conditions of employment provide employment benefits
92 not otherwise required by state or federal law, the regulation
93 of such matters being expressly preempted to the state.

94 (3) This section does not:

95 (a) Limit the authority of a political subdivision to
96 establish a minimum wage other than a state or federal minimum
97 wage or to require conditions of employment provide employment
98 benefits not otherwise required under state or federal law:

99 1. For the employees of the political subdivision;

100 2. For the employees of an employer contracting to provide
101 goods or services for the political subdivision, or for the
102 employees of a subcontractor of such an employer, under the
103 terms of a contract with the political subdivision; or

104 3. For the employees of an employer receiving a direct tax
105 abatement or subsidy from the political subdivision, as a
106 condition of the direct tax abatement or subsidy.

107 (b) Apply to a domestic violence or sexual abuse ordinance,
108 order, rule, or policy adopted by a political subdivision.

109 (4) If it is determined by the officer or agency
110 responsible for distributing federal funds to a political
111 subdivision that compliance with this act would prevent receipt
112 of those federal funds, or would otherwise be inconsistent with
113 federal requirements pertaining to such funds, then this act
114 does not apply, but only to the extent necessary to allow
115 receipt of the federal funds or to eliminate the inconsistency
116 with such federal requirements.

23-00452-19

2019432__

117 (5) This section does not prohibit a federally authorized
118 and recognized tribal government from establishing conditions of
119 employment for any ~~requiring employment benefits for a person~~
120 employed within a territory over which the tribe has
121 jurisdiction.

122 Section 2. Any ordinance, regulation, or policy of a
123 political subdivision which is preempted by this act and which
124 existed before or on the effective date of this act is void.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

February 4th, 2019

The Honorable Ed Hooper, Chair
Governmental Oversight and Accountability Committee
330 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Hooper:

I am writing to request that Senate Bill 432, Employment Conditions, be placed on the agenda of the next Governmental Oversight and Accountability Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Joe McVaney, Staff Director
Tamra Redig, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-12-2019

Meeting Date

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Edward G. Labrador

Job Title Legislative Counsel

Address 100 S. Andrews Avenue, Main Library, 8th Fl.

Phone 954-826-1155

Fort Lauderdale FL 33301

City

State

Zip

Email elabrador@broward.org

Speaking: For Against Information

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

Representing Broward County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/12/2019
Meeting Date

SB 432
Bill Number (if applicable)

Topic EMPLOYMENT CONDITIONS

Amendment Barcode (if applicable)

Name TERRY JOE CHAPMAN

Job Title RETIREE

Address 77 BRIDLE GATE DRIVE
Street

Phone (850) 766-5507

CRAWFORDVILLE FL 32327
City State Zip

Email houndsman56@yahoo.com

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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3-12

Meeting Date

432

Bill Number (if applicable)

Topic Employment conditions

Amendment Barcode (if applicable)

Name James Ingle

Job Title Electrician

Address 3509 NW 22nd Dr

Phone 901-483-4800

Street

Gainesville

FL

32605

Email

City

State

Zip

Speaking: For [] Against [x] Information []

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

Representing Self

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

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

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

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3/12/19
Meeting Date

SB 432
Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Aimee Smith

Job Title Teacher

Address 5017 Central Ave
Street

Phone 863-300-1276

Bowling Green FL 33834
City State Zip

Email aimeesmith@gmail.com

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE

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3/12/19

Meeting Date

432
SB ~~301~~

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Cheryl Brown

Job Title Educator (Gen Ed)

Address 830 Midland Ct

Phone 904 403 9707

Street

Orange Park

City

State

Zip

Email cherb56@bellsouth.net

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

03/12/2019

Meeting Date

SB 438

Bill Number (if applicable)

Topic EMPLOYMENT CONDITIONS

Amendment Barcode (if applicable)

Name KIMBERLY A. HOLDRIDGE

Job Title STAGE/FILM WORKER

Address 711 BONGART RD

Phone 321-230-0161

Street

WINTER PARK, FL 32792

Email KAHOLDRIDGE@GARTHLINK.NET

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing _____

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

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

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

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3/12/19

Meeting Date

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Shaye Sutherland

Job Title Teacher

Address 4550 Mystic Blue Way

Phone 9526931354

Street

Fort Myers

FL

33966

Email scsutherland12@gmail.com

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing self

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

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

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03-12-19

Meeting Date

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Matthew Estevez

Job Title Teacher

Address 7241 Bergamo Way #201

Phone (954) 632-3316

Fort Myers FL 33966

City

State

Zip

Email MatthewJEstevez@gmail.com

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19
Meeting Date

432
Bill Number (if applicable)

Topic employment conditions

Amendment Barcode (if applicable)

Name Beverly Hedbetter

Job Title adjunct professor - St Hed Univ

Address 12233 Victor Ln
Street

Phone 352 5767 6900

Dade city FL 33525
City State Zip

Email msled25@hotmail.com

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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Meeting Date

SB 432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Michael Ledbetter

Job Title Self Employed & Business(s) operator

Address 12233 Victor Lane

Phone (813)294-9662

Street

Dade City, FL 33525

City

State

Zip

Email mml649@aol.com

Speaking: For Against Information

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

Representing SELF, as interested businessman interested in a level playing field for all.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-12-19

Meeting Date

432

Bill Number (if applicable)

Topic Employment conditions

Amendment Barcode (if applicable)

Name Brett Farrell

Job Title Electrician

Address 7018 SW 46th Avenue
Street

Phone 352-615-4986

Gainesville
City

FL
State

32608
Zip

Email _____

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-12-2019

Meeting Date

5B 432

Bill Number (if applicable)

Topic Employment Conditions
Senate Gov't Oversight & Accountability

Amendment Barcode (if applicable)

Name Thomas N. Gibson

Job Title _____

Address 7782 Mylin Road

Phone (904) 236-0358

Street

Jacksonville FL 32270

City

State

Zip

Email Tnathangibson@gmail.com

Speaking: For Against Information

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

Representing my self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____
Topic Local Control
Name Susan Aertker
Job Title Citizen
Address 10178 Foxcroft Rd W
Street JAX FL 32257
City State Zip

SB 432
Bill Number (if applicable)
I oppose SB 432
Amendment Barcode (if applicable)
SB 432 takes away local control.
Phone 904-262-5124
Email susaninFlorida@gmail.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

03/12

Meeting Date

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Robert Lewis

Job Title Citizen Outreach Specialist

Address 5880 Avers Blvd

Phone 3216131796

Street

Orlando FL

City

State

32807

Zip

Email robertlewis385@gmail.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/12/2019
Meeting Date

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

432
Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Organize Florida Policy Director

Address 128 N. Mills ~~St~~

Phone _____

Orlando FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing Organize Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3.12.2019 Meeting Date

432 Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Aaron Carmelk

Job Title

Address 625 Grove St N Street

Phone 727 204 8622

St. Petersburg FL 33701 City State Zip

Email aaroncarmelk@gmail.com

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3-12-19

Meeting Date

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Antonio Livingston Jr

Job Title Bus Operator

Address 6807 N 48th St.

Phone (813) 330-6620

Street

Tampa

City

FL

State

33610

Zip

Email Livingston.A.Atul593@gmail.com

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

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

Representing Self

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

Lobbyist registered with Legislature: [] Yes [] No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

03/12

Meeting Date

432

Bill Number (if applicable)

Topic EMPLOYMENT CONDITIONS

Amendment Barcode (if applicable)

Name CRISTIANO BADDEN

Job Title CITIZEN OUTREACH SP.

Address 11574 WESTWOOD BLVD
Street

Phone 4076000896

Orlando FL 32821
City State Zip

Email cristianobadden@gmail.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

03/12

Meeting Date

437

Bill Number (if applicable)

Topic Employment conditions

Amendment Barcode (if applicable)

Name Shakiya Peterson

Job Title HOUSING Organizer

Address 5761 STEPHAN ROAD W-4 APT

Phone 407 488 2937

Street

ORLANDO FL

City

State

Zip

Email kiya@organizeflorida.org

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/19

Meeting Date

SB 432

Bill Number (if applicable)

Topic EMPLOYMENT CONDITIONS

Amendment Barcode (if applicable)

Name GLENDY ABBOTT (ABBOTT)

Job Title SERVICES TECHNICIAN

Address 4305 SW 98 AV

Phone 786-376-1181

Street

MIAMI, FL

33165

City

State

Zip

Email GLENDY.ABBOTT@GMAIL.COM

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Theresa King

Job Title President

Address PO Box 10888

Phone 850-228-8940

Street

Tallahassee

FL

32302

Email sbt.tking@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Building & Construction Trades Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/19
Meeting Date

432
Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Oiya Neely

Job Title Student

Address 445 Balboa Drive
Street

Phone 336-500-5393

Kissimmee Florida 34759
City State Zip

Email Oiya.neely104@gmail.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

8/12/2019

Meeting Date

SB 0432

Bill Number (if applicable)

Topic SB 0432 Employment Conditions

Amendment Barcode (if applicable)

Name Christopher Lewis

Job Title Public Associate

Address 10811 William & May Ct

Phone 626-494-8551

Street

Orlando

City

FL

State

32821

Zip

Email chrislewis6057@gmail.com

Speaking: For Against Information

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

Representing Myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

432

Bill Number (if applicable)

Topic 432 Employment

Amendment Barcode (if applicable)

Name Debrae Deland

Job Title Consultant & Volunteer

Address 6275 MIRAMONTE DR, #104

Phone 407 234-6408

Street Onlando FL 32835

Email dedeland@att.net

City State Zip

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/19
Meeting Date

432
Bill Number (if applicable)

Topic Employment conditions

Amendment Barcode (if applicable)

Name Felicia Hunter

Job Title Customer Service / CNA

Address 1911 SARAZEN DR
Street

Phone 407-342-9916

Orlando FL 32808
City State Zip

Email niecey1911@gmail.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-12-2019
Meeting Date

432
Bill Number (if applicable)

Topic Employment Condition

Amendment Barcode (if applicable)

Name MARIA RODRIGUEZ

Job Title Retirado

Address 2449 Temple Grove Ln
Street

Phone _____

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

432

~~123~~

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 134 S Bronough St

Phone 850-521-1200

Street

Tallahassee

FL

32301

City

State

Zip

Email cjohnson@flchamber.com

Speaking: For Against Information

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

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

432

Bill Number (if applicable)

Topic Conditions of Employment

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 230 South Adams St.

Phone 224-2250

Tallahassee FL 32301

Email spadgett@fla.org

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

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

Representing Florida Restaurant & Lodging Association

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/18

Meeting Date

432

Bill Number (if applicable)

Topic Employment

Amendment Barcode (if applicable)

Name Melissa Ramba

Job Title Lobbyist

Address 108 S Monroe St.

Phone 850-570-0269

Street

Tallahassee

Fl.

32301

City

State

Zip

Email Melissa@flapartners.com

Speaking: For Against Information

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

Representing AIF - Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3-12-19

Meeting Date

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

432

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Lance LOZANO

Job Title Chief Operating Officer

Address 116 S. Monroe St.

Phone 850-681-6265

Tallahassee FL 32301

Email llozano@fba.org

Speaking: For Against Information

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

Representing Florida United Businesses Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

3/12/19

Meeting Date

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

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name JAKE FARMER

Job Title Dir. Gov Affairs - Florida Retail

Address 227 S Adams St

Phone 352.359.6835

Street

Tallahassee FL

City

State

32301

Zip

Email Jake@frf.org

Speaking: For Against Information

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

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

03/12/14

Meeting Date

SB 432

Bill Number (if applicable)

Topic Prerogative on the Condition of Employment

Amendment Barcode (if applicable)

Name Nucleus Shelton

Job Title _____

Address 7300 NW 21 st

Phone (215) 215-7870

Sunrise FL 33313

City State Zip

Email nucleus.shelton@gmail.com

Speaking: For Against Information

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

Representing myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/12/19

Meeting Date

432

Bill Number (if applicable)

Topic Conditions of Employment

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title

Address 135 S. Monroe

Phone 850-229-8826

Street

Tallahassee

FL

32302

Email

City

State

Zip

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

Waive Speaking: [] In Support [] Against

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

Representing Florida AFL-CIO

Appearing at request of Chair: [] Yes [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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

03-12-2019

432

Meeting Date

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone (850) 205-9000

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Associated General Contractors Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-12-19

Meeting Date

0432

Bill Number (if applicable)

Topic Employment Condition

Amendment Barcode (if applicable)

Name Beenie McHarg

Job Title

Address 10810 Columbia Ave

Phone 407-837-2805

Street

Kissimmee FL 34741

City

State

Zip

Email

Speaking: [] For [] Against [] Information

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

Representing

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-12-2019

Meeting Date

0432

Bill Number (if applicable)

Topic Employment Condition

Amendment Barcode (if applicable)

Name CARLOS ALVAREZ III

Job Title

Address 4014 S RAMDOLPH AVE

Phone

Street

KISSIMMEE

FL

34741

Email VAREZ@icloud.com

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing

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

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

SB 432

Bill Number (if applicable)

Meeting Date

Topic Preemption on the condition

Amendment Barcode (if applicable)

Name Richard QUINCOES

Job Title

305-301-9421
~~305-215-7070~~

Address 11751 SW 182 Terr

Phone

Street

Miami

FL

33177

Email

City

State

Zip

Speaking: For Against Information

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

Representing MYSELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

SB 432

Bill Number (if applicable)

Topic Preempting local control

Amendment Barcode (if applicable)

Name Carol Lerner

Job Title Chair, Protect Our Public Schools, Manasota

Address 1916 Wyndham Dr.

Phone 941-342-7420

Street

Manasota

FL

State

34232

Zip

Email carolmlerner@gmail.com

com

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [X] Against

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

Representing Protect Our Public Schools, Manasota

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

Lobbyist registered with Legislature: [] Yes [] No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19
Meeting Date

437

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Janice Westbrake

Job Title ~~STAFF~~

Address 4013 Brinnell Ave

Phone 407 419 7669

Street

Orlando FL 32808

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Diane MacMullen

Job Title

Address 2094 Ashland Blvd

Phone 407247 4805

Street

Orlando FL

32808

Email

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

432

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Marcus L. Dixon

Job Title Political Director

Address 2881 Corporate Way

Phone (305) 20-1627

Street

Miramar

FL

33027

City

State

Zip

Email Marcus.Dixon@seiufla.org

Speaking: For Against Information

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

Representing SEIU Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/19

Meeting Date

452

Bill Number (if applicable)

Topic Employment Conditions

Amendment Barcode (if applicable)

Name Cayuca Jones

Job Title

Address 992 Encourte Green

Phone 954 895 2081

Street

City Apopka State FL Zip 32712

Email

Speaking: [] For [] Against [] Information

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

Representing

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

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/19
Meeting Date

SB 432
Bill Number (if applicable)

Topic SB432

Amendment Barcode (if applicable)

Name KINDRA MUMFORD

Job Title PRESIDENT

Address 5809 WINDY HILL ROAD
Street

Phone 941-266-8278

WOMICE FL 34293
City State Zip

Email kindramumford@verizon.net

Speaking: For Against Information

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

Representing UMMANN UNIVERSITY FOR JUSTICE FUND

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.

APPEARANCE RECORD

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

3/12/2019
Meeting Date

SB 432
Bill Number (if applicable)

Topic SB 432

Amendment Barcode (if applicable)

Name Robin F. Williams

Job Title

Address 1716 Bayonne St.
Street
Sarasota, FL 34231
City State Zip

Phone 609-777-1753

Email robinftaubw@gmail.com

Speaking: For Against Information

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

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 490

INTRODUCER: Senator Albritton

SUBJECT: Statewide Procurement Efficiency Task Force

DATE: March 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 490 creates a 14 member Statewide Procurement Efficiency Task Force. The purpose of the task force is to evaluate the effectiveness and value of state and local procurement laws and policies to the taxpayers of this state, determine where inconsistencies in such laws and policies exist, and submit a report by July 1, 2020. The final report of the task force must include, at a minimum, recommendations for consideration by the Legislature that promote procurement efficiency, streamline procurement policies, establish best management practices, and encourage increased use of state term contracts.

The bill provides for termination of the task force upon the submission of its final report.

The bill takes effect July 1, 2019.

II. Present Situation:

Task Force Requirements under Section 20.03, Florida Statutes

Section 20.03(8) defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.” This provision specifies that the existence of the task force terminates upon the completion of its assignment.

State Procurement

Chapter 287, F.S., provides a comprehensive scheme for the procurement of commodities and services by the state. Section 287.001, F.S., establishes the legislative intent that public procurement be “fair and open” so as to preserve “public confidence that contracts are awarded

equitably and economically.” Chapter 287, F.S., was enacted to protect the public and allow agencies to purchase commodities at the lowest possible cost. “Agency” does not include the university and college boards of trustees or the state universities and colleges.

All state agencies are subject to ch. 287, F.S. Section 271.012(1), F.S., defines “agency” as “any of the various state officers, departments, boards, commission, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government.” Section 24.105(13), F.S., grants the Department of Lottery the authority to adopt rules providing alternative procurement procedures.

The Department of Management Services is the state agency that has authority to establish uniform policies, procedures, and practices state agencies are required to use in acquiring commodities and contractual services.¹ The department has the authority to procure purchasing agreements and state term contracts.² These contracts are generally developed for purchases of commodities and services that are ongoing and common to multiple state agencies. Agencies are required to use state term contracts when they are available³ and eligible users⁴ may use to make purchase.⁵ Section 24.105(13), F.S., grants to the Department of Lottery authority to perform any function of the Department of Management Services under ch. 287, F.S.

Chapter 255, F.S., provides the procurement process for public construction works and provides for a scenario in which agencies may receive unsolicited proposals.⁶

The public bidding process is also governed by ch. 120, F.S., which provides a mechanism by which aggrieved parties may challenge agency decisions.

Local Procurement

Local governments are not subject to Chapter 287, though many have rules or policies for procurements that are similar to chapter 287.⁷ For public construction projects, s. 255.20, F.S., requires counties, municipalities, special districts or other political subdivisions of the state to competitively award these projects.

III. Effect of Proposed Changes:

Section 1 creates the Statewide Procurement Efficiency Task Force (task force) to evaluate the effectiveness and value of state and local procurement laws and policies to the taxpayers of this state and determine where inconsistencies in such laws and policies exist. The task force is to be chaired by the Secretary of the Department of Management Services, or his or her designee, and composed of:

¹ Section 287.042(3), F.S.

² Section 287.042(2)(a), F.S.

³ Section 287.056(1), F.S.

⁴ See s. 287.012(11), F.S. and Rule 60A-1.001(2), F.A.C

⁵ Section 287.012(11), F.S.

⁶ Section 255.065(3), F.S.

⁷ See *Accela, Inc. v. Sarasota Cnty.*, 993 So. 2d 1035 (Fla. 2d DCA 2008).

- The Secretary of Management Services, or his or her designee;
- Seven members appointed by the Governor, including one county government official, one municipal official, one district school board member, one professional engineer, one general contractor, and the chairs of the governing boards of two water management districts;
- Two members appointed by the Speaker of the House of Representatives, including a member of the House of Representatives, and an attorney who is a member in good standing of The Florida Bar and has expertise in procurement law;
- Two members appointed by the President of the Senate, including one member of the Senate and one an attorney who is a member in good standing of The Florida Bar and has expertise in procurement law;
- The Chief Financial Officer, or his or her designee; and
- The state chief information officer, or his or her designee.

Members of the task force are to serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

The bill requires appointments to be made by July 31, 2019. The task force must meet by August 31, 2019, to organize. The task force is to meet at the call of the chair. A majority of task force members constitutes a quorum, and a quorum is necessary for the purpose of voting on any action or recommendation of the task force. All meetings must be held in Tallahassee, unless otherwise decided by the task force, and no more than two meetings may be held in other locations for the purpose of taking public testimony.

By July 1, 2020, the task force must submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report, at a minimum, must include recommendations for consideration by the Legislature to promote procurement efficiency, streamline procurement policies, establish best management practices, and encourage increased use of state term contracts. The task force is terminated upon the submission of its final report.

Section 2 provides the act will take effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The bill provides that task force members are to serve without compensation and are not entitled to reimbursement for per diem or travel expense. Thus, to the extent travel is required, the members will incur associated costs.

C. Government Sector Impact:

The Department of Management Services will incur an indeterminate amount of administrative expenses as the agency providing administrative and technical support for the task force.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill does not amend 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 Albritton

26-00856-19

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1 A bill to be entitled
 2 An act relating to the Statewide Procurement
 3 Efficiency Task Force; creating the task force to
 4 evaluate procurement laws and policies and make
 5 specified recommendations; specifying membership of
 6 the task force; providing meeting requirements;
 7 providing for administrative and technical support of
 8 the task force; requiring task force members to serve
 9 without compensation or reimbursement of expenses;
 10 requiring the task force to submit a report to the
 11 Governor and the Legislature by a specified date;
 12 providing for the termination of the task force;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. There is created the Statewide Procurement
 18 Efficiency Task Force, a task force as defined in s. 20.03(8),
 19 Florida Statutes, for the purpose of evaluating the
 20 effectiveness and value of state and local procurement laws and
 21 policies to the taxpayers of this state; and for determining
 22 where inconsistencies exist in such laws and policies.

23 (1) The task force is composed of the following 14 members:

24 (a) The Secretary of Management Services, or his or her
 25 designee, who shall serve as chair of the task force.

26 (b) Seven members appointed by the Governor, as follows:

27 1. One county government official.

28 2. One municipal government official.

29 3. One district school board member.

Page 1 of 3

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

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30 4. One professional engineer licensed under chapter 471,
 31 Florida Statutes.
 32 5. One general contractor as defined in s. 489.105(3)(a),
 33 Florida Statutes.
 34 6. The chairs of the governing boards of two water
 35 management districts.
 36 (c) Two members appointed by the Speaker of the House of
 37 Representatives, as follows:
 38 1. A member of the House of Representatives.
 39 2. An attorney who is a member in good standing of The
 40 Florida Bar and has expertise in procurement law.
 41 (d) Two members appointed by the President of the Senate,
 42 as follows:
 43 1. A member of the Senate.
 44 2. An attorney who is a member in good standing of The
 45 Florida Bar and has expertise in procurement law.
 46 (e) The Chief Financial Officer, or his or her designee who
 47 must be an employee of the Department of Financial Services.
 48 (f) The state chief information officer, or his or her
 49 designee.
 50 (2) Task force members must be appointed by July 31, 2019.
 51 By August 31, 2019, the task force shall meet to establish
 52 procedures for the conduct of its business and to elect a vice
 53 chair. The task force shall meet at the call of the chair. A
 54 majority of the members of the task force constitutes a quorum,
 55 which is necessary for the purpose of voting on any action or
 56 recommendation of the task force. All meetings must be held in
 57 Tallahassee, unless otherwise decided by the task force;
 58 however, no more than two such meetings may be held in other

Page 2 of 3

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59 locations for the purpose of taking public testimony.
60 Administrative and technical support must be provided by the
61 Department of Management Services. Task force members shall
62 serve without compensation and are not entitled to reimbursement
63 for per diem or travel expenses.

64 (3) The task force must submit a final report to the
65 Governor, the President of the Senate, and the Speaker of the
66 House of Representatives by July 1, 2020. The report must, at a
67 minimum, include recommendations for consideration by the
68 Legislature to promote procurement efficiency, streamline
69 procurement policies, establish best management practices, and
70 encourage increased use of state term contracts.

71 (4) The task force is terminated upon the submission of its
72 final report.

73 Section 2. This act shall take effect July 1, 2019.

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 494

INTRODUCER: Governmental Oversight and Accountability Committee and Senators Hooper and Broxson

SUBJECT: Firefighters' Bill of Rights

DATE: March 13, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 494 amends the Firefighters' Bill of Rights, which provides specific rights to a firefighter under investigation and subject to interrogation for a reason that could lead to disciplinary action. The bill revises the definition of the term "interrogation" to include questioning pursuant to an informal inquiry. The bill requires all identifiable witnesses be interviewed before the beginning of an interrogation of a firefighter, when possible, and specified information must be provided to the firefighter before an interrogation is conducted. The bill authorizes a firefighter to provide a voluntary statement at any time after being informed of right to review witness statements and prohibits a firefighter from being threatened with disciplinary action during the course of an interrogation.

CS/SB 494 requires that the firefighter be provided with a copy of the interrogation within a specified time frame, upon request. A firefighter must be notified and provided certain information before disciplinary actions are taken and be given an opportunity to address the findings.

State and local agencies employing firefighters may incur minimal costs in complying with the provisions of the bill.

The bill takes effect July 1, 2019.

II. Present Situation:

Division of the State Fire Marshal

Chapter 633, F.S., provides state law on fire prevention and control. Section 633.104(1), F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal (Division).¹ Pursuant to this authority, the State Fire Marshal:

- Regulates, educates or trains, and certifies fire service personnel;²
- Investigates the causes of fires;³
- Enforces arson laws;⁴
- Regulates the installation and maintenance of fire equipment;⁵
- Conducts firesafety inspections of state buildings;⁶
- Develops firesafety standards;⁷
- Provides facilities for the analysis of fire debris;⁸ and
- Operates the Florida State Fire College.⁹

Additionally, the Division adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.¹⁰

The Division consists of the two bureaus: the Bureau of Fire Standards and Training (BFST), and the Bureau of Fire Prevention.¹¹ The Florida Fire College, part of the BFST, trains over 6,000 students per year.¹² The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the Division's annual report.¹³

Firefighters Employment, Standards, and Training Council

The Firefighters Employment, Standards, and Training Council (Council) is housed within the DFS and consists of 14 members.¹⁴ The Council is authorized to make recommendations for adoption by the Division on:

¹ The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of the State Fire Marshal is located within the DFS. *See* Section 20.121, F.S.

² Section 633.128(1), F.S. *See also* Chapter 633, part IV: Fire Standards and Training, F.S.

³ Section 633.104(2)(e), F.S.

⁴ *Id.*

⁵ Section 633.104(2)(b), F.S. *See also* Section 633.104(2)(c), F.S., and Chapter 633, part III: Fire Protection and Suppression, F.S.

⁶ Section 633.218, F.S.

⁷ Chapter 633, part II: Fire Safety and Prevention, F.S.

⁸ Section 633.432, F.S.

⁹ Section 633.128(1)(h)–(q), F.S. *See also* Sections ss. 633.428–633.434, F.S.

¹⁰ Section 633.202(1), F.S.

¹¹ *See* <https://www.myfloridacfo.com/Division/sfm/> (last visited on Feb. 13, 2019).

¹² *See* Division of State Fire Marshal, *About the Florida State Fire Marshal*, <http://www.myfloridacfo.com/division/sfm/AbouttheStateFireMarshal.htm> (last visited on Feb. 13, 2019).

¹³ *Id.*

¹⁴ Section 633.402(1), F.S.

- Uniform minimum standards for the employment and training of firefighters and training of volunteer firefighters.
- Minimum curriculum requirements for schools operated by or for any fire service provider¹⁵ for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters.
- Matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by ch. 633, F.S.¹⁶

The Council may also make or support studies on any aspect of firefighting employment, education, and training or recruitment.¹⁷

Curriculum Requirements for Firefighters

A person applying for certification as a firefighter must:

- Be a high school graduate or the equivalent and at least 18 years of age;
- Not have been convicted of a misdemeanor relating to the certification or to perjury or false statements, a felony, a crime punishable by imprisonment of one year or more or be dishonorably discharged from the Armed Forces of the United States;
- Submit a set of fingerprints to the division with a current processing fee;
- Have a good moral character;
- Be in good physical condition as determined by a medical examination; and
- Be a nonuser of tobacco or tobacco products for at least one year immediately preceding application.¹⁸

The Division is responsible for establishing a Minimum Standards Course as the training and educational curriculum required in order for a firefighter to obtain a Firefighter Certificate of Compliance (FCOC).¹⁹ A FCOC is issued by the Division to an individual who does all of the following:

- Satisfactorily completes the Minimum Standards Course or has satisfactorily completed training for firefighters in another state which has been determined by the Division to be at least the equivalent of the training required for the Minimum Standards Course;
- Passes the Minimum Standards Course examination within 12 months after completing the required courses; and
- Meets the character and fitness requirements in s. 633.412, F.S.²⁰

In order for a firefighter to retain or renew his or her FCOC, every four years he or she must:

- Be active as a firefighter;

¹⁵ Section 633.102(13), F.S., defines “fire service provider” as a municipality or county, the state, the division, or any political subdivision of the state, including authorities and special districts, that employs firefighters or uses volunteer firefighters to provide fire extinguishment or fire prevention services for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.

¹⁶ Section 633.402(9), F.S.

¹⁷ *Id.*

¹⁸ Section 633.412, F.S.

¹⁹ Section 633.408(1)(a), F.S.

²⁰ Section 633.408(4), F.S.

- Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the four-year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the Division;
- Within six months before the four-year period expires, successfully complete a Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training to be prescribed by rule; and
- Within six months before the four-year period expires, successfully retake and pass the Minimum Standards Course examination.²¹

Firefighters' Bill of Rights

The Firefighters' Bill of Rights provides specific rights when a firefighter is under investigation and subject to interrogation for a reason which could lead to disciplinary action, including reprimand, suspension or dismissal.²² There is a similar law for law enforcement and correctional officers known as the Law Enforcement Officers' Bill of Rights.²³

The Firefighters' Bill of Rights contains the following definitions:²⁴

- "Firefighter" means a person who is certified in compliance with s. 633.408, F.S., and who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires.
- "Employing agency" means any municipality or the state or any political subdivision thereof, including authorities and special districts, which employs firefighters.
- "Informal inquiry" means a meeting by supervisory or management personnel with a firefighter about whom an allegation of misconduct has come to the attention of such supervisory or management personnel, the purpose of which meeting is to mediate a complaint or discuss the facts to determine whether a formal investigation should be commenced.
- "Formal investigation" means the process of investigation ordered by supervisory personnel, after the supervisory personnel have previously determined that the firefighter shall be reprimanded, suspended, or removed, during which the questioning of a firefighter is conducted for the purpose of gathering evidence of misconduct.
- "Administrative proceeding" means any nonjudicial hearing which may result in the recommendation, approval, or order of disciplinary action against, or suspension or discharge of, a firefighter.
- "Interrogation" means the questioning of a firefighter by an employing agency in connection with a formal investigation or an administrative proceeding but shall not include arbitration or civil service proceedings. Questioning pursuant to an informal inquiry shall not be deemed to be an interrogation.

²¹ Section 633.414(1), F.S.

²² Part VIII, Ch. 112, F.S.

²³ Part VI, Ch. 112, F.S.

²⁴ Section 112.81, F.S.

An interrogation of a firefighter must be conducted pursuant to the following terms:²⁵

- The interrogation shall take place at the facility where the investigating officer is assigned, or at the facility which has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating officer.
- No firefighter shall be subjected to interrogation without first receiving written notice of sufficient detail of the investigation in order to reasonably apprise the firefighter of the nature of the investigation. The firefighter shall be informed beforehand of the names of all complainants.
- All interrogations shall be conducted at a reasonable time of day, preferably when the firefighter is on duty, unless the importance of the interrogation or investigation is of such a nature that immediate action is required.
- The firefighter under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interrogators, and all persons present during any interrogation.
- Interrogation sessions shall be of reasonable duration and the firefighter shall be permitted reasonable periods for rest and personal necessities.
- The firefighter being interrogated shall not be subjected to offensive language or offered any incentive as an inducement to answer any questions.
- A complete record of any interrogation shall be made, and if a transcript of such interrogation is made, the firefighter under investigation shall be entitled to a copy without charge. Such record may be electronically recorded.
- An employee or officer of an employing agency may represent the agency, and an employee organization may represent any member of a bargaining unit desiring such representation in any proceeding to which this part applies. If a collective bargaining agreement provides for the presence of a representative of the collective bargaining unit during investigations or interrogations, such representative shall be allowed to be present.
- No firefighter shall be discharged, disciplined, demoted, denied promotion or seniority, transferred, reassigned, or otherwise disciplined or discriminated against in regard to his or her employment, or be threatened with any such treatment as retaliation for or by reason solely of his or her exercise of any of the rights granted or protected by this part.

Public Records Exemption for Agency Investigations of Employee Misconduct

Current law provides a public records exemption for agency²⁶ investigations into complaints of employee misconduct.²⁷ A complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint, either personally or by mail, that the agency has either:

²⁵ Section 112.82, F.S.

²⁶ Section 119.011(2), F.S., defines agency as any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

²⁷ Section 119.071(2)(k), F.S.

- Concluded the investigation with a finding not to proceed with disciplinary action or file charges; or
- Concluded the investigation with a finding to proceed with disciplinary action or file charges.²⁸

III. Effect of Proposed Changes:

Section 1 amends the Firefighters' Bill of Rights including the definition of "interrogation" contained in s. 112.81(6), F.S., to stipulate that questioning pursuant to an informal inquiry is considered an interrogation.

This change eliminates an employing agency's ability to meet with a firefighter in an informal inquiry to mediate a complaint or discuss facts to determine whether a formal investigation should be initiated.

Section 2 amends s. 112.82(2), F.S., concerning the rights of firefighters to require all identifiable witnesses be interviewed before the beginning of an interrogation of a firefighter, when possible. The complaint, all witness statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each firefighter who is the subject of a complaint before he or she is interrogated. A firefighter may waive the rights provided under this section and provide a voluntary statement at any time after being informed of his or her right to review witness statements.

Section 112.82(6), F.S., is amended to prohibit a firefighter from being threatened with transfer, dismissal, or disciplinary action during an interrogation.

Section 112.82(7), F.S., is amended to require a copy of the interrogation transcript, if made, be provided to a firefighter under investigation, upon request, without charge. If the firefighter requests a copy of the transcript, it must be provided within 72 hours, excluding weekends and holidays, after the interrogation.

Section 3 creates s. 112.825, F.S., entitled notice of disciplinary action, providing additional protections for firefighters. A dismissal, demotion, transfer, reassignment, or other disciplinary action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against a firefighter unless the firefighter is notified of the action and the reason for the action before the effective date of the action.

A firefighter who is subject to disciplinary action that consists of suspension with loss of pay, demotion, or dismissal, or his or her representative, must, upon request, be given a complete copy of the investigative file, including the final investigative report and all evidence, by the employing agency. The firefighter must be given the opportunity to address the findings in the final investigative report with the employing agency before such disciplinary action is taken. The contents of the complaint and all information obtained pursuant to the subsequent investigation

²⁸ *Id.*

must remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution as provided under s. 119.071(2)(k).

Section 4 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

An employing agency may have to amend internal policies and procedures, which will likely be a minimal impact to their resources.

An employing agency may incur some additional costs in providing the interrogation transcript and complete investigative file to the firefighter. These costs appear to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.81 and 112.82 of the Florida Statutes. This bill also creates section 112.825 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 12, 2019:

The committee substitute removes language from the bill which may have expanded the exemption from public disclosure for certain complaints. Under the committee substitute, the complaint and other investigative information is confidential and exempt pursuant to the current law provisions contained in s. 119.071(2)(k), F.S.

- B. **Amendments:**

None.



858972

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 97 - 100
and insert:
Constitution as provided under s. 119.071(2)(k).

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

And the title is amended as follows:

Delete lines 22 - 24
and insert:



858972

11
12

exempt in accordance with existing law; providing an
effective date.

By Senator Hooper

16-00789-19

2019494__

1 A bill to be entitled
 2 An act relating to the Firefighters' Bill of Rights;
 3 amending s. 112.81, F.S.; revising the definition of
 4 the term "interrogation" to include questioning
 5 pursuant to an informal inquiry; amending s. 112.82,
 6 F.S.; requiring that witnesses be interviewed and
 7 certain information be provided to a firefighter
 8 subjected to interrogation before the interrogation is
 9 conducted; authorizing a firefighter to provide a
 10 voluntary statement at any time after being informed
 11 of a certain right; prohibiting a firefighter from
 12 being threatened with certain disciplinary action
 13 during the course of an interrogation; requiring that
 14 a copy of the interrogation be provided to a
 15 firefighter within a specified timeframe, upon
 16 request; creating s. 112.825, F.S.; requiring that a
 17 firefighter be notified and provided certain
 18 information before certain disciplinary actions are
 19 taken; requiring that a firefighter be given the
 20 opportunity to address certain findings; requiring
 21 that certain information be kept confidential and
 22 exempt until a final determination is made, in
 23 accordance with existing law; providing an effective
 24 date.

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

28 Section 1. Subsection (6) of section 112.81, Florida
 29 Statutes, is amended to read:

Page 1 of 4

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

16-00789-19

2019494__

30 112.81 Definitions.—As used in this part:
 31 (6) "Interrogation" means the questioning of a firefighter
 32 by an employing agency in connection with a formal investigation
 33 or an administrative proceeding but ~~does shall~~ not include
 34 arbitration or civil service proceedings. Questioning pursuant
 35 to an informal inquiry is considered ~~shall not be deemed to be~~
 36 an interrogation for purposes of this part.
 37 Section 2. Subsections (2), (6), (7), and (9) of section
 38 112.82, Florida Statutes, are amended to read:
 39 112.82 Rights of firefighters.—Whenever a firefighter is
 40 subjected to an interrogation, such interrogation shall be
 41 conducted pursuant to the terms of this section.
 42 (2) ~~A~~ No firefighter may not shall be subjected to
 43 interrogation without first receiving written notice in of
 44 sufficient detail of the investigation in order to reasonably
 45 apprise the firefighter of the nature of the investigation. The
 46 firefighter must shall be informed beforehand of the names of
 47 all complainants. All identifiable witnesses must be interviewed
 48 before the beginning of the interrogation of the firefighter,
 49 when possible. The complaint, all witness statements, and all
 50 other existing evidence, including, but not limited to, incident
 51 reports, GPS locator information, and audio or video recordings
 52 relating to the incident under investigation, must be provided
 53 to each firefighter who is the subject of the complaint before
 54 he or she is interrogated. A firefighter may waive the rights
 55 provided under this section and provide a voluntary statement at
 56 any time after being informed of his or her right to review
 57 witness statements.
 58 (6) The firefighter being interrogated may shall not be

Page 2 of 4

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

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59 subjected to offensive language; threatened with transfer,
 60 dismissal, or disciplinary action; or offered any incentive as
 61 an inducement to answer any questions.

62 (7) A complete record of any interrogation ~~must shall~~ be
 63 ~~made.~~ Such record may be electronically recorded. ~~and~~ If a
 64 transcript of ~~the such~~ interrogation is made, the firefighter
 65 under investigation must receive a copy, upon request, without
 66 charge. If the firefighter requests a copy of the transcript, it
 67 must be provided within 72 hours, excluding weekends and
 68 holidays, after the interrogation shall be entitled to a copy
 69 without charge. Such record may be electronically recorded.

70 (9) ~~A No~~ firefighter ~~may not shall~~ be discharged,
 71 disciplined, demoted, denied promotion or seniority,
 72 transferred, reassigned, or otherwise disciplined or
 73 discriminated against in regard to his or her employment, or be
 74 threatened with any such treatment as retaliation for or by
 75 reason ~~solely~~ of his or her exercise of any of the rights
 76 granted or protected by this part.

77 Section 3. Section 112.825, Florida Statutes, is created to
 78 read:

79 112.825 Notice of disciplinary action.—

80 (1) A dismissal, demotion, transfer, reassignment, or other
 81 disciplinary action that might result in loss of pay or benefits
 82 or that might otherwise be considered a punitive measure may not
 83 be taken against a firefighter unless the firefighter is
 84 notified of the action and the reason for the action before the
 85 effective date of the action.

86 (2) A firefighter who is subject to disciplinary action
 87 that consists of suspension with loss of pay, demotion, or

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88 dismissal, or his or her representative, must, upon request, be
 89 given a complete copy of the investigative file, including the
 90 final investigative report and all evidence, by the employing
 91 agency. The firefighter must be given the opportunity to address
 92 the findings in the final investigative report with the
 93 employing agency before such disciplinary action is taken. The
 94 contents of the complaint and all information obtained pursuant
 95 to the subsequent investigation must remain confidential and
 96 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 97 Constitution as provided under s. 119.071(2)(k), until such time
 98 as the employing agency makes a final determination as to
 99 whether to issue a notice of disciplinary action that consists
 100 of suspension with loss of pay, demotion, or dismissal.

101 Section 4. This act shall take effect July 1, 2019.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/19
Meeting Date

494
Bill Number (if applicable)

Topic Firefighter Bill of Rights

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 343 W Madison St
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email roccosalvatori@icloud.com

Speaking: For Against Information

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

Representing Florida Professional Firefighters

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.

APPEARANCE RECORD

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

3/12/19

Meeting Date

494

Bill Number (if applicable)

Topic FF BILL OF RIGHTS

Amendment Barcode (if applicable)

Name JOHN PASQUARONE

Job Title EXEC DIRECTOR

Address _____
Street

Phone 720 932 1555

City

State

Zip

Email INFO@FFMA.ORG

Speaking: For Against Information

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

Representing FFMA

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 7074

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Support Organizations

DATE: March 11, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Peacock/Ponder</u>	<u>McVaney</u>	_____	GO Submitted as Comm. Bill/Fav

I. Summary:

SPB 7074 removes the scheduled repeal of provisions governing citizen support organizations established under the Department of State and repeals s. 288.809, F.S., which created Florida Intergovernmental Relations Foundation, a direct support organization under the Executive Office of the Governor.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2019.

II. Present Situation:

Citizen Support Organizations and Direct-Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purposes of a CSO or DSO are prescribed by its enabling statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., to establish a comprehensive set of transparency and reporting requirements for CSOs and DSOs that are created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.¹ Specifically, the law requires each CSO and DSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²

- The name, mailing address, telephone number, and website address of the organization;

¹ Chapter 2014-96, Laws of Fla.

² Section 20.058(1), F.S.

- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service (IRS) Return of Organization Exempt from Income Tax form (Form 990).³

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.⁶ The contract must also include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁷

By August 15 of each year, the agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.⁸

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation or authorization for the CSO or DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. CSOs and DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.⁹

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹⁰ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports.

³ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 20.058(3), F.S.

⁹ Section 20.058(5), F.S.

¹⁰ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee.¹¹ The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹²

CSO and DSO Ethics Code Requirement

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹³

Department of State

The head of the Department of State is the Secretary of State.¹⁴ The Secretary of State is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor. The Secretary of State performs functions conferred by the State Constitution upon the custodian of records. The Department is composed of the following divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs, and Administration.

The Division of Cultural Affairs

The Division of Cultural Affairs is Florida's designated state arts agency. The Division promotes arts and culture as essential to the quality of life for all Floridians. To promote excellence and encourage access to cultural opportunities, the Division provides funding, programs and resources, including grants for: arts in education, local arts agencies, state service organizations, museums, theater, dance, folk arts, literature, media arts, multidisciplinary, music, sponsor/presenter, and visual arts programs and projects. The Division of Cultural Affairs also administers the Museum of Florida History and has its offices in the historic Brokaw-McDougall House.¹⁵

Division of Historical Resources

The Division of Historical Resources is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites, coordinates outreach programs, such as the State Historical Markers program and Florida Folklife program which identifies and promotes the state's traditional

¹¹ Section 11.45(3)(d), F.S.

¹² *Id.*

¹³ Section 112.3251, F.S.

¹⁴ Section 20.10, F.S.

¹⁵ Florida Department of State, Division of Cultural Affairs, About Us, Mission, available at <https://dos.myflorida.com/cultural/about-us/mission/> (last visited on Dec. 18, 2018).

culture. The Division director serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.¹⁶

The Division of Historical Resources is comprised of the Bureau of Historic Preservation (BHP) and the Bureau of Archaeological Research (BAR). The BHP manages the Florida Main Street Program, and under federal and state laws, oversees the National Register of Historic Places program for Florida, maintains an inventory of the state's historical resources in the Florida Master Site File, assists applicants in federal tax benefit and local government ad valorem tax relief programs for historic buildings, and reviews the impact that development projects may have on significant historic resources. The BAR is responsible for the state's archaeological programs, including surveys and excavations throughout the state, maintenance of records on historical resources that have been recorded, and assistance to consultants and planners in protecting sites.¹⁷

Division of Library and Information Services

The Division of Library and Information Services manages the State Library and Archives, supports public libraries, directs record management services, and is the designated information resource provider for the state of Florida.¹⁸

The Division may receive gifts of money, books, or other property and may purchase books, periodicals, furniture, and equipment it deems necessary to carry out its mission. The Division may also give aid and assistance to all school, state, academic, free, and public libraries, and to all communities in the state which may establish libraries. The Division is required to maintain a library for state officials and employees and provide research and informational services for all state agencies. The Division must also provide library services to blind and physically handicapped persons within the state.¹⁹

CSO Authority for the Department of State

The Department of State is authorized to create CSOs for its Divisions of Cultural Affairs, Historical Resources, and Library and Information Services.

Division of Cultural Affairs

Section 265.703(1), F.S., authorizes the Department of State to create CSOs to provide assistance, funding, and promotional support for the cultural, arts, historical, and museum programs of the Division of Cultural Affairs. The CSOs must be:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Department of State;
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own

¹⁶ Florida Department of State, Division of Historical Resources, About, Program Areas, available at <https://dos.myflorida.com/historical/about/program-areas/> (last visited on Dec. 18, 2018).

¹⁷ *Id.*

¹⁸ Florida Department of State, Division of Library and Information Services, available at <https://dos.myflorida.com/library-archives/> (last visited on Dec. 18, 2018).

¹⁹ Section 257.04, F.S.

name, securities, funds, objects of value, or other property, real and personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division;

- Determined by the division to be consistent with the goals of the division and in the best interests of the state; and
- Approved in writing by the division to operate for the direct or indirect benefit of the division. This approval must be provided in a letter of agreement from the division.²⁰

The statutory authority for the Department of State's Division of Cultural Affairs CSOs is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.²¹

Division of Historical Resources

Section 267.17(1), F.S., authorizes the Department of State to create CSOs to provide assistance, funding, and promotional support for the archaeology, museum, folklife, and historic preservation programs of the Division of Historical Resources. The CSOs must be:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Department of State;
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real and personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division;
- Determined by the division to be consistent with the goals of the division and in the best interests of the state; and
- Approved in writing by the division to operate for the direct or indirect benefit of the division. This approval must be provided in a letter of agreement from the division.²²

The statutory authority for the Department of State's Division of Historical Resources CSOs is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.²³

Division of Library and Information Services

Section 257.43(1), F.S., authorizes the Department of State to create a CSO to provide assistance, funding, and promotional support for the library, archives, and records management programs of the Division of Library and Information Services. The CSO must be:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Department of State;
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real and personal; and make

²⁰ Section 265.703(1)(a) – (d), F.S.

²¹ Section 265.703(4), F.S.

²² Section 267.17(1)(a) – (d), F.S.

²³ Section 267.17(4), F.S.

expenditures to or for the direct or indirect benefit of the division or individual program units of the division;

- Determined by the division to be consistent with the goals of the division and in the best interests of the state; and
- Approved in writing by the division to operate for the direct or indirect benefit of the division. This approval must be provided in a letter of agreement from the division.²⁴

The statutory authority for the Department of State's Division of Library and Information Services CSO is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.²⁵

CSOs for the Department of State

The Department of State has four CSOs: Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc.

Citizens for Florida Arts, Inc.²⁶

Citizens for Florida Arts, Inc., is a CSO created to partner with and enhance efforts of the Florida Division of Cultural Affairs, while helping sustain and foster recognition of the arts in Florida. The organization provides critical support for the Division of Cultural Affairs' activities and programs, such as the Florida Artists Hall of Fame, Poetry Out Loud, Art in State Buildings, and Diversity and Inclusion Awards.²⁷

Friends of Florida History, Inc.²⁸

The Friends of Florida History, Inc., is a CSO established to promote and enhance the archaeology, historic sites, museums, folklife, and historic preservation programs of the Division of Historical Resources for the people of Florida. This CSO is the result of the consolidation of the following CSOs: Friends of Florida History and Archaeology, Inc., Friends of Florida Main Street, Inc., and Friends of Mission San Luis, Inc. The Friends of Florida History, Inc. serves as support to the Division of Historical Resources in its efforts to implement and manage programs designed to create statewide impact and position Florida as a national leader in historic preservation.

Friends of the Museums of Florida, Inc.²⁹

The Friends of the Museums of Florida, Inc., is a CSO created to enhance and perpetuate programs of the Museum of Florida History and the Knott House Museum both located in Tallahassee, FL. This CSO provides instrumental support attracting Florida's citizens and visitors to these museum sites and promoting museum events, programs, and services.

²⁴ Section 257.43(1)(a) – (d), F.S.

²⁵ Section 257.43(4), F.S.

²⁶ Section 265.703, F.S., provides statutory authority for the organization.

²⁷ Florida Department of State, Division of Cultural Affairs, Programs, available at <https://www.dos.myflorida.com/cultural/programs/> (last visited on Dec. 18, 2018).

²⁸ Section 267.17, F.S., provides statutory authority for the organization.

²⁹ Section 265.703, F.S., provides statutory support for the organization.

Friends of the State Library and Archives of Florida, Inc.³⁰

The Friends of the State Library and Archives of Florida, Inc., is a CSO established to promote and enhance the programs and services of the Division of Library and Information Services for the benefit of Florida's residents. This CSO supports expanding public access to knowledge, cultural heritage and information so that Floridians achieve their personal, educational and professional goals.

Senate Professional Staff Review of the Department of State's CSOs

Sections 257.43, 265.703, and 267.17, F.S., the statutory authority for the Department of State's CSOs, are scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature. Professional staff of the Senate Committee on Governmental Oversight and Accountability reviewed the agency's CSOs to verify their compliance with applicable Florida Statutes.

Professional staff of the Senate Committee on Governmental Oversight and Accountability requested information from the Department of State to verify the compliance of the four CSOs (Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc.) with applicable Florida Statutes. The Department of State provided staff with information and documentation regarding these CSOs.

Senate professional staff reviewed relevant records from these CSOs for Fiscal Years 2014-2015, 2015-2016, 2016-2017, and 2017 -2018 and found that these organizations were active CSOs that support the Department of State's Divisions of Cultural Affairs, Historical Resources, and Library and Information Services.

Additionally, professional staff of the Senate Committee on Governmental Oversight and Accountability requested information from the Department of State on the CSOs (Friends of Florida History and Archaeology, Inc., Friends of Florida Main Street, Inc., and Friends of Mission San Luis, Inc.) that were consolidated into the Friends of Florida History, Inc. CSO to verify their compliance with applicable Florida Statutes while those CSOs were active.

Transparency and Reporting Requirements

The Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc. complied with the following CSO transparency and reporting requirements of s. 20.058, F.S.:

- Annual submission, by August 1, of required information related to the CSOs' organization, mission and finances to the Department of State;
- Posting of required information relating to the CSOs' organization, mission, and finances on the Department of State's website;³¹

³⁰ Section 257.43, F.S., provides statutory authority for the organization.

³¹ See the Florida Fiscal Portal, Department of State, Fiscal Year 2018-19 Citizen-Support and Direct-Support Organization Report, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18051&DocType=PDF> (last visited Feb. 28, 2019).

- A brief description of the CSOs' plans for the next three fiscal years;
- A copy of the CSOs' code of ethics;
- A copy of the CSOs' most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax Form (Form 990); and
- Annual report, by August 15, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the OPPAGA, including recommendations by the Department of State to continue its association with the Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc..

Audit Requirement

The expenditures for three of the Department of State's CSOs (The Citizens for Florida Arts, Inc., Friends of Florida History, Inc., and Friends of the Museums of Florida History, Inc.) were in excess of \$100,000 and an audit pursuant to s. 215.981, F.S., was completed for each of the reviewed fiscal years.

The annual expenditures of the Friends of the State Library and Archives of Florida, Inc. CSO were less than \$100,000, and an audit pursuant to s. 215.981, F.S., was not required for each of the reviewed fiscal years.

Ethics Code Requirement

The Citizens for Florida Arts, Inc., Friends of Florida History, Inc., and Friends of the Museums of Florida History, Inc., adopted an ethics code pursuant to s. 112.3251, F.S.

Adoption of an ethics code was listed as pending in all annual reports filed pursuant to s. 20.058, F.S., by Friends of the State Library and Archives of Florida, Inc., except for the FY 2017 – 2018 report. The CSO's board had adopted an ethics code in July 2014; however, this ethics code had not been updated since that time. The Department of State indicated that an updated ethics code would be adopted by the CSO's board.

CSO Review Findings – Friends of the State Library and Archives, Inc.

It appears that Friends of the State Library and Archives, Inc. was inactive for several years as its board did not hold any meetings in FY 2015-2016, FY 2016-2017, and FY 2017-2018. The Department of State informed the Senate Committee on Governmental Oversight and Accountability that the CSO's board would begin holding meetings in December 2018.

Also, the Friends of the State Library and Archives of Florida, Inc. did not have a letter of agreement with the Department of State for 2018 – 2019 fiscal year in accordance with s. 257.43(1)(d), F.S. Its most recent annual letter of agreement was dated July 29, 2017, for the 2017 – 2018 fiscal year. The Department of State indicated that a new letter of agreement between this CSO and the Department of State will be executed.

Recommendation

The Department of State has recommended that the agency's four CSOs (Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and

Friends of the State Library and Archives of Florida, Inc.) be continued as these CSOs promote and enhance the programs and services of the agency's Divisions of Cultural Affairs, Historical Resources, and Library and Information Services.³²

Executive Office of the Governor

The Executive Office of the Governor was established by Chapter 79-190, Laws of Florida.³³ The Governor is the supreme executive power in the state. Article IV, Section 1(a) of the Florida Constitution provides, in part, that he “shall take care that the laws be faithfully executed, commission all officers of the state and counties, and transact all necessary business with the officers of the government.” The Governor is also the chief administrative officer of the state responsible for the planning and budgeting for the state.³⁴ Additionally, the Governor informs the Legislature on the conditions of the state,³⁵ directs executive programs, and participates with the Cabinet.³⁶

Intergovernmental Relations and the State Protocol Officer

The Department of Economic Opportunity³⁷ is authorized to establish and operate offices in other countries for the purpose of promoting trade and economic development opportunities of the state, and promoting the gathering of trade data information and research on trade opportunities in specific countries.³⁸

The Governor may designate a state protocol officer. The state protocol officer is housed within the Executive Office of the Governor. In consultation with the Governor and other governmental officials, the state protocol officer must develop, maintain, publish, and distribute the state protocol manual.³⁹ The state protocol officer is responsible for all consular relations between the state and all foreign governments doing business in Florida.⁴⁰ The state protocol officer also serves as contact for the state with the Florida Washington Office, the Florida Congressional Delegation, and U.S. government agencies with respect to laws or policies which may affect the interests of the state in the area of international relations.⁴¹ From 2014 through 2018, the Executive Office of the Governor under Governor Rick Scott designated a state protocol officer.

The Florida Intergovernmental Relations Foundation

The Florida Intergovernmental Relations Foundation (FIRF) is located within the Executive Office of the Governor and created pursuant to s. 288.809, F.S. The FIRF is organized and operated exclusively to solicit, receive, hold, invest, and administer property and to make

³² *Id.*

³³ Section 14.201, F.S. The head of the Executive Office of the Governor is the Governor.

³⁴ Fla. Const. art. IV, s. 1(a). *See also* s. 216.151, F.S.

³⁵ Fla. Const. art. IV, s. 1(e).

³⁶ Section 20.03(1), F.S., provides that “cabinet” means the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, as specified in s. 4, Art. IV of the State Constitution.

³⁷ Section 20.60, F.S.

³⁸ Section 288.012(1)(a), F.S.

³⁹ Section 288.012(7), F.S.

⁴⁰ Section 288.816(2), F.S.

⁴¹ Section 288.816(4), F.S.

expenditures to or for the promotion of intergovernmental relations programs. The FIRF facilitates and strengthens Florida's economic relationships with international partners.

The FIRF is a DSO that must be:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Department of State;
- Organized and operated to solicit, receive, hold, invest and administer property and, subject to the approval of the state protocol officer, to make expenditures to or for the promotion of intergovernmental relations programs; and
- Certified by the state protocol officer, after review, to be operating in a manner consistent with the policies and goals of the state protocol officer.⁴²

For use of property of the FIRF, the state protocol officer:

- May permit the use of property, facilities, and personal services of the Executive Office of the Governor by the FIRF, subject to this section;
- Must prescribe conditions with which the FIRF must comply in order to use property, facilities, or personal services of the Executive Office of the Governor. Such conditions shall provide for budget and audit review and for oversight by the state protocol officer; and
- Must not permit the use of property, facilities, or personal services of the FIRF if the FIRF does not provide equal employment opportunities to all persons, regardless of race, color, national origin, sex, age, or religion.⁴³

The FIRF must have a board of directors. The board is composed of seven members appointed by the Governor, of whom no more than three shall be employees or elected officials of the state.⁴⁴

Additionally, the FIRF must comply with the audit requirements for DSOs contained in s. 215.981, F.S.⁴⁵ The identity of a donor or prospective donor to the FIRF who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.701(1), F.S., and s. 24(a), Art. I of the State Constitution. Such anonymity must be maintained in the auditor's report.⁴⁶

The statutory authority for the FIRF is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.⁴⁷

Senate Professional Staff Review of the Florida Intergovernmental Relations Foundation

Section 288.809, F.S., the statutory authority for the FIRF, is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.

⁴² Section 288.809(1), F.S.

⁴³ Section 288.809(2), F.S.

⁴⁴ Section 288.809(3), F.S.

⁴⁵ Section 288.809(4), F.S.

⁴⁶ *Id.*

⁴⁷ Section 288.809(5), F.S.

Professional staff of the Senate Committee on Governmental Oversight and Accountability requested information from the Executive Office of the Governor to verify the FIRF's compliance with applicable Florida Statutes. The Executive Office of the Governor provided staff with information and documentation regarding the FIRF.

The FIRF has been inactive from fiscal year 2015 through fiscal year 2018. The original source of funds for this organization was from private donations and interest accrued from a money market account that was closed in December 2014. No donations have been received from 2015 through 2018. The current bank account balance for the FIRF's funds is approximately \$8,709.99. The expenditures for the FIRF from July 2014 through June 2018 were approximately \$558.16.

Transparency and Reporting Requirements

The FIRF complied with the following DSO transparency and reporting requirements of s. 20.058, F.S.:

- Annual submission, by August 1, of required information related to FIRF's organization, mission and finances to the Executive Office of the Governor;
- Posting of required information relating to FIRF's organization, mission, and finances on the Executive Office of the Governor's website;⁴⁸
- Annual report, by August 15, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the OPPAGA, including recommendation by the Executive Office of the Governor to continue its association with the FIRF; and
- Annual submission of copy of FIRF most recent federal IRS Return of Organization Form 990.

The FIRF did not, however, include a brief description of the organization's plans for the next three fiscal years in its annual submission as required by s. 20.058(1)(d), F.S.

Although the FIRF had developed policies and procedures to address some of the requirements contained in s. 288.809, F.S., the organization did not have a contract with the Executive Office of the Governor in accordance with s. 20.058(4), F.S. Such contract must include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁴⁹ The contract must also be contingent upon the FIRF submitting and posting the required information related to its organization, mission, and finances.⁵⁰

Audit Requirement

The FIRF expenditures were less than \$100,000, and an audit pursuant to s. 215.981, F.S., was not required.

⁴⁸ See the Florida Fiscal Portal, Governor, Executive Office of the, Fiscal Year 2018-19 Citizen-Support and Direct-Support Organization Report, available at <http://floridafiscalportal.state.fl.us/Publications.aspx?AgyID=3100>.

⁴⁹ Section 20.058(4), F.S.

⁵⁰ *Id.*

Ethics Code Requirement

It is unclear whether the FIRF adopted an ethics code pursuant to s. 112.3251, F.S. A copy of the ethics code for the Executive Office of the Governor is posted with the FIRF information on the Executive Office of the Governor's website for CSO and DSO Reports for Fiscal Year 2018 - 19.⁵¹ The policy statement of the Governor's ethics code states that this code "applies to the secretaries, deputy secretaries, and chiefs of staff of all executive agencies under the purview of the Governor."

Section 288.809, F.S. Requirements

The FIRF was in partial compliance with the following s. 288.809, F.S., requirements:

- The FIRF is incorporated as a Florida not for profit corporation; however, the articles of incorporation for the FIRF, dated June 21, 1996, state that the board of directors must be appointed by the Secretary of State. The articles of incorporation need to be updated as current law requires the Governor to appoint the board of directors for the FIRF;⁵² and
- The FIRF only has 4 board of directors members. Three of these members are employees of the Executive Office of the Governor office. Seven board members are required.⁵³

Although the FIRF had no significant activity from the 2015 fiscal year through the 2018 fiscal year, the required certification by the state protocol officer for the FIRF's operation was not completed pursuant to s. 288.809(1)(a)3., F.S.

Because no audit was required for the FIRF and the organization had minimal expenses, it appears that the budget and audit review of the FIRF, along with oversight review of the organization by the state protocol officer, as required by s. 288.809(2)(b), F.S., was sufficient.

The FIRF is in compliance with the equal employment opportunities requirement contained in s. 288.809(2)(c), F.S., as the FIRF does not employ any personnel. The Executive Office of the Governor provided a copy of its affirmative action plan and state guidelines that all employees are required to follow.

Additional Finding

The state protocol manual had not been developed, maintained, published, and distributed as required by s. 288.012(7), F.S.

Recommendation

The Executive Office of the Governor did not make a recommendation as to whether the FIRF support organization should continue operating.

⁵¹ See *supra* note 29.

⁵² In 2004, the FIFR was transferred from the Department of State to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor. See Ch. 2004-242, ss. 1 and 8, Laws of Fla.

⁵³ The FIFR board of directors did not meet during the 2015 through 2018 fiscal years.

III. Effect of Proposed Changes:

Sections 1, 2, 3 amend ss. 257.43, 265.703, and 267.17, F.S., respectively, to delete the scheduled repeal of provisions governing the Department of State's CSOs, which are currently scheduled for repeal on October 1, 2019, allowing the support organizations to continue operating.

Section 4 provides that s. 288.809, F.S., which created the FIRF, a direct support organization, is repealed effective October 1, 2019.

Section 5 requires the Executive Office of the Governor and the FIRF to ensure any funds of the foundation remaining following satisfaction of any liabilities be transferred to the Florida International Trade and Promotion Trust Fund within the Department of Economic Opportunity by September 15, 2019.

Section 6 provides an effective date of July 1, 2019.

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

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

By saving the CSOs under the Department of State from repeal, the bill sustains sources of financial assistance to, and supports the functions of Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc.

By repealing FIRF, the DSO will experience an impact as it satisfies its liabilities, if any, and prepares to end its operations.

C. Government Sector Impact:

By saving the statute governing the Department of State's CSOs from repeal, the bill allows these CSOs to continue to benefit the department providing valuable support to assist the department in meeting its goals.

As the entity designated to receive any funds remaining following FIRF's satisfaction of liabilities, the Florida International Trade and Promotion Trust Fund within the Department of Economic Opportunity may experience a beneficial fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 257.43, 265.703, 267.17, and 288.809 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

585-02529A-19

20197074pb

1 A bill to be entitled
 2 An act relating to support organizations; amending s.
 3 257.43, F.S.; removing the scheduled repeal of
 4 provisions governing the citizen support organization
 5 providing support for the Division of Library and
 6 Information Services of the Department of State;
 7 amending s. 265.703, F.S.; removing the scheduled
 8 repeal of provisions governing citizen support
 9 organizations providing support for the Division of
 10 Cultural Affairs of the Department of State; amending
 11 s. 267.17, F.S.; removing the scheduled repeal of
 12 provisions governing citizen support organizations
 13 providing support for the Division of Historical
 14 Resources of the Department of State; repealing s.
 15 288.809, F.S., relating to the Florida
 16 Intergovernmental Relations Foundation; requiring the
 17 Executive Office of the Governor and the foundation to
 18 ensure the satisfaction of the foundation's remaining
 19 liabilities by a certain date; providing for the
 20 transfer of any remaining funds by a certain date;
 21 providing effective dates.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Subsection (4) of section 257.43, Florida
 26 Statutes, is amended to read:
 27 257.43 Citizen support organization; use of state
 28 administrative services and property; audit.-
 29 ~~(4) REPEAL. This section is repealed October 1, 2019,~~

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

585-02529A-19

20197074pb

30 ~~unless reviewed and saved from repeal by the Legislature.~~
 31 Section 2. Subsection (4) of section 265.703, Florida
 32 Statutes, is amended to read:
 33 265.703 Citizen support organizations; use of state
 34 administrative services and property; audit.-
 35 ~~(4) REPEAL. This section is repealed October 1, 2019,~~
 36 ~~unless reviewed and saved from repeal by the Legislature.~~
 37 Section 3. Subsection (4) of section 267.17, Florida
 38 Statutes, is amended to read:
 39 267.17 Citizen support organizations; use of state
 40 administrative services and property; audit.-
 41 ~~(4) REPEAL. This section is repealed October 1, 2019,~~
 42 ~~unless reviewed and saved from repeal by the Legislature.~~
 43 Section 4. Effective October 1, 2019, section 288.809,
 44 Florida Statutes, is repealed.
 45 Section 5. The Executive Office of the Governor and the
 46 Florida Intergovernmental Relations Foundation, created pursuant
 47 to s. 288.809, Florida Statutes, shall ensure that any
 48 liabilities of the foundation are satisfied by September 1,
 49 2019. Any funds of the foundation remaining following
 50 satisfaction of any liabilities must be transferred to the
 51 Florida International Trade and Promotion Trust Fund within the
 52 Department of Economic Opportunity by September 15, 2019.
 53 Section 6. Except as otherwise expressly provided in this
 54 act, this act shall take effect July 1, 2019.

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

CourtSmart Tag Report

Room: SB 301
Caption: Governmental Oversight and Accountability Committee

Case No.:

Type:
Judge:

Started: 3/12/2019 1:30:15 PM

Ends: 3/12/2019 2:42:01 PM

Length: 01:11:47

1:30:14 PM Meeting called to order
1:30:20 PM Roll Call - Quorum is present
1:30:29 PM Chair
1:30:37 PM Tab 1 - SB 7044 by Criminal Justice - OSGR/Concealed Carry License/Department of Agriculture and Consumer Services, presented by Senator Perry
1:31:29 PM Chair
1:31:31 PM Questions? None
1:31:35 PM Carlos Nathan Deputy Legislative Affairs Director, DACS, waives in support
1:31:44 PM Chair
1:31:45 PM Debate? None
1:31:49 PM Senator Perry waives close
1:31:55 PM Roll Call SB 7044 - Favorable
1:32:04 PM Tab 2 - SB 7050 by Senator Rouson
1:33:03 PM Questions? None
1:33:10 PM Appearance Cards? None
1:33:13 PM Debate? None
1:33:15 PM Senator Rouson waives close
1:33:22 PM Roll Call SB 7050 - Favorable
1:33:34 PM Tab 3 - SB 7052 by Banking and Insurance, presented by Senator Rouson, OSGR/Informal Enforcement Actions/Trade Secrets/Office of Financial Regulation
1:34:18 PM Questions? None
1:34:22 PM Appearance Cards? None
1:34:25 PM Debate? None
1:34:29 PM Senator Rouson waives close
1:34:34 PM Roll Call SB 7052 - Favorable
1:34:47 PM Tab 4 - SB 7054 by Banking and Insurance, presented by Senator Rouson, OSGR/Hurricane or Flood Loss Models
1:35:30 PM Questions? None
1:35:44 PM Appearance Cards? None
1:35:46 PM Debate? None
1:35:51 PM Sen. Rouson waives close
1:35:57 PM Roll Call SB 7054 - Favorable
1:36:11 PM Tab 5 - SB 7056 by Banking and Insurance, presented by Senator Rouson, OSGR/Family Trust Companies/Office of Financial Regulation
1:36:32 PM Questions? None
1:37:06 PM Appearance Cards? None
1:37:07 PM Debate? None
1:37:11 PM Senator Rouson waives close
1:37:15 PM Roll Call - SB 7056 - Favorable
1:37:34 PM Tab 6 - SB 7000 by Health Policy presented by Senator Harrell, OSGR/Dental Workforce Survey's/Department of Health
1:38:55 PM Questions? None
1:38:58 PM Alexandria Abboud, Governmental Affairs Liaison, Florida Dental Association, waives in support
1:39:05 PM Debate? None
1:39:08 PM Senator Harrell waives close
1:39:17 PM Roll Call SB 7000 - Favorable
1:39:32 PM Tab 7 - CS/SB 498 by Senator Powell, Fire Safety and Prevention
1:39:47 PM Questions? None
1:40:16 PM Appearance Cards?
1:40:20 PM Jim Millicon, Fire Marshall, Florida Fire Chiefs, waives in support
1:40:29 PM Jon Pasqualone, Executive Director, Florida Fire Marshall's and Inspectors Association, waives in support
1:40:33 PM Debate? None

1:40:36 PM Senator Powell waives close
1:40:43 PM Roll Call CS/SB 498 - Favorable
1:40:57 PM Tab 8 - SB 432 by Senator Gruters, Employment Conditions
1:41:50 PM Questions?
1:42:00 PM Senator Rader
1:42:07 PM Senator Gruters
1:42:23 PM Senator Rader
1:42:28 PM Senator Gruters
1:42:47 PM Senator Rader
1:42:51 PM Senator Gruters
1:43:09 PM Senator Rader
1:43:20 PM Senator Gruters
1:43:27 PM Senator Rader
1:43:43 PM Senator Gruters
1:43:49 PM Senator Rader
1:44:11 PM Senator Gruters
1:44:16 PM Senator Rader
1:44:41 PM Chair
1:44:42 PM Senator Torres
1:45:12 PM Senator Gruters
1:45:19 PM Senator Torres
1:45:32 PM Senator Gruters
1:45:49 PM Senator Torres
1:45:59 PM Senator Gruters
1:46:01 PM Senator Torres
1:46:07 PM Senator Gruters
1:46:45 PM Chair
1:46:48 PM Appearance Cards?
1:47:00 PM Edward Labrador, Legislative Counsel, Broward County, speaking against the bill
1:49:52 PM Questions? None
1:50:51 PM Terry Jo Chapman, waive in opposition
1:51:05 PM James Ingel, Gainesville, speaking against bill
1:51:53 PM Aimee Smith, Bowling Green, waives in opposition
1:52:52 PM Cheryl Brown, Orange Park, representing self, waives in opposition
1:53:00 PM Kimblery A. Holdridge, Winter Park, representing self, waives in opposition
1:53:24 PM Shaye Southerland, representing self, waives in opposition
1:53:56 PM Matthew Estevez, representing self, waives in opposition
1:54:05 PM Beverly Ledbetter, Dade City, representing self, waives in opposition
1:54:19 PM Michael Ledbetter, Dade City, representing self, waives in opposition
1:54:32 PM Brett Farrell, Gainesville, representing self, waives in opposition
1:54:42 PM Thomas N. Gibson, Jacksonville, representing self, waives in opposition
1:54:49 PM Susan Aertker, Jacksonville, representing self, waives in opposition
1:55:02 PM Robert Lewis, representing self, waives in opposition
1:55:11 PM Ida V. Eskamani, Orlando, representing self, waives in opposition
1:55:22 PM Aaron Carmelk, St. Petersburg, representing self, waives in opposition
1:55:35 PM Antonia Livingston, Jr., Tampa, representing self, waives in opposition
1:55:42 PM Cristiano Bhoden, Orlando, representing self, waives in opposition
1:55:50 PM Shakiyla Paterson, Orlando, representing self, waives in opposition
1:56:05 PM Kinda Mumz, Venice, representing self, waives in opposition
1:56:12 PM Theresa King, President, Florida Building and Construction Trades Council, waives in opposition
1:56:28 PM Orya Neely, representing self, waives in opposition
1:56:42 PM Christopher Lewis, Orlando, representing self, waives in opposition
1:56:47 PM Debby Deland, Orlando, representing self, waives in opposition
1:56:55 PM Felicia Hunter, Orlando, representing self, waives in opposition
1:57:04 PM Maria Rodriguez, representing self, waives in opposition
1:57:13 PM Carolyn Johnson, Policy Director, Florida Chamber of Commerce, waives in support
1:57:23 PM Samantha Padgett, General Counsel, Florida Restaurant Association, speaking in opposition
2:00:43 PM Questions?
2:01:42 PM Senator Torres
2:01:58 PM Samantha
2:03:13 PM Chair
2:03:16 PM Senator Rader

2:03:25 PM Samantha
2:04:20 PM Senator Rader
2:04:37 PM Samantha
2:04:39 PM Chair
2:04:55 PM Mellissa Ramba, Lobbyist, AIF of Florida, waives in support
2:05:02 PM Lance Lozano, Chief Operating Officer, Florida United Business Association, waives in support
2:05:10 PM Jake Farmer, Director Gov. Affairs, Florida Retail Federation, waives in support
2:05:25 PM Nuclens Shelton, Sunrise, representing self, speaking in opposition
2:06:33 PM Dr. Rich Templin, Florida AFL-CIO, speaking in opposition
2:12:08 PM Warren Husband, Florida Associated General Contractors Council, waives in support
2:12:19 PM Reenie McHarg, Kissimmee, representing self, waives in opposition
2:12:24 PM Carlos Alvarez, Kissimmee, representing self, waives in opposition
2:12:32 PM Richard Quincooes, Miami, representing self, waives in opposition
2:12:41 PM Carol Learner, Chair, Protect Our Public Schools Manasota, waives in opposition
2:12:58 PM Janice Westbrook, Orlando, representing self, waives in opposition
2:13:07 PM Diane MacMullen, Orlando, representing self, waives in opposition
2:13:14 PM Marcus L. Dixon, Political Director, SEJU Florida, waives in opposition
2:13:33 PM Quenoa Abicht, Services Technician, Miami, representing self, waives in opposition
2:13:41 PM Kendra Mertz, Venice, representing self, waives in opposition
2:16:24 PM Robin F. Williams, Sarasota, representing self, waives in opposition
2:16:40 PM Chair
2:16:43 PM Debate?
2:16:47 PM Senator Torres
2:19:22 PM Senator Rader
2:23:41 PM Chair
2:25:24 PM Senator Gruters to close
2:26:53 PM Roll Call SB 432 - Favorable
2:27:20 PM Senator Albritton would like to be shown as voting in the affirmative SB;s 7044, 7050, 7052, 7054, 7056, 7000 and 498
2:27:49 PM Tab 9 - SB 490 by senator Albritton, Statewide Procurement Efficiency Task Force
2:29:02 PM Questions?
2:29:08 PM Senator Rader
2:29:44 PM Senator Albritton
2:30:47 PM Appearance Cards? None
2:31:47 PM Debate?
2:31:51 PM Senator Rader
2:32:56 PM Senator Albritton to close
2:33:13 PM Roll Call- SB 490 - Favorable
2:33:57 PM Chair turned over to Vice Chair Rader
2:34:08 PM Tab 10 - SB 494 by Senator Hooper, Firefighters' Bill of Rights
2:35:14 PM Amendment 858972 by Senator Hooper
2:36:12 PM Questions on amendment? None
2:36:35 PM Appearance? None
2:36:41 PM Debate? None
2:36:45 PM Senator Hooper waives close on amendment
2:36:53 PM No objections
2:36:58 PM Back on bill as amended
2:37:05 PM Appearance Cards?
2:37:09 PM Rocco Salvatori, Firefighter Director, Fla. Professional Firefighters Association, waives in support
2:37:16 PM Jon Pasquione, Exec. Director, FFMIA, waives in support
2:37:30 PM Debate on bill as amended?
2:37:36 PM Senator Hooper waives close
2:37:39 PM Roll Call CS/SB 494 - Favorable
2:38:06 PM Tab 11 - SPB 7074 by Governmental Oversight and Accountability presented by Senator Hooper
2:39:50 PM Questions?
2:40:52 PM Appearance Forms? None
2:40:59 PM Debate? None
2:41:05 PM Senator Hooper moves that SPB 7074 be submitted as a committee Bill
2:41:09 PM Roll Call SPB 7074 - Favorable
2:41:27 PM Senator Hooper back in chair
2:41:42 PM Any business before committee? None
2:41:50 PM Senator Rader moves to adjourn. Meeting is adjourned.