

Tab 1	CS/SB 24 by JU, Simmons (CO-INTRODUCERS) Benacquisto ; (Similar to CS/H 06513) Relief of the Estate of Eric Scot Tenner by the Miami-Dade County Board of County Commissioners						
Tab 2	CS/SB 42 by JU, Taddeo ; (Similar to CS/H 06525) Relief of Dominguez by Hillsborough County						
Tab 3	CS/SB 196 by IT, Powell ; Office of Public Counsel						
Tab 4	CS/SB 450 by IT, Gibson (CO-INTRODUCERS) Bean ; (Similar to CS/CS/H 00327) Public Records and Public Meetings/Local Government Utility						
637814	D	S	RCS	G0, Gibson	Delete everything after	03/26	05:24 PM
Tab 5	CS/CS/SB 452 by JU, CF, Gibson ; (Similar to CS/H 00583) Elder Abuse Fatality Review Teams						
584510	A	S	RS	G0, Gibson	Delete L.90 - 185:	03/26	05:24 PM
658758	SA	S	RCS	G0, Gibson	Delete L.40 - 185:	03/26	05:24 PM
529814	AA	S	L RCS	G0, Gibson	Delete L.58 - 71:	03/26	05:24 PM
Tab 6	CS/SB 454 by CF, Gibson ; (Identical to H 00585) Public Records and Public Meetings/Elder Abuse Fatality Review Team						
Tab 7	CS/SB 524 by BI, Diaz (CO-INTRODUCERS) Farmer, Bean ; (Similar to CS/H 01113) Health Insurance Savings Programs						
Tab 8	SB 702 by Lee (CO-INTRODUCERS) Diaz ; (Similar to H 06041) Qualified Blind Trusts						
Tab 9	SB 1570 by Hooper ; (Identical to H 05301) Information Technology Reorganization						
Tab 10	SB 7040 by EE ; (Similar to H 07021) Financial Disclosure						
693868	PCS	S	RCS	G0		03/26	05:24 PM
Tab 11	SB 7042 by EE ; (Similar to H 07023) Public Records/Commission on Ethics						
593344	PCS	S	RCS	G0		03/26	05:24 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Hooper, Chair
Senator Rader, Vice Chair

MEETING DATE: Tuesday, March 26, 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	CS/SB 24 Judiciary / Simmons (Similar CS/H 6513)	Relief of the Estate of Eric Scot Tenner by the Miami-Dade County Board of County Commissioners; Providing for the relief of the Estate of Eric Scot Tenner by the Miami-Dade County Board of County Commissioners; providing for an appropriation to compensate his estate for injuries and damages sustained by Eric Scot Tenner and his survivors as a result of the negligence of an employee of the Miami-Dade County Board of County Commissioners, etc. SM JU 03/11/2019 Fav/CS GO 03/26/2019 Favorable RC	Favorable Yeas 5 Nays 0
2	CS/SB 42 Judiciary / Taddeo (Identical H 6525)	Relief of Dominguez by Hillsborough County ; Providing for the relief of Jorge L. Dominguez, Chelsea Beatrice Dominguez, Brittney Delores Dominguez, and Tori Alexis Dominguez by Hillsborough County; providing for an appropriation to compensate them for the wrongful death of Darcia Lynn Dominguez, which occurred as the result of the negligence of Hillsborough County and one of its employees, etc. SM JU 03/11/2019 Fav/CS GO 03/26/2019 Favorable RC	Favorable Yeas 5 Nays 0
3	CS/SB 196 Innovation, Industry, and Technology / Powell	Office of Public Counsel; Providing term limits for the Public Counsel; requiring the Committee on Public Counsel Oversight to receive applications, conduct interviews, and appoint a Public Counsel by a specified date every 4 years; providing for the filling of vacancies, etc. IT 03/19/2019 Fav/CS GO 03/26/2019 Favorable RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
 Tuesday, March 26, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 450 Innovation, Industry, and Technology / Gibson (Similar CS/CS/H 327)	Public Records and Public Meetings/Local Government Utility; Exempting from public meetings requirements certain exempt information concerning information technology systems held by specified utilities; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. IT 03/06/2019 Fav/CS GO 03/26/2019 Fav/CS RC	Fav/CS Yeas 5 Nays 0
5	CS/CS/SB 452 Judiciary / Children, Families, and Elder Affairs / Gibson (Similar H 583, Compare H 585, Linked CS/S 454)	Elder Abuse Fatality Review Teams; Authorizing the establishment of elder abuse fatality review teams in each judicial circuit and housing the review teams, for administrative purposes only, in the Department of Elderly Affairs; assigning responsibility for paying the administrative costs of review team operations to the team members or the entities they represent, etc. CF 02/19/2019 Fav/CS JU 03/11/2019 Fav/CS GO 03/26/2019 Fav/CS AP	Fav/CS Yeas 5 Nays 0
6	CS/SB 454 Children, Families, and Elder Affairs / Gibson (Identical H 585, Compare H 583, Linked CS/CS/S 452)	Public Records and Public Meetings/Elder Abuse Fatality Review Team; Specifying that information obtained by an elder abuse fatality review team which is exempt or confidential and exempt from public records requirements retains its protected status; providing an exemption from public records requirements for identifying information of an elder abuse victim in records created by a review team; providing for future legislative review and repeal; providing statements of public necessity, etc. CF 02/19/2019 Fav/CS GO 03/26/2019 Temporarily Postponed AP	Temporarily Postponed
7	CS/SB 524 Banking and Insurance / Diaz (Similar CS/H 1113)	Health Insurance Savings Programs; Designating the "Patient Savings Act"; authorizing health insurers, which include health maintenance organizations, to offer shared savings incentive programs to insureds; requiring the Office of Insurance Regulation to review filed descriptions of programs and make a certain determination; providing that certain shared saving incentive amounts reduce an insurer's direct written premium for purposes of the insurance premium tax and the retaliatory tax, etc. BI 03/11/2019 Fav/CS GO 03/26/2019 Favorable AP	Favorable Yeas 4 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
 Tuesday, March 26, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 702 Lee (Similar H 6041)	Qualified Blind Trusts; Repealing provisions relating to qualified blind trusts, etc. EE 03/12/2019 Favorable GO 03/26/2019 Favorable RC	Favorable Yeas 4 Nays 0
9	SB 1570 Hooper (Identical H 5301)	Information Technology Reorganization; Transferring all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues and existing contracts, administrative authority, certain administrative rules, trust funds, and unexpended balances of appropriations, allocations, and other funds of the Agency for State Technology to the Department of Management Services by a type two transfer; requiring each state agency to adopt formal procedures for cloud-computing options, etc. GO 03/26/2019 Favorable AEG AP	Favorable Yeas 4 Nays 0
A proposed committee substitute for the following bill (SB 7040) is expected to be considered:			
10	SB 7040 Ethics and Elections (Similar H 7021, Compare H 7023, Linked S 7042)	Financial Disclosure; Requiring the Commission on Ethics to procure and test an electronic filing system by a certain date; requiring the electronic filing of full and public disclosures of financial interests beginning on a specified date; prohibiting the commission from requesting, accepting, or retaining certain information, etc. GO 03/26/2019 Fav/CS AP	Fav/CS Yeas 5 Nays 0
A proposed committee substitute for the following bill (SB 7042) is expected to be considered:			
11	SB 7042 Ethics and Elections (Similar H 7023, Compare H 7021, Linked S 7040)	Public Records/Commission on Ethics; Providing exemptions from public records requirements for certain passwords that are held by the Commission on Ethics and certain information entered into the electronic filing system for financial disclosure forms; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. GO 03/26/2019 Fav/CS AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Tuesday, March 26, 2019, 1:30—3:30 p.m.

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



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
302 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
3/6/19	SM	Report Submitted
3/8/19	JU	Fav/CS
3/25/19	GO	Favorable
	RC	

March 6, 2019

The Honorable Bill Galvano
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 24** – Judiciary Committee and Senator Simmons
HB 6513 – Representative Perez
Relief of the Estate of Eric S. Tenner

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF \$1.45 MILLION FROM MIAMI-DADE COUNTY. THIS AMOUNT IS THE REMAINING UNPAID BALANCE OF A SETTLEMENT FOR THE WRONGFUL DEATH OF ERIC S. TENNER, WHICH WAS PARTIALLY CAUSED BY THE NEGLIGENT OPERATION OF A COUNTY BUS.

UPDATE TO PRIOR REPORT: On November 3, 2017, Mr. Dan Looke, serving as Senate special master, held a de novo hearing on a previous version of this bill, SB 26 (2018). After the hearing, Mr. Looke issued a report containing findings of fact and conclusions of law and found the requested amount of \$1,450,000 was reasonable. That report is attached as an addendum to this report.

Since that time, the Senate President has reassigned the claim to the undersigned to review records and determine whether any changes have occurred since the hearing that, if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

According to information received, no such changes have occurred since the hearing.

RECOMMENDATIONS:

A correction to the spelling of Mr. Tenner's middle name is recommended. The bill currently reflects a spelling of "Scott" while submitted documents show the middle name spelled as "Scot." The recommended amendment is appended.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

CS by Judiciary

The committee substitute correctly spells the claimant's middle name. It has only one "t," not two.



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location
515 Knott Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5198

DATE	COMM	ACTION
1/10/18	SM	Favorable
	JU	
	GO	
	RC	

January 10, 2018

The Honorable Joe Negrón
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 26** – Senator Garcia
HB 6543 – Representative Perez
Relief of Eric Scott Tenner

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED EXCESS JUDGEMENT CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF \$1.45 MILLION AGAINST MIAMI-DADE COUNTY FOR THE WRONGFUL DEATH OF ERIC SCOTT TENNER, WHICH WAS PARTIALLY CAUSED BY THE NEGLIGENT OPERATION OF A COUNTY BUS.

FINDINGS OF FACT:

On the morning of October 8, 2014, Mr. Tenner, was riding his bicycle on the US 1 Busway just south of SW 124th Street in Miami-Dade County when he was struck from behind by a Miami-Dade County bus driven by Jose Sequeria. At the time, Mr. Tenner was wearing all recommended safety equipment including a helmet, a head lamp on the front of his bicycle, and a flashing strobe light on the rear of his bicycle. A witness riding the bus that struck Mr. Tenner, Christopher Hanna, saw Mr. Tenner riding on his bicycle with blinking lights when the bus approached him from behind. Mr. Hanna also felt the impact of the collision between the bus and Mr. Tenner.

After striking Mr. Tenner, Jose Sequeria did not stop to provide assistance, but continued driving his route.¹ Miguel

¹ Mr. Sequeria was later arrested for leaving the scene of an accident involving serious bodily injury, but the charges were dropped because the state could not prove that Mr. Sequeria was aware that he had hit Mr. Tenner.

Mora, driver of a bus immediately behind Mr. Sequeria's bus, pulled over to assist Mr. Tenner. Mr. Tenner was taken to Kendall Regional Hospital where he died of his injuries on October 11, 2014.

On July 16, 2015, Maria Tenner, Mr. Tenner's wife, brought suit against Miami-Dade County as the personal representative of Mr. Tenner's estate under the Florida Wrongful Death Act.² Miami-Dade County responded to the suit asserting the defenses of assumed risk and comparative negligence. The County's strongest argument at trial would likely have been that Mr. Tenner was riding his bicycle on a roadway that was designated specifically for transit and emergency vehicles.

The plaintiffs hired Raffa Consulting Economists to prepare a statement of loss of dependent support that could be expected from Mr. Tenner's death. The report determined that the total economic loss from Mr. Tenner's death would be approximately \$3.5 million. On June 14, 2017, the parties entered into mediation. It was successful and resulted in a settlement agreement signed on the same day. In the settlement the County agreed to pay a total of \$1.75 million to Mr. Tenner's estate to settle all claims arising from the matter.³ At the time of the settlement, the County paid \$300,000 to the plaintiffs and the County also agreed to support a claim bill for the remaining \$1.45 million.

CONCLUSIONS OF LAW:

Miami-Dade County owned and operated the bus that struck Mr. Tenner and the driver of the bus, Mr. Sequeria, was an employee of the county. Section 768.28, F.S., allows injured parties to sue the state or local governments for damages caused by the negligence of their employees. When demonstrating negligence, the elements that must be found are duty, breach, causation, and damages.⁴ Additionally, s. 768.81, F.S., allows damages in a negligence case to be apportioned among all responsible parties who contributed to an accident.

In general, the driver of a motor vehicle has a duty to use reasonable care, in light of the circumstances, to prevent

² Section 768.16, F.S.

³ In testimony during the Special Master hearing, the attorney for the plaintiffs, Christopher Marlowe, testified that the plaintiffs agreed to Mr. Tenner's 50 percent comparative negligence when settling the case.

⁴ *Charron v. Birge*, 37 So.3d 292, 296 (Fla. 5th DCA 2010).

injuring persons within the vehicle's path.⁵ In this case, several witnesses riding Mr. Sequeria's bus, as well as the bus immediately behind Mr. Sequeria's, testified that they were able to see Mr. Tenner riding his bicycle as the bus approached him from the rear. Mr. Hanna, a witness riding Mr. Sequeria's bus, testified that he, at first, believed that Mr. Sequeria was attempting to turn to avoid the collision; but in the end did not turn and consequently struck and killed Mr. Tenner. Mr. Hanna's testimony shows that Mr. Sequeria was negligent in not using reasonable care and not taking appropriate action to avoid a collision with Mr. Tenner.

Mr. Tenner was also comparatively negligent for riding his bicycle on a roadway specifically designated for transit and emergency vehicles only. Although designated specifically for such traffic, the roadway where Mr. Tenner was riding his bicycle was often used by cyclists. Mr. Mora, the driver of a second bus, testified that bicyclists and pedestrians are constantly present and "there's a lot of accidents on the Busway." At trial, the portion of negligence would have been determined by the jury. However, during the special master hearing Christopher Marlowe, the attorney for the plaintiffs, testified that the plaintiffs agreed to accept 50 percent comparative negligence upon settlement of the case. This apportionment of fault is reasonable in light of the evidence.

According to the economic analysis done by the Raffa Consulting Economists, Mr. Tenner's estate suffered damages of approximately \$3.5 million due to his premature death. This figure is reasonable based on the evidence. Due to Mr. Tenner's comparative negligence, stipulated at 50 percent, the damages that a court could assess to Mr. Sequeria's negligence are \$1.75 million. Of these damages, \$300,000 have been paid leaving \$1.45 million outstanding.

ATTORNEYS FEES:

Senate Bill 26 limits the total amount paid for attorney fees to 25 percent of the amount awarded. As such, the amount of attorney fees will be limited to \$362,500 of the \$1.45 million awarded under the bill.

⁵ *Gowdy v. Bell*, 993 So.2d 585, 586 (Fla. 1st DCA 2008).

RECOMMENDATIONS:

The undersigned recommends that Senate Bill 26 be reported FAVORABLY.

Respectfully submitted,

Daniel Looke
Senate Special Master

cc: Secretary of the Senate

By the Committee on Judiciary; and Senator Simmons

590-02910-19

201924c1

1 A bill to be entitled
 2 An act for the relief of the Estate of Eric Scot
 3 Tenner by the Miami-Dade County Board of County
 4 Commissioners; providing for an appropriation to
 5 compensate his estate for injuries and damages
 6 sustained by Eric Scot Tenner and his survivors as a
 7 result of the negligence of an employee of the Miami-
 8 Dade County Board of County Commissioners; providing a
 9 limitation on the payment of attorney fees; providing
 10 an effective date.

11

12 WHEREAS, on October 8, 2014, 45-year-old Eric Scot Tenner
 13 was riding his bicycle along the U.S. 1 Busway in Miami-Dade
 14 County, wearing appropriate clothing and safety equipment for
 15 cycling, and

16 WHEREAS, Mr. Tenner was struck by a bus owned and operated
 17 by the Miami-Dade County Board of County Commissioners at
 18 approximately 7 a.m. near the intersection of the U.S. 1 Busway
 19 and SW 124th Street, and

20 WHEREAS, the driver of a vehicle has a duty to use
 21 reasonable care to prevent injuring persons in the vehicle's
 22 path, and

23 WHEREAS, the bus driver should have seen Mr. Tenner's
 24 bicycle, but the driver breached his duty to use reasonable care
 25 when his bus struck Mr. Tenner from behind, and

26 WHEREAS, the bus driver was acting within his scope of
 27 employment with the Miami-Dade County Board of County
 28 Commissioners at the time of the accident and the board is
 29 liable under the doctrine of respondeat superior, and

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

590-02910-19

201924c1

30 WHEREAS, Mr. Tenner was transported to Kendall Regional
 31 Medical Center, where he succumbed to his injuries and died on
 32 October 11, 2014, and

33 WHEREAS, Mr. Tenner, through his wife, donated all viable
 34 tissues and organs so that others may live, and

35 WHEREAS, Mr. Tenner is survived by his wife and two minor
 36 sons, all of whom are being treated by therapists and health
 37 professionals to cope with the loss of their husband and father,
 38 who provided for and had a demonstrably close relationship with
 39 his family, and

40 WHEREAS, Mr. Tenner's family is suffering significant
 41 financial hardship due to the loss of Mr. Tenner's net
 42 accumulations in the past and the future, and extreme mental
 43 anguish and suffering resulting from the loss of their husband
 44 and father, and

45 WHEREAS, the Estate of Eric Scot Tenner has alleged,
 46 through a lawsuit filed May 22, 2015, in Miami-Dade County, that
 47 the negligence of the Miami-Dade County Board of County
 48 Commissioners, through its bus driver, was the proximate cause
 49 of Mr. Tenner's death, and

50 WHEREAS, the total present value of Mr. Tenner's economic
 51 damages from this incident is calculated to be \$3,563,249.93,
 52 which consists of his future and past lost earning capacity of
 53 \$3,531,212 and past medical expenses of \$32,037.93, and

54 WHEREAS, the Miami-Dade County Board of County
 55 Commissioners and the Estate of Eric Scot Tenner reached a
 56 settlement agreement by mediation in the amount of \$1.75
 57 million, of which \$300,000 will be paid to the Estate of Eric
 58 Scot Tenner pursuant to the limits of liability set forth in s.

Page 2 of 3

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

590-02910-19

201924c1

59 768.28, Florida Statutes, and the remainder is conditioned upon
60 the passage of a claim bill, which is agreed to by the Miami-
61 Dade County Board of County Commissioners, in the amount of
62 \$1.45 million, NOW, THEREFORE,

63
64 Be It Enacted by the Legislature of the State of Florida:

65
66 Section 1. The facts stated in the preamble to this act are
67 found and declared to be true.

68 Section 2. The Miami-Dade County Board of County
69 Commissioners is authorized and directed to appropriate from
70 funds of the county not otherwise encumbered and to draw a
71 warrant in the sum of \$1.45 million, payable to Maria Tenner as
72 personal representative of the Estate of Eric Scot Tenner, as
73 compensation for injuries and damages sustained.

74 Section 3. The amount paid by the Miami-Dade County Board
75 of County Commissioners pursuant to s. 768.28, Florida Statutes,
76 and the amount awarded under this act are intended to provide
77 the sole compensation for all present and future claims arising
78 out of the factual situation described in this act which
79 resulted in the death of Eric Scot Tenner, including injuries
80 and damages to the Estate of Eric Scot Tenner and his survivors.
81 The total amount paid for attorney fees relating to this claim
82 may not exceed 25 percent of the total amount awarded under this
83 act.

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



The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 12, 2019

I respectfully request that **Senate Bill 24**, relating to Relief of the Estate of Eric Scott Tenner by the Miami-Dade County Board of County Commissioners, be placed on the:

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

Thank you,

A handwritten signature in black ink, appearing to read "David Simmons". The signature is stylized and written in a cursive-like font.

Senator David Simmons
Florida Senate, District 9



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location
302 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
3/6/19	SM	Report Submitted
3/11/19	JU	Fav/CS
3/25/19	GO	Favorable
	RC	

March 6, 2019

The Honorable Bill Galvano
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 42** – Judiciary Committee and Senator Taddeo
HB 6525 – Representative Fernandez
Relief of Jorge L. Dominguez, Chelsea Beatrice Dominguez, Brittney Delores
Dominguez, and Tori Alexis Dominguez

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF \$400,000. THIS AMOUNT IS THE REMAINING UNPAID BALANCE OF A SETTLEMENT REGARDING THE NEGLIGENCE OF A HILLSBOROUGH COUNTY EMPLOYEE, WHICH RESULTED IN THE DEATH OF DARCIA LYNN DOMINGUEZ.

FINDINGS OF FACT:

The Crash on February 6, 2010

On the morning of February 6, 2010, Mrs. Darcia Lynn Dominguez, a 39 year-old registered nurse, traveled northbound on Veterans Express Highway in Tampa and crashed into a tractor-trailer truck owned and maintained by Hillsborough County. The vehicle was driven by Mr. Santiago Hasbun who had a commercial driver license (CDL) and was a Hillsborough County employee.

Prior to the incident, the truck was serviced by Hillsborough County and batteries were replaced.

The truck experienced an electrical malfunction which resulted in the Vehicle Management Control System (VMAC) on the dashboard indicating that voltage was decreasing. As stipulated by the parties, it would have taken fifteen minutes or more for the volt meter gauge to fall from its normal operating position to the position where the decreasing voltage triggered the illumination of a lightning bolt on the dashboard. Once the lightning bolt illuminated on the volt meter gauge, the truck shut down within fifteen minutes. At the time the vehicle shut down, Mr. Hasbun had, approximately, another 27 seconds to pull off of the highway.

The divided highway had two northbound and two southbound lanes and was divided by guardrails. The grass median available to the left of the northbound lanes was at least 21 feet wide and the paved shoulder available to the right of the northbound lanes was 10 feet wide.

Mr. Hasbun did not pull the truck off of the road. The vehicle remained in the left travel lane of the highway without functioning hazard or flashing lights because of the complete loss of power.

Mr. Hasbun placed orange triangles on the hash marks of the highway with the farthest triangle being placed 75 feet back from the end of the truck.

At approximately 8:17 a.m., Mrs. Dominguez crashed into the back of the truck. The crash occurred shortly after someone called 911 to report that, while going the speed limit, the caller almost drove into the back of the broken down truck in the left travel lane. Parties agreed that Mrs. Dominguez's phone records were investigated and she was not using her phone to call or text at the time of the accident.

Mrs. Dominguez suffered traumatic brain injuries and scalp avulsion as well as numerous fractures to the skull, left arm, a rib, and both femurs.

On February 11, 2010, Mrs. Dominguez died as a result of the traumatic brain injuries.

Mrs. Dominguez had three daughters: Ms. Chelsea Dominguez, Ms. Brittney Dominguez, and Ms. Tori

Dominguez, who were 18, 16, and 10, respectively, at the time of the crash. Mrs. Dominguez was the wife of Mr. Jorge Dominguez, although they were separated at that time.

Mr. Gary Anderson, Ph. D., economist, testified that past losses and the present value of future losses as a result of the Mrs. Dominguez's death totals \$1,724,243.

Settlement

The parties stipulated that a jury could have attributed 60 – 90 percent of the negligence involved to the County and that a jury may have found \$4 – 8 million as a “reasonable range” of damages.

Claimants and Hillsborough County entered a settlement agreement for \$600,000. Claimants received \$200,000 from Hillsborough County and seek the remaining \$400,000 in two payments of \$200,000.

Additionally, claimants settled separately with the County's insurance carrier and received \$50,000 from that agreement.

Claimant also reported that personal injury protection (PIP) insurance covered the cost of Mrs. Dominguez's funeral, which was less than \$10,000.

CONCLUSIONS OF LAW:

Section 768.28, Florida Statutes (2010), waives sovereign immunity for tort liability up to \$200,000. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

A county is liable for a negligent act committed by an employee acting within the scope of employment. Mr. Hasbun was operating the tractor-trailer truck within the scope of his employment thereby making Hillsborough County liable for any negligent acts committed by him.

There are four elements to a negligence claim: (1) duty – where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach – which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation – where the defendant's conduct is

foreseeably and substantially the cause of the resulting damages; and (4) damages – actual harm.¹

Duty

Motorists have a duty to use reasonable care to avoid accidents and injury to themselves and others.² The driver of an automobile, a “dangerous instrumentality,” is responsible for maintaining control of the vehicle, commensurate with the setting, and being “prepared to meet the exigencies of an emergency within reason and consistent with reasonable care and caution.”³ Mr. Hasbun and Mrs. Dominguez both had the duty to use reasonable care while operating their vehicles.

In this particular situation, Mr. Hasbun also had specific statutory duties relevant to his operation of the truck. Sections 316.194(1), and 316.301, Florida Statutes, respectively, require a driver to remove a vehicle such as Mr. Hasbun’s from the highway when practicable to do so and, if disabled or stopped for more than 10 minutes, to place warning devices at 10 feet, 100 feet, and 200 feet from the stopped vehicle, in the center of the lane, and in the direction of traffic approaching that lane. The CDL Manual also required placement of cones at the aforementioned intervals.

Breach

As the parties have also stipulated and the record demonstrates, Mr. Hasbun violated both statutes and breached the required duty of care.

Mr. Hasbun was required to remove the tractor trailer from the road if practicable. Stipulations and evidence submitted demonstrate that Mr. Hasbun had time to remove the vehicle from the road but did not do so. Once the lightning bolt illuminated on the volt meter gauge, he had approximately 15 minutes to exit the highway or pull off of the road and he did neither. After the vehicle completely shut down, there was another 27 seconds, approximately, within which Mr. Hasbun could have pulled off of the highway and onto the 21 foot wide grassy median to the left or the 10 foot paved shoulder to the right but he did neither. He brought the vehicle to a stop in the left travel lane.

¹ Williams v. Davis, 974 So.2d 1052, at 1056–1057 (Fla. 2007).

² *Id.*, 974 So.2d at 1063.

³ Nelson v. Ziegler, 89 So.2d 780, 783 (Fla. 1956).

Once the vehicle was stopped in the left travel lane, Mr. Hasbun breached his duty to provide proper warning to approaching motorists. Again, stipulations and evidence show that Mr. Hasbun did not properly place orange triangles as the farthest back he placed a cone was 75 feet when statute and the CDL manual required that they be placed at intervals of 10 feet, 100 feet, and 200 feet from the vehicle. Additionally, rather than the cones being placed in the middle of the obstructed travel lane, they were placed on the hashmarks that divide the inside and outside lanes.

Mrs. Dominguez also had a duty to operate her vehicle with reasonable care, however, nothing has been submitted to demonstrate that this duty was breached. Both parties agreed that discovery demonstrated that Mrs. Dominguez was not on her phone at the time of the incident. Additionally, there is no known eyewitness to the crash or preceding events.

Causation

Mr. Hasbun's breaches of duty, including his violations of statutes and CDL manual requirements, in not removing the truck from the highway and improperly placing warning devices are the cause of the resulting damages. A collision was foreseeable when the truck was brought to a stop in the left travel lane of the highway, and warning devices were improperly placed. The existence of the vehicle in the left travel lane of the highway and the truncated warning of a danger (as a result of the misplaced triangles) were the substantial causes of the collision resulting in the death of Mrs. Dominguez.

Although the parties stipulated that a jury could have apportioned 60 – 90 percent of the negligence to Hillsborough County (thereby suggesting comparative fault of Mrs. Dominguez ranging from 10 – 40 percent of the negligence), the undersigned does not find comparative negligence on behalf of Mrs. Dominguez. This conclusion is based upon there being no known eyewitness to the moments preceding the collision and no other facts in evidence demonstrating negligence of Mrs. Dominguez.

Damages

As a result of the February 6, 2010 collision, Mrs. Dominguez suffered traumatic brain injuries, scalp avulsion, fractures to

the skull, left arm, a rib, and both femurs. On February 11, 2010, Mrs. Dominguez died due to these injuries.

Mrs. Dominguez's death also resulted in economic losses estimated at \$1,724, 243.

ATTORNEY FEES:

The bill states that attorney fees may not exceed 25 percent of the amount awarded.

Outstanding costs amount to \$5,892.38.

RECOMMENDED
AMENDMENT:

The undersigned recommends changing the date on line 12 of the bill from "February 26, 2010" to "February 6, 2010" to accurately reflect the date of the incident. The recommended amendment is appended.

FINDING:

For the reasons set forth above, the undersigned finds that the claimant has demonstrated the elements of negligence by the greater weight of the evidence and the amount sought is reasonable.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

CS by Judiciary on March 11, 2019:

This amendment corrects the date of the automobile accident that is the basis for the claim bill.

By the Committee on Judiciary; and Senator Taddeo

590-02874-19

201942c1

1 A bill to be entitled
 2 An act for the relief of Jorge L. Dominguez, Chelsea
 3 Beatrice Dominguez, Brittney Delores Dominguez, and
 4 Tori Alexis Dominguez by Hillsborough County;
 5 providing for an appropriation to compensate them for
 6 the wrongful death of Darcia Lynn Dominguez, which
 7 occurred as the result of the negligence of
 8 Hillsborough County and one of its employees;
 9 providing a limitation on the payment of compensation
 10 and attorney fees; providing an effective date.

11

12 WHEREAS, on February 6, 2010, Darcia Lynn Dominguez, a 39-
 13 year-old licensed registered nurse, was driving northbound on
 14 Veterans Expressway in Tampa, and

15 WHEREAS, on the morning in question, Santiago Hasbun, an
 16 employee of Hillsborough County, acting in the regular course
 17 and scope of his employment duties and with the express consent
 18 of Hillsborough County, was operating a tractor-trailer owned by
 19 Hillsborough County northbound on Veterans Expressway, and

20 WHEREAS, Mr. Hasbun negligently operated the tractor-
 21 trailer when he failed to remove the vehicle from the traveled
 22 portion of the highway despite a warning from the vehicle
 23 management and control system of impending engine failure, which
 24 warning continued for a period of at least 15 minutes before the
 25 engine shut down, and despite the availability of a 24-foot to
 26 37-foot grass median onto to which he could have traveled and
 27 parked the tractor-trailer, and

28 WHEREAS, Mr. Hasbun violated Florida law by failing to
 29 timely exit the tractor-trailer or to remove it from the

Page 1 of 4

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590-02874-19

201942c1

30 traveled portion of the roadway prior to the engine breakdown
 31 and, thereafter, by failing to warn approaching motorists of the
 32 hazard posed by the vehicle by not placing statutorily required
 33 emergency triangles or cones in the proper location at the rear
 34 of the vehicle, the purpose of such placement being to apprise
 35 approaching motorists of the hazard at a sufficient distance to
 36 allow them to stop or take evasive action, and

37 WHEREAS, Hillsborough County, through its Fleet Management
 38 Department, was negligent in its servicing and maintenance of
 39 the tractor-trailer driven by Mr. Hasbun, which resulted in an
 40 electrical failure, which prevented the operation of the
 41 tractor-trailer's emergency flashing lights, and

42 WHEREAS, the combined negligence of Hillsborough County and
 43 its employee, Mr. Hasbun, proximately caused Ms. Dominguez to
 44 crash into the back of the tractor-trailer, which had come to a
 45 complete stop on the traveled portion of the roadway, and

46 WHEREAS, at the time of her death as a result of the crash,
 47 Ms. Dominguez was the spouse of Jorge L. Dominguez and the
 48 mother of their three daughters, Tori Alexis Dominguez, then 10
 49 years of age; Brittney Delores Dominguez, then 16 years of age;
 50 and Chelsea Beatrice Dominguez, then 18 years of age, and

51 WHEREAS, in accordance with the Wrongful Death Act, Mr.
 52 Dominguez commenced a legal action against Hillsborough County
 53 in Tampa on behalf of the Estate of Darcia Lynn Dominguez and
 54 her surviving spouse and daughters, and

55 WHEREAS, after years of litigation, Hillsborough County on
 56 December 13, 2016, acknowledged its negligence and that of its
 57 employee and entered into a consent judgment for \$600,000, of
 58 which Hillsborough County has paid its sovereign immunity limit

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590-02874-19

201942c1

59 of \$200,000, and

60 WHEREAS, in a separate, confidential settlement, the
61 county's excess insurance carrier, Star Insurance Company, paid
62 an additional, confidential amount to the plaintiff and, by
63 virtue of the consent judgment and the settlement agreement
64 reached between the parties, Hillsborough County has agreed that
65 it is liable to the Estate of Darcia Lynn Dominguez for an
66 additional \$400,000 in damages, to be paid in two equal
67 installments over the course of 2 years, with the first \$200,000
68 payment to be made during the October following the effective
69 date of this act, and the second \$200,000 payment to be made
70 during October of the immediately following year, and

71 WHEREAS, Hillsborough County has acknowledged that a
72 reasonable estimate of the damages recoverable for the four
73 statutory survivors of Ms. Dominguez is between \$4 million and
74 \$8 million and forensic estimates of her lifetime earnings,
75 recoverable as damages for loss of net accumulations to her
76 estate, amounted to an additional \$1.7 million, and

77 WHEREAS, Hillsborough County consents to and fully supports
78 the passage of this act, NOW, THEREFORE,

79
80 Be It Enacted by the Legislature of the State of Florida:

81
82 Section 1. The facts stated in the preamble to this act are
83 found and declared to be true.

84 Section 2. Hillsborough County is authorized and directed
85 to appropriate from funds not otherwise encumbered and to draw
86 two warrants in the sum of \$200,000 each, payable to the Estate
87 of Darcia Lynn Dominguez. The first \$200,000 shall be paid

Page 3 of 4

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590-02874-19

201942c1

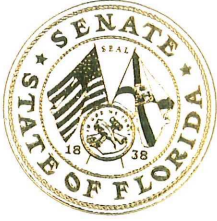
88 during the October following the effective date of this act, and
89 the second \$200,000 shall be paid during October of the
90 immediately following year.

91 Section 3. The amount paid by Hillsborough County pursuant
92 to s. 768.28, Florida Statutes, and the amount awarded under
93 this act are intended to provide the sole compensation for all
94 present and future claims arising out of the factual situation
95 described in this act which resulted in the death of Darcia Lynn
96 Dominguez. The total amount paid for attorney fees relating to
97 this claim may not exceed 25 percent of the amount awarded under
98 this act.

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal
and Civil Justice
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Infrastructure and Security

SENATOR ANNETTE TADDEO

40th District

March 14, 2019

Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: Committee Agenda Request

Chairman Hooper,

I respectfully request that **Senate Bill #42**, relating to the Relief of Dominguez by Hillsborough County, be placed on the committee agenda at your earliest possible convenience. The bill was reported favorably by the Committee on Judiciary on March 11, 2019.

Should you have any questions, feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to be "AT", written over a horizontal line.

Senator Annette Taddeo
Florida Senate, District 40

REPLY TO:

- 10689 North Kendall Drive, Suite 212, Miami, Florida 33176 (305) 596-3003
- 210 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 196

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Powell

SUBJECT: Office of Public Counsel

DATE: March 25, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	Fav/CS
2.	<u>McVaney</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 196 establishes a four-year term for the Public Counsel beginning January 15, 2021. The bill clarifies that the Public Counsel continues to serve at the pleasure of the joint committee in that the committee can remove the Public Counsel with a majority vote of the committee appointees of each house.

The bill requires the joint committee to receive applications, conduct interviews, and appoint a Public Counsel to a four-year term beginning on January 15, 2021, and every four years thereafter. A Public Counsel may continue in office beyond the four-year limit until his or her successor is appointed and takes office, unless he or she was removed by the committee. In no event may a person serve as the Public Counsel for more than 12 consecutive years.

The bill takes effect July 1, 2019.

II. Present Situation:

The Joint Committee on Public Counsel Oversight is a standing joint committee established by the Joint Rules of the Florida Legislature.¹ No fewer than five and no more than seven members

¹ Joint Rule 4.1(1)(b), Joint Rules of the Florida Legislature.

of each house must be appointed to serve on the joint committee.² The joint committee has the authority to appoint a Public Counsel.³

The Public Counsel must be an attorney admitted to practice before the Florida Supreme Court. The Public Counsel is appointed by the joint committee and serves at the pleasure of the joint committee, subject to biennial reconfirmation.⁴

The Public Counsel has the statutory duty to provide legal representation for the people of the state in proceedings before the Florida Public Service Commission and in proceedings concerning a water or wastewater utility before counties that have opted out of PSC jurisdiction over such utilities.⁵

The Public Counsel is under the legislative branch, and the Governor has no power to release or withhold funds appropriated to it or to determine the number, or fix the compensation, of the employees of the Public Counsel or to exercise any control over them.⁶

The Public Counsel is appointed by and serves at the pleasure of the committee, and is subject to biennial reconfirmation. Vacancies in the office are to be filled in the same manner as the original appointment. The Public Counsel is to perform his or her duties independently.⁷

III. Effect of Proposed Changes:

The bill establishes a four-year term for the Public Counsel beginning January 15, 2021. The bill clarifies that the Public Counsel continues to serve at the pleasure of the joint committee in that the committee can remove the Public Counsel with a majority vote of the committee appointees of each house.

The bill requires the joint committee to receive applications, conduct interviews, and appoint a Public Counsel to a four-year term beginning on January 15, 2021, and every four years thereafter. A Public Counsel may continue in office beyond the four-year limit until his or her successor is appointed and takes office, unless he or she was removed by the committee. In no event may a person serve as the Public Counsel for more than 12 consecutive years.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. 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.

² Joint Rule 4.1(3), Joint Rules of the Florida Legislature.

³ Joint Rule 4.7, Joint Rules of the Florida Legislature, and s. 350.061, F.S.

⁴ Section 350.061(1), F.S.

⁵ Section 350.0611, F.S.

⁶ Section 350.0614, F.S.

⁷ Section 350.061, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 350.061 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 Innovation, industry, and Technology on March 19, 2019:
The committee substitute:

- Clarifies that the joint committee may remove an incumbent Public Counsel by majority vote of the committee appointees of each house (current law says the Public Counsel serves at the pleasure of the joint committee);
- Allows a sitting Public Counsel to continue to serve beyond the newly-created four-year term until the committee appoints a successor and the successor takes office; and
- Makes stylistic changes in structure and wording.

B. Amendments:

None.

By the Committee on Innovation, Industry, and Technology; and
Senator Powell

580-03250-19

2019196c1

1 A bill to be entitled
2 An act relating to Office of Public Counsel; amending
3 s. 350.061, F.S.; providing term limits for the Public
4 Counsel; requiring the Committee on Public Counsel
5 Oversight to receive applications, conduct interviews,
6 and appoint a Public Counsel by a specified date every
7 4 years; providing for the filling of vacancies;
8 providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Subsection (1) of section 350.061, Florida
13 Statutes, is amended to read:
14 350.061 Public Counsel; appointment; oath; restrictions on
15 Public Counsel and his or her employees.—
16 (1) The committee designated by joint rule of the
17 Legislature or by agreement between the President of the Senate
18 and the Speaker of the House of Representatives as the Committee
19 on Public Counsel Oversight shall appoint a Public Counsel to
20 represent the general public of Florida before the Florida
21 Public Service Commission. The Public Counsel ~~must shall~~ be an
22 attorney admitted to practice before the Florida Supreme Court,
23 ~~and shall be appointed for a term of 4 years, and may be~~
24 reappointed thereafter, provided that a person appointed as the
25 Public Counsel may not serve more than 12 consecutive years in
26 the position. The Public Counsel may be removed from office by a
27 majority vote of the committee appointees of each house. A
28 person may continue as Public Counsel beyond the 4-year limit
29 until his or her successor is appointed and takes office, unless

Page 1 of 2

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580-03250-19

2019196c1

30 the person is removed as Public Counsel by a vote of the
31 committee. The Committee on Public Counsel Oversight shall
32 receive applications, conduct interviews, and appoint a Public
33 Counsel to a 4-year term beginning on January 15, 2021, and
34 every 4 years thereafter ~~serve at the pleasure of the Committee~~
35 on Public Counsel Oversight, subject to biennial reconfirmation
36 by the committee. The Public Counsel shall perform his or her
37 duties independently. Vacancies in the office shall be filled
38 for the remainder of the unexpired term in the same manner as
39 the original appointment.
40 Section 2. This act shall take effect July 1, 2019.

Page 2 of 2

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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: CS/CS/SB 450

INTRODUCER: Governmental Oversight and Accountability Committee; Innovation, Industry, and Technology Committee and Senator Gibson and others

SUBJECT: Public Records and Public Meetings/Local Government Utility

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 450 amends s. 286.0113, F.S., to create a new public meetings exemption. Current law exempts information held by a utility owned or operated by a unit of local government that relates to:

- The security of the technology, processes, or practices of the utility and that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, and which, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources; and
- The security of existing or proposed information technology systems or industrial control technology systems of the utility, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.¹

The bill exempts from public meetings law that portion of a meeting held by the utility at which this information under s. 119.0713(5), F.S., is discussed or may otherwise be revealed. The exempt portions of the meeting must be recorded and transcribed, and the recording and transcript of the meeting are exempt from disclosure unless a court of competent jurisdiction, following an in-camera review, determines that the meeting was not restricted to the discussion of data and information made exempt by this section. In the event of such a judicial

¹ Section 119.0713(5), F.S.

determination, only the portion of the recording or transcript which reveals nonexempt data and information may be disclosed to a third party.

The bill provides a statement of public necessity as required by the State Constitution.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

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 newly created or expanded exemption for public records and public meetings. The bill creates a public meeting exemption, therefore it requires a two-thirds vote for final passage.

The bill takes effect July 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.² 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.³

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.⁴ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁵ 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.⁶

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁷ The Florida Supreme Court has interpreted public records as being

² FLA. CONST. art. I, s. 24(a).

³ *Id.*

⁴ 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.

⁵ Public records laws are found throughout the Florida Statutes.

⁶ Section 119.01(1), F.S.

⁷ 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

“any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”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.¹² A bill enacting an exemption may not contain other substantive provisions¹³ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹⁴ Records designated “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.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 is also addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”¹⁹ or the

Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁸ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

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 *Id.*

¹³ The bill may, however, contain multiple exemptions that relate to one subject.

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 School Board of Seminole*, 874 So. 2d 48 (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).

“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, to 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

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.

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.

²⁷ FLA. CONST. art. I, s. 24(c).

²⁸ *Id.*

²⁹ *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.

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.

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

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

Current Public Records Exemption for Specified Types of Information Held by a Utility Owned or Operated by a Unit of Local Government

Section 119.011, F.S., defines the term “utility” to mean a person or entity that provides electricity, natural gas, telecommunications, water, chilled water, reuse water, or wastewater.

Subsection 119.0713(5), F.S., exempts the following information held by a utility owned or operated by a unit of local government:

- Information related to the security of the technology, processes, or practices of a utility owned or operated by a unit of local government that are designed to protect the utility'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.

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.

networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.

- Information related to the security of existing or proposed information technology systems or industrial control technology systems of a utility owned or operated by a unit of local government, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.

The exemption applies to such information before, on, or after the effective date of this exemption, March 24, 2016. The exemption is subject to the Act and stands repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Current Exemption for Records of a Public Utility and Protection during Public Meetings

Section 366.093, F.S., provides for an exemption from public record disclosure requirements for certain types of information in public utility records, including the protection of the information when the records are used in a meeting or hearing. The Florida Public Service Commission (commission) has reasonable access to all public utility records and records of the utility's affiliated companies, including its parent company, regarding transactions or cost allocations among the utility and such affiliated companies, and such records necessary to ensure that a utility's ratepayers do not subsidize nonutility activities. However, upon request of the public utility or other person, any records received by the commission which are shown and found by the commission to be proprietary confidential business information must be kept confidential and are exempt from public records law.

During any proceeding before the commission, upon a showing by a utility or other person and a finding by the commission that discovery will require the disclosure of proprietary confidential business information, the commission must issue appropriate protective orders designating the manner for handling such information during the course of the proceeding and for protecting such information from disclosure outside the proceeding. The proprietary confidential business information is exempt from public records law and any records provided pursuant to a discovery request for which proprietary confidential business information status is requested must be treated by the commission, the office of the Public Counsel, and any other party subject to the public records law as confidential and are exempt from public records law pending a formal ruling on such request by the commission or the return of the records to the person providing the records.

Any record which has been determined to be proprietary confidential business information and is not entered into the official record of the proceeding must be returned to the person providing the record within 60 days after the final order, unless the final order is appealed. If the final order is appealed, any such record must be returned within 30 days after the decision on appeal. The commission shall adopt the necessary rules to implement this provision.

For these purposes, proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information

would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:

- Trade secrets;
- Internal auditing controls and reports of internal auditors;
- Security measures, systems, or procedures;
- Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms;
- Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information; and
- Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Any finding by the commission that records contain proprietary confidential business information is effective for a period set by the commission not to exceed 18 months, unless the commission finds, for good cause, that the protection from disclosure must be for a specified longer period. The commission must order the return of records containing proprietary confidential business information when such records are no longer necessary for the commission to conduct its business. At that time, the commission must order any other person holding such records to return them to the person providing the records. Records containing proprietary confidential business information which have not been returned at the conclusion of the period set pursuant to this subsection are no longer be exempt from public records law unless the public utility or affected person shows, and the commission finds, that the records continue to contain proprietary confidential business information. Upon such finding, the commission may extend the period for confidential treatment for a period not to exceed 18 months unless the commission finds, for good cause, that the protection from disclosure must be for a specified longer period. During commission consideration of an extension, the records in question will remain exempt from public records law. The commission must adopt rules to implement this provision, which must include notice to the public utility or affected person regarding the expiration of confidential treatment.

III. Effect of Proposed Changes:

Section 1 amends s. 286.0113, F.S., to create a new public meetings exemption to make exempt that portion of a local government utility meeting at which information currently exempt from disclosure under s. 119.0713(5), F.S., relating to the security of the utility's data and information technology and industrial control technology systems is to be discussed or may otherwise be revealed. The exempt portions of the meeting must be recorded and transcribed. The recording and transcript of the meeting are exempt from disclosure unless a court of competent jurisdiction, following an in-camera review, determines that the meeting was not restricted to the discussion of data and information made exempt by this section. In the event of such a judicial determination, only the portion of the recording or transcript which reveals nonexempt data and information may be disclosed to a third party.

The exemption is subject to the Act and stands repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 sets forth the required public necessity statement. The Legislature finds that it is a public necessity that the portion of a meeting relating directly to or that would reveal specified information which is exempt under s. 119.0113(5), F.S., be made exempt from public meetings law, and that the recording and transcript of such a meeting be made exempt public records law.

The public necessity statement explains that, as utility system infrastructure becomes more connected and integrated through information and communications technology, the exposure to damage from attacks through such technology grows. These attacks may result in the disruption of utility services and damage to utility systems. Maintaining safe and reliable utility systems is vital to protecting the public health and safety and to ensuring the economic well-being of this state. The statement further provides that the protection of information and communications made exempt by this act will ensure that utilities have greater safeguards to protect against security threats and will bolster efforts to develop more resilient information technology systems and industrial control technology systems.

Section 3 provides that the bill takes effect July 1, 2019.

Because the bill creates a new public meetings exemption, it requires two-thirds vote of the members present and voting in each house of the Legislature for final passage.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires utilities owned or operated by a unit of local government to incur costs associated with recording and transcribing a portion of a meeting held by the utility that would reveal information that is exempt under s. 119.0713(5), F.S. To the extent a utility owned or operated by a unit of local government is deemed to be part of a municipality, the mandate provision may apply. However, the costs incurred by utilities owned or operated by a unit of local government are anticipated to be insignificant, thus exempting the bill from the mandates requirements.

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 exemptions to the public records and public meetings requirements. This bill creates a new public meeting exemption, therefore it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding exemptions to the public records and public meetings requirements to state with

specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemptions.

Breadth of Exemption

Article I, s. 24 (c) of the State Constitution requires exemptions to the public records and 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 from disclosure (i) that portion of a meeting by a utility owned or operated by a unit of local government which would reveal information that is currently exempt under s. 119.0713(5), F.S.; and (ii) the recording and transcript of the meeting, unless a court of competent jurisdiction, following an in-cameral review, determines the meeting was not restricted to the discussion of data and information made exempt by this section.

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:

Utilities owned or operated by a unit of local government are expected to incur some costs recording and transcribing the portion of the board meeting exempt from the public meetings requirements. However, the costs are anticipated to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 286.0113 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Governmental Oversight and Accountability on March 26, 2019:

The committee substitute changes all mentions of “confidential and exempt” to “exempt” as the data and information covered under s. 119.0713(5), F.S. is made exempt and not confidential and exempt.

CS by Innovation, Industry, and Technology on March 6, 2019:

The committee substitute:

- Requires that the portion of meetings being made exempt from public meetings law be recorded and transcribed so the information is preserved;
- Provides that the recording and transcription are exempt from public records requirements unless there is a judicial determination that the meeting was not restricted due to discussion of the information sought to be protected; and
- Revises the legislative findings and public necessity statements to conform to these changes and to provide more detail.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
	.	
	.	
	.	

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

Senate Amendment

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) is added to section 286.0113,
Florida Statutes, to read:

286.0113 General exemptions from public meetings.—

(3) (a) That portion of a meeting held by a utility owned or
operated by a unit of local government which would reveal
information that is exempt under s. 119.0713(5) is exempt from



11 s. 286.011 and s. 24(b), Art. I of the State Constitution. All
12 exempt portions of such a meeting must be recorded and
13 transcribed. The recording and transcript of the meeting are
14 exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I
15 of the State Constitution unless a court of competent
16 jurisdiction, following an in-camera review, determines that the
17 meeting was not restricted to the discussion of data and
18 information made exempt by this section. In the event of such a
19 judicial determination, only the portion of the recording or
20 transcript which reveals nonexempt data and information may be
21 disclosed to a third party.

22 (b) This subsection is subject to the Open Government
23 Sunset Review Act in accordance with s. 119.15 and shall stand
24 repealed on October 2, 2024, unless reviewed and saved from
25 repeal through reenactment by the Legislature.

26 Section 2. (1) The Legislature finds that it is a public
27 necessity that the portion of a meeting relating directly to or
28 that would reveal the following information, which is exempt
29 under s. 119.0713(5), Florida Statutes, be made exempt from s.
30 286.011, Florida Statutes, and s. 24(b), Article I of the State
31 Constitution and that the recording and transcript of such a
32 meeting be made exempt from disclosure under s. 119.07(1) and s.
33 24(a), Art. I of the State Constitution:

34 (a) Information related to the security of the technology,
35 processes, or practices of the utility which are designed to
36 protect the utility's networks, computers, programs, and data
37 from attack, damage, or unauthorized access, and which
38 information, if disclosed, would facilitate the alteration,
39 disclosure, or destruction of such data or information



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40 technology resources.

41 (b) Information related to the security of existing or
42 proposed information technology systems or industrial control
43 technology systems of the utility, and which information, if
44 disclosed, would facilitate unauthorized access to and
45 alteration or destruction of such systems in a manner that would
46 adversely impact the safe and reliable operation of the systems
47 and utility.

48 (2) The Legislature finds that, as utility system
49 infrastructure becomes more connected and integrated through
50 information and communications technology, the exposure to
51 damage from attacks through such technology grows. These attacks
52 may result in the disruption of utility services and damage to
53 utility systems. Maintaining safe and reliable utility systems
54 is vital to protecting the public health and safety and to
55 ensuring the economic well-being of this state.

56 (3) The Legislature finds that the public and private harm
57 in disclosing the information made exempt by this act outweighs
58 any public benefit derived from the disclosure of such
59 information. The protection of information and communications
60 made exempt by this act will ensure that utilities have greater
61 safeguards to protect against security threats and will bolster
62 efforts to develop more resilient information technology systems
63 and industrial control technology systems.

64 (4) Therefore, the Legislature finds that it is a public
65 necessity to make such information exempt from public meetings
66 requirements and to make the recording and transcript thereof
67 exempt from public records requirements.

68 Section 3. This act shall take effect July 1, 2019.

By the Committee on Innovation, Industry, and Technology; and
Senators Gibson and Bean

580-02751-19

2019450c1

A bill to be entitled

An act relating to public records and public meetings;
amending s. 286.0113, F.S.; exempting from public
meetings requirements certain exempt information
concerning information technology systems held by
specified utilities; requiring the exempt portions to
be recorded and transcribed; authorizing the release
of portions of such meetings under specified
circumstances; providing for future legislative review
and repeal of the exemptions; providing a statement of
public necessity; providing an effective date.

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

Section 1. Subsection (3) is added to section 286.0113,
Florida Statutes, to read:

286.0113 General exemptions from public meetings.—

(3) (a) That portion of a meeting held by a utility owned or
operated by a unit of local government which would reveal
information that is exempt under s. 119.0713(5) is exempt from
s. 286.011 and s. 24(b), Art. I of the State Constitution. All
exempt portions of such a meeting must be recorded and
transcribed. The recording and transcript of the meeting are
confidential and exempt from disclosure under s. 119.07(1) and
s. 24(a), Art. I of the State Constitution unless a court of
competent jurisdiction, following an in-camera review,
determines that the meeting was not restricted to the discussion
of data and information made confidential and exempt by this
section. In the event of such a judicial determination, only the

Page 1 of 3

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

580-02751-19

2019450c1

portion of the recording or transcript which reveals nonexempt
data and information may be disclosed to a third party.

(b) This subsection is subject to the Open Government
Sunset Review Act in accordance with s. 119.15 and shall stand
repealed on October 2, 2024, unless reviewed and saved from
repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public
necessity that the portion of a meeting relating directly to or
that would reveal the following information, which is
confidential and exempt under s. 119.0713(5), Florida Statutes,
be made exempt from s. 286.011, Florida Statutes, and s. 24(b),
Article I of the State Constitution and that the recording and
transcript of such a meeting be made confidential and exempt
from disclosure under s. 119.07(1) and s. 24(a), Art. I of the
State Constitution:

(a) Information related to the security of the technology,
processes, or practices of the utility which are designed to
protect the utility's networks, computers, programs, and data
from attack, damage, or unauthorized access, and which
information, if disclosed, would facilitate the alteration,
disclosure, or destruction of such data or information
technology resources.

(b) Information related to the security of existing or
proposed information technology systems or industrial control
technology systems of the utility, and which information, if
disclosed, would facilitate unauthorized access to and
alteration or destruction of such systems in a manner that would
adversely impact the safe and reliable operation of the systems
and utility.

Page 2 of 3

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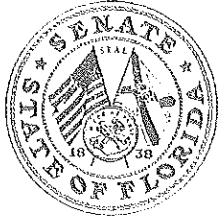
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59 (2) The Legislature finds that, as utility system
60 infrastructure becomes more connected and integrated through
61 information and communications technology, the exposure to
62 damage from attacks through such technology grows. These attacks
63 may result in the disruption of utility services and damage to
64 utility systems. Maintaining safe and reliable utility systems
65 is vital to protecting the public health and safety and to
66 ensuring the economic well-being of this state.

67 (3) The Legislature finds that the public and private harm
68 in disclosing the information made exempt by this act outweighs
69 any public benefit derived from the disclosure of such
70 information. The protection of information and communications
71 made exempt by this act will ensure that utilities have greater
72 safeguards to protect against security threats and will bolster
73 efforts to develop more resilient information technology systems
74 and industrial control technology systems.

75 (4) Therefore, the Legislature finds that it is a public
76 necessity to make such information exempt from public meetings
77 requirements and to make the recording and transcript thereof
78 confidential and exempt from public records requirements.

79 Section 3. This act shall take effect July 1, 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules, *Vice Chair*
Appropriations
Innovation, Industry, and Technology
Judiciary

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON

Minority Leader
6th District

March 6, 2019

Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability
330 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Chair Hooper

I respectfully request that SB 450, relating to cyber security systems of municipal utilities be placed on the next committee agenda.

SB 450, exempts meetings, or portions of a meeting and record, where a local government utility discusses cyber security or topics related thereto, to further protect municipal utilities and the public from the very real threat of cyber terrorism. It also requires an exempt portion of the meeting would be recorded and transcribed. This bill passed unanimously in the first committee.

Thank you for your kind consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Audrey Gibson".

Audrey Gibson
State Senator
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553
200 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-6008

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)

3/26/19
Meeting Date

450
Bill Number (if applicable)

Topic Public Records & Public Meetings / Local Gov't Utility Amendment Barcode (if applicable)

Name Suzanne Goss

Job Title Government Relations Specialist

Address 21 W. Church St.
Street

Phone 904 665 8331

Jacksonville FL 32202
City State Zip

Email goss.se@jea.com

Speaking: For Against Information

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

Representing JEAA

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)

3-26-19

Meeting Date

450

Bill Number (if applicable)

Topic PUBLIC RECORDS & PUBLIC MEETINGS (LOCAL GOVERNMENT UTILITY)

Amendment Barcode (if applicable)

Name KEVIN NOONAN

Job Title DIRECTOR, LEGISLATIVE AFFAIRS

Address 100 W. ANDERSON ST.

Phone 407.466.1287

Street

ORLANDO FL 32801

Email KNOONAN@OUC.COM

City

State

Zip

Speaking: For Against Information

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

Representing ORLANDO UTILITIES COMMISSION

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)

3/26/19

Meeting Date

450

Bill Number (if applicable)

Topic Public Records/Meetings

Amendment Barcode (if applicable)

Name Amy Zubaly

Job Title Executive Director

Address 417 E. College Ave

Phone 850.224.3314

Street

Tallahassee

FL

32301

City

State

Zip

Email azubaly@publicpower.com

Speaking: [] For [] Against [] Information

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

Representing Florida Municipal Electric 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.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/CS/SB 452

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

SUBJECT: Elder Abuse Fatality Review Teams

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 452 authorizes the establishment of elder abuse fatality review teams, composed of volunteer members, in each of the 20 judicial circuits. The teams will review closed cases of fatal incidents of elder abuse and make policy and other recommendations to help prevent future incidents of elder abuse-related fatalities. The review teams are assigned to the Department of Elder Affairs (DOEA) for administrative purposes only. The DOEA must submit a report, annually by November 1, that summarizes the findings and recommendations of the review teams to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

The Department of Elder Affairs may incur insignificant costs associated with implementing this bill.

The bill takes effect July 1, 2019.

II. Present Situation:

The Adult Protective Services Act, chapter 415, Florida Statutes, charges the Department of Children and Families (DCF), to investigate reports of abuse or exploitation of a vulnerable adult or elderly person. The mandatory reporting requirement of persons who are required to

investigate reports of abuse, neglect, or exploitation also extends to alleged deaths due to abuse or neglect.

Florida Abuse Hotline and Investigations

The Florida Abuse Hotline, administered by the DCF, screens allegations of adult abuse and neglect to determine if the allegations meet the criteria for an abuse report. If the allegations meet the criteria, a protective investigation is initiated to confirm whether the evidence substantiates that abuse has occurred, whether the situation presents an immediate or long-term risk to the victim, and whether the victim needs additional services for protection.¹

Section 415.1034, F.S., enumerates people who have an immediate, mandatory requirement to report to the central abuse hotline if they know, have suspicion, or have reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited. Additionally, any person required to investigate reports of abuse, neglect, or exploitation and who has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation must immediately report the suspicion to the appropriate medical examiner, the appropriate criminal justice agency and to the DCF, notwithstanding the existence of a death certificate signed by a practicing physician.²

The DCF is required, upon receipt of a report alleging abuse, neglect, or exploitation of a vulnerable adult, to begin within 24 hours a protective investigation of the matter.³ For each report it receives, the DCF must perform an onsite investigation to determine, among other things, if the person meets the definition of a vulnerable adult and, if so, if the person is in need of services; whether there is an indication that the vulnerable adult was abused, neglected, or exploited; and if protective, treatment, and ameliorative services are necessary to safeguard and ensure the vulnerable adult's well-being.⁴

Adult Protection Teams

Section 415.1102, F.S., authorizes the DCF to develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of its regions. A "multidisciplinary adult protection team" is defined as a team of two or more persons trained in the prevention, identification, and treatment of abuse of elderly persons.⁵ The multidisciplinary teams may be composed of, but are not limited to, psychiatrists, psychologists, or other trained counseling personnel; law enforcement officers; medical personal with experience or training to provide health services; social workers who have experience or training in the prevention of abuse of the elderly or dependent persons; and public and professional guardians.⁶ The multidisciplinary team

¹Florida Department of Children and Families; Protecting Vulnerable Adults, *available at*: <http://www.myflfamilies.com/service-programs/adult-protective-services/protecting-vulnerable-adults> (last visited Mar. 7, 2019).

² Section 415.1034(2), F.S.

³ Section 415.104(1), F.S.

⁴ Section 415.104(3), F.S.

⁵ Section 415.1102(1), F.S.

⁶ Section 415.1102(2), F.S.

is convened to supplement the protective services activities of the Adult Protective Services program of the DCF.⁷

Records Access

Section 415.107(3), F.S., enumerates persons and entities that may have access to records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline, otherwise held confidential and exempt from s. 119.07(1), F.S. The identity of any person reporting abuse, neglect, or exploitation of a vulnerable person shall not be released to these persons and entities.

III. Effect of Proposed Changes:

Creation of Elder Abuse Fatality Review Teams

The bill authorizes the creation of an elder abuse fatality review team of volunteers in each of the 20 judicial circuits. Each team will review fatal incidents of abuse, neglect, or violence against the elderly. The review teams will be housed in the Department of Elderly affairs for administrative purposes only.

Organization

The state attorney, or his or her designee, in each judicial circuit may initiate a review team and call for the team's organizational meeting. At that initial meeting the members will choose two co-chairs who will establish a schedule for future meetings. The review team must meet at least once during each fiscal year.

Composition

Each review team is composed of volunteers from numerous state and local agencies as well as community partners.⁸ Each volunteer serves without compensation for a two-year term and the co-chairs will determine the team's staggered terms. Members may not be reimbursed for per diem or travel expenses. Any extraneous administrative costs incurred by the review team must be borne by the team members themselves or the entities that they represent.

Operations

Each team will determine how it operates and selects cases. The cases, however, must be limited to closed cases in which an elderly person's death is found to have been caused by or related to

⁷ Section 415.1102(3), F.S.

⁸ The bill provides for membership to include, but not be limited to, the following or their representatives: law enforcement agencies; the state attorney; the medical examiner; a county court judge; adult protective services; area agency on aging; the State Long-Term Care Ombudsman Program; the Agency for Health Care Administration; the Office of the Attorney General; the Office of State Courts Administrator; the clerk of the court; a victim services program; an elder law attorney; emergency services personnel; a certified domestic violence center; an advocacy organization for victims of sexual violence; a funeral home director; a forensic pathologist; a geriatrician; a geriatric nurse; a geriatric psychiatrist or other individual licensed to offer behavioral health services; a hospital discharge planner; a public guardian; and other persons with relevant expertise who are recommended by the review team.

abuse or neglect in order to avoid interference with an ongoing criminal investigation or prosecution. All information that would identify the person must be redacted in the documents that the team will review.

Responsibilities

The elder abuse fatality team must:

- Review deaths of elderly people in its judicial circuit that were found to have been caused by, or related to, abuse or neglect;
- Consider events leading up to the fatal incident, available resources, current law and policies, and the actions taken by systems and individuals related to the fatal incident;
- Identify potential gaps and deficiencies in the delivery of services by agencies which may be related to the deaths;
- Develop communitywide approaches to address causes and contributing factors related to deaths reviewed by the team; and
- Develop recommendations and possible changes in law and policies to support the care for the elderly and prevent elder abuse deaths.

Prohibited Contact

Team members are prohibited from directly contacting someone in the deceased person's family as part of the review unless the team member is authorized to do so in the course of his or her employment duties. However, nothing in the bill prohibits a family member from voluntarily providing information or records to the review team.

Reporting Requirements

Each team is required to submit its findings and recommendations to the DOEA annually by September 1. The report may include descriptive statistics, current policies that contribute to the incidence of elder abuse and deaths with recommendation for improvements, and any other recommendations to prevent deaths from elder abuse or neglect. By November 1 of each year, the DOEA shall prepare a summary report of the information provided by the review teams, and submit the report to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

Protection from Liability for Team Members

Unless a team member acts in bad faith with wanton and willful disregard of human rights, safety, or property, he or she is not liable financially or subject to a cause of action for damages due to the performance of duties as a review team member with regard to any discussions, deliberations, or recommendation of the team or the member.

The bill takes effect July 1, 2019.

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

Not applicable. 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:

The information received by the elder abuse fatality review teams should be from closed cases and therefore previously redacted; all information received by the teams will be public record subject to copying and inspection.

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:

The Department of Elder Affairs may incur additional costs associated with providing administrative support to the various elder abuse fatality review teams and with submitting the required annual report.

VI. Technical Deficiencies:

The bill does not specify the appointing authority for the members of the review team. The bill does allow each state attorney to initiate a review team.

VII. Related Issues:

The bill does not define the term “elder,” specifically the age at which a person is deemed to be an elder, which may lead to inconsistency in the cases a team chooses to review.

VIII. Statutes Affected:

The bill creates section 415.1103 of the Florida Statutes.

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

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

CS/CS/CS by Governmental Oversight and Accountability on March 26, 2019:

The committee substitute:

- Changes language regarding the cases received to include only those in which an elderly person’s death is confirmed to have been a result of or related to abuse;
- Removes language providing that information and records acquired by the review team are not subject to discovery or introduction into evidence;
- Removes language providing that a participant in a meeting may not be allowed or required to testify in any proceeding regarding information produced or discussed; and
- Removes language prohibiting teams and members from disclosing any confidential information.

CS/CS by Judiciary on March 13, 2019:

The committee substitute corrects a scrivener’s error in section 415.1103(5)(a), F.S., and moves the word “and” from the end of sub-paragraph 3. to sub-paragraph 2.

CS by Children, Families, and Elder Affairs on February 19, 2019:

- The CS removes language amending s. 415.101, F.S., the Adult Protective Services Act that would have expressed the intent of the Legislature that all adult protective service investigators be certified by a third-party credentialing agency selected by the Department of Children and Families.
- The CS removes language amending s. 415.107, F.S., which would have granted access to confidential records of an adult protective service investigation to the elder abuse fatality review team.

B. Amendments:

None.



584510

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/26/2019	.	
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The Committee on Governmental Oversight and Accountability
(Gibson) recommended the following:

Senate Amendment

Delete lines 90 - 185
and insert:

(f) A review team shall determine the local operations of the team, including, but not limited to, the process for case selection. Reviews must be limited to closed cases in which an elderly person's death is alleged or found to have been caused by, or related to, abuse or neglect. All identifying information concerning the person must be redacted in documents received for



584510

11 review. The review team shall meet at least once each fiscal
12 year.

13 (g) Administrative costs of operating the review team must
14 be borne by the team members or entities that they represent.

15 (2) An elder abuse fatality review team in existence on
16 July 1, 2019, may continue to exist and shall comply with the
17 requirements created in this section.

18 (3) An elder abuse fatality review team shall do all of the
19 following:

20 (a) Review deaths of elderly persons in its judicial
21 circuit alleged or found to have been caused by, or related to,
22 abuse or neglect.

23 (b) Consider the events leading up to a fatal incident,
24 available community resources, current law and policies, and the
25 actions taken by systems or individuals related to the fatal
26 incident.

27 (c) Identify potential gaps, deficiencies, or problems in
28 the delivery of services to elderly persons by public and
29 private agencies which may be related to deaths reviewed by the
30 review team.

31 (d) Whenever possible, develop communitywide approaches to
32 address causes of, and contributing factors to, deaths reviewed
33 by the review team.

34 (e) Develop recommendations and potential changes in law,
35 rules, and policies to support the care of elderly persons and
36 to prevent elder abuse deaths.

37 (4) (a) Review teams in this state may share with each other
38 any relevant information that pertains to the review of the
39 death of an elderly person.



584510

40 (b) A review team member may not contact, interview, or
41 obtain information by request directly from a member of the
42 deceased elder's family as part of the review unless a team
43 member is authorized to do so in the course of his or her
44 employment duties. A member of the deceased elder's family may
45 voluntarily provide information or records to a review team but
46 must be informed that their information or records are subject
47 to public disclosure unless a public records exemption applies.

48 (5) (a) Annually by September 1, each elder abuse fatality
49 review team shall submit a summary report to the Department of
50 Elderly Affairs which includes, but is not limited to:

51 1. Descriptive statistics regarding cases reviewed by the
52 review team, including demographic information on victims and
53 the causes and nature of deaths;

54 2. Current policies, procedures, rules, or statutes that
55 the review team identified as contributing to the incidence of
56 elder abuse and elder deaths, and recommendations for system
57 improvements and needed resources, training, or information
58 dissemination to address those identified issues; and

59 3. Any other recommendations to prevent deaths from elder
60 abuse or neglect, based on an analysis of the data and
61 information presented in the report.

62 (b) Annually by November 1, the Department of Elderly
63 Affairs shall prepare a summary report of the review team
64 information required under paragraph (a). The department shall
65 provide the summary report to the Governor, the President of the
66 Senate, the Speaker of the House of Representatives, and the
67 Department of Children and Families.

68 (6) There is no monetary liability on the part of, and a



584510

69 cause of action for damages may not arise against, any member of
70 an elder abuse fatality review team due to the performance of
71 his or her duties as a review team member in regard to any
72 discussions by, or deliberations or recommendations of, the team
73 or the member, unless such member acted in bad faith, with
74 wanton and willful disregard of human rights, safety, or
75 property.



658758

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
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The Committee on Governmental Oversight and Accountability
(Gibson) recommended the following:

1 **Senate Substitute for Amendment (584510) (with title**
2 **amendment)**

3
4 Delete lines 40 - 185
5 and insert:

6 persons found to have been caused by, or related to, abuse or
7 neglect. The review teams are housed, for administrative
8 purposes only, in the Department of Elderly Affairs.

9 (b) An elder abuse fatality review team may include, but is
10 not limited to, representatives from the following entities in



658758

- 11 the review team's judicial circuit:
- 12 1. Law enforcement agencies;
- 13 2. The state attorney;
- 14 3. The medical examiner;
- 15 4. A county court judge;
- 16 5. Adult protective services;
- 17 6. The area agency on aging;
- 18 7. The State Long-Term Care Ombudsman Program;
- 19 8. The Agency for Health Care Administration;
- 20 9. The Office of the Attorney General;
- 21 10. The Office of the State Courts Administrator;
- 22 11. The clerk of the court;
- 23 12. A victim services program;
- 24 13. An elder law attorney;
- 25 14. Emergency services personnel;
- 26 15. A certified domestic violence center;
- 27 16. An advocacy organization for victims of sexual
- 28 violence;
- 29 17. A funeral home director;
- 30 18. A forensic pathologist;
- 31 19. A geriatrician;
- 32 20. A geriatric nurse;
- 33 21. A geriatric psychiatrist or other individual licensed
- 34 to offer behavioral health services;
- 35 22. A hospital discharge planner;
- 36 23. A public guardian; or
- 37 24. Any other persons who have knowledge regarding fatal
- 38 incidents of elder abuse, domestic violence, or sexual violence,
- 39 including knowledge of research, policy, law, and other matters



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40 connected with such incidents involving elders, or who are
41 recommended for inclusion by the review team.

42 (c) A state attorney, or his or her designee, may initiate
43 the establishment of a review team in his or her judicial
44 circuit and may call the first organizational meeting of the
45 team. At the initial meeting, members of the review team shall
46 choose two members to serve as co-chairs and shall establish a
47 schedule for future meetings.

48 (d) Participation in a review team is voluntary. Members of
49 the review team shall serve without compensation and may not be
50 reimbursed for per diem or travel expenses.

51 (e) Members shall serve for terms of 2 years, to be
52 staggered as determined by the co-chairs. Chairs may be
53 reelected by a majority vote of the review team but not for more
54 than two consecutive terms.

55 (f) A review team shall determine the local operations of
56 the team, including, but not limited to, the process for case
57 selection. Reviews must be limited to closed cases in which an
58 elderly person's death is alleged or found to have been caused
59 by, or related to, abuse or neglect. All identifying information
60 concerning the person must be redacted in documents received for
61 review. The review team shall meet at least once each fiscal
62 year.

63 (g) Administrative costs of operating the review team must
64 be borne by the team members or entities that they represent.

65 (2) An elder abuse fatality review team in existence on
66 July 1, 2019, may continue to exist and shall comply with the
67 requirements of this section.

68 (3) An elder abuse fatality review team shall do all of the



658758

69 following:

70 (a) Review deaths of elderly persons in its judicial
71 circuit alleged or found to have been caused by, or related to,
72 abuse or neglect.

73 (b) Consider the events leading up to a fatal incident,
74 available community resources, current law and policies, and the
75 actions taken by systems or individuals related to the fatal
76 incident.

77 (c) Identify potential gaps, deficiencies, or problems in
78 the delivery of services to elderly persons by public and
79 private agencies which may be related to deaths reviewed by the
80 review team.

81 (d) Whenever possible, develop communitywide approaches to
82 address causes of, and contributing factors to, deaths reviewed
83 by the review team.

84 (e) Develop recommendations and potential changes in law,
85 rules, and policies to support the care of elderly persons and
86 to prevent elder abuse deaths.

87 (4) (a) Review teams in this state may share with each other
88 any relevant information that pertains to the review of the
89 death of an elderly person.

90 (b) A review team member may not contact, interview, or
91 obtain information by request directly from a member of the
92 deceased elder's family as part of the review unless a team
93 member is authorized to do so in the course of his or her
94 employment duties. A member of the deceased elder's family may
95 voluntarily provide information or records to a review team but
96 must be informed that such information or records are subject to
97 public disclosure unless a public records exemption applies.



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98 (5) (a) Annually by September 1, each elder abuse fatality
99 review team shall submit a summary report to the Department of
100 Elderly Affairs which includes, but is not limited to:

101 1. Descriptive statistics regarding cases reviewed by the
102 review team, including demographic information on victims and
103 the causes and nature of deaths;

104 2. Current policies, procedures, rules, or statutes that
105 the review team identified as contributing to the incidence of
106 elder abuse and elder deaths, and recommendations for system
107 improvements and needed resources, training, or information
108 dissemination to address those identified issues; and

109 3. Any other recommendations to prevent deaths from elder
110 abuse or neglect, based on an analysis of the data and
111 information presented in the report.

112 (b) Annually by November 1, the Department of Elderly
113 Affairs shall prepare a summary report of the review team
114 information required under paragraph (a). The department shall
115 provide the summary report to the Governor, the President of the
116 Senate, the Speaker of the House of Representatives, and the
117 Department of Children and Families.

118 (6) There is no monetary liability on the part of, and a
119 cause of action for damages may not arise against, any member of
120 an elder abuse fatality review team due to the performance of
121 his or her duties as a review team member in regard to any
122 discussions by, or deliberations or recommendations of, the team
123 or the member, unless such member acted in bad faith, with
124 wanton and willful disregard of human rights, safety, or
125 property.



658758

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

128 And the title is amended as follows:

129 Delete lines 23 - 31

130 and insert:

131 Children and Families; providing immunity from
132 monetary liability for review team members under
133 certain conditions; providing an effective date.



529814

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
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The Committee on Governmental Oversight and Accountability
(Gibson) recommended the following:

Senate Amendment to Amendment (658758)

Delete lines 58 - 71
and insert:
elderly person's death is found to have been caused by, or
related to, abuse or neglect. All identifying information
concerning the person must be redacted in documents received for
review. The review team shall meet at least once each fiscal
year.

(g) Administrative costs of operating the review team must



529814

11 be borne by the team members or entities that they represent.

12 (2) An elder abuse fatality review team in existence on
13 July 1, 2019, may continue to exist and shall comply with the
14 requirements of this section.

15 (3) An elder abuse fatality review team shall do all of the
16 following:

17 (a) Review deaths of elderly persons in its judicial
18 circuit found to have been caused by, or related to,

By the Committees on Judiciary; and Children, Families, and Elder Affairs; and Senator Gibson

590-02896-19

2019452c2

1 A bill to be entitled
 2 An act relating to elder abuse fatality review teams;
 3 creating s. 415.1103, F.S.; authorizing the
 4 establishment of elder abuse fatality review teams in
 5 each judicial circuit and housing the review teams,
 6 for administrative purposes only, in the Department of
 7 Elderly Affairs; providing conditions for review team
 8 membership, establishment, and organization;
 9 specifying requirements for the review team operations
 10 and meeting schedules; assigning responsibility for
 11 paying the administrative costs of review team
 12 operations to the team members or the entities they
 13 represent; authorizing elder abuse fatality review
 14 teams in existence on a certain date to continue;
 15 requiring such existing teams to comply with specified
 16 requirements; specifying review team duties; requiring
 17 each review team to submit annually a summary report
 18 by a certain date to the Department of Elderly Affairs
 19 containing specified information; requiring the
 20 department to prepare annually a summary report on the
 21 review teams' information and submit the summary to
 22 the Governor, the Legislature, and the Department of
 23 Children and Families; exempting certain information
 24 and records from discovery; providing an exception;
 25 restricting the testimony of certain persons about
 26 information or records presented during meetings or
 27 activities of the review teams; providing immunity
 28 from monetary liability for review team members under
 29 certain conditions; prohibiting review teams and

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

590-02896-19

2019452c2

30 review team members from disclosing confidential
 31 information; providing an effective date.
 32

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

34
 35 Section 1. Section 415.1103, Florida Statutes, is created
 36 to read:

37 415.1103 Elder abuse fatality review teams.-
 38 (1) (a) An elder abuse fatality review team may be
 39 established in each judicial circuit to review deaths of elderly
 40 persons alleged or found to have been caused by, or related to,
 41 abuse or neglect. The review teams are housed, for
 42 administrative purposes only, in the Department of Elderly
 43 Affairs.

44 (b) An elder abuse fatality review team may include, but is
 45 not limited to, representatives from the following entities in
 46 the review team's judicial circuit:

- 47 1. Law enforcement agencies;
- 48 2. The state attorney;
- 49 3. The medical examiner;
- 50 4. A county court judge;
- 51 5. Adult protective services;
- 52 6. The area agency on aging;
- 53 7. The State Long-Term Care Ombudsman Program;
- 54 8. The Agency for Health Care Administration;
- 55 9. The Office of the Attorney General;
- 56 10. The Office of the State Courts Administrator;
- 57 11. The clerk of the court;
- 58 12. A victim services program;

Page 2 of 7

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

590-02896-19

2019452c2

59 13. An elder law attorney;
 60 14. Emergency services personnel;
 61 15. A certified domestic violence center;
 62 16. An advocacy organization for victims of sexual
 63 violence;
 64 17. A funeral home director;
 65 18. A forensic pathologist;
 66 19. A geriatrician;
 67 20. A geriatric nurse;
 68 21. A geriatric psychiatrist or other individual licensed
 69 to offer behavioral health services;
 70 22. A hospital discharge planner;
 71 23. A public guardian; or
 72 24. Any other persons who have knowledge regarding fatal
 73 incidents of elder abuse, domestic violence, or sexual violence,
 74 including knowledge of research, policy, law, and other matters
 75 connected with such incidents involving elders, or who are
 76 recommended for inclusion by the review team.
 77 (c) A state attorney, or his or her designee, may initiate
 78 the establishment of a review team in his or her judicial
 79 circuit and may call the first organizational meeting of the
 80 team. At the initial meeting, members of the review team shall
 81 choose two members to serve as co-chairs and shall establish a
 82 schedule for future meetings.
 83 (d) Participation in a review team is voluntary. Members of
 84 the review team shall serve without compensation and may not be
 85 reimbursed for per diem or travel expenses.
 86 (e) Members shall serve for terms of 2 years, to be
 87 staggered as determined by the co-chairs. Chairs may be

Page 3 of 7

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

590-02896-19

2019452c2

88 reelected by a majority vote of the review team but not for more
 89 than two consecutive terms.
 90 (f) A review team shall determine the local operations of
 91 the team, including, but not limited to, the process for case
 92 selection. Reviews must be limited to closed cases in which an
 93 elderly person's death is verified by the state attorney to have
 94 been caused by abuse or neglect. All identifying information
 95 concerning the person must be redacted in documents received for
 96 review. The review team shall meet at least once each fiscal
 97 year.
 98 (g) Administrative costs of operating the review team must
 99 be borne by the team members or entities that they represent.
 100 (2) An elder abuse fatality review team in existence on
 101 July 1, 2019, may continue to exist and shall comply with the
 102 requirements created in this section.
 103 (3) An elder abuse fatality review team shall do all of the
 104 following:
 105 (a) Review deaths of elderly persons in its judicial
 106 circuit alleged or found to have been caused by, or related to,
 107 abuse or neglect.
 108 (b) Consider the events leading up to a fatal incident,
 109 available community resources, current law and policies, and the
 110 actions taken by systems or individuals related to the fatal
 111 incident.
 112 (c) Identify potential gaps, deficiencies, or problems in
 113 the delivery of services to elderly persons by public and
 114 private agencies which may be related to deaths reviewed by the
 115 review team.
 116 (d) Whenever possible, develop communitywide approaches to

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

590-02896-19

2019452c2

117 address causes of, and contributing factors to, deaths reviewed
 118 by the review team.

119 (e) Develop recommendations and potential changes in law,
 120 rules, and policies to support the care of elderly persons and
 121 to prevent elder abuse deaths.

122 (4) (a) Review teams in this state may share with each other
 123 any relevant information that pertains to the review of the
 124 death of an elderly person.

125 (b) A review team member may not contact, interview, or
 126 obtain information by request directly from a member of the
 127 deceased elder's family as part of the review unless a team
 128 member is authorized to do so in the course of his or her
 129 employment duties. A member of the deceased elder's family may
 130 voluntarily provide information or records to a review team.

131 (5) (a) Annually by September 1, each elder abuse fatality
 132 review team shall submit a summary report to the Department of
 133 Elderly Affairs which includes, but is not limited to:

134 1. Descriptive statistics regarding cases reviewed by the
 135 review team, including demographic information on victims and
 136 the causes and nature of deaths;

137 2. Current policies, procedures, rules, or statutes that the
 138 review team identified as contributing to the incidence of elder
 139 abuse and elder deaths, and recommendations for system
 140 improvements and needed resources, training, or information
 141 dissemination to address those identified issues; and

142 3. Any other recommendations to prevent deaths from elder
 143 abuse or neglect, based on an analysis of the data and
 144 information presented in the report.

145 (b) Annually by November 1, the Department of Elderly

590-02896-19

2019452c2

146 Affairs shall prepare a summary report of the review team
 147 information required under paragraph (a). The department shall
 148 provide the summary report to the Governor, the President of the
 149 Senate, the Speaker of the House of Representatives, and the
 150 Department of Children and Families.

151 (6) Information and records acquired by an elder abuse
 152 fatality review team are not subject to discovery or
 153 introduction into evidence in any civil or criminal action or
 154 administrative or disciplinary proceeding by any state or local
 155 government department or agency if the information or records
 156 arose out of the matters that are the subject of review by a
 157 review team, unless the information and records are not
 158 discoverable from any other source. Information and records that
 159 are available from other sources are not immune from discovery
 160 or introduction into evidence solely because the information,
 161 documents, or records were presented to or reviewed by a review
 162 team.

163 (7) A person who has attended a meeting of an elder abuse
 164 fatality review team or who has otherwise participated in the
 165 activities authorized by this section may not be allowed or
 166 required to testify in any civil, criminal, administrative, or
 167 disciplinary proceeding as to any information or records
 168 produced or presented to the review team during a meeting or
 169 other activity authorized by this section, unless such testimony
 170 is necessary to determine the information or records that were
 171 available to the review team. However, this paragraph does not
 172 prevent any person who testifies before the team or who is a
 173 member of the team from testifying as to matters otherwise
 174 within his or her knowledge.

590-02896-19

2019452c2

175 (8) There is no monetary liability on the part of, and a
176 cause of action for damages may not arise against, any member of
177 an elder abuse fatality review team due to the performance of
178 his or her duties as a review team member in regard to any
179 discussions by, or deliberations or recommendations of, the team
180 or the member, unless such member acted in bad faith, with
181 wanton and willful disregard of human rights, safety, or
182 property.

183 (9) Elder abuse fatality review teams and their members may
184 not disclose any information that is confidential pursuant to
185 law.

186 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 454

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Gibson

SUBJECT: Public Records and Public Meetings/Elder Abuse Fatality Review Team

DATE: March 25, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

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

I. Summary:

CS/SB 454 exempts from public disclosure requirements any information obtained by an elder abuse fatality review team as created in SB 452 and any information contained in a record created by the review team which reveals the identity of a victim of elder abuse. The bill also exempts from public meetings requirements the portion of a review team meeting during which confidential or exempt information or the identity of a victim of elder abuse is discussed. The bill repeals the exemptions on October 2, 2024, unless reenacted by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution

Because the bill creates a new public records exemption and expands other public records exemptions, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill has no fiscal impact and has an effective date contingent upon passage of SB 452.

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

[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

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.

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).

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

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

SB 452 authorizes the creation of elder abuse fatality review teams, which review fatal incidents of elder abuse and make policy and other recommendations. To that end, they will collect data on incidents, victims, and perpetrators of elder abuse.

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)

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.

III. Effect of Proposed Changes:

Section 1 amends s. 415.1103, F.S., to exempt from public disclosure requirements any information that is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution obtained by an elder abuse fatality review team when conducting a review retains its confidential or exempt status when held by the review team. The bill also exempts from public disclosure requirements information contained in a record created by an elder abuse fatality review team that reveals the identity of a victim of elder abuse as authorized in SB 452.

This section exempts from public meeting requirements the portion of meetings of a review team where confidential or exempt information or the identity of a victim of elder abuse is discussed is exempt from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution.

The public records and public meetings exemptions are subject to the OGSR and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill creates new public records and public meetings exemptions and therefore requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

Section 2 provides a statement of public necessity for the both the public records exemptions and the public meetings exemption as required by the Florida Constitution. It states that sensitive personal information concerning victims of elder abuse would be disclosed and open communication and coordination between the parties involved in the elder abuse fatality review would be hampered without the exemption.

Section 3 provides an effective date that is contingent upon, and concurrent with, passage of SB 452, which has an effective date of July 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 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:

Voting 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 enacts new exemptions for information revealing the identity of victims of elder abuse as held by elder abuse fatality review teams, any information contained in a record created by the review team which reveals the identity of a victim of elder abuse, and any portion of a review team meeting during which

confidential or exempt information or the identity of a victim of elder abuse is discussed. Thus, the bill requires 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. Section 2 of the bill contains a statement of public necessity for the exemptions.

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 identities of victims of fatal or near-fatal incidents of elder abuse. This bill exempts information revealing the identity of victims of elder abuse as held by elder abuse fatality review teams, information that was previously confidential or exempt and obtained by the review team, any information contained in a record created by the review team which reveals the identity of a victim of elder abuse, and any portion of a review team meeting during which confidential or exempt information or the identity of a victim of elder abuse is discussed. 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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under the provisions of CS/CS/SB 452, the information received by the elder abuse fatality review teams should be redacted from closed cases. All information received by the teams should already be public record in some other capacity. Thus, there is no need for a public records exemption for information that is comprised of public records.

VIII. Statutes Affected:

This bill substantially amends s. 415.1103 of the Florida Statutes.

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

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

CS by Children, Families, and Elder Affairs on February 19, 2019:

- The CS adds the bill number SB 452 in two places to reference the substantive bill tied to this public records exemption bill.

B. Amendments:

None.

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

586-02490-19

2019454c1

A bill to be entitled

An act relating to public records and public meetings; amending s. 415.1103, F.S.; specifying that information obtained by an elder abuse fatality review team which is exempt or confidential and exempt from public records requirements retains its protected status; providing an exemption from public records requirements for identifying information of an elder abuse victim in records created by a review team; providing an exemption from public meetings requirements for portions of review team meetings at which exempt or confidential and exempt information or the identity of an elder abuse victim is discussed; providing for future legislative review and repeal; providing statements of public necessity; providing a contingent effective date.

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

Section 1. Subsections (10), (11), and (12) are added to section 415.1103, Florida Statutes, as created by SB 452, to read:

415.1103 Elder abuse fatality review teams.-

(10) (a) Any information that is exempt or confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and that is obtained by an elder abuse fatality review team conducting a review under this section retains its exempt or confidential and exempt status when held by that team.

(b) Any information contained in a record created by an

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586-02490-19

2019454c1

elder abuse fatality review team which reveals the identity of a victim of elder abuse is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(11) Those portions of meetings of an elder abuse fatality review team at which exempt or confidential and exempt information or the identity of a victim of elder abuse is discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(12) Subsections (10) and (11) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that information that is exempt or confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution remain exempt or confidential and exempt when held by an elder abuse fatality review team and that any information contained in a record created by an elder abuse fatality review team which reveals the identity of a victim of elder abuse be confidential and exempt from public records requirements. Otherwise, sensitive personal information concerning victims of elder abuse would be disclosed, and open communication and coordination among the parties involved in elder abuse fatality review teams would be hampered. The harm that would result from the release of such information substantially outweighs any public benefit that would be achieved by disclosure.

(2) The Legislature further finds that it is a public necessity that portions of meetings of an elder abuse fatality

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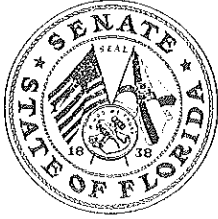
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586-02490-19

2019454c1

59 review team at which exempt or confidential and exempt
60 information or the identity of a victim of elder abuse is
61 discussed be exempt from s. 286.011, Florida Statutes, and s.
62 24(b), Article I of the State Constitution. The failure to close
63 portions of meetings at which exempt or confidential and exempt
64 information or the identity of a victim of elder abuse is
65 discussed would defeat the purpose of the public records
66 exemption. Further, the Legislature finds that the exemption is
67 narrowly tailored to apply to only certain portions of meetings
68 of elder abuse fatality review teams to allow for public
69 oversight.

70 Section 3. This act shall take effect on the same date that
71 SB 452 or similar legislation takes effect, if such legislation
72 is adopted in the same legislative session or an extension
73 thereof and becomes a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules, *Vice Chair*
Appropriations
Innovation, Industry, and Technology
Judiciary

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON

Minority Leader
6th District

February 20, 2019

Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Hooper:

I respectfully request that SB 454, relating to public records and public meetings/elder abuse fatality review teams, be placed on the next committee agenda.

SB 454, exempts information obtained by an elder abuse fatality review team which is confidential or exempt from public records requirements, retains its protected status. This bill passed unanimously in the first committee.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Audrey Gibson".

Audrey Gibson
State Senator
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553
200 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 524

INTRODUCER: Banking and Insurance Committee and Senator Diaz and others

SUBJECT: Health Insurance Savings Programs

DATE: March 25, 2019 **REVISED:** _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 524 creates the Patient Savings Act, which allows health insurers and health maintenance organizations (HMOs) to create a shared savings incentive program that may provide financial incentives to insureds with individual policies or contracts when they obtain shoppable health care services offered by their health insurer or HMO through their shared savings list. The shoppable health care services are lower-cost, high-quality non-emergency services for which a shared savings incentive is available for insureds under the program. The insurer's shared savings incentive list may include shoppable health care services within and outside of Florida. The program is voluntary for insurers, HMOs, policyholders, and subscribers. Health insurers offering a shared savings incentive program must submit an annual report to the Office of Insurance Regulation regarding the performance of the program.

The bill does not have a fiscal impact on the Office of Insurance Regulation.

II. Present Situation:

Health care spending in the United States is expected to grow an average of 5.5 percent annually from 2018-2027, reaching nearly \$6.0 trillion by 2027.¹ Consumers are becoming responsible for a growing proportion of this spending, as demonstrated in the increased use of high deductible

¹ Office of the Actuary, Centers for Medicare & Medicaid Services (CMS), National Health Expenditure Projections 2018-2027, available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/ForecastSummary.pdf> (last viewed March 2, 2019).

health plans and other forms of cost sharing. Since 2012, the percentage of workers covered by a plan with a deductible of \$1,000 or greater has grown from 34 to 51 percent.²

Price transparency and quality transparency enable consumers to obtain more value out of the health care system. Greater awareness and access by consumers to pricing information before obtaining health care services may result in lower overall payments for health care services and higher quality providers. A recent study concluded that the use of private price transparency platforms was associated with lower claims payments for common medical services.³ According to a 2017 survey, 98 percent of health plans around the country indicated that they have cost calculator tools, but only 2 percent of policyholders or subscribers use them.⁴ Financial incentives may encourage consumers to access price information. Incentives may include reductions in premiums, cash payments, or lower out-of-pocket costs for their members if they select low-price, high quality providers.

Regulation of Health Insurance

The Office of Insurance Regulation is responsible for the regulation of insurers and other risk-bearing entities.⁵ Rates and forms of individual and small group policies and contracts are subject to prior approval. The Insurance Code does not address a shared savings program.

Section 627.6385, F.S., requires health insurers writing individual policies to make available on their website a method for policyholders to estimate their copayments, deductibles, and other cost-sharing responsibilities for health care services and procedures.⁶ Insurers are required to provide a hyperlink to health information, including service bundles and quality of care information, developed by the Agency for Health Care Administration. Likewise, the federal Patient Protection and Affordable Care Act⁷ requires insurance policies and contracts to provide price and coverage information to enrollees, including cost sharing and payments with respect to out-of-network coverage.⁸

State Group Insurance Program

On January 1, 2019, the Division of State Group Insurance of the Department of Management Services instituted a voluntary shared savings program to reward policyholders, subscribers, or their dependents for making informed and cost-effective decisions about health care spending, thereby reducing healthcare costs.⁹ The program allows participants to earn rewards by receiving rewardable healthcare services through two state vendors. Rewards are credited to a select pretax

² North Carolina Medical Journal, 79. 1.34.

³ JAMA. 2014;312(16):1670-1676.

⁴ Catalyst for Payment Reform Survey available at <http://www.catalyzepaymentreform.org/wp-content/uploads/2017/04/National-Scorecard.png> (last viewed March 2, 2019).

⁵ Section 20.121, F.S. The Financial Services Commission, composed of the Governor, Attorney General, Commissioner of Agriculture, and the Chief Financial Officer, are the agency head for purposes of rulemaking.

⁶ The Agency for Healthcare Administration, available at <http://www.floridahealthfinder.gov/index.html> (last viewed March 2, 2019).

⁷ Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010; and amended by the Health Care and Education Reconciliation Act, Public Law 111–152, was enacted on March 30, 2010.

⁸ 45 CFR Part 147 and Section 2715A Public Health Service Act.

⁹ Ch. 2017-70, L.O.F.

savings or spending account of the participant, and funds can be used to pay for eligible medical, dental, and vision expenses. Rewards are earned after the participant shops for a rewardable healthcare service on the website, receives the service, and the claim has been paid.¹⁰

III. Effect of Proposed Changes:

Section 1 creates s. 627.6387, F.S., the “Patient Saving Act.” This section establishes the shared savings incentive program, which is a voluntary incentive program a health insurer may establish to provide incentives when the insured who has an individual policy, contract, or certificate of insurance obtains a shoppable health care service from a health insurer’s shared savings list. An insured may not be required to participate in a shared savings incentive program. For purposes this section, the terms, “health care provider,” health insurer,” “shared savings incentive,” “shared “savings incentive program,” and “shoppable health care service” are defined.

A “health care provider” means a hospital, a facility licensed under ch. 395; F.S., an entity licensed under ch. 400, F.S.; a health care practitioner as defined in s. 456.001, F.S.; a blood bank, plasma center, industrial clinic, and renal dialysis facility; or a professional association, partnership, corporation, joint venture, or other association for professional activity by health care providers. The term includes entities and professionals outside of this state with an active, unencumbered license for an equivalent facility or practitioner type issued by another state, the District of Columbia, or a possession or territory of the United States.

A “health insurer” is an authorized insurer offering health insurance as defined in s. 624.603, F.S., or a health maintenance organization as defined in s. 641.19, F.S. The term does not include the state group health insurance program.

A “shared savings incentive,” is a voluntary and optional financial incentive that a health insurer may provide to an insured for choosing certain shoppable health care services under a shared savings incentive program and may include, but is not limited to, the incentives described in s. 626.9541(4)(a), F.S., which relate to participation in a wellness or health improvement program. The term, “shared savings incentive program,” means a voluntary and optional incentive program established by a health insurer pursuant to this section.

A “shoppable health care service” is a lower-cost, high quality nonemergency health care service for which a shared savings incentive is available for insureds under a health insurer’s shared savings incentive program. Shoppable health care services may be provided within or outside of this state and include, but are not limited to:

- Clinical laboratory services.
- Infusion therapy.
- Inpatient and outpatient surgical procedures.
- Obstetrical and gynecological services.
- Inpatient and outpatient nonsurgical diagnostic tests and procedures.
- Physical and occupational therapy services.
- Radiology and imaging services.

¹⁰ MyBenefits, Shared Savings Program, available at https://www.mybenefits.myflorida.com/health/shared_savings_program (last viewed March 2, 2019).

- Prescription drugs.
- Services provided through telehealth.

A health insurer that offers a shared savings incentive program must:

- Establish the program as a component part of the policy, contract, or certificate of insurance provided by the health insurer.
- File a description of the program with the OIR on a form prescribed by the commission. The OIR must determine if the program complies with the statutory requirements.
- Notify each insured about the program annually, and at the time of renewal, and notify an applicant for insurance of the availability of the program at the time of enrollment.
- Publish on a webpage easily accessible to insureds and to applicants for insurance coverage a list of shoppable health care services and health care providers and the shared savings incentive amount applicable for each service.
- Notify insureds and the OIR 30 days before program termination.

A shared saving incentive:

- May not be less than 25 percent of the savings generated by the insured's participation in any shared savings incentive offered by the health insurer. The baseline for the savings calculation is the average in-network amount paid for that service in the most recent 12-month period or some other methodology established by the health insurer and approved by the OIR.
- Must be credited or deposited quarterly to an insured's account as a return or reduction in premium, or credited to the insured flexible spending account, health savings account, or health reimbursement account, such that the amount does not constitute income for the insured.

A health insurer offering a shared savings program must submit an annual report to the OIR after the end of each plan year. At a minimum, the report must include the following information:

- Number of insureds who participated in the program and the number of instances of participation.
- The total cost of services provided as a part of the program.
- The total value of the incentive payments made to insureds participating in the program and the values distributed as premium reductions, credits to flexible spending, health savings, or health reimbursement accounts.
- An inventory of the shoppable health care services offered by the health insurer.

A shared savings incentive offered by a health insurer:

- Is not an administrative expense for rate development or rate filing purposes.
- Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541, F.S., and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

A shared savings incentive amount provided as a return or reduction in premium reduces the health insurer's direct written premium by the shared savings incentive dollar amount for purposes of ss. 624.509 and 624.5091, F.S. (insurance premium tax and retaliatory tax).

The commission may adopt rules necessary to implement and enforce this section.

Section 2 provides the bill takes effect January 1, 2020.

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:

The bill allows an insurer to reduce its direct written premiums by the dollar amount of the shared savings incentives provided to insureds, thereby reducing its tax liabilities relating to Florida's insurance premium tax and the retaliatory tax. The fiscal impact is indeterminate.

B. Private Sector Impact:

The implementation of a shared savings incentive program may encourage insureds to obtain high quality health care services at lower prices.

C. Government Sector Impact:

See Tax/Fee Issues.

VI. Technical Deficiencies:

It is unclear whether the shared savings incentives provided to an insured could exceed the annual limits on contributions to pretax savings or spending accounts, such as the health savings account, or the amount of premiums paid by the insured during a plan year.

The term, “health insurer,” is defined to mean insurance as defined in s. 624.603, F.S., which includes major medical health insurance, as well as excepted benefit, limited benefit, indemnity benefit, and supplemental benefit policies. Generally, pretax savings or spending accounts, such as the health savings account, provide tax advantages to offset health care costs. To be eligible for a health savings accounts, an individual is required to be covered under a high deductible health plan, which provides major medical coverage.¹¹

VII. Related Issues:

The bill applies to individual policies or contracts only because the bill amends Part VI of ch. 627, F.S. Section 627.601(2), F.S., provides that nothing in this part applies to or affects any group or blanket policy.

VIII. Statutes Affected:

This bill creates section 627.6387 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 Banking and Insurance on March 11, 2019:

The CS:

- Revises definitions.
- Revises and clarifies requirements of the shared savings program.
- Provides technical changes.
- Requires health insurers to submit an annual report to the Office of Insurance Regulation.

- B. **Amendments:**

None.

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

¹¹ Internal Revenue Service, Health Savings Accounts and Other Tax-Favored Health Plans, (May4, 2019) <https://www.irs.gov/pub/irs-pdf/p969.pdf> (last visited Mar. 12, 2019).

By the Committee on Banking and Insurance; and Senators Diaz and Farmer

597-02919-19

2019524c1

1 A bill to be entitled
 2 An act relating to health insurance savings programs;
 3 creating s. 627.6387, F.S.; providing a short title;
 4 defining terms; authorizing health insurers, which
 5 include health maintenance organizations, to offer
 6 shared savings incentive programs to insureds;
 7 providing that insureds are not required to
 8 participate in such programs; specifying requirements
 9 for health insurers offering such programs; requiring
 10 the Office of Insurance Regulation to review filed
 11 descriptions of programs and make a certain
 12 determination; providing notification and account
 13 credit or deposit requirements for insurers;
 14 specifying the minimum shared savings incentive and
 15 the basis for calculating savings; specifying
 16 requirements for annual reports submitted by insurers
 17 to the office; providing construction; providing that
 18 certain shared saving incentive amounts reduce an
 19 insurer's direct written premium for purposes of the
 20 insurance premium tax and the retaliatory tax;
 21 authorizing the Financial Services Commission to adopt
 22 rules; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Section 627.6387, Florida Statutes, is created
 27 to read:

28 627.6387 Shared savings incentive program.-
 29 (1) This section may be cited as the "Patient Savings Act."

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

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30 (2) As used in this section, the term:
 31 (a) "Health care provider" means a hospital, a facility
 32 licensed under chapter 395; an entity licensed under chapter
 33 400; a health care practitioner as defined in s. 456.001; a
 34 blood bank, plasma center, industrial clinic, and renal dialysis
 35 facility; or a professional association, partnership,
 36 corporation, joint venture, or other association for
 37 professional activity by health care providers. The term
 38 includes entities and professionals outside of this state with
 39 an active, unencumbered license for an equivalent facility or
 40 practitioner type issued by another state, the District of
 41 Columbia, or a possession or territory of the United States.
 42 (b) "Health insurer" means an authorized insurer offering
 43 health insurance as defined in s. 624.603 or a health
 44 maintenance organization as defined in s. 641.19. The term does
 45 not include the state group health insurance program provided
 46 under s. 110.123.
 47 (c) "Shared savings incentive" means a voluntary and
 48 optional financial incentive that a health insurer may provide
 49 to an insured for choosing certain shoppable health care
 50 services under a shared savings incentive program and may
 51 include, but is not limited to, the incentives described in s.
 52 626.9541(4)(a).
 53 (d) "Shared savings incentive program" means a voluntary
 54 and optional incentive program established by a health insurer
 55 pursuant to this section.
 56 (e) "Shoppable health care service" means a lower-cost,
 57 high-quality nonemergency health care service for which a shared
 58 savings incentive is available for insureds under a health

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59 insurer's shared savings incentive program. Shoppable health
 60 care services may be provided within or outside of this state
 61 and include, but are not limited to:
 62 1. Clinical laboratory services.
 63 2. Infusion therapy.
 64 3. Inpatient and outpatient surgical procedures.
 65 4. Obstetrical and gynecological services.
 66 5. Inpatient and outpatient nonsurgical diagnostic tests
 67 and procedures.
 68 6. Physical and occupational therapy services.
 69 7. Radiology and imaging services.
 70 8. Prescription drugs.
 71 9. Services provided through telehealth.
 72 (3) A health insurer may offer a shared savings incentive
 73 program to provide incentives to an insured when the insured
 74 obtains a shoppable health care service from the health
 75 insurer's shared savings list. An insured may not be required to
 76 participate in a shared savings incentive program. A health
 77 insurer that offers a shared savings incentive program must:
 78 (a) Establish the program as a component part of the
 79 policy, contract, or certificate of insurance provided by the
 80 health insurer and notify the insureds and the office at least
 81 30 days before program termination.
 82 (b) File a description of the program on a form prescribed
 83 by commission rule. The office must review the filing and
 84 determine whether the shared savings incentive program complies
 85 with this section.
 86 (c) Notify an insured annually and at the time of renewal,
 87 and an applicant for insurance at the time of enrollment, of the

Page 3 of 5

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88 availability of the shared savings incentive program and the
 89 procedure to participate in the program.
 90 (d) Publish on a webpage easily accessible to insureds and
 91 to applicants for insurance a list of shoppable health care
 92 services and health care providers and the shared savings
 93 incentive amount applicable for each service. A shared savings
 94 incentive may not be less than 25 percent of the savings
 95 generated by the insured's participation in any shared savings
 96 incentive offered by the health insurer. The baseline for the
 97 savings calculation is the average in-network amount paid for
 98 that service in the most recent 12-month period or some other
 99 methodology established by the health insurer and approved by
 100 the office.
 101 (e) At least quarterly, credit or deposit the shared
 102 savings incentive amount to the insured's account as a return or
 103 reduction in premium, or credit the shared savings incentive
 104 amount to the insured's flexible spending account, health
 105 savings account, or health reimbursement account, such that the
 106 amount does not constitute income to the insured.
 107 (f) Submit an annual report to the office within 90
 108 business days after the close of each plan year. At a minimum,
 109 the report must include the following information:
 110 1. The number of insureds who participated in the program
 111 during the plan year and the number of instances of
 112 participation.
 113 2. The total cost of services provided as a part of the
 114 program.
 115 3. The total value of the shared savings incentive payments
 116 made to insureds participating in the program and the values

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117 distributed as premium reductions, credits to flexible spending
118 accounts, credits to health savings accounts, or credits to
119 health reimbursement accounts.

120 4. An inventory of the shoppable health care services
121 offered by the health insurer.

122 (4)(a) A shared savings incentive offered by a health
123 insurer in accordance with this section:

124 1. Is not an administrative expense for rate development or
125 rate filing purposes.

126 2. Does not constitute an unfair method of competition or
127 an unfair or deceptive act or practice under s. 626.9541 and is
128 presumed to be appropriate unless credible data clearly
129 demonstrates otherwise.

130 (b) A shared saving incentive amount provided as a return
131 or reduction in premium reduces the health insurer's direct
132 written premium by the shared saving incentive dollar amount for
133 the purposes of the taxes in ss. 624.509 and 624.5091.

134 (5) The commission may adopt rules necessary to implement
135 and enforce this section.

136 Section 2. This act shall take effect January 1, 2020.



The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 12, 2019

I respectfully request that **Senate Bill # 524**, relating to Health Insurance Savings Programs, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

A handwritten signature in black ink, appearing to read "Mann Diaz, Jr.", written over a horizontal line.

Senator Mann Diaz, Jr.
Florida Senate, District 36



The Florida Senate

Senator Manny Diaz, Jr.

District 36

District Office:

Hialeah Gardens City Hall
10001 NW 87 Avenue
Hialeah Gardens, Florida 33016
(305) 364-3073

Tallahassee Office:

306 Senate Building
404 South Monroe Street
Tallahassee, Florida 32399
(850) 487-5036

Email: diaz.manny@flsenate.gov

March 25, 2019

Senator Ed Hooper, Chair
Governmental Oversight and Accountability
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Hooper,

I am scheduled to present before your committee on Tuesday March 26, SB 524 Health Insurance Savings Programs. Because of a conflict in my schedule, I will not be able to present SB 524. By way of this letter, I am requesting that Senator Aaron Bean please be allowed to present this bill on my behalf. Please do not hesitate to contact my office if any questions. Thank you.

Best,

A handwritten signature in black ink, appearing to read "M. Diaz, Jr.", written in a cursive style.

Manny Diaz, Jr.
State Senator
District 36

CC: Joe McVaney, Staff Director
Tamra Redig, Administrative Assistant

**Education Committee Chair, Appropriations Subcommittee on Education, Health Policy,
Appropriations Subcommittee on Health and Human Services, Ethics and Elections,
Joint Select Committee on Collective Bargaining**

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

524

Bill Number (if applicable)

Topic Insurance

Amendment Barcode (if applicable)

Name Mike Cosick

Job Title Lobbyist

Address 200 W College Ave

Phone 850-222-5620

Street

Tallahassee FL 32301

City

State

Zip

Email mdc@MichaelCosick.com

Speaking: [] For [] Against [] Information

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

Representing Opportunity Solutions

Appearing at request of Chair: [] Yes [] 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
APPEARANCE RECORD

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

3/26/19

Meeting Date

HB 524

Bill Number (if applicable)

Topic Health Insurance Savings Programs

Amendment Barcode (if applicable)

Name Mrs. Logan Padgett

Job Title Director of Communications and Public Affairs

Address 100 N Duval Street

Phone 850-386-3131

Street

Tallahassee

FL

32301

Email lpadgett@jamesmadison.org

City

State

Zip

Speaking: For Against Information

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

Representing The James Madison Institute

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)

3/26/19 Meeting Date

SB 524 Bill Number (if applicable)

Topic Health Insurance Savings Program

Amendment Barcode (if applicable)

Name Matthew Choy

Job Title Director

Address 136 S Bronough St Street

Phone 561-386-3451

Tallahassee FL 32301 City State Zip

Email Mchoy@Flchamber.com

Speaking: [] For [] Against [] Information

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

Representing

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
APPEARANCE RECORD

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

3/26/19
Meeting Date

SB 524
Bill Number (if applicable)

Topic Health Insurance Savings Program

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address 200 W College Ave

Phone _____

Street

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Americans for Prosperity

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 702

INTRODUCER: Senator Lee

SUBJECT: Qualified Blind Trusts

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 702 repeals section 112.31425, Florida Statutes (F.S.). Under current law, the placement of assets and investments in a qualified blind trust by a public officer avoids conflicts of interest that might otherwise require that the interests be divested or that the public officer recuse himself or herself.

The bill repeals the statute that addresses qualified blind trusts, eliminating the operation and parameters of the described trust. Also repealed is the statutory determination that a public officer who holds a beneficial interest in a qualified blind trust does not have a statutorily prohibited conflict of interest with regard to matters pertaining to that interest.

The bill repeals language that provides that a public officer holding a beneficial interest in a qualified blind trust is not required to report on his or her financial disclosure forms any source of income to the blind trust as a secondary source of income, but otherwise does not address requirements for financial disclosure reporting in the Florida Constitution¹ or elsewhere in chapter 112, F.S.²

II. Present Situation:

Enactment of Section 112.31425, F.S.

In 2013, the Legislature enacted a comprehensive ethics reform bill³ that included, among many other provisions, the creation of a statute⁴ that codifies a “qualified blind trust” as a mechanism

¹ FLA. CONST. art. II, s. 8.

² See ss. 112.3144 and 112.3145, F.S.

³ CS/SB 2 (2013 Reg. Session), Ch. 2013-36, s. 5, Laws of Fla.

⁴ Section 112.31425, F.S.

for addressing conflicts of interest issues. Before the 2013 legislation, there was no provision of the Florida Statutes addressing the use of blind trusts by public officers.

Florida's Nineteenth Statewide Grand Jury convened in 2010 to investigate public corruption and develop recommendations for strengthening current laws. Noting that other states and the federal government have authorized the use of blind trusts by public officers, the grand jury recommended that Florida public officials use blind trusts to avoid conflicts of interest. The grand jury concluded that the use of blind trusts eliminates the appearance of impropriety for the policy decisions of public officials.⁵ In its 2012 annual report, the Florida Commission on Ethics lent its support to the enactment of laws prescribing the use of blind trusts by Florida Cabinet members.⁶ The enactment of s. 112.31425, F.S., in 2013 incorporated the recommendations of the Nineteenth Statewide Grand Jury and the Florida Commission on Ethics. The law was modeled after its federal counterpart.

Qualified Blind Trusts

Florida's qualified blind trust statute contains a legislative finding "that if a public officer creates a trust and does not control the interests held by the trust, his or her official actions will not be influenced or appear to be influenced by private considerations."⁷ The statute prescribes that "if a public officer holds a beneficial interest in a qualified blind trust as described in this section, he or she does not have a conflict of interest prohibited under s. 112.313(3) or (7), F.S., or a voting conflict of interest under s. 112.3143, F.S., with regard to matters pertaining to that interest."⁸

Under the statute, a public officer may create a qualified blind trust if it meets the following requirements:

- The appointed trustee must be a bank, trust company, or other institutional fiduciary, or an attorney, certified public accountant, broker, or investment advisor;
- The individual responsible for managing the trust may not be:
 - the public officer's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, or first cousin, or the spouse of any such person;
 - an elected or appointed public officer or a public employee;
 - a person appointed to serve in an agency by the public officer or by a public officer or public employee supervised by the public officer; or
 - a business associate or principal of the public officer;⁹
- Assets in the trust must be free of any restrictions on their transfer or sale and the trust may not contain investments or assets the transfer of which without the public officer's knowledge is improbable or impractical;¹⁰

⁵ See 19th Statewide Grand Jury, Case No. SC 09-1910, First Interim Report, *A Study of Public Corruption in Florida & Recommended Solutions* 69-70 (December 29, 2010).

⁶ Florida Commission on Ethics, *Annual Report to the Florida Legislature for Calendar Year 2012*.

⁷ Section 112.31425(1), F.S.

⁸ Section 112.31425(2), F.S.

⁹ Section 112.31425(6)(a), F.S.

¹⁰ Section 112.31425(6)(b), F.S.

- The trust agreement must:
 - state that its purpose is to remove from the grantor control and knowledge of investment of trust assets so that conflicts of the grantor's interests are eliminated;
 - give the trustee complete discretion to manage the trust;
 - prohibit communication between the trustee and the public officer, or the person who has a beneficial interest in the trust, concerning the holdings or sources of income of the trust;
 - provide that the trust tax return is prepared by the trustee and that any information relating thereto is not disclosed to the public officer or to the person who has a beneficial interest;
 - permit the trustee to notify the public officer of the date of disposition and value at disposition of any original investment or interest in real property to the extent required by federal tax law; and
 - prohibit the trustee from disclosing to the public officer or the person who has a beneficial interest any information concerning replacement assets to the trust;¹¹ and
- The public officer must file with the Commission on Ethics within 5 business days after the trust agreement is executed a notice containing:
 - the date of execution of the agreement;
 - the name and address of the trustee;
 - acknowledgment by the trustee that he or she has agreed to serve as trustee;
 - a copy of the trust agreement or certification by the trustee that the trust meets all of the requirements of s. 112.31425, F.S.; and
 - a complete list of the assets placed in the trust that the public officer would be required to disclose pursuant to s. 112.3144, F.S., (Full and public disclosure of financial interests – Form 6) or s. 112.3145, F.S., (Disclosure of financial interests and clients represented before agencies – Form 1). s. 112.31425(6), F.S.¹²

A public officer may not attempt to influence or exercise any control over decisions regarding the management of assets in a qualified blind trust. Neither the public officer nor any person having a beneficial interest in the qualified blind trust may make any effort to obtain information with respect to the holdings of the trust.¹³ A public officer or the person who has a beneficial interest may not have any direct or indirect communication with the trustee with respect to the trust, with limited exceptions.¹⁴

A public officer must report the beneficial interest in the qualified blind trust and its value as an asset on his or her financial disclosure form, if the value is required to be disclosed. The public officer must also report the blind trust as a primary source of income on his or her financial disclosure forms and its amount, if the amount of income is required to be disclosed.¹⁵ If the trust is revoked or if the covered public official learns of any replacement assets that have been added to the trust, the public official must file an amendment to his or her most recent financial disclosure statement to disclose the previously unreported pro rata share of the trust's interest in investments or income.¹⁶

¹¹ Section 112.31425(6)(c), F.S.

¹² Section 112.31425(6)(d), F.S.

¹³ Section 112.31425(3), F.S.

¹⁴ Section 112.31425(4), F.S.

¹⁵ Section 112.31425(5), F.S.

¹⁶ Section 112.31425(7), F.S.

A public officer holding a beneficial interest in a qualified blind trust is not required to report on his or her financial disclosure forms any source of income to the blind trust as a secondary source of income.¹⁷

Constitutional Challenge to Section 112.31425, F.S.

In 2014, the constitutionality of s. 112.31425, F.S., was challenged. The petitioner sought a declaratory judgment that because the statute allows public officers to file financial disclosure statements without disclosing the value of individual assets contained within qualified blind trusts, it violates the requirement of full and public financial disclosure found in Article II, section 8 of the Florida Constitution. Upon appeal from a circuit court judgment finding the statute constitutional, the First District Court of Appeal vacated the declaratory judgment entered by the court because the petitioner failed to present a justiciable controversy. During the period of litigation, no public officer had created or reported a qualified blind trust in any required financial disclosure.¹⁸

Blind Trust Provisions for Federal Public Officials

There is no federal statute which requires federal public officials to place assets into a blind trust upon election or while serving. However, the Ethics in Government Act of 1978 formally established “qualified blind trusts” that may be created by federal public officials on their own initiative to avoid potential conflict issues or to ease reporting burdens.¹⁹ Qualified blind trusts simplify disclosure, which requires identification of the blind trust and overall income from it, as opposed to identification and income of all individual underlying assets and transactions.²⁰

A member of Congress must disclose in his or her financial disclosure report the category of value of the total cash value of his or her interest in a qualified blind trust.²¹ A member of Congress need not report the holdings of or the source of income from any of the holdings of a qualified blind trust, but must report the category of value of the amount of income received by him or her, his or her spouse, or any dependent child from the qualified blind trust.²²

The requirements and limitations of a qualified blind trust under federal law are similar to Florida’s statute,²³ but with stricter oversight and enforcement provisions. The proposed blind trust instrument and the proposed trustee must be approved by the federal public official’s supervising ethics office.²⁴ In addition, the U.S. Attorney General may bring a civil action in United States district court against any individual who knowingly and willfully violates prohibitions against disclosure or solicitation of information. The court in which such an action is brought may assess a civil penalty in any amount up to \$10,000. The Attorney General may

¹⁷ Section 112.31425(5), F.S.

¹⁸ *Apthorp v. Detzner*, 162 So. 3d 236 (Fla. 1st DCA 2015).

¹⁹ Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824.

²⁰ 5 U.S.C. app. s. 102(f).

²¹ 5 U.S.C. app. s. 102(a)(8).

²² 5 U.S.C. app. s. 102(f)(2).

²³ Section 112.31425, F.S.

²⁴ 5 U.S.C. app. s. 102(f)(3).

also bring a civil action in United States district court against any individual who negligently violates prohibitions against disclosure or solicitation of information. In such case, a civil penalty may be assessed up to \$5,000.²⁵

III. Effect of Proposed Changes:

Section 1 repeals section 112.31425, F.S., which permitted the placing of such assets and investments in a qualified blind trust to avoid a requirement that the interests be divested or that the public officer recuse himself or herself.

The bill repeals the statutory provision that addresses qualified blind trusts, eliminating the operation and parameters of the described trust. Also repealed is the statutory determination that a public officer who holds a beneficial interest in a qualified blind trust does not have a conflict of interest prohibited under section 112.313(3) or (7), F.S., (doing business with one's agency and conflicting employment or contractual relationship) or a voting conflict of interest under section 112.3143, F.S., with regard to matters pertaining to that interest.

The repeal of section 112.31425, F.S., removes language that requires a public officer who holds a beneficial interest in a qualified blind trust to:

- File a notice setting forth the following with the Commission on Ethics within 5 business days after the qualified blind trust agreement is executed:
 - the date the agreement was executed;
 - the name and address of the trustee;
 - an acknowledgment by the trustee that he or she has agreed to serve as trustee;
 - a copy of the trust agreement or a certification by the trustee that the trust meets all of the requirements of section 112.31425, F.S. (qualified blind trusts); and
 - a complete list of assets placed in the trust that the public officer would be required to disclose in a full and public disclosure of financial interests (CE Form 6) or a disclosure of financial interests (CE Form 1);
- Report the beneficial interest in the qualified blind trust and its value as an asset on his or her financial disclosure forms and report the blind trust as a primary source of income and the amount of that income on his or her financial disclosure forms; and
- File an amendment to his or her most recent financial disclosure statement, if the trust is revoked or if the covered public official learns of any replacement assets that have been added to the trust, to disclose the previously unreported pro rata share of the trust's interest in investments or income.

The bill does not address the blind trust legal arrangement.

Section 8, Art. II of the Florida Constitution, requiring full and public disclosure of financial interests to mean reporting net worth and identifying each asset and liability in excess of \$1,000 and its value; section 112.3144, F.S., specifying the requirements for full and public disclosure of financial interests (CE Form 6); and section 112.3145, F.S., specifying the requirements for disclosure of financial interests (CE Form 1) are not affected by the bill.

²⁵ 5 U.S.C. app. s. 102(f)(6).

The repeal of s. 112.31425, F.S. removes the provision that a public officer holding a beneficial interest in a qualified blind trust is not required to report on his or her financial disclosure forms any source of income to the blind trust as a secondary source of income.

Section 2 provides that the bill takes effect on January 1, 2020.

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 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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 112.31425 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Lee

20-01111A-19

2019702__

1 A bill to be entitled
2 An act relating to qualified blind trusts; repealing
3 s. 112.31425, F.S., relating to qualified blind
4 trusts; providing an effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Section 112.31425, Florida Statutes, is
9 repealed.

10 Section 2. This act shall take effect January 1, 2020.



The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 13, 2019

I respectfully request that **Senate Bill # 702**, relating to Qualified Blind Trusts, be placed on the:

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

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

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 1570

INTRODUCER: Senator Hooper

SUBJECT: Information Technology Reorganization

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	McVaney	GO	Favorable
2.	_____	_____	AEG	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1570 makes changes in law relating to state agency information technology. Specifically, the bill:

- Transfers the Agency for State Technology, with all of its existing powers, duties, functions, personnel, records, property, and funds, including the state data center, to the Department of Management Services as the newly created Division of State Technology. The bill repeals the statute authorizing the Agency for State Technology.
- Clarifies that the Department of Environmental Protection will review practices related to geospatial data.
- Codifies the Statewide Travel Management System to standardize and maintain records of travel for all state executive and judicial branch agencies.
- Enacts a “cloud-first” policy to require all state agencies to show a preference for cloud-computing systems in their procurements process for new information technology.
- Creates a task force to study cybersecurity procedures, rules, and vulnerabilities and make recommendations thereupon.

The fiscal impact on state expenditures is indeterminate.

The bill takes effect July 1, 2019.

II. Present Situation:

Agency for State Technology

Chapter 282, F.S., is known as the Enterprise Information Technology Services Management Act.¹

¹ Section 282.003, F.S.

General duties

The Agency for State Technology (AST) was created on July 1, 2014.² The executive director of AST is appointed by the Governor, subject to confirmation by the Senate. The duties and responsibilities of the AST include:³

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards.
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects.
- Performing project oversight on all state IT projects with total costs of \$10 million or more.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions and operations.
- Establishing best practices for procurement of IT products in collaboration with the DMS.
- Participating with the DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with the DMS in IT resource acquisition planning.
- Developing standards for IT reports and updates.
- Upon request, assisting state agencies in development of IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine compliance with IT standards and guidelines developed by the AST.
- Providing operational management and oversight of the state data center.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.
- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- In consultation with state agencies, proposing methodology for identifying and collecting current and planned IT expenditure data at the state agency level.
- Performing project oversight on any cabinet agency IT project that has a total project cost of \$25 million or more and impacts one or more other agencies.
- Consulting with departments regarding risks and other effects for IT projects implemented by an agency that must be connected to or accommodated by an IT system administered by a cabinet agency.
- Establishing policy for all IT-related state contracts, including state term contracts for IT commodities, consultant services, and staff augmentation services in collaboration with the DMS.⁴ The IT policy must include:
 - Identification of the IT product and service categories to be included in state term contracts.
 - Requirements to be included in solicitations for state term contracts.
 - Evaluation criteria for the award of IT-related state term contracts.

² Chapter 2014-221, L.O.F.

³ Section 282.0051, F.S.

⁴ Chapter 2016-138, L.O.F.

- The term of each IT-related state term contract.
- The maximum number of vendors authorized on each state term contract.

Chief Information Officer

The AST is headed by an executive director, established in Section 20.61(1) F.S., who serves as the state's chief information officer and is appointed by the Governor and confirmed by the Senate. Current law requires that the state CIO preferably have executive-level experience in both the public and private sectors in development and implementation of information technology strategic planning; management of enterprise information technology projects, particularly management of large-scale consolidation projects; and development and implementation of fiscal and substantive information technology policy.

State Data Center

The state data center is housed within the AST and provides data center services that comply with applicable state and federal laws, regulations, and policies, including all applicable security, privacy, and auditing requirements.⁵ The state data center must enter into a service-level agreement with each customer entity to provide required type and level of service or services. If a customer fails to execute an agreement within 60 days after commencement of service, the state data center may cease service.

State agencies, unless authorized by the Legislature or granted exemption by AST, may not:⁶

- Transfer existing computer services to any data center other than the State Data Center.
- Initiate a new computer service except with the State Data Center.

The state data center relies heavily on the use of state-owned equipment installed at the state data center facility located in the state's Capital Circle Office Center in Tallahassee for the provision of data center services, often financed through the Department of Financial Services' Consolidated Equipment Financing Program and through lease-purchase arrangements with hardware vendors. This equipment must be replaced periodically, usually around five years.

Information Technology Security

Section 282.318, F.S., establishes the requirements for the security of data and IT. The AST's duties in regards to IT security include:

- Establishing standards and processes for IT security consistent with generally accepted best practices.
- Adopting rules for IT security.
- Developing a statewide IT security strategic plan, updated annually.
- Developing a framework for use by state agencies for IT security responsibilities such as conducting IT security risk assessments and reporting IT security incidents.
- Providing IT security training for state agency information security managers.
- Annually reviewing state agency IT security plans.

⁵ Section 282.201, F.S.

⁶ Section 282.201(5), F.S.

Section 282.318(4)(h), F.S., requires that each state agency head include appropriate IT security requirements in written specifications for the solicitation of IT and IT resources and services that are consistent with the rules and guidelines established by the AST and DMS.

Cloud-First Policy

Cloud computing is the delivery of on-demand computing resources, including data center services, software applications, and data storage, over the Internet on a pay-for-use basis. The definition of cloud computing issued by the National Institute of Standards and Technology (NIST) in Special Publication 800-145 is the most broadly adopted definition of cloud computing.⁷ The NIST definition describes the essential characteristics of cloud computing, the types of cloud computing service models, and the types of cloud computing deployment models.

Section 282.0051(6), F.S., provides the duty for the AST to collaborate with the Department of Management Services (DMS) to establish best practices for the procurement of information technology (IT) products in order to reduce costs, increase productivity, or improve services.

Section 282.318 (4) (h). F.S., requires that each state agency head include appropriate IT security requirements in written specifications for the solicitation of IT and IT resources and services that are consistent with the rules and guidelines established by the AST and DMS.

Several states including California, Colorado, Illinois, Michigan, and Texas have adopted a cloud-first policy. Some states have cloud strategies and plans with cloud computing components or are in the process of working to formalize policies and standards for cloud services.⁸ The federal government has also implemented a cloud-first policy, first adopted by President Obama in 2011⁹ and continued by President Trump in 2017.¹⁰

Technology Program in the Department of Management Services

The Technology Program is organized as the Division of Telecommunications and provides the state enterprise telecommunications system known as the SUNCOM Network. SUMCOM includes voice, data, radio, wiring and cabling, and conferencing service to state agencies, local governments, educational institutions, libraries, and non-profit organizations.¹¹ The Division also leads Emergency Support Functions (ESF 2)¹² and E-rate¹³ and houses the Bureau of Public Safety, which provides Enhanced 911¹⁴ and radio communications services to the state's public safety entities.¹⁵

⁷ SP 800-145, The NIST Definition of Cloud Computing, (9/2011), National Institute of Standards and Technology.

⁸ "State Government Practices for Cloud Implementation", (2015), National Association of State Procurement Officials.

⁹ "Federal Cloud Computing Strategy", (2011), Vivek Kundra, Office of the U.S. Chief Information Officer.

¹⁰ Executive Order No. 82 FR 22391, 3 C.F.R. 22391-22397 (2017).

¹¹ Section 282.703, F.S.

¹² DMS, as the lead agency for ESF 2 under the direction of the Division of Emergency Management, is the first point of contact for telecommunications service providers for equipment and services coordination to provide communications support statewide before, during, and after emergencies.

¹³ E-Rate is a federal program created to ensure that schools and libraries have affordable access to advance telecommunications services.

¹⁴ Section 365.171, F.S.

¹⁵ Sections 282.709 and 282.7101, F.S.

Type Two Transfer

Section 20.06(2), F.S., provides for type two transfers. A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof. A type two transfer preserves the merged entity's statutory powers, duties, rules, and functions, and the merged entity's records, personnel, property, and funds unless specifically severed or abolished. Pursuant to Rule 60L-33.003, Florida Administrative Code, if a transfer of an employee is legislatively mandated, the employee retains the status held in the position prior to the time of transfer unless the legislature directs otherwise. This rule means that the employee is transferred to the new entity and retains the employee's status in the originating agency, either probationary status, trainee status or permanent status.

Career Service System

An employee of the state of Florida will generally fall into one of four categories provided by Chapter 110, Florida Statutes:

- Career Service System;
- Senior Management System;
- Volunteers; or
- Selected Exempt Service System.

The systems provide the pay schedules, benefits, and certain policies for each class of employee. Section 110.205, F.S., provides that all non-exempt employees belong to the career service system. Section 110.205(2)(e), F.S., exempts the executive director of the Agency for State Technology from the Career Service System. Section 110.205(n) allows each department head to designate a maximum of 20 policymaking or managerial positions as being exempt from the Career Service System. A department head may additionally designate one position which directly reports to the department head in the Senior Management Service.

Task Force Requirements under 20.03, Florida Statutes

Section 20.03(8), F.S., 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 a task force terminates upon the completion of its assignment.

III. Effect of Proposed Changes:

Section 1 authorizes a type two transfer of AST to DMS pursuant to s. 20.06(2), F.S. This includes transferring all of AST's powers, duties, functions, records, offices, personnel, property, issues, contracts, authority, rules, funds, etc. Organizationally, the AST structure is merged with the Technology Program within DMS (see section 3 below). Pursuant to s. 20.06(2)(c), F.S., all administrative rules of the AST remain in effect after the type two transfer.

Section 2 provides that all contracts and interagency agreements involving AST are continued following the transfer.

Section 3 creates the Division of State Technology within DMS, directed by the state chief information officer. This division is a result of a merger of the existing Technology Program and the AST structure. It sets minimum qualifications for the state chief information officer similar to the current qualifications found in s. 20.61, F.S., but adds a 10-year experience requirement.

Section 4 continues the transfer of certain duties to the Department of Environmental Protection, relating to geospatial data, beyond the current expiration date of July 1, 2019. The DEP must review policies, practices, and standards related to all geospatial data managed by state agencies and water management districts. The section allows the Department of Environmental Protection to adopt rules to that end.

Section 5 repeals s. 20.61, F.S., which created the Agency for State Technology.

Section 6 grants rulemaking authority to the DMS relating to the Statewide Travel Management System. The Statewide Travel Management System is defined as the system developed by DMS to collect data on, standardize and automate travel management for public officers and employees. The section requires all executive branch state agencies and the judicial branch to report travel using the Statewide Travel Management System. The section also states that the travel reports may not reveal confidential or exempt information.

Section 7 changes the short title for Chapter 282, F.S., to the “Information Technology Management Act.”

Section 8 define the terms “agency assessment,” “breach,” “cloud computing,” “data,” and “open data.”

Section 9 amends s. 282.0051, F.S., to shift the current statutory powers, duties, and functions of the AST to the DMS. In addition, the section:

- Removes the duty to review all information technology purchases by state agencies which cost \$250,000 or more.
- Requires reports on projected costs for data center services to be sent to the Office of Policy and Budget rather than to each customer entity’s agency head.
- Adds a duty to recommend methods of standardizing data as well as open data technical standards.

Section 10 amends s. 282.201, F.S., relating to the state data center. The section moves the state data center from the AST to DMS, and provides that the department will appoint a director for the state data center.

In addition, Section 10 requires the state data center to enter into service-level agreements with its customers and establish the costs of each service by agency application.

Section 10 also requires the state data center to show a preference for cloud-computing solutions in its procurement process, and it shall assist customer entities in transitioning from state data center use to third-party cloud-computing services.

Section 11 creates s. 282.206, F.S., to establish a cloud-first policy for state agencies. This policy provides that, in their procurement processes, each state agency shall show a preference for cloud-computing services that does not require, or minimizes, the use of state data center infrastructure. It provides that each agency will create procedures for the evaluation of cloud-computing options and a plan with regards to its use of the state data center. Each agency must notify the state data center by May 31 and November 30 of each year regarding changes in its use of the state data center.

Section 12 amends s. 282.318, F.S., to shift the current statutory duties of the AST to the DMS, relating to information technology security DMS is required to designate a state chief information security officer. Agencies must consult with the DMS regarding their information technology and cybersecurity needs.

Section 12 requires information technology resources and services to meet or exceed the applicable state and federal laws, regulations, and standards. Current law provides that standards are set by the AST.

Section 13 amends s. 17.0315, F.S., to replace the executive director of the AST with the state chief information officer on the financial and cash management system task force.

Section 14 amends s. 20.055, F.S., to remove the reference to AST in the definition of “state agency.”

Section 15 amends s. 97.0525 to replace AST with DMS in a reference to their risk assessment methodology for identifying security risks.

Section 16 amends s. 110.205, F.S., to exempt the chief information officer from the state career service. Division heads are separately exempt under s. 110.205(j), F.S. In moving from an agency to a division head position, the AST structure will no longer enjoy the 20 designated exempt positions. Those positions will fall under DMS’s umbrella and no longer be exempt unless designated by the head of DMS.

Section 17 amends s. 215.322, F.S., to state that the state chief information officer, rather than the AST, must review requests to use electronic collection methods and consult with the chief financial officer on uniform security safeguards for cardholder data.

Section 18 amends s. 215.96, F.S., to replace the executive director of the AST with the state chief information officer on the coordinating council under the Florida Financial Management Information System Act.

Section 19 amends s. 287.057, F.S., to replace the AST with the chief information officer as the consulting entity for the DMS maintaining a program for online procurement of commodities and contractual services.

Section 20 amends s. 282.00515, F.S., replaces the AST with the DMS as the body with whom several departments may contract for various technological services pursuant to s. 282.0051, F.S.

Section 21 amends s. 287.0591, F.S., to replace the executive director of the AST with the state chief information officer as the person who may certify that long term contracts are beneficial to the state. It also states that the Division of State Technology, rather than the AST, may participate in DMS's competitive solicitations for information technology commodities, consultant services, or staff augmentation services.

Section 22 amends s. 365.171, F.S., to replace the Technology Program with the Division of State Technology in the definition for "office" as used in s. 365.171, F.S., emergency communications number "E911."

Section 23 amends s. 365.172, F.S., to replace the Technology Program with the Division of State Technology in the definition for "office" as used in ss. 365.171, 365.172, 365.173, and 365.174, F.S., emergency communications number E911 state plan.

Section 24 amends s. 365.173, F.S., to replace the Technology Program with the Division of State Technology as the location of the fund created to hold revenue from fees and subscriptions in the E911 system.

Sections 25 and 26 amend ss. 445.011 and 445.045, F.S., respectively, to replace the executive director of the AST with the state chief information officer as the person with whom CareerSource Florida, Inc., shall coordinate.

Section 27 amends s. 668.50, F.S., to replace the AST with the DMS as the body who may specify various regulations and procedures regarding electronic records under the Uniform Electronic Transaction Act.

Section 28 amends s. 943.0415, F.S., to replace the AST with the DMS as the body with whom the Cybercrime Office of the Department of Law Enforcement is to consult.

Section 29 creates the Florida Cybersecurity Task Force. The task force is to:

- Recommend methods to secure the State's network systems and data,
- Identify and recommend remedy for high-risk cybersecurity issues,
- Recommend a process to regularly assess cybersecurity infrastructure,
- Identify gaps in the state's cybersecurity infrastructure,
- Recommend improvements to the cybersecurity of emergency management and disaster response systems,
- Recommend cybersecurity improvements for the state data center, and
- Recommend improvements relating to the state's operational plans for the response to a cybersecurity attack.

The task force is to be chaired by the Lieutenant Governor or her designee, and composed of at least 9 additional members, to include:

- A representative of the computer crime center of the Department of Law Enforcement;
- A representative of the fusion center of the Department of Law Enforcement;
- The state chief information officer;
- The state chief information security officer;

- A representative of the Division of Emergency Management;
- A representative of the Office of the Chief Inspector General;
- An individual appointed by the President of the Senate;
- An individual appointed by the Speaker of the House of Representatives;
- Members of the private sector appointed by the Governor.

The task force shall convene by October 1, 2019, and shall meet as necessary, but at least quarterly. The Division of State Technology within DMS will provide staffing and administrative support to the task force. The task force is to submit a final report of its findings and recommendations on or before November 1, 2020.

Section 30 provides that the bill shall take effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None

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:

Vendors offering a cloud solution may be more likely to be awarded IT procurements under the "cloud-first" policy established in this bill.

C. Government Sector Impact:

The “cloud-first” policy may result in increased costs to the state agencies. It appears that state agencies must show some preference to a private vendor providing a cloud-computing solution over a similar cloud-computing solution provided by the state data center, without regard to the costs of the procured solution. On the other hand, the state data center is most likely to be reduced in size over time, even if the state data center offers a cloud solution.

VI. Technical Deficiencies:

Section 6 amends s. 112.061, F.S., to codify the Statewide Travel Management System. Line 197-198 states the purpose of the system is to “collect and store information relating to public officer and employee travel information.” Public officers and employees, for purposes of chapter 112, F.S., include local government officer and employees as well as state officers and employees. Lines 203-204 require state executive branch agencies and the judicial branch to report travel information on the system. Lines 209-213 require state executive branch agencies and the judicial branch to use the system for travel authorization and reimbursement. If the use of the Statewide Travel Management System is intended to be limited to state public officers and employees, the Legislature may want to consider modifying lines 197-198 to read “collect and store information relating to state executive branch and judicial branch travel information.”

Section 16 amends s. 110.205(e), F.S., to exempt the chief information officer from the state career service. Because the chief information officer is the director of the Division of State Technology, that position is exempted pursuant to s. 110.205(j), F.S. Section 16 could simply be repealed so that no confusion occurs.

Section 29 creates the Florida Cybersecurity Task Force within the DMS. Lines 1460 - 1461 of the bill state that the task force will operate in a manner consistent with s. 20.052, F.S. Section 20.052, F.S, requires the private citizen members of an advisory body that is adjunct to an executive branch agency to be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer. If the task force must operate consistent with this requirement, the appointments by the President of the Senate and the Speaker of the House of Representatives may not be private citizens (most likely must be members of the Legislature).

The Florida Cybersecurity Task Force is composed of a representative of the FDLE computer crime center, a representative of the FDLE fusion center, the state chief information officer and the state chief information security officer, and others. These four state employees may have an on-going working relationship required to effectively accomplish their various job duties. However, as a member of the same advisory body, subject to public meetings requirements, these four state employees may not be able to communicate for their normal job duties if their discussions include topics addressed by the advisory committee.

VII. Related Issues:

Section 11 establishes a “cloud-first” policy for state agencies. The state agencies are directed to “show a preference for cloud-computing solutions that either minimize or do not require the use

of state data center infrastructure when cloud-computing solutions meet the needs of the agency, reduce costs, and meet or exceed the applicable state and federal laws, regulations, and standards for IT security.” From the client agency’s point of view, the state data center may be providing “cloud-computing.” Stated another way, this cloud-first policy appears to direct state agencies to show a preference for private vendors providing cloud-computing over the state data center providing cloud-computing with new infrastructure. This may result in the client agency paying higher costs for IT solutions to the extent that the state data center solution is less expensive than the private vendor solution.

Section 29 creates the Florida Cybersecurity Task Force to review various IT security issues. Pursuant to s. 20.052(5)(c), F.S., a meeting of an advisory body is a public meeting under s. 286.011, F.S., unless otherwise authorized. The public nature of the meetings may hinder open communication among the task force members. Section 286.0113, F.S., provides that a portion of a meeting that would reveal a security or firesafety system plan or portion thereof made confidential by s. 119.071(3)(a), F.S., is exempt from the public meetings requirements of s. 286.011 and s. 24(b), Art. I of the State Constitution. However, most of the IT security information is made confidential and exempt under the provisions of s. 282.318, F.S. Thus, the exemption from public meetings requirements does not appear to apply.

Likewise, there is a concern regarding the use of confidential and exempt information by the task force, particularly if persons not employed by the state are appointed to the task force. Information relating to IT security is typically confidential and exempt. Such information may be available to the Auditor General, the Cybercrime Office, the Chief Inspector General, and now, under the bill, the Division of State Technology of the DMS. It is unclear whether state agencies will be permitted to share confidential and exempt with the task force. Note that the task force is adjunct to the DMS and is not related to the Division of State Technology. The FDLE has recommended incorporating language into the task force providing that any confidential or exempt information the task force obtains remains confidential or exempt in the hands of the task force.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.22, 20.255, 112.061, 282.003, 282.0041, 282.0051, 282.201, 282.318, 17.0315, 20.055, 97.0525, 110.205, 215.322, 215.96, 287.057, 282.00515, 287.0591, 365.171, 365.172, 365.173, 445.011, 445.045, 668.50, and 943.0415.

This bill creates the following sections of the Florida Statutes: 282.206

This bill repeals the following sections of the Florida Statutes: 20.61

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Hooper

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1 A bill to be entitled
 2 An act relating to information technology
 3 reorganization; transferring all powers, duties,
 4 functions, records, offices, personnel, associated
 5 administrative support positions, property, pending
 6 issues and existing contracts, administrative
 7 authority, certain administrative rules, trust funds,
 8 and unexpended balances of appropriations,
 9 allocations, and other funds of the Agency for State
 10 Technology to the Department of Management Services by
 11 a type two transfer; providing for the continuation of
 12 certain contracts and interagency agreements; amending
 13 s. 20.22, F.S.; establishing the Division of State
 14 Technology within the Department of Management
 15 Services to supersede the Technology Program;
 16 establishing the position of state chief information
 17 officer and providing qualifications thereof; amending
 18 s. 20.255, F.S.; removing the expiration for
 19 provisions designating the Department of Environmental
 20 Protection as the lead agency for geospatial data;
 21 authorizing the department to adopt rules for
 22 specified purposes; repealing s. 20.61, F.S., relating
 23 to the Agency for State Technology; amending s.
 24 112.061, F.S.; authorizing the Department of
 25 Management Services to adopt rules for certain
 26 purposes; defining the term "statewide travel
 27 management system"; specifying reporting requirements
 28 for executive branch agencies and the judicial branch
 29 through the statewide travel management system;

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30 specifying that travel reports on the system may not
 31 reveal confidential or exempt information; amending s.
 32 282.003, F.S.; revising a short title; reordering and
 33 amending s. 282.0041, F.S.; revising and providing
 34 definitions; amending s. 282.0051, F.S.; transferring
 35 powers, duties, and functions of the Agency for State
 36 Technology to the Department of Management Services
 37 and revising such powers, duties, and functions;
 38 removing certain project oversight requirements;
 39 requiring agency projected costs for data center
 40 services to be provided to the Governor and the
 41 Legislature on an annual basis; requiring the
 42 department to provide certain recommendations;
 43 amending s. 282.201, F.S.; transferring the state data
 44 center from the Agency for State Technology to the
 45 Department of Management Services; requiring the
 46 department to appoint a director of the state data
 47 center; deleting legislative intent; revising duties
 48 of the state data center; requiring the state data
 49 center to show preference for cloud-computing
 50 solutions in its procurement process; revising the use
 51 of the state data center and certain consolidation
 52 requirements; removing obsolete language; revising
 53 agency limitations; creating s. 282.206, F.S.;
 54 providing legislative intent regarding the use of
 55 cloud computing; requiring each state agency to adopt
 56 formal procedures for cloud-computing options;
 57 requiring a state agency to develop, and update
 58 annually, a strategic plan for submission to the

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59 Governor and the Legislature; specifying requirements
 60 for the strategic plan; requiring a state agency
 61 customer entity to notify the state data center
 62 biannually of changes in anticipated use of state data
 63 center services; specifying requirements and
 64 limitations as to cloud-computing services for the
 65 Department of Law Enforcement; amending s. 282.318,
 66 F.S.; requiring the Department of Management Services
 67 to appoint a state chief information security officer;
 68 revising and specifying requirements for service-level
 69 agreements for information technology and information
 70 technology resources and services; conforming
 71 provisions to changes made by the act; amending ss.
 72 17.0315, 20.055, 97.0525, 110.205, 215.322, 215.96,
 73 287.057, 282.00515, 287.0591, 365.171, 365.172,
 74 365.173, 445.011, 445.045, 668.50, and 943.0415, F.S.;
 75 conforming provisions and a cross-reference to changes
 76 made by the act; creating the Florida Cybersecurity
 77 Task Force; providing for the membership, meeting
 78 requirements, and duties of the task force; providing
 79 for administrative and staff support; requiring
 80 executive branch departments and agencies to cooperate
 81 with information requests made by the task force;
 82 providing reporting requirements; providing for
 83 expiration of the task force; providing an effective
 84 date.

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

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88 Section 1. All powers; duties; functions; records; offices;
 89 personnel; associated administrative support positions;
 90 property; pending issues and existing contracts; administrative
 91 authority; administrative rules in chapter 74, Florida
 92 Administrative Code, in effect as of July 1, 2019; trust funds;
 93 and unexpended balances of appropriations, allocations, and
 94 other funds of the Agency for State Technology are transferred
 95 by a type two transfer pursuant to s. 20.06(2), Florida
 96 Statutes, to the Department of Management Services.

97 Section 2. Any contract or interagency agreement existing
 98 before July 1, 2019, between the Agency for State Technology, or
 99 any entity or agent of the agency, and any other agency, entity,
 100 or person shall continue as a contract or agreement on the
 101 successor department or entity responsible for the program,
 102 activity, or function relative to the contract or agreement.

103 Section 3. Paragraph (b) of subsection (2) and subsection
 104 (4) of section 20.22, Florida Statutes, are amended to read:
 105 20.22 Department of Management Services.—There is created a
 106 Department of Management Services.

107 (2) The following divisions and programs within the
 108 Department of Management Services are established:

109 (b) Division of State Technology, the director of which is
 110 appointed by the secretary of the department and shall serve as
 111 the state chief information officer. The state chief information
 112 officer must be a proven, effective administrator who must have
 113 at least 10 years of executive-level experience in the public or
 114 private sector, preferably with experience in the development of
 115 information technology strategic planning and the development
 116 and implementation of fiscal and substantive information

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117 technology policy and standards Technology Program.

118 ~~(4) The Department of Management Services shall provide the~~

119 ~~Agency for State Technology with financial management oversight.~~

120 ~~The agency shall provide the department all documents and~~

121 ~~necessary information, as requested, to meet the requirements of~~

122 ~~this section. The department's financial management oversight~~

123 ~~includes:~~

124 ~~(a) Developing and implementing cost-recovery mechanisms~~

125 ~~for the administrative and data center costs of services through~~

126 ~~agency assessments of applicable customer entities. Such cost-~~

127 ~~recovery mechanisms must comply with applicable state and~~

128 ~~federal regulations concerning the distribution and use of funds~~

129 ~~and must ensure that, for each fiscal year, no service or~~

130 ~~customer entity subsidizes another service or customer entity.~~

131 ~~(b) Implementing an annual reconciliation process to ensure~~

132 ~~that each customer entity is paying for the full direct and~~

133 ~~indirect cost of each service as determined by the customer~~

134 ~~entity's use of each service.~~

135 ~~(c) Providing rebates that may be credited against future~~

136 ~~billings to customer entities when revenues exceed costs.~~

137 ~~(d) Requiring each customer entity to transfer sufficient~~

138 ~~funds into the appropriate data processing appropriation~~

139 ~~category before implementing a customer entity's request for a~~

140 ~~change in the type or level of service provided, if such change~~

141 ~~results in a net increase to the customer entity's costs for~~

142 ~~that fiscal year.~~

143 ~~(e) By October 1, 2018, providing to each customer entity's~~

144 ~~agency head the estimated agency assessment cost by the Agency~~

145 ~~for State Technology for the following fiscal year. The agency~~

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146 ~~assessment cost of each customer entity includes administrative~~

147 ~~and data center services costs of the agency.~~

148 ~~(f) Preparing the legislative budget request for the Agency~~

149 ~~for State Technology based on the issues requested and approved~~

150 ~~by the executive director of the Agency for State Technology.~~

151 ~~Upon the approval of the agency's executive director, the~~

152 ~~Department of Management Services shall transmit the agency's~~

153 ~~legislative budget request to the Governor and the Legislature~~

154 ~~pursuant to s. 216.023.~~

155 ~~(g) Providing a plan for consideration by the Legislative~~

156 ~~Budget Commission if the Agency for State Technology increases~~

157 ~~the cost of a service for a reason other than a customer~~

158 ~~entity's request made under paragraph (d). Such a plan is~~

159 ~~required only if the service cost increase results in a net~~

160 ~~increase to a customer entity.~~

161 ~~(h) Providing a timely invoicing methodology to recover the~~

162 ~~cost of services provided to the customer entity pursuant to s.~~

163 ~~215.422.~~

164 ~~(i) Providing an annual reconciliation process of prior~~

165 ~~year expenditures completed on a timely basis and overall budget~~

166 ~~management pursuant to chapter 216.~~

167 ~~(j) This subsection expires July 1, 2019.~~

168 Section 4. Subsection (9) of section 20.255, Florida

169 Statutes, is amended to read:

170 20.255 Department of Environmental Protection.—There is

171 created a Department of Environmental Protection.

172 (9) The department shall act as the lead agency of the

173 executive branch for the development and review of policies,

174 practices, and standards related to geospatial data managed by

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175 state agencies and water management districts. The department
 176 shall coordinate and promote geospatial data sharing throughout
 177 the state government and serve as the primary point of contact
 178 for statewide geographic information systems projects, grants,
 179 and resources. The department may adopt rules pursuant to ss.
 180 120.536(1) and 120.54 to implement this subsection ~~This~~
 181 ~~subsection expires July 1, 2019.~~

182 Section 5. Section 20.61, Florida Statutes, is repealed.

183 Section 6. Paragraph (c) is added to subsection (9) of
 184 section 112.061, Florida Statutes, and subsection (16) is added
 185 to that section, to read:

186 112.061 Per diem and travel expenses of public officers,
 187 employees, and authorized persons; statewide travel management
 188 system.—

189 (9) RULES.—

190 (c) The Department of Management Services may adopt rules
 191 to administer the provisions of this section which relate to the
 192 statewide travel management system.

193 (16) STATEWIDE TRAVEL MANAGEMENT SYSTEM.—

194 (a) For purposes of this subsection, "statewide travel
 195 management system" means the system developed by the Department
 196 of Management Services to:

197 1. Collect and store information relating to public officer
 198 or employee travel information;

199 2. Standardize and automate agency travel management;

200 3. Allow for travel planning and approval, expense
 201 reporting, and reimbursement; and

202 4. Allow travel information queries.

203 (b) Each executive branch state government agency and the

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204 judicial branch must report on the statewide travel management
 205 system all public officer and employee travel information,
 206 including, but not limited to, name and position title; purpose
 207 of travel; dates and location of travel; mode of travel;
 208 confirmation from the head of the agency or designee
 209 authorization, if required; and total travel cost. Each
 210 executive branch state government agency and the judicial branch
 211 must use the statewide travel management system for purposes of
 212 travel authorization and reimbursement.

213 (c) Travel reports made available on the statewide travel
 214 management system may not reveal information made confidential
 215 or exempt by law.

216 Section 7. Section 282.003, Florida Statutes, is amended to
 217 read:

218 282.003 Short title.—This part may be cited as the
 219 ~~"Enterprise Information Technology Services Management Act."~~

220 Section 8. Effective July 1, 2019, and upon the expiration
 221 of the amendment to that section made by chapter 2018-10, Laws
 222 of Florida, section 282.0041, Florida Statutes, is reordered and
 223 amended to read:

224 282.0041 Definitions.—As used in this chapter, the term:

225 (1) "Agency assessment" means the amount each customer
 226 entity must pay annually for services from the Department of
 227 Management Services and includes administrative and data center
 228 services costs.

229 (2) ~~(1)~~ "Agency data center" means agency space containing
 230 10 or more physical or logical servers.

231 (3) ~~(2)~~ "Breach" has the same meaning as provided in s.
 232 501.171 means a confirmed event that compromises the

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233 ~~confidentiality, integrity, or availability of information or~~
 234 ~~data.~~

235 ~~(4)(3)~~ "Business continuity plan" means a collection of
 236 procedures and information designed to keep an agency's critical
 237 operations running during a period of displacement or
 238 interruption of normal operations.

239 (5) "Cloud computing" has the same meaning as provided in
 240 Special Publication 800-145 issued by the National Institute of
 241 Standards and Technology.

242 ~~(6)(4)~~ "Computing facility" or "agency computing facility"
 243 means agency space containing fewer than a total of 10 physical
 244 or logical servers, but excluding single, logical-server
 245 installations that exclusively perform a utility function such
 246 as file and print servers.

247 ~~(7)(5)~~ "Customer entity" means an entity that obtains
 248 services from the Department of Management Services state data
 249 center.

250 (8) "Data" means a subset of structured information in a
 251 format that allows such information to be electronically
 252 retrieved and transmitted.

253 ~~(9)(6)~~ "Department" means the Department of Management
 254 Services.

255 ~~(10)(7)~~ "Disaster recovery" means the process, policies,
 256 procedures, and infrastructure related to preparing for and
 257 implementing recovery or continuation of an agency's vital
 258 technology infrastructure after a natural or human-induced
 259 disaster.

260 ~~(11)(8)~~ "Enterprise information technology service" means
 261 an information technology service that is used in all agencies

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262 or a subset of agencies and is established in law to be
 263 designed, delivered, and managed at the enterprise level.

264 ~~(12)(9)~~ "Event" means an observable occurrence in a system
 265 or network.

266 ~~(13)(10)~~ "Incident" means a violation or imminent threat of
 267 violation, whether such violation is accidental or deliberate,
 268 of information technology resources, security ~~policies~~,
 269 ~~acceptable use~~ policies, or ~~standard security~~ practices. An
 270 imminent threat of violation refers to a situation in which the
 271 state agency has a factual basis for believing that a specific
 272 incident is about to occur.

273 ~~(14)(11)~~ "Information technology" means equipment,
 274 hardware, software, firmware, programs, systems, networks,
 275 infrastructure, media, and related material used to
 276 automatically, electronically, and wirelessly collect, receive,
 277 access, transmit, display, store, record, retrieve, analyze,
 278 evaluate, process, classify, manipulate, manage, assimilate,
 279 control, communicate, exchange, convert, converge, interface,
 280 switch, or disseminate information of any kind or form.

281 ~~(15)(12)~~ "Information technology policy" means a definite
 282 course or method of action selected from among one or more
 283 alternatives that guide and determine present and future
 284 decisions.

285 ~~(16)(13)~~ "Information technology resources" has the same
 286 meaning as provided in s. 119.011.

287 ~~(17)(14)~~ "Information technology security" means the
 288 protection afforded to an automated information system in order
 289 to attain the applicable objectives of preserving the integrity,
 290 availability, and confidentiality of data, information, and

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291 information technology resources.

292 (18) "Open data" means data collected or created by a state
 293 agency and structured in a way that enables the data to be fully
 294 discoverable and usable by the public. The term does not include
 295 data that are restricted from public distribution based on
 296 federal or state privacy, confidentiality, and security laws and
 297 regulations or data for which a state agency is statutorily
 298 authorized to assess a fee for its distribution.

299 (19)(15) "Performance metrics" means the measures of an
 300 organization's activities and performance.

301 (20)(16) "Project" means an endeavor that has a defined
 302 start and end point; is undertaken to create or modify a unique
 303 product, service, or result; and has specific objectives that,
 304 when attained, signify completion.

305 (21)(17) "Project oversight" means an independent review
 306 and analysis of an information technology project that provides
 307 information on the project's scope, completion timeframes, and
 308 budget and that identifies and quantifies issues or risks
 309 affecting the successful and timely completion of the project.

310 (22)(18) "Risk assessment" means the process of identifying
 311 security risks, determining their magnitude, and identifying
 312 areas needing safeguards.

313 (23)(19) "Service level" means the key performance
 314 indicators (KPI) of an organization or service which must be
 315 regularly performed, monitored, and achieved.

316 (24)(20) "Service-level agreement" means a written contract
 317 between the Department of Management Services ~~state data center~~
 318 and a customer entity which specifies the scope of services
 319 provided, service level, the duration of the agreement, the

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320 responsible parties, and service costs. A service-level
 321 agreement is not a rule pursuant to chapter 120.

322 (25)(21) "Stakeholder" means a person, group, organization,
 323 or state agency involved in or affected by a course of action.

324 (26)(22) "Standards" means required practices, controls,
 325 components, or configurations established by an authority.

326 (27)(23) "State agency" means any official, officer,
 327 commission, board, authority, council, committee, or department
 328 of the executive branch of state government; the Justice
 329 Administrative Commission; and the Public Service Commission.
 330 The term does not include university boards of trustees or state
 331 universities. As used in part I of this chapter, except as
 332 otherwise specifically provided, the term does not include the
 333 Department of Legal Affairs, the Department of Agriculture and
 334 Consumer Services, or the Department of Financial Services.

335 (28)(24) "SUNCOM Network" means the state enterprise
 336 telecommunications system that provides all methods of
 337 electronic or optical telecommunications beyond a single
 338 building or contiguous building complex and used by entities
 339 authorized as network users under this part.

340 (29)(25) "Telecommunications" means the science and
 341 technology of communication at a distance, including electronic
 342 systems used in the transmission or reception of information.

343 (30)(26) "Threat" means any circumstance or event that has
 344 the potential to adversely impact a state agency's operations or
 345 assets through an information system via unauthorized access,
 346 destruction, disclosure, or modification of information or
 347 denial of service.

348 (31)(27) "Variance" means a calculated value that

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349 illustrates how far positive or negative a projection has
350 deviated when measured against documented estimates within a
351 project plan.

352 Section 9. Effective July 1, 2019, and upon the expiration
353 of the amendment to that section made by chapter 2018-10, Laws
354 of Florida, section 282.0051, Florida Statutes, is amended to
355 read:

356 282.0051 Department of Management Services Agency for State
357 Technology; powers, duties, and functions.—The department Agency
358 for State Technology shall have the following powers, duties,
359 and functions:

360 (1) Develop and publish information technology policy for
361 the management of the state's information technology resources.

362 (2) Establish and publish information technology
363 architecture standards to provide for the most efficient use of
364 the state's information technology resources and to ensure
365 compatibility and alignment with the needs of state agencies.
366 The department agency shall assist state agencies in complying
367 with the standards.

368 (3) ~~By June 30, 2015,~~ Establish project management and
369 oversight standards with which state agencies must comply when
370 implementing information technology projects. The department
371 agency shall provide training opportunities to state agencies to
372 assist in the adoption of the project management and oversight
373 standards. To support data-driven decisionmaking, the standards
374 must include, but are not limited to:

375 (a) Performance measurements and metrics that objectively
376 reflect the status of an information technology project based on
377 a defined and documented project scope, cost, and schedule.

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378 (b) Methodologies for calculating acceptable variances in
379 the projected versus actual scope, schedule, or cost of an
380 information technology project.

381 (c) Reporting requirements, including requirements designed
382 to alert all defined stakeholders that an information technology
383 project has exceeded acceptable variances defined and documented
384 in a project plan.

385 (d) Content, format, and frequency of project updates.

386 (4) ~~Beginning January 1, 2015,~~ Perform project oversight on
387 all state agency information technology projects that have total
388 project costs of \$10 million or more and that are funded in the
389 General Appropriations Act or any other law. The department
390 agency shall report at least quarterly to the Executive Office
391 of the Governor, the President of the Senate, and the Speaker of
392 the House of Representatives on any information technology
393 project that the department agency identifies as high-risk due
394 to the project exceeding acceptable variance ranges defined and
395 documented in a project plan. The report must include a risk
396 assessment, including fiscal risks, associated with proceeding
397 to the next stage of the project, and a recommendation for
398 corrective actions required, including suspension or termination
399 of the project.

400 (5) ~~By April 1, 2016, and biennially thereafter,~~ Identify
401 opportunities for standardization and consolidation of
402 information technology services that support business functions
403 and operations, including administrative functions such as
404 purchasing, accounting and reporting, cash management, and
405 personnel, and that are common across state agencies. The
406 department agency shall biennially on April 1 provide

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407 recommendations for standardization and consolidation to the
 408 Executive Office of the Governor, the President of the Senate,
 409 and the Speaker of the House of Representatives. ~~The agency is~~
 410 ~~not precluded from providing recommendations before April 1,~~
 411 ~~2016.~~

412 ~~(6) In collaboration with the Department of Management~~
 413 ~~Services,~~ Establish best practices for the procurement of
 414 information technology products and cloud-computing services in
 415 order to reduce costs, increase the quality of data center
 416 services productivity, or improve government services. ~~Such~~
 417 ~~practices must include a provision requiring the agency to~~
 418 ~~review all information technology purchases made by state~~
 419 ~~agencies that have a total cost of \$250,000 or more, unless a~~
 420 ~~purchase is specifically mandated by the Legislature, for~~
 421 ~~compliance with the standards established pursuant to this~~
 422 ~~section.~~

423 ~~(7) (a) Participate with the Department of Management~~
 424 ~~Services in evaluating, conducting, and negotiating competitive~~
 425 ~~solicitations for state term contracts for information~~
 426 ~~technology commodities, consultant services, or staff~~
 427 ~~augmentation contractual services pursuant to s. 287.0591.~~

428 ~~(b) Collaborate with the Department of Management Services~~
 429 ~~in information technology resource acquisition planning.~~

430 ~~(8)~~ Develop standards for information technology reports
 431 and updates, including, but not limited to, operational work
 432 plans, project spend plans, and project status reports, for use
 433 by state agencies.

434 ~~(8)~~(9) Upon request, assist state agencies in the
 435 development of information technology-related legislative budget

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436 requests.

437 ~~(9) (10) Beginning July 1, 2016, and annually thereafter,~~
 438 Conduct annual assessments of state agencies to determine
 439 compliance with all information technology standards and
 440 guidelines developed and published by the department ~~agency,~~ and
 441 ~~beginning December 1, 2016, and annually thereafter,~~ and provide
 442 results of the assessments to the Executive Office of the
 443 Governor, the President of the Senate, and the Speaker of the
 444 House of Representatives.

445 ~~(10)~~(11) Provide operational management and oversight of
 446 the state data center established pursuant to s. 282.201, which
 447 includes:

448 (a) Implementing industry standards and best practices for
 449 the state data center's facilities, operations, maintenance,
 450 planning, and management processes.

451 (b) Developing and implementing cost-recovery mechanisms
 452 that recover the full direct and indirect cost of services
 453 through charges to applicable customer entities. Such cost-
 454 recovery mechanisms must comply with applicable state and
 455 federal regulations concerning distribution and use of funds and
 456 must ensure that, for any fiscal year, no service or customer
 457 entity subsidizes another service or customer entity.

458 (c) Developing and implementing appropriate operating
 459 guidelines and procedures necessary for the state data center to
 460 perform its duties pursuant to s. 282.201. The guidelines and
 461 procedures must comply with applicable state and federal laws,
 462 regulations, and policies and conform to generally accepted
 463 governmental accounting and auditing standards. The guidelines
 464 and procedures must include, but need not be limited to:

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- 465 1. Implementing a consolidated administrative support
 466 structure responsible for providing financial management,
 467 procurement, transactions involving real or personal property,
 468 human resources, and operational support.
- 469 2. Implementing an annual reconciliation process to ensure
 470 that each customer entity is paying for the full direct and
 471 indirect cost of each service as determined by the customer
 472 entity's use of each service.
- 473 3. Providing rebates that may be credited against future
 474 billings to customer entities when revenues exceed costs.
- 475 4. Requiring customer entities to validate that sufficient
 476 funds exist in the appropriate data processing appropriation
 477 category or will be transferred into the appropriate data
 478 processing appropriation category before implementation of a
 479 customer entity's request for a change in the type or level of
 480 service provided, if such change results in a net increase to
 481 the customer entity's cost for that fiscal year.
- 482 5. By November 15 ~~September 1~~ of each year, providing to
 483 the Office of Policy and Budget in the Executive Office of the
 484 Governor and to the chairs of the legislative appropriations
 485 committees ~~each customer entity's agency head~~ the projected
 486 costs of providing data center services for the following fiscal
 487 year.
- 488 6. Providing a plan for consideration by the Legislative
 489 Budget Commission if the cost of a service is increased for a
 490 reason other than a customer entity's request made pursuant to
 491 subparagraph 4. Such a plan is required only if the service cost
 492 increase results in a net increase to a customer entity for that
 493 fiscal year.

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- 494 7. Standardizing and consolidating procurement and
 495 contracting practices.
- 496 (d) In collaboration with the Department of Law
 497 Enforcement, developing and implementing a process for
 498 detecting, reporting, and responding to information technology
 499 security incidents, breaches, and threats.
- 500 (e) Adopting rules relating to the operation of the state
 501 data center, including, but not limited to, budgeting and
 502 accounting procedures, cost-recovery methodologies, and
 503 operating procedures.
- 504 (f) ~~Beginning May 1, 2016, and annually thereafter,~~
 505 Conducting an annual ~~a~~ market analysis to determine whether the
 506 state's approach to the provision of data center services is the
 507 most effective and cost-efficient ~~efficient~~ manner by which its
 508 customer entities can acquire such services, based on federal,
 509 state, and local government trends; best practices in service
 510 provision; and the acquisition of new and emerging technologies.
 511 The results of the market analysis shall assist the state data
 512 center in making adjustments to its data center service
 513 offerings.
- 514 ~~(11)-(12)~~ Recommend other information technology services
 515 that should be designed, delivered, and managed as enterprise
 516 information technology services. Recommendations must include
 517 the identification of existing information technology resources
 518 associated with the services, if existing services must be
 519 transferred as a result of being delivered and managed as
 520 enterprise information technology services.
- 521 ~~(13)~~ Recommend ~~additional consolidations of agency~~
 522 ~~computing facilities or data centers into the state data center~~

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523 established pursuant to s. 282.201. Such recommendations shall
 524 include a proposed timeline for consolidation.

525 ~~(12)-(14)~~ In consultation with state agencies, propose a
 526 methodology and approach for identifying and collecting both
 527 current and planned information technology expenditure data at
 528 the state agency level.

529 ~~(13) (a) (15) (a) Beginning January 1, 2015, and~~
 530 Notwithstanding any other law, provide project oversight on any
 531 information technology project of the Department of Financial
 532 Services, the Department of Legal Affairs, and the Department of
 533 Agriculture and Consumer Services which ~~that~~ has a total project
 534 cost of \$25 million or more and which ~~that~~ impacts one or more
 535 other agencies. Such information technology projects must also
 536 comply with the applicable information technology architecture,
 537 project management and oversight, and reporting standards
 538 established by the department ~~agency~~.

539 (b) When performing the project oversight function
 540 specified in paragraph (a), report at least quarterly to the
 541 Executive Office of the Governor, the President of the Senate,
 542 and the Speaker of the House of Representatives on any
 543 information technology project that the department ~~agency~~
 544 identifies as high-risk due to the project exceeding acceptable
 545 variance ranges defined and documented in the project plan. The
 546 report shall include a risk assessment, including fiscal risks,
 547 associated with proceeding to the next stage of the project and
 548 a recommendation for corrective actions required, including
 549 suspension or termination of the project.

550 ~~(14)-(16)~~ If an information technology project implemented
 551 by a state agency must be connected to or otherwise accommodated

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552 by an information technology system administered by the
 553 Department of Financial Services, the Department of Legal
 554 Affairs, or the Department of Agriculture and Consumer Services,
 555 consult with these departments regarding the risks and other
 556 effects of such projects on their information technology systems
 557 and work cooperatively with these departments regarding the
 558 connections, interfaces, timing, or accommodations required to
 559 implement such projects.

560 ~~(15)-(17)~~ If adherence to standards or policies adopted by
 561 or established pursuant to this section causes conflict with
 562 federal regulations or requirements imposed on a state agency
 563 and results in adverse action against the state agency or
 564 federal funding, work with the state agency to provide
 565 alternative standards, policies, or requirements that do not
 566 conflict with the federal regulation or requirement. ~~Beginning~~
 567 ~~July 1, 2015,~~ The department ~~agency~~ shall annually report such
 568 alternative standards to the Governor, the President of the
 569 Senate, and the Speaker of the House of Representatives.

570 ~~(16)-(18) In collaboration with the Department of Management~~
 571 ~~Services:~~

572 (a) Establish an information technology policy for all
 573 information technology-related state contracts, including state
 574 term contracts for information technology commodities,
 575 consultant services, and staff augmentation services. The
 576 information technology policy must include:

577 1. Identification of the information technology product and
 578 service categories to be included in state term contracts.

579 2. Requirements to be included in solicitations for state
 580 term contracts.

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581 3. Evaluation criteria for the award of information
582 technology-related state term contracts.

583 4. The term of each information technology-related state
584 term contract.

585 5. The maximum number of vendors authorized on each state
586 term contract.

587 (b) Evaluate vendor responses for information technology-
588 related state term contract solicitations and invitations to
589 negotiate.

590 (c) Answer vendor questions on information technology-
591 related state term contract solicitations.

592 (d) Ensure that the information technology policy
593 established pursuant to paragraph (a) is included in all
594 solicitations and contracts that ~~which~~ are administratively
595 executed by the department.

596 (17) Recommend potential methods for standardizing data
597 across state agencies which will promote interoperability and
598 reduce the collection of duplicative data.

599 (18) Recommend open data technical standards and
600 terminologies for use by state agencies.

601 (19) Adopt rules to administer this section.

602 Section 10. Effective July 1, 2019, and upon the expiration
603 of the amendment to that section made by chapter 2018-10, Laws
604 of Florida, section 282.201, Florida Statutes, is amended to
605 read:

606 282.201 State data center.—The state data center is
607 established within the department ~~Agency for State Technology~~
608 ~~and shall provide data center services that are hosted on~~
609 ~~premises or externally through a third-party provider as an~~

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610 ~~enterprise information technology service.~~ The provision of data
611 center services must comply with applicable state and federal
612 laws, regulations, and policies, including all applicable
613 security, privacy, and auditing requirements. The department
614 shall appoint a director of the state data center, preferably an
615 individual who has experience in leading data center facilities
616 and has expertise in cloud-computing management.

617 ~~(1) INTENT.—The Legislature finds that the most efficient~~
618 ~~and effective means of providing quality utility data processing~~
619 ~~services to state agencies requires that computing resources be~~
620 ~~concentrated in quality facilities that provide the proper~~
621 ~~security, disaster recovery, infrastructure, and staff resources~~
622 ~~to ensure that the state's data is maintained reliably and~~
623 ~~safely, and is recoverable in the event of a disaster. Unless~~
624 ~~otherwise exempt by law, it is the intent of the Legislature~~
625 ~~that all agency data centers and computing facilities shall be~~
626 ~~consolidated into the state data center.~~

627 (1)(2) STATE DATA CENTER DUTIES.—The state data center
628 shall:

629 (a) Offer, develop, and support the services and
630 applications defined in service-level agreements executed with
631 its customer entities.

632 (b) Maintain performance of the state data center by
633 ensuring proper data backup, data backup recovery, disaster
634 recovery, and appropriate security, power, cooling, fire
635 suppression, and capacity.

636 (c) Develop and implement ~~a~~ business continuity ~~plan~~ and ~~a~~
637 ~~disaster recovery plans plan,~~ and beginning July 1, 2015, and
638 annually thereafter, conduct a live exercise of each plan.

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639 (d) Enter into a service-level agreement with each customer
640 entity to provide the required type and level of service or
641 services. If a customer entity fails to execute an agreement
642 within 60 days after commencement of a service, the state data
643 center may cease service. A service-level agreement may not have
644 a term exceeding 3 years and at a minimum must:

- 645 1. Identify the parties and their roles, duties, and
646 responsibilities under the agreement.
- 647 2. State the duration of the contract term and specify the
648 conditions for renewal.
- 649 3. Identify the scope of work.
- 650 4. Identify the products or services to be delivered with
651 sufficient specificity to permit an external financial or
652 performance audit.
- 653 5. Establish the services to be provided, the business
654 standards that must be met for each service, the cost of each
655 service by agency application, and the metrics and processes by
656 which the business standards for each service are to be
657 objectively measured and reported.
- 658 6. Provide a timely billing methodology to recover the
659 costs of services provided to the customer entity pursuant to s.
660 215.422.
- 661 7. Provide a procedure for modifying the service-level
662 agreement based on changes in the type, level, and cost of a
663 service.
- 664 8. Include a right-to-audit clause to ensure that the
665 parties to the agreement have access to records for audit
666 purposes during the term of the service-level agreement.
- 667 9. Provide that a service-level agreement may be terminated

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668 by either party for cause only after giving the other party and
669 the Department Agency for State Technology notice in writing of
670 the cause for termination and an opportunity for the other party
671 to resolve the identified cause within a reasonable period.

672 10. Provide for mediation of disputes by the Division of
673 Administrative Hearings pursuant to s. 120.573.

674 (e) For purposes of chapter 273, be the custodian of
675 resources and equipment located in and operated, supported, and
676 managed by the state data center.

677 (f) Assume administrative access rights to resources and
678 equipment, including servers, network components, and other
679 devices, consolidated into the state data center.

680 1. Upon ~~the date of each consolidation specified in this~~
681 ~~section, the General Appropriations Act, or any other law~~, a
682 state agency shall relinquish administrative rights to
683 consolidated resources and equipment. State agencies required to
684 comply with federal and state criminal justice information
685 security rules and policies shall retain administrative access
686 rights sufficient to comply with the management control
687 provisions of those rules and policies; however, the state data
688 center shall have the appropriate type or level of rights to
689 allow the center to comply with its duties pursuant to this
690 section. The Department of Law Enforcement shall serve as the
691 arbiter of disputes pertaining to the appropriate type and level
692 of administrative access rights pertaining to the provision of
693 management control in accordance with the federal criminal
694 justice information guidelines.

695 2. The state data center shall provide customer entities
696 with access to applications, servers, network components, and

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697 other devices necessary for entities to perform business
698 activities and functions, and as defined and documented in a
699 service-level agreement.

700 (g) In its procurement process, show preference for cloud-
701 computing solutions that minimize or do not require the
702 purchasing, financing, or leasing of state data center
703 infrastructure, and that meet the needs of customer agencies,
704 that reduce costs, and that meet or exceed the applicable state
705 and federal laws, regulations, and standards for information
706 technology security.

707 (h) Assist customer entities in transitioning from state
708 data center services to third-party cloud-computing services
709 procured by a customer entity.

710 ~~(3) STATE AGENCY DUTIES.-~~

711 ~~(a) Each state agency shall provide to the Agency for State~~
712 ~~Technology all requested information relating to its data~~
713 ~~centers and computing facilities and any other information~~
714 ~~relevant to the effective transition of an agency data center or~~
715 ~~computing facility into the state data center.~~

716 ~~(b) Each state agency customer of the state data center~~
717 ~~shall notify the state data center, by May 31 and November 30 of~~
718 ~~each year, of any significant changes in anticipated utilization~~
719 ~~of state data center services pursuant to requirements~~
720 ~~established by the state data center.~~

721 ~~(2)(4) USE OF THE STATE DATA CENTER SCHEDULE FOR~~
722 ~~CONSOLIDATIONS OF AGENCY DATA CENTERS.-~~

723 ~~(a) Consolidations of agency data centers and computing~~
724 ~~facilities into the state data center shall be made by the dates~~
725 ~~specified in this section and in accordance with budget~~

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726 ~~adjustments contained in the General Appropriations Act.~~

727 ~~(b) During the 2013-2014 fiscal year, the following state~~
728 ~~agencies shall be consolidated by the specified date:~~

729 ~~1. By October 31, 2013, the Department of Economic~~
730 ~~Opportunity.~~

731 ~~2. By December 31, 2013, the Executive Office of the~~
732 ~~Governor, to include the Division of Emergency Management except~~
733 ~~for the Emergency Operation Center's management system in~~
734 ~~Tallahassee and the Camp Blanding Emergency Operations Center in~~
735 ~~Starke.~~

736 ~~3. By March 31, 2014, the Department of Elderly Affairs.~~

737 ~~4. By October 30, 2013, the Fish and Wildlife Conservation~~
738 ~~Commission, except for the commission's Fish and Wildlife~~
739 ~~Research Institute in St. Petersburg.~~

740 ~~(c) The following are exempt from the use of the state data~~
741 ~~center consolidation under this section: the Department of Law~~
742 ~~Enforcement, the Department of the Lottery's Gaming System,~~
743 ~~Systems Design and Development in the Office of Policy and~~
744 ~~Budget, the regional traffic management centers as described in~~
745 ~~s. 335.14(2) and the Office of Toll Operations of the Department~~
746 ~~of Transportation, the State Board of Administration, state~~
747 ~~attorneys, public defenders, criminal conflict and civil~~
748 ~~regional counsel, capital collateral regional counsel, and the~~
749 ~~Florida Housing Finance Corporation.~~

750 ~~(d) A state agency that is consolidating its agency data~~
751 ~~center or computing facility into the state data center must~~
752 ~~execute a new or update an existing service level agreement~~
753 ~~within 60 days after the commencement of the service. If a state~~
754 ~~agency and the state data center are unable to execute a~~

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755 ~~service-level agreement by that date, the agency shall submit a~~
 756 ~~report to the Executive Office of the Governor within 5 working~~
 757 ~~days after that date which explains the specific issues~~
 758 ~~preventing execution and describing the plan and schedule for~~
 759 ~~resolving those issues.~~

760 ~~(e) Each state agency scheduled for consolidation into the~~
 761 ~~state data center shall submit a transition plan to the Agency~~
 762 ~~for State Technology by July 1 of the fiscal year before the~~
 763 ~~fiscal year in which the scheduled consolidation will occur.~~
 764 ~~Transition plans shall be developed in consultation with the~~
 765 ~~state data center and must include:~~

766 1. ~~An inventory of the agency data center's resources being~~
 767 ~~consolidated, including all hardware and its associated life~~
 768 ~~cycle replacement schedule, software, staff, contracted~~
 769 ~~services, and facility resources performing data center~~
 770 ~~management and operations, security, backup and recovery,~~
 771 ~~disaster recovery, system administration, database~~
 772 ~~administration, system programming, job control, production~~
 773 ~~control, print, storage, technical support, help desk, and~~
 774 ~~managed services, but excluding application development, and the~~
 775 ~~agency's costs supporting these resources.~~

776 2. ~~A list of contracts in effect, including, but not~~
 777 ~~limited to, contracts for hardware, software, and maintenance,~~
 778 ~~which identifies the expiration date, the contract parties, and~~
 779 ~~the cost of each contract.~~

780 3. ~~A detailed description of the level of services needed~~
 781 ~~to meet the technical and operational requirements of the~~
 782 ~~platforms being consolidated.~~

783 4. ~~A timetable with significant milestones for the~~

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784 ~~completion of the consolidation.~~

785 ~~(f) Each state agency scheduled for consolidation into the~~
 786 ~~state data center shall submit with its respective legislative~~
 787 ~~budget request the specific recurring and nonrecurring budget~~
 788 ~~adjustments of resources by appropriation category into the~~
 789 ~~appropriate data processing category pursuant to the legislative~~
 790 ~~budget request instructions in s. 216.023.~~

791 ~~(3)-(5) AGENCY LIMITATIONS.-~~

792 ~~(a) Unless exempt from the use of the state data center~~
 793 ~~consolidation pursuant to this section or authorized by the~~
 794 ~~Legislature or as provided in paragraph (b), a state agency may~~
 795 ~~not:~~

796 ~~(a)1- Create a new agency computing facility or data~~
 797 ~~center, or expand the capability to support additional computer~~
 798 ~~equipment in an existing agency computing facility or data~~
 799 ~~center; or~~

800 2. ~~Spend funds before the state agency's scheduled~~
 801 ~~consolidation into the state data center to purchase or modify~~
 802 ~~hardware or operations software that does not comply with~~
 803 ~~standards established by the Agency for State Technology~~
 804 ~~pursuant to s. 282.0051;~~

805 3. ~~Transfer existing computer services to any data center~~
 806 ~~other than the state data center;~~

807 ~~(b)4- Terminate services with the state data center without~~
 808 ~~giving written notice of intent to terminate services 180 days~~
 809 ~~before such termination; ~~or~~~~

810 5. ~~Initiate a new computer service except with the state~~
 811 ~~data center.~~

812 ~~(b) Exceptions to the limitations in subparagraphs (a)1.,~~

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 813 ~~2., 3., and 5. may be granted by the Agency for State Technology~~
 814 ~~if there is insufficient capacity in the state data center to~~
 815 ~~absorb the workload associated with agency computing services,~~
 816 ~~if expenditures are compatible with the standards established~~
 817 ~~pursuant to s. 282.0051, or if the equipment or resources are~~
 818 ~~needed to meet a critical agency business need that cannot be~~
 819 ~~satisfied by the state data center. The Agency for State~~
 820 ~~Technology shall establish requirements that a state agency must~~
 821 ~~follow when submitting and documenting a request for an~~
 822 ~~exception. The Agency for State Technology shall also publish~~
 823 ~~guidelines for its consideration of exception requests. However,~~
 824 ~~the decision of the Agency for State Technology regarding an~~
 825 ~~exception request is not subject to chapter 120.~~

826 Section 11. Section 282.206, Florida Statutes, is created
 827 to read:

828 282.206 Cloud-first policy in state agencies.—

829 (1) The Legislature finds that the most efficient and
 830 effective means of providing quality data processing services is
 831 through the use of cloud computing. It is the intent of the
 832 Legislature that each state agency adopt a cloud-first policy
 833 that first considers cloud-computing solutions in its technology
 834 sourcing strategy for technology initiatives or upgrades
 835 whenever possible and feasible.

836 (2) In its procurement process, each state agency shall
 837 show a preference for cloud-computing solutions that either
 838 minimize or do not require the use of state data center
 839 infrastructure when cloud-computing solutions meet the needs of
 840 the agency, reduce costs, and meet or exceed the applicable
 841 state and federal laws, regulations, and standards for

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 842 information technology security.

843 (3) Each state agency shall adopt formal procedures for the
 844 evaluation of cloud-computing options for existing applications,
 845 technology initiatives, or upgrades.

846 (4) Each state agency shall develop a strategic plan to be
 847 updated annually to address its inventory of applications
 848 located at the state data center. Each agency shall submit the
 849 plan by October 15 of each year to the Office of Policy and
 850 Budget in the Executive Office of the Governor and the chairs of
 851 the legislative appropriations committees. For each application,
 852 the plan must identify and document the readiness, appropriate
 853 strategy, and high-level timeline for transition to a cloud-
 854 computing service based on the application's quality, cost, and
 855 resource requirements. This information must be used to assist
 856 the state data center in making adjustments to its service
 857 offerings.

858 (5) Each state agency customer of the state data center
 859 shall notify the state data center by May 31 and November 30
 860 annually of any significant changes in its anticipated
 861 utilization of state data center services pursuant to
 862 requirements established by the state data center.

863 (6) Unless authorized by the Legislature, the Department of
 864 Law Enforcement, as the state's lead Criminal Justice
 865 Information Services Systems Agency, may not impose more
 866 stringent protection measures than outlined in the federal
 867 Criminal Justice Information Services Security Policy relating
 868 to the use of cloud-computing services.

869 Section 12. Section 282.318, Florida Statutes, is amended
 870 to read:

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871 282.318 Security of data and information technology.-

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

874 (2) As used in this section, the term "state agency" has
875 the same meaning as provided in s. 282.0041, except that the
876 term includes the Department of Legal Affairs, the Department of
877 Agriculture and Consumer Services, and the Department of
878 Financial Services.

879 (3) The department Agency for State Technology is
880 responsible for establishing standards and processes consistent
881 with generally accepted best practices for information
882 technology security, to include cybersecurity, and adopting
883 rules that safeguard an agency's data, information, and
884 information technology resources to ensure availability,
885 confidentiality, and integrity and to mitigate risks. The
886 department agency shall also:

887 (a) Designate a state chief information security officer
888 who must have experience and expertise in security and risk
889 management for communications and information technology
890 resources.

891 (b)-(a) Develop, and annually update by February 1, a
892 statewide information technology security strategic plan that
893 includes security goals and objectives for the strategic issues
894 of information technology security policy, risk management,
895 training, incident management, and disaster recovery planning.

896 (c)-(b) Develop and publish for use by state agencies an
897 information technology security framework that, at a minimum,
898 includes guidelines and processes for:

899 1. Establishing asset management procedures to ensure that

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900 an agency's information technology resources are identified and
901 managed consistent with their relative importance to the
902 agency's business objectives.

903 2. Using a standard risk assessment methodology that
904 includes the identification of an agency's priorities,
905 constraints, risk tolerances, and assumptions necessary to
906 support operational risk decisions.

907 3. Completing comprehensive risk assessments and
908 information technology security audits, which may be completed
909 by a private sector vendor, and submitting completed assessments
910 and audits to the department Agency for State Technology.

911 4. Identifying protection procedures to manage the
912 protection of an agency's information, data, and information
913 technology resources.

914 5. Establishing procedures for accessing information and
915 data to ensure the confidentiality, integrity, and availability
916 of such information and data.

917 6. Detecting threats through proactive monitoring of
918 events, continuous security monitoring, and defined detection
919 processes.

920 7. Establishing agency computer security incident response
921 teams and describing their responsibilities for responding to
922 information technology security incidents, including breaches of
923 personal information containing confidential or exempt data.

924 8. Recovering information and data in response to an
925 information technology security incident. The recovery may
926 include recommended improvements to the agency processes,
927 policies, or guidelines.

928 9. Establishing an information technology security incident

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929 reporting process that includes procedures and tiered reporting
 930 timeframes for notifying the department Agency for State
 931 ~~Technology~~ and the Department of Law Enforcement of information
 932 technology security incidents. The tiered reporting timeframes
 933 shall be based upon the level of severity of the information
 934 technology security incidents being reported.

935 10. Incorporating information obtained through detection
 936 and response activities into the agency's information technology
 937 security incident response plans.

938 11. Developing agency strategic and operational information
 939 technology security plans required pursuant to this section.

940 12. Establishing the managerial, operational, and technical
 941 safeguards for protecting state government data and information
 942 technology resources that align with the state agency risk
 943 management strategy and that protect the confidentiality,
 944 integrity, and availability of information and data.

945 (d) ~~(e)~~ Assist state agencies in complying with this
 946 section.

947 (e) ~~(d)~~ In collaboration with the Cybercrime Office of the
 948 Department of Law Enforcement, annually provide training for
 949 state agency information security managers and computer security
 950 incident response team members that contains training on
 951 information technology security, including cybersecurity,
 952 threats, trends, and best practices.

953 (f) ~~(e)~~ Annually review the strategic and operational
 954 information technology security plans of executive branch
 955 agencies.

956 (4) Each state agency head shall, at a minimum:
 957 (a) Designate an information security manager to administer

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958 the information technology security program of the state agency.
 959 This designation must be provided annually in writing to the
 960 department Agency for State Technology by January 1. A state
 961 agency's information security manager, for purposes of these
 962 information security duties, shall report directly to the agency
 963 head.

964 (b) In consultation with the department Agency for State
 965 ~~Technology~~ and the Cybercrime Office of the Department of Law
 966 Enforcement, establish an agency computer security incident
 967 response team to respond to an information technology security
 968 incident. The agency computer security incident response team
 969 shall convene upon notification of an information technology
 970 security incident and must comply with all applicable guidelines
 971 and processes established pursuant to paragraph (3) (c) ~~paragraph~~
 972 ~~(3) (b)~~.

973 (c) Submit to the department Agency for State Technology
 974 annually by July 31, the state agency's strategic and
 975 operational information technology security plans developed
 976 pursuant to rules and guidelines established by the department
 977 ~~Agency for State Technology~~.

978 1. The state agency strategic information technology
 979 security plan must cover a 3-year period and, at a minimum,
 980 define security goals, intermediate objectives, and projected
 981 agency costs for the strategic issues of agency information
 982 security policy, risk management, security training, security
 983 incident response, and disaster recovery. The plan must be based
 984 on the statewide information technology security strategic plan
 985 created by the department Agency for State Technology and
 986 include performance metrics that can be objectively measured to

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987 reflect the status of the state agency's progress in meeting
 988 security goals and objectives identified in the agency's
 989 strategic information security plan.

990 2. The state agency operational information technology
 991 security plan must include a progress report that objectively
 992 measures progress made towards the prior operational information
 993 technology security plan and a project plan that includes
 994 activities, timelines, and deliverables for security objectives
 995 that the state agency will implement during the current fiscal
 996 year.

997 (d) Conduct, and update every 3 years, a comprehensive risk
 998 assessment, which may be completed by a private sector vendor,
 999 to determine the security threats to the data, information, and
 1000 information technology resources, including mobile devices and
 1001 print environments, of the agency. The risk assessment must
 1002 comply with the risk assessment methodology developed by the
 1003 department Agency for State Technology and is confidential and
 1004 exempt from s. 119.07(1), except that such information shall be
 1005 available to the Auditor General, the Division of State
 1006 Technology within the department Agency for State Technology,
 1007 the Cybercrime Office of the Department of Law Enforcement, and,
 1008 for state agencies under the jurisdiction of the Governor, the
 1009 Chief Inspector General.

1010 (e) Develop, and periodically update, written internal
 1011 policies and procedures, which include procedures for reporting
 1012 information technology security incidents and breaches to the
 1013 Cybercrime Office of the Department of Law Enforcement and the
 1014 Division of State Technology within the department Agency for
 1015 State Technology. Such policies and procedures must be

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1016 consistent with the rules, guidelines, and processes established
 1017 by the ~~department Agency for State Technology~~ to ensure the
 1018 security of the data, information, and information technology
 1019 resources of the agency. The internal policies and procedures
 1020 that, if disclosed, could facilitate the unauthorized
 1021 modification, disclosure, or destruction of data or information
 1022 technology resources are confidential information and exempt
 1023 from s. 119.07(1), except that such information shall be
 1024 available to the Auditor General, the Cybercrime Office of the
 1025 Department of Law Enforcement, the Division of State Technology
 1026 within the department Agency for State Technology, and, for
 1027 state agencies under the jurisdiction of the Governor, the Chief
 1028 Inspector General.

1029 (f) Implement managerial, operational, and technical
 1030 safeguards and risk assessment remediation plans recommended by
 1031 the ~~department Agency for State Technology~~ to address identified
 1032 risks to the data, information, and information technology
 1033 resources of the agency.

1034 (g) Ensure that periodic internal audits and evaluations of
 1035 the agency's information technology security program for the
 1036 data, information, and information technology resources of the
 1037 agency are conducted. The results of such audits and evaluations
 1038 are confidential information and exempt from s. 119.07(1),
 1039 except that such information shall be available to the Auditor
 1040 General, the Cybercrime Office of the Department of Law
 1041 Enforcement, the Division of State Technology within the
 1042 department Agency for State Technology, and, for agencies under
 1043 the jurisdiction of the Governor, the Chief Inspector General.

1044 (h) Ensure that the ~~include appropriate~~ information

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1045 technology security and cybersecurity requirements in both the
 1046 written specifications for the solicitation and service-level
 1047 agreement of information technology and information technology
 1048 resources and services meet or exceed the applicable state and
 1049 federal laws, regulations, and standards for information
 1050 technology security and cybersecurity. Service-level agreements
 1051 must identify service provider and state agency responsibilities
 1052 for privacy and security, protection of government data,
 1053 personnel background screening, and security deliverables with
 1054 associated frequencies, which are consistent with the rules and
 1055 guidelines established by the Agency for State Technology in
 1056 collaboration with the Department of Management Services.

1057 (i) Provide information technology security and
 1058 cybersecurity awareness training to all state agency employees
 1059 in the first 30 days after commencing employment concerning
 1060 information technology security risks and the responsibility of
 1061 employees to comply with policies, standards, guidelines, and
 1062 operating procedures adopted by the state agency to reduce those
 1063 risks. The training may be provided in collaboration with the
 1064 Cybercrime Office of the Department of Law Enforcement.

1065 (j) Develop a process for detecting, reporting, and
 1066 responding to threats, breaches, or information technology
 1067 security incidents which is consistent with the security rules,
 1068 guidelines, and processes established by the Agency for State
 1069 Technology.

1070 1. All information technology security incidents and
 1071 breaches must be reported to the Division of State Technology
 1072 within the department Agency for State Technology and the
 1073 Cybercrime Office of the Department of Law Enforcement and must

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1074 comply with the notification procedures and reporting timeframes
 1075 established pursuant to paragraph (3) (c) ~~paragraph (3) (b)~~.
 1076 2. For information technology security breaches, state
 1077 agencies shall provide notice in accordance with s. 501.171.
 1078 3. Records held by a state agency which identify detection,
 1079 investigation, or response practices for suspected or confirmed
 1080 information technology security incidents, including suspected
 1081 or confirmed breaches, are confidential and exempt from s.
 1082 119.07(1) and s. 24(a), Art. I of the State Constitution, if the
 1083 disclosure of such records would facilitate unauthorized access
 1084 to or the unauthorized modification, disclosure, or destruction
 1085 of:

1086 a. Data or information, whether physical or virtual; or
 1087 b. Information technology resources, which includes:
 1088 (I) Information relating to the security of the agency's
 1089 technologies, processes, and practices designed to protect
 1090 networks, computers, data processing software, and data from
 1091 attack, damage, or unauthorized access; or
 1092 (II) Security information, whether physical or virtual,
 1093 which relates to the agency's existing or proposed information
 1094 technology systems.

1095
 1096 Such records shall be available to the Auditor General, the
 1097 Division of State Technology within the department Agency for
 1098 State Technology, the Cybercrime Office of the Department of Law
 1099 Enforcement, and, for state agencies under the jurisdiction of
 1100 the Governor, the Chief Inspector General. Such records may be
 1101 made available to a local government, another state agency, or a
 1102 federal agency for information technology security purposes or

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 1103 in furtherance of the state agency's official duties. This
 1104 exemption applies to such records held by a state agency before,
 1105 on, or after the effective date of this exemption. This
 1106 subparagraph is subject to the Open Government Sunset Review Act
 1107 in accordance with s. 119.15 and shall stand repealed on October
 1108 2, 2021, unless reviewed and saved from repeal through
 1109 reenactment by the Legislature.

1110 (5) The portions of risk assessments, evaluations, external
 1111 audits, and other reports of a state agency's information
 1112 technology security program for the data, information, and
 1113 information technology resources of the state agency which are
 1114 held by a state agency are confidential and exempt from s.
 1115 119.07(1) and s. 24(a), Art. I of the State Constitution if the
 1116 disclosure of such portions of records would facilitate
 1117 unauthorized access to or the unauthorized modification,
 1118 disclosure, or destruction of:

1119 (a) Data or information, whether physical or virtual; or

1120 (b) Information technology resources, which include:

1121 1. Information relating to the security of the agency's
 1122 technologies, processes, and practices designed to protect
 1123 networks, computers, data processing software, and data from
 1124 attack, damage, or unauthorized access; or

1125 2. Security information, whether physical or virtual, which
 1126 relates to the agency's existing or proposed information
 1127 technology systems.

1128
 1129 Such portions of records shall be available to the Auditor
 1130 General, the Cybercrime Office of the Department of Law
 1131 Enforcement, the Division of State Technology within the

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 1132 ~~department Agency for State Technology~~, and, for agencies under
 1133 the jurisdiction of the Governor, the Chief Inspector General.
 1134 Such portions of records may be made available to a local
 1135 government, another state agency, or a federal agency for
 1136 information technology security purposes or in furtherance of
 1137 the state agency's official duties. For purposes of this
 1138 subsection, "external audit" means an audit that is conducted by
 1139 an entity other than the state agency that is the subject of the
 1140 audit. This exemption applies to such records held by a state
 1141 agency before, on, or after the effective date of this
 1142 exemption. This subsection is subject to the Open Government
 1143 Sunset Review Act in accordance with s. 119.15 and shall stand
 1144 repealed on October 2, 2021, unless reviewed and saved from
 1145 repeal through reenactment by the Legislature.

1146 (6) The ~~department Agency for State Technology~~ shall adopt
 1147 rules relating to information technology security and to
 1148 administer this section.

1149 Section 13. Subsections (1) and (2) of section 17.0315,
 1150 Florida Statutes, are amended to read:

1151 17.0315 Financial and cash management system; task force.—

1152 (1) The Chief Financial Officer, as the constitutional
 1153 officer responsible for settling and approving accounts against
 1154 the state and keeping all state funds pursuant to s. 4, Art. IV
 1155 of the State Constitution, is the head of and shall appoint
 1156 members to a task force established to develop a strategic
 1157 business plan for a successor financial and cash management
 1158 system. The task force shall include the state chief information
 1159 officer ~~executive director of the Agency for State Technology~~
 1160 and the director of the Office of Policy and Budget in the

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1161 Executive Office of the Governor. Any member of the task force
 1162 may appoint a designee.

1163 (2) The strategic business plan for a successor financial
 1164 and cash management system must:

1165 (a) Permit proper disbursement and auditing controls
 1166 consistent with the respective constitutional duties of the
 1167 Chief Financial Officer and the Legislature;

1168 (b) Promote transparency in the accounting of public funds;

1169 (c) Provide timely and accurate recording of financial
 1170 transactions by agencies and their professional staffs;

1171 (d) Support executive reporting and data analysis
 1172 requirements;

1173 (e) Be capable of interfacing with other systems providing
 1174 human resource services, procuring goods and services, and
 1175 providing other enterprise functions;

1176 (f) Be capable of interfacing with the existing legislative
 1177 appropriations, planning, and budgeting systems;

1178 (g) Be coordinated with the information technology strategy
 1179 development efforts of the Department of Management Services
 1180 ~~Agency for State Technology~~;

1181 (h) Be coordinated with the revenue estimating conference
 1182 process as supported by the Office of Economic and Demographic
 1183 Research; and

1184 (i) Address other such issues as the Chief Financial
 1185 Officer identifies.

1186 Section 14. Paragraph (d) of subsection (1) of section
 1187 20.055, Florida Statutes, is amended to read:
 1188 20.055 Agency inspectors general.—
 1189 (1) As used in this section, the term:

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1190 (d) "State agency" means each department created pursuant
 1191 to this chapter and the Executive Office of the Governor, the
 1192 Department of Military Affairs, the Fish and Wildlife
 1193 Conservation Commission, the Office of Insurance Regulation of
 1194 the Financial Services Commission, the Office of Financial
 1195 Regulation of the Financial Services Commission, the Public
 1196 Service Commission, the Board of Governors of the State
 1197 University System, the Florida Housing Finance Corporation, ~~the~~
 1198 ~~Agency for State Technology~~, the Office of Early Learning, and
 1199 the state courts system.

1200 Section 15. Paragraph (b) of subsection (3) of section
 1201 97.0525, Florida Statutes, is amended to read:
 1202 97.0525 Online voter registration.—
 1203 (3)
 1204 (b) The division shall conduct a comprehensive risk
 1205 assessment of the online voter registration system before making
 1206 the system publicly available and every 2 years thereafter. The
 1207 comprehensive risk assessment must comply with the risk
 1208 assessment methodology developed by the Department of Management
 1209 Services ~~Agency for State Technology~~ for identifying security
 1210 risks, determining the magnitude of such risks, and identifying
 1211 areas that require safeguards.

1212 Section 16. Paragraph (e) of subsection (2) of section
 1213 110.205, Florida Statutes, is amended to read:
 1214 110.205 Career service; exemptions.—
 1215 (2) EXEMPT POSITIONS.—The exempt positions that are not
 1216 covered by this part include the following:
 1217 (e) The state chief information officer ~~executive director~~
 1218 ~~of the Agency for State Technology~~. Unless otherwise fixed by

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1219 law, the Department of Management Services Agency for State
 1220 ~~Technology~~ shall set the salary and benefits of this position in
 1221 accordance with the rules of the Senior Management Service.
 1222 Section 17. Subsections (2) and (9) of section 215.322,
 1223 Florida Statutes, are amended to read:
 1224 215.322 Acceptance of credit cards, charge cards, debit
 1225 cards, or electronic funds transfers by state agencies, units of
 1226 local government, and the judicial branch.—
 1227 (2) A state agency as defined in s. 216.011, or the
 1228 judicial branch, may accept credit cards, charge cards, debit
 1229 cards, or electronic funds transfers in payment for goods and
 1230 services with the prior approval of the Chief Financial Officer.
 1231 If the Internet or other related electronic methods are to be
 1232 used as the collection medium, the state chief information
 1233 officer ~~Agency for State Technology~~ shall review and recommend
 1234 to the Chief Financial Officer whether to approve the request
 1235 with regard to the process or procedure to be used.
 1236 (9) For payment programs in which credit cards, charge
 1237 cards, or debit cards are accepted by state agencies, the
 1238 judicial branch, or units of local government, the Chief
 1239 Financial Officer, in consultation with the state chief
 1240 information officer ~~Agency for State Technology~~, may adopt rules
 1241 to establish uniform security safeguards for cardholder data and
 1242 to ensure compliance with the Payment Card Industry Data
 1243 Security Standards.
 1244 Section 18. Subsection (2) of section 215.96, Florida
 1245 Statutes, is amended to read:
 1246 215.96 Coordinating council and design and coordination
 1247 staff.—

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1248 (2) The coordinating council shall consist of the Chief
 1249 Financial Officer; the Commissioner of Agriculture; the Attorney
 1250 General; the Secretary of Management Services; the state chief
 1251 information officer ~~executive director of the Agency for State~~
 1252 ~~Technology~~; and the Director of Planning and Budgeting,
 1253 Executive Office of the Governor, or their designees. The Chief
 1254 Financial Officer, or his or her designee, shall be chair of the
 1255 council, and the design and coordination staff shall provide
 1256 administrative and clerical support to the council and the
 1257 board. The design and coordination staff shall maintain the
 1258 minutes of each meeting and make such minutes available to any
 1259 interested person. The Auditor General, the State Courts
 1260 Administrator, an executive officer of the Florida Association
 1261 of State Agency Administrative Services Directors, and an
 1262 executive officer of the Florida Association of State Budget
 1263 Officers, or their designees, shall serve without voting rights
 1264 as ex officio members of the council. The chair may call
 1265 meetings of the council as often as necessary to transact
 1266 business; however, the council shall meet at least once a year.
 1267 Action of the council shall be by motion, duly made, seconded
 1268 and passed by a majority of the council voting in the
 1269 affirmative for approval of items that are to be recommended for
 1270 approval to the Financial Management Information Board.
 1271 Section 19. Subsection (22) of section 287.057, Florida
 1272 Statutes, is amended to read:
 1273 287.057 Procurement of commodities or contractual
 1274 services.—
 1275 (22) The department, in consultation with the Chief
 1276 Financial Officer and the state chief information officer ~~Agency~~

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1277 ~~for State Technology~~, shall maintain a program for online
 1278 procurement of commodities and contractual services. To enable
 1279 the state to promote open competition and leverage its buying
 1280 power, agencies shall participate in the online procurement
 1281 program, and eligible users may participate in the program. Only
 1282 vendors prequalified as meeting mandatory requirements and
 1283 qualifications criteria may participate in online procurement.

1284 (a) The department, ~~in consultation with the Agency for~~
 1285 ~~State Technology and in compliance with the standards of the~~
 1286 ~~agency~~, may contract for equipment and services necessary to
 1287 develop and implement online procurement.

1288 (b) The department shall adopt rules to administer the
 1289 program for online procurement. The rules must include, but not
 1290 be limited to:

1291 1. Determining the requirements and qualification criteria
 1292 for prequalifying vendors.

1293 2. Establishing the procedures for conducting online
 1294 procurement.

1295 3. Establishing the criteria for eligible commodities and
 1296 contractual services.

1297 4. Establishing the procedures for providing access to
 1298 online procurement.

1299 5. Determining the criteria warranting any exceptions to
 1300 participation in the online procurement program.

1301 (c) The department may impose and shall collect all fees
 1302 for the use of the online procurement systems.

1303 1. The fees may be imposed on an individual transaction
 1304 basis or as a fixed percentage of the cost savings generated. At
 1305 a minimum, the fees must be set in an amount sufficient to cover

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1306 the projected costs of the services, including administrative
 1307 and project service costs in accordance with the policies of the
 1308 department.

1309 2. If the department contracts with a provider for online
 1310 procurement, the department, pursuant to appropriation, shall
 1311 compensate the provider from the fees after the department has
 1312 satisfied all ongoing costs. The provider shall report
 1313 transaction data to the department each month so that the
 1314 department may determine the amount due and payable to the
 1315 department from each vendor.

1316 3. All fees that are due and payable to the state on a
 1317 transactional basis or as a fixed percentage of the cost savings
 1318 generated are subject to s. 215.31 and must be remitted within
 1319 40 days after receipt of payment for which the fees are due. For
 1320 fees that are not remitted within 40 days, the vendor shall pay
 1321 interest at the rate established under s. 55.03(1) on the unpaid
 1322 balance from the expiration of the 40-day period until the fees
 1323 are remitted.

1324 4. All fees and surcharges collected under this paragraph
 1325 shall be deposited in the Operating Trust Fund as provided by
 1326 law.

1327 Section 20. Section 282.00515, Florida Statutes, is amended
 1328 to read:

1329 282.00515 Duties of Cabinet agencies.—The Department of
 1330 Legal Affairs, the Department of Financial Services, and the
 1331 Department of Agriculture and Consumer Services shall adopt the
 1332 standards established in s. 282.0051(2), (3), and (7) ~~or~~
 1333 ~~282.0051(2), (3), and (8)~~ or adopt alternative standards based
 1334 on best practices and industry standards, and may contract with

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1335 the ~~department Agency for State Technology~~ to provide or perform
 1336 any of the services and functions described in s. 282.0051 for
 1337 the Department of Legal Affairs, the Department of Financial
 1338 Services, or the Department of Agriculture and Consumer
 1339 Services.

1340 Section 21. Subsections (3) and (4) of section 287.0591,
 1341 Florida Statutes, are amended to read:

1342 287.0591 Information technology.—

1343 (3) The department may execute a state term contract for
 1344 information technology commodities, consultant services, or
 1345 staff augmentation contractual services that exceeds the 48-
 1346 month requirement if the Secretary of Management Services and
 1347 the state chief information officer ~~executive director of the~~
 1348 ~~Agency for State Technology~~ certify to the Executive Office of
 1349 the Governor that a longer contract term is in the best interest
 1350 of the state.

1351 (4) If the department issues a competitive solicitation for
 1352 information technology commodities, consultant services, or
 1353 staff augmentation contractual services, the Division of State
 1354 Technology within the department ~~Agency for State Technology~~
 1355 shall participate in such solicitations.

1356 Section 22. Paragraph (a) of subsection (3) of section
 1357 365.171, Florida Statutes, is amended to read:

1358 365.171 Emergency communications number E911 state plan.—

1359 (3) DEFINITIONS.—As used in this section, the term:

1360 (a) "Office" means the Division of State Technology ~~Program~~
 1361 within the Department of Management Services, as designated by
 1362 the secretary of the department.

1363 Section 23. Paragraph (s) of subsection (3) of section

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1364 365.172, Florida Statutes, is amended to read:

1365 365.172 Emergency communications number "E911."—

1366 (3) DEFINITIONS.—Only as used in this section and ss.

1367 365.171, 365.173, and 365.174, the term:

1368 (s) "Office" means the Division of State Technology ~~Program~~
 1369 within the Department of Management Services, as designated by
 1370 the secretary of the department.

1371 Section 24. Paragraph (a) of subsection (1) of section
 1372 365.173, Florida Statutes, is amended to read:

1373 365.173 Communications Number E911 System Fund.—

1374 (1) REVENUES.—

1375 (a) Revenues derived from the fee levied on subscribers
 1376 under s. 365.172(8) must be paid by the board into the State
 1377 Treasury on or before the 15th day of each month. Such moneys
 1378 must be accounted for in a special fund to be designated as the
 1379 Emergency Communications Number E911 System Fund, a fund created
 1380 in the Division of State Technology ~~Program~~, or other office as
 1381 designated by the Secretary of Management Services.

1382 Section 25. Subsection (4) of section 445.011, Florida
 1383 Statutes, is amended to read:

1384 445.011 Workforce information systems.—

1385 (4) CareerSource Florida, Inc., shall coordinate
 1386 development and implementation of workforce information systems
 1387 with the state chief information officer ~~executive director of~~
 1388 ~~the Agency for State Technology~~ to ensure compatibility with the
 1389 state's information system strategy and enterprise architecture.

1390 Section 26. Subsection (2) and paragraphs (a) and (b) of
 1391 subsection (4) of section 445.045, Florida Statutes, are amended
 1392 to read:

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1393 445.045 Development of an Internet-based system for
1394 information technology industry promotion and workforce
1395 recruitment.—

1396 (2) CareerSource Florida, Inc., shall coordinate with the
1397 ~~Department of Management Services Agency for State Technology~~
1398 and the Department of Economic Opportunity to ensure links, as
1399 feasible and appropriate, to existing job information websites
1400 maintained by the state and state agencies and to ensure that
1401 information technology positions offered by the state and state
1402 agencies are posted on the information technology website.

1403 (4) (a) CareerSource Florida, Inc., shall coordinate
1404 development and maintenance of the website under this section
1405 with the state chief information officer ~~executive director of~~
1406 ~~the Agency for State Technology~~ to ensure compatibility with the
1407 state's information system strategy and enterprise architecture.

1408 (b) CareerSource Florida, Inc., may enter into an agreement
1409 with ~~the Agency for State Technology~~, the Department of Economic
1410 Opportunity, or any other public agency with the requisite
1411 information technology expertise for the provision of design,
1412 operating, or other technological services necessary to develop
1413 and maintain the website.

1414 Section 27. Paragraph (b) of subsection (18) of section
1415 668.50, Florida Statutes, is amended to read:

1416 668.50 Uniform Electronic Transaction Act.—

1417 (18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY
1418 GOVERNMENTAL AGENCIES.—

1419 (b) To the extent that a governmental agency uses
1420 electronic records and electronic signatures under paragraph
1421 (a), the Department of Management Services Agency for State

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1422 ~~Technology~~, in consultation with the governmental agency, giving
1423 due consideration to security, may specify:

1424 1. The manner and format in which the electronic records
1425 must be created, generated, sent, communicated, received, and
1426 stored and the systems established for those purposes.

1427 2. If electronic records must be signed by electronic
1428 means, the type of electronic signature required, the manner and
1429 format in which the electronic signature must be affixed to the
1430 electronic record, and the identity of, or criteria that must be
1431 met by, any third party used by a person filing a document to
1432 facilitate the process.

1433 3. Control processes and procedures as appropriate to
1434 ensure adequate preservation, disposition, integrity, security,
1435 confidentiality, and auditability of electronic records.

1436 4. Any other required attributes for electronic records
1437 which are specified for corresponding nonelectronic records or
1438 reasonably necessary under the circumstances.

1439 Section 28. Subsections (4) and (5) of section 943.0415,
1440 Florida Statutes, are amended to read:

1441 943.0415 Cybercrime Office.—There is created within the
1442 Department of Law Enforcement the Cybercrime Office. The office
1443 may:

1444 (4) Provide security awareness training and information to
1445 state agency employees concerning cybersecurity, online sexual
1446 exploitation of children, and security risks, and the
1447 responsibility of employees to comply with policies, standards,
1448 guidelines, and operating procedures adopted by the department
1449 ~~Agency for State Technology~~.

1450 (5) Consult with the Division of State Technology within

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1451 ~~the Department of Management Services Agency for State~~
 1452 ~~Technology~~ in the adoption of rules relating to the information
 1453 technology security provisions in s. 282.318.

1454 Section 29. Florida Cybersecurity Task Force.—

1455 (1) The Florida Cybersecurity Task Force, a task force as
 1456 defined in s. 20.03(8), Florida Statutes, is created adjunct to
 1457 the Department of Management Services to review and conduct an
 1458 assessment of the state's cybersecurity infrastructure,
 1459 governance, and operations. Except as otherwise provided in this
 1460 section, the task force shall operate in a manner consistent
 1461 with s. 20.052, Florida Statutes.

1462 (2) The task force consists of the following members:

1463 (a) The Lieutenant Governor, or his or her designee, who
 1464 shall serve as chair of the task force.

1465 (b) A representative of the computer crime center of the
 1466 Department of Law Enforcement, appointed by the executive
 1467 director of the department.

1468 (c) A representative of the fusion center of the Department
 1469 of Law Enforcement, appointed by the executive director of the
 1470 department.

1471 (d) The state chief information officer.

1472 (e) The state chief information security officer.

1473 (f) A representative of the Division of Emergency
 1474 Management within the Executive Office of the Governor,
 1475 appointed by the director of the division.

1476 (g) A representative of the Office of the Chief Inspector
 1477 General in the Executive Office of the Governor, appointed by
 1478 the Chief Inspector General.

1479 (h) An individual appointed by the President of the Senate.

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1480 (i) An individual appointed by the Speaker of the House of
 1481 Representatives.

1482 (j) Members of the private sector appointed by the
 1483 Governor.

1484 (3) The task force shall convene by October 1, 2019, and
 1485 shall meet as necessary, but at least quarterly, at the call of
 1486 the chair. The Division of State Technology within the
 1487 Department of Management Services shall provide staffing and
 1488 administrative support to the task force.

1489 (4) The task force shall:

1490 (a) Recommend methods to secure the state's network systems
 1491 and data, including standardized plans and procedures to
 1492 identify developing threats and to prevent unauthorized access
 1493 and destruction of data.

1494 (b) Identify and recommend remediation, if necessary, of
 1495 high-risk cybersecurity issues facing state government.

1496 (c) Recommend a process to regularly assess cybersecurity
 1497 infrastructure and activities of executive branch agencies.

1498 (d) Identify gaps in the state's overall cybersecurity
 1499 infrastructure, governance, and current operations. Based on any
 1500 findings of gaps or deficiencies, the task force shall make
 1501 recommendations for improvement.

1502 (e) Recommend cybersecurity improvements for the state's
 1503 emergency management and disaster response systems.

1504 (f) Recommend cybersecurity improvements of the state data
 1505 center.

1506 (g) Review and recommend improvements relating to the
 1507 state's current operational plans for the response,
 1508 coordination, and recovery from a cybersecurity attack.

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1509 (5) All executive branch departments and agencies shall
1510 cooperate fully with requests for information made by the task
1511 force.

1512 (6) On or before November 1, 2020, the task force shall
1513 submit a final report of its findings and recommendations to the
1514 Governor, the President of the Senate, and the Speaker of the
1515 House of Representatives.

1516 (7) This section expires January 1, 2021.

1517 Section 30. 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)

26 MAR 2019
Meeting Date

1570
Bill Number (if applicable)

Topic INTEROPERABILITY

Amendment Barcode (if applicable)

Name GARY CHRISTENSEN

Job Title GENERAL MANAGER - STATES

Address ONE MEMORIAL DRIVE
Street

Phone 617 577-3601

CAMBRIDGE MA 02142
City State Zip

Email GARY.CHRISTENSEN@INTERSYSTEMS.COM

Speaking: For Against Information

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

Representing INTERSYSTEMS

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)

3/26

Meeting Date

1570

Bill Number (if applicable)

Topic IT REORGANIZATION

Amendment Barcode (if applicable)

Name Ramon MAURY

Job Title MANAGING PARTNER

Address PO Box 10245

Phone 850 222 1688

TALL FL 32302

Email mm9group@aol

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

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

Representing MAURY RAULING BROWN

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
APPEARANCE RECORD

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

Meeting Date _____

SB 1570
Bill Number (if applicable)

Topic IT Reorg -

Amendment Barcode (if applicable)

Name Chuck Cliburn

Job Title Lobbyist

Address 101 N. Monroe #906

Phone 850 559 7900

Street
Tallah #1

City State Zip

Email _____

Speaking: For Against Information

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

Representing AIF

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)

3/26/2019

Meeting Date

SB 1570

Bill Number (if applicable)

Topic Information Technology Reorganization

Amendment Barcode (if applicable)

Name Carol Bracy

Job Title Consultant

Address 201 E Park Ave, 5th Floor

Phone 850.577.0444

Street

Tallahassee

FL

32301

Email carol@ballardfl.com

City

State

Zip

Speaking: For Against Information

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

Representing Amazon

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/26/19

Meeting Date

1570

Bill Number (if applicable)

Topic Information Technology Reorganization

Amendment Barcode (if applicable)

Name David Clark

Job Title Chief of Staff

Address 4050 Esplanade Way

Phone 850-922-6535

Tallahassee FL 32399

Email Andrew.Forst@dms.myflorida.com

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

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

Representing Dept. of Management Services

Appearing at request of Chair: [] Yes [] 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: PCS/SB 7040 (Barcode 693868)

INTRODUCER: Governmental Oversight and Accountability Committee and Ethics and Elections Committee

SUBJECT: Financial Disclosure

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Mitchell</u>	<u>Roberts</u>		EE Submitted as Committee Bill
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Pre-meeting
2.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7040 revises the administration of the submission of information relating to the disclosures of financial interests and statements of financial interests.

The bill requires the Commission on Ethics (Commission) to procure and test an electronic filing system by January 1, 2022. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard internet-browsing software;
- Issue a verification or receipt that the Commission has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete the disclosure or statement and certify that he or she prepared it in accordance with s. 112.3144, F.S., or s. 112.3145, F.S., and that the information on the disclosure or statement is true and correct.

The bill requires electronic submission of CE Form 6 beginning January 1, 2022, and CE Form 1 beginning January 1, 2023. The Commission must provide notice and other communications to filers by email message. All disclosures (CE Form 1 and CE Form 6) must be for the calendar

year rather than for either the calendar year or the taxable year. Local officers will no longer submit financial statements to supervisors of elections. Beginning with required electronic submission of CE Form 1, filers must use the dollar value threshold method of reporting (rather than the comparative or percentage threshold).

II. Present Situation:

Financial Disclosure

Florida ethics laws provide for two tiers of financial disclosure:

- Full and public disclosure of financial interests (CE Form 6); and
- Statement of financial interests (CE Form 1).¹

The financial disclosure filing process is overseen by the Commission on Ethics (Commission) with the assistance of local qualifying officers and supervisors of elections.

Full and Public Disclosure of Financial Interests (CE Form 6)

Currently, all elected constitutional officers, candidates for such offices, and statewide elected officers are required by Art. II, s. 8 of the State Constitution, to file a full and public disclosure of their financial interests (CE Form 6) annually. The annual full and public disclosure is also required of any other public officers, candidates, and employees as determined by law.² Officers subject to either the constitutional or statutory requirement to file the CE Form 6 include:

- The Governor;
- Lieutenant Governor;
- Cabinet members;
- Legislators;
- County commissioners;
- State attorneys;
- Public defenders;
- Clerks of circuit courts;
- Sheriffs;
- Tax collectors;
- Property appraisers;
- Supervisors of elections;
- Elected superintendents of schools;
- District school board members;
- Jacksonville City Council members (including mayor);
- The Duval County superintendent of schools;
- Florida Housing Finance Corporation board members;
- Florida Prepaid College board members; and

¹ FLA. CONST., art. II, s. 8(a), s. 112.3144, F.S., and s. 112.3145, F.S.

² For example, statutory law provides that members of expressway, transportation, bridge, or toll authorities are required to comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution. Section 348.0003(4)(c), F.S.

- Each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 343 or 348, F.S., or any other general law.

The CE Form 6 requires the filer to disclose his or her net worth, each separate source of income in excess of \$1,000, and each asset and liability in excess of \$1,000.³ To show income, the filer may provide a copy of his or her most recent federal income tax return.⁴ These values are to be calculated as of December 31 of the preceding year.⁵ The CE Form 6 must be sworn⁶ and is due July 1. A grace period is provided until September 1 of each year.

A candidate for an office subject to the CE Form 6 filing requirement must file a CE Form 6 with his or her qualifying papers. If the candidate is an incumbent qualifying to run for the same office or holds another office subject to the CE Form 6 filing requirement, the qualifying officer must forward an electronic copy of the CE Form 6 to the Commission by July 1.⁷

General law also requires an individual subject to the CE Form 6 filing requirement to file a final disclosure statement within 60 days after leaving his or her public position.⁸ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office, unless the person takes another public position for which a CE Form 6 is required within the 60-day period, or if the person is otherwise required to file a CE Form 6.⁹ For calendar year 2018, there were 1,398 individuals required to file CE Form 6.¹⁰

Statement of Financial Interests (CE Form 1)

Persons seeking nomination or election to a state or local elective office, state officers, local officers, and specified state employees are required to file an annual statement of financial interests (CE Form 1).¹¹ CE Form 1 requires less detail than the CE Form 6. Examples of state officers required to file the CE Form 1 include:

- Appointed members of boards, commissions, authorities, or councils that have statewide jurisdiction – excluding advisory bodies;
- Members of the State University System Board of Governors;
- The State University System Chancellor and Vice Chancellor;
- Members of a state university board of trustees;
- The Deputy Chief Judge of Compensation Claims and any compensation claims judge; and

³ FLA. CONST., art. II, s. 8(i)1.

⁴ *Id.*

⁵ Fla. Admin. Code R. 34-8.004 (2019)

⁶ FLA. CONST., art. II, s. 8(i)1.

⁷ Section 112.3144(2), F.S.

⁸ Section 112.3144(7), F.S.

⁹ *Id.*

¹⁰ See Florida Commission on Ethics “Annual Report to the Florida Legislature for Calendar Year 2018.” A copy of the report may be obtained from the Florida Commission on Ethics.

¹¹ Section 112.3145(2)(a) and (b), F.S.

- Members of the judicial nominating commission for any district court of appeal or any judicial circuit.¹²

State officers subject to the CE Form 1 filing requirement file with the Commission on Ethics.¹³

Examples of state employees required to file the CE Form 1 include:

- The public counsel;
- Assistant state attorneys;
- Assistant public defenders;
- Criminal conflict and civil regional counsels (including assistant counsels);
- Each appointed agency secretary (including an assistant or deputy secretary);
- An executive director of a state department (including an assistant or deputy secretary);
- An agency division director, assistant division director, deputy director, bureau chief, and assistant bureau chief;
- A general counsel of a state agency (including deputy general counsels);
- Administrative law judges and hearing officers; and
- A business manager or purchasing agent with authority to make any purchase over \$20,000.¹⁴

State employees subject to the CE Form 1 filing requirement file with the Commission on Ethics.¹⁵

Examples of local officers required to file the CE Form 1 include:

- Elected political subdivision officers;
- Appointed members of political subdivision boards, councils, commissions, authorities, or other bodies of political subdivisions; and
- A community college or junior college district board of trustees.¹⁶

Local officers subject to the CE Form 1 filing requirement file with their local supervisor of elections.¹⁷

Examples of local employees required to file the CE Form 1 include, but are not limited to:

- A county or city manager;
- The chief administrative employee of a county, municipality, or other political subdivision;
- A chief county or municipal building code inspector;
- A chief of police;
- A fire chief;
- A municipal clerk;
- A community college president; and
- A purchasing agent with authority to make any purchase over \$20,000.¹⁸

Local officers subject to the CE Form 1 filing requirement file with their local supervisor of elections.¹⁹

¹² Section 112.3145(1)(c), F.S.

¹³ Section 112.3145(2)(c), F.S.

¹⁴ Section 112.3145(1)(b), F.S.

¹⁵ Section 112.3145(2)(c), F.S.

¹⁶ Section 112.3145(1)(a), F.S.

¹⁷ Section 112.3145(2)(c), F.S.

¹⁸ Section 112.3145(1)(a), F.S.

¹⁹ Section 112.3145(2)(c), F.S.

Those who are required to file a statement of financial interests pursuant to s. 112.3145, F.S. are required to disclose primary sources of income (other than from his or her public position), secondary sources of income (in certain circumstances), real property (other than a residence or vacation home in Florida), intangible personal property, liabilities, and interests in specified businesses.²⁰ The law permits a filer to report the required interests based upon one of two thresholds. First, the filer may calculate whether an interest is required to be reported based upon whether that interest exceeds a specified percentage of his or her net worth. This is referred to as the “comparative (percentage) threshold.” Alternatively, the filer may determine whether an interest is reported if the interest exceeds a specified dollar value. This is referred to as the “dollar value threshold.” Because the law permits a filer to choose which threshold he or she is going to use, the CE Form 1 promulgated by the Commission requires a filer to identify the threshold used by checking a box. The statute does not expressly require this designation on the CE Form 1. The CE Form 1 is due July 1. A grace period is provided until September 1 of each year.

A candidate for an office subject to the CE Form 1 filing requirement must file a CE Form 1 with his or her qualifying papers.²¹ If the candidate qualifies prior to the annual CE Form 1 filing deadline, the CE Form 1 that is filed with the candidate’s qualifying papers will satisfy the annual disclosure requirement.²² If the candidate qualifies after the annual CE Form 1 filing deadline, the candidate must file a copy of the CE Form 1 with the qualifying officer.²³

General law also requires an individual subject to the CE Form 1 filing requirement to file a final disclosure statement within 60 days after leaving his or her public position.²⁴ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office or employment, unless the person takes another public position for which a CE Form 1 or CE Form 6 is required within the 60-day period, or if the person is otherwise required to file a CE Form 1 or CE Form 6.²⁵ For calendar year 2018, there were 36,787 individuals required to file CE Form 1.²⁶ Of these, 13,975 were state level CE Form 1 filers, while 22,812 individuals were local level CE Form 1 filers.²⁷

Commission Forms and Depositories of Forms

The Commission has promulgated forms by which a filer may amend his or her full public disclosure of financial interests (CE Form 6X) or statement of financial interests (CE Form 1X). The Commission has also promulgated disclosure forms required of a public officer or employee upon leaving office or public employment. Those forms are the final full and public disclosure of financial interests (CE Form 6F) and the final statement of financial interests (CE Form 1F).

²⁰ Section 112.3145(3), F.S.

²¹ Section 112.3145(2)(a), F.S.

²² *Id.*

²³ *Id.*

²⁴ Section 112.3145(2)(b), F.S.

²⁵ *Id.*

²⁶ See Florida Commission on Ethics ‘Annual Report to the Florida Legislature for Calendar Year 2018.’ A copy of the report may be obtained from the Florida Commission on Ethics.

²⁷ *Id.*

There is no specific form by which to amend a final full and public disclosure of financial interests or a final statement of financial interests.

The Commission serves as the depository for financial disclosure filings of state officers or employees. Those who serve at a local level file their financial disclosure with the local supervisor of elections. The Commission and supervisors of elections are statutorily required to assist each other in identifying those subject to the financial disclosure requirement, providing notice to those individuals, and tracking receipt of financial disclosures. In the event that an individual fails to timely file his or her financial disclosure, the Commission imposes an automatic fine of \$25 per day for failure to timely file. The automatic fine is capped at \$1,500. Neither the Commission nor supervisors of elections are required to examine the financial disclosure filings.

If a filer is uncertain about whether he or she is required to disclose information, the filer may contact the Commission for guidance. Usually, the Commission's staff can answer simple questions by telephone or letter. In some circumstances, staff may not be able to provide such informal guidance. The Commission's staff will usually provide the filer the "safe harbor" advice to disclose the information or advise the filer to seek a formal opinion from the Commission at its next available meeting. Upon receipt of the guidance, the filer must include the information on their original form or, if necessary, file an amendment form. A member of the public can file a complaint with the Commission alleging that the person failed to disclose information which they were legally obligated to disclose. That complaint follows the same procedure as any complaint alleging a violation of one of the standards of conduct in the Code of Ethics. In the event that the Commission finds the filer in violation, he or she is subject to the penalties in s. 112.317, F.S.

Electronic Financial Disclosure

In 2013, the Legislature created s. 112.31445, F.S., to require the Commission to scan all CE Form 6 filings and to make them available in an online searchable database beginning with the 2012 filing year. The act also required the Commission to prepare, by December 1, 2015, a proposal for submission to the President of the Senate and the Speaker of the House of Representatives for the creation of an online financial disclosure filings system. The system would be similar to the system used by candidates, political committees, and others pursuant to the campaign financing requirements of ch. 106, F.S. At a minimum, the proposal was required to:

- Mandate an online filing system for CE Form 6 filers;
- Provide a secure method that prevents unauthorized access to electronic filing system functions;
- Permit the filer, or his or her CPA, to file via the internet portal;
- Permit a CPA to prepare and electronically sign a financial disclosure form to indicate that it was completed in compliance with the applicable financial disclosure law and the instructions on the financial disclosure form;
- Require that the filings in the database be accessible to the public;
- Describe any necessary statutory or rule authority changes;
- Provide for an alternative filing method in case the filing system is inoperable;
- Provide for a receipt to be obtained verifying that the officer has filed his or her form; and

- Address the feasibility of subjecting those who file the less detailed statement of financial interests to the electronic financial disclosure filing requirement.

Following the statutory guidelines, the Commission on Ethics submitted its report in 2015, including a proposal to legislative leaders for a mandatory electronic filing system.²⁸

III. Effect of Proposed Changes:

Electronic Financial Disclosure Filing System

Section 1 requires the Commission to procure and test a mandatory electronic filing system by January 1, 2022. Filers who file the full and public disclosure of financial interests (CE Form 6), final full and public disclosure of financial interests (CE Form 6F), or any amendments thereto, must file electronically beginning January 1, 2022. Those who file the statement of financial interests (CE Form 1), final statement of financial interests (CE Form 1F), and any amendments thereto, must file electronically beginning January 1, 2023.

The electronic filing system must, at a minimum:

- Provide access through the Internet for the completion and submission of CE Form 6, CE Form 1, and other required forms;
- Establish a procedure to make filings available in a searchable format that is accessible by an individual using standard web-browsing software;
- Issue a verification or receipt that the Commission has received the filing of the financial disclosure form;
- Provide a secure method that prevents unauthorized access to electronic filing system functions or data; and
- Provide a method for an attorney or certified public accountant to complete the disclosure or statement, to certify that he or she prepared the form in accordance with provisions of law and the instructions for completing the disclosure or statement and that, upon his or her reasonable knowledge and belief, the form is true and correct. The filer must sign the form and submit it.

The bill requires the Commission to provide each filer a secure log-in to the electronic filing system. If the electronic filing system to be inoperable or a state of emergency is declared, the bill requires the Commission Chair to extend the filing deadlines for those affected.

To assist the electronic financial disclosure filing process, the bill requires each unit of government to assign an electronic mail account to its officers, members, or employees who must file a form with the Commission. The bill requires each filer to provide the electronic mail account address to the Commission on Ethics, so that it can be used to notify filers of filing requirements, deadlines, and any applicable fines for non-compliance with the filing requirement.

²⁸ A copy of the proposal is on file with the Senate Committee on Ethics and Elections.

Revision to the Disclosure Period

Section 2 revises the definition of the term ‘disclosure period’ to limit it to a calendar year rather than a taxable year. This change is effective January 1, 2020.

Revisions to FORM 6 Filing Process

Section 3 amends s. 112.3144, F.S., to require, beginning January 1, 2022, CE Form 6, CE Form 6F, any amendments thereto, and any other form required by s. 112.3144, F.S., to be filed electronically with the Commission. However, these individuals will continue to file with their qualifying officer. Form 6 filers will be required to electronically sign their disclosure, under penalty of perjury, declaring that the information stated in the disclosure is true.

The Commission is required to provide notice to filers that any information entered will be publicly released. If any of the above information is submitted by the filer, the section provides that the Commission shall not be held liable for its release. The Commission must redact a filer’s social security number; bank, mortgage, or brokerage account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law upon written notification from the filer of its inadvertent inclusion. The notice from the filer must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

To facilitate the electronic financial disclosure filing process, and to reduce the reliance on mailing forms and notices, the bill requires the Commission to collect filer email addresses. Each unit of government with officers subject to the filing requirement must assist the Commission in these efforts. By January 1, 2022, the Commission is required to remind filers of the filing deadline and send delinquency notices by email. Upon the request of the filer, the Commission must provide verification to the filer that the Commission has received the submitted disclosure. Also beginning January 1, 2022, a written declaration, as provided by verification of documents requirements,²⁹ accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

Revisions to FORM 1 Filing Process

Section 4 amends s. 112.3145, F.S., to require, beginning January 1, 2023, CE Form 1, CE Form 1F, any amendments thereto, quarterly client disclosures (CE Form 2), and any other form required by s. 112.3145, F.S., to be filed electronically with the Commission. This electronic filing requirement is applicable to candidates running for an office who are also subject to the CE Form 1 filing requirement. However, these individuals will still file with their qualifying officer. CE Form 1 filers will be required to electronically sign their disclosure, under penalty of perjury, declaring that the information stated in the disclosure is true.

The section reduces the number of individuals subject to the CE Form 1 filing requirement by removing compensation claims judges, including the Deputy Chief Judge, who are required to file a CE Form 6. By recommendation of the Commission, the CE Form 1 filing requirement is

²⁹ Section 92.525(2), F.S.

no longer applicable to assistant bureau chiefs. Finally, the section increases the purchasing power threshold that subjects a state employee who is a business manager or purchasing agent to the CE Form 1 filing requirement. Pursuant to the bill, the threshold is increased to \$35,000 (Category Two) from \$20,000 (Category One).

Section 4 also discontinues, beginning January 1, 2023, a filer's option to report using a comparative threshold based on a percentage value. The filer will be required to report using dollar value thresholds.

Revisions to Confidentiality

Sections 3 and 4 include provisions that prohibit the Commission from requesting, and a filer from providing, in any filing or submission, any of the following information:

- Federal income tax returns;
- Social security numbers;
- Bank, mortgage, or brokerage account numbers;
- Debit, charge, or credit card numbers;
- Personal identification numbers;
- Taxpayer identification numbers; or
- Any other personal or account information that is legally protected from disclosure under state of federal law.

If any of the above information is submitted by the filer, the section provides that the Commission shall not be held liable for its release. This language is intended to supersede the provisions of s. 119.071(5)(a)5., F.S., that requires all agencies, including the Commission, to treat social security numbers (and other information) confidential and exempt from public inspection and copying. Under the bill, the Commission must redact a filer's social security number; bank, mortgage, or brokerage account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law only upon written request from the filer of its inadvertent inclusion. The notice from the filer must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

To facilitate the electronic financial disclosure filing process, and to reduce the reliance on mailing forms and notices, the bill requires the Commission to collect filer email addresses. The bill requires each unit of government with officers subject to the filing requirement to assist the Commission in these efforts. By January 1, 2023, the Commission is required to remind filers of the filing deadline and send delinquency notices by email. Upon the request of the filer, the Commission must provide verification to the filer that the Commission has received the submitted disclosure. Also beginning January 1, 2023, a written declaration, as provided by verification of documents requirements,³⁰ accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

³⁰ Section 92.525(2), F.S.

Other provisions

Section 5 amends s. 112.31455, F.S., to update cross-references to conform to changes made in the bill.

Section 6 provides that, except for Section 2, which becomes effective January 1, 2020, the bill takes effect upon becoming a law.

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

Not Applicable. 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:

The bill creates an electronic filing system for financial disclosures and requires the Commission to provide filers a secure log-in to the system. Use of the system by filers contemplates draft input of information and data to the forms an unlimited number of times before the submission of a final form. The integrity of the system may fail if passwords used to access the system or information and data in draft form were subject to availability as public records. The bill contemplates that this information should be exempt from public records requirements and these exemptions are the subject of a travelling companion bill, SB 7042. Under SB 7042, the information and data contained therein are exempt from public records disclosure requirements until the filer officially submits the information on the electronic filing system.

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:

The Commission will likely be dependent upon an increased appropriation in order to accomplish the procurement, testing, and activation of an electronic filing system. The Commission on Ethics will increase their filings from 22,812 to 36,787, leading to increased management costs.

The Office of Legislative Information Technology Services has estimated the cost will be \$6,500,000 due to updating the 15 year old system to accommodate the online filings. This figure may vary from the cost of implementation of this bill. The figure does not include staff costs for the Commission on Ethics or the Office of Legislative Information Technology Services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 112.31446 of the Florida Statutes.

This bill substantially amends sections 112.312, 112.3144, and 112.3145 of the Florida Statutes.

This bill makes technical amendments to section 112.31455 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.)

PCS (693868) by Governmental Oversight and Accountability on March 25, 2019:

The proposed committee substitute makes the following changes:

- Allows the commission chair to extend filing deadlines in case of system inoperability or emergency (rather than the Governor deem the system inoperable)
- Provides that the commission is not liable for release of any information not requested with regards to Form 1 and Form 6.
- Provides notice to filers that information entered into the electronic system is open to public inspection and copying.
- Clarifies that local candidates with no annual filing requirement are not to file with the Commission on Ethics.

B. Amendments:

None.

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



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Proposed Committee Substitute by the Committee on Governmental
Oversight and Accountability

A bill to be entitled

An act relating to financial disclosure; creating s. 112.31446, F.S.; providing definitions; requiring the Commission on Ethics to procure and test an electronic filing system by a certain date; providing minimum requirements for such system; providing duties for units of government, the commission, and persons required to file specified financial disclosure forms; authorizing the extension of the financial disclosure filing deadline under certain circumstances; amending s. 112.312, F.S.; revising the definition of the term "disclosure period"; amending s. 112.3144, F.S.; requiring the electronic filing of full and public disclosures of financial interests beginning on a specified date; providing procedures for the filing of a full and public disclosure for purposes of candidate qualifying; revising requirements with respect to reporting income; prohibiting the commission from requesting, accepting, or retaining certain information; prohibiting a filer from including certain information in a full and public disclosure; providing for the redaction of protected information if certain conditions are met; prescribing the form of a notice for the commission to post in the instructions for the electronic filing system; modifying requirements regarding preparation of the list of reporting persons; requiring electronic



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delivery for certain notices; requiring the commission to provide certain verification to a filer upon request; requiring a declaration be submitted with a disclosure; specifying that certain actions do not constitute an unusual circumstance when appealing or disputing a fine; revising a schedule to the State Constitution; amending s. 112.3145, F.S.; revising the definition of the term "specified state employee"; providing procedures for the filing of a statement of financial interests for purposes of candidate qualifying; requiring the electronic filing of statements of financial interests beginning on a specified date; modifying the options for reporting thresholds on a statement of financial interests; prohibiting the commission from requesting, accepting, or retaining certain information; prohibiting a filer from including certain information in a statement of financial interests; providing for the redaction of protected information if certain conditions are met; prescribing the form of a notice for the commission to post in the instructions for the electronic filing system; modifying requirements regarding preparation of the list of reporting persons; requiring electronic delivery for certain notices; requiring the commission to provide certain verification to a filer upon request; requiring a declaration be submitted with a statement; specifying that certain actions do not constitute an unusual circumstance when appealing or disputing a fine; amending s. 112.31455, F.S.;



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57 conforming cross-references to changes made by the
58 act; providing effective dates.

59
60 Be It Enacted by the Legislature of the State of Florida:

61
62 Section 1. Section 112.31446, Florida Statutes, is created
63 to read:

64 112.31446 Electronic filing system for financial
65 disclosure.—

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

67 (a) "Disclosure of financial interests" or "disclosure"
68 includes a full and public disclosure of financial interests and
69 a final full and public disclosure of financial interests, and
70 any amendments thereto.

71 (b) "Electronic filing system" means an Internet-based
72 system for receiving, reporting, and publishing disclosures of
73 financial interests, statements of financial interests, or any
74 other form that is required under s. 112.3144 or s. 112.3145.

75 (c) "Statement of financial interests" or "statement"
76 includes a statement of financial interests and a final
77 statement of financial interests, and any amendments thereto.

78 (2) By January 1, 2022, the commission shall procure and
79 test an electronic filing system. At a minimum, the electronic
80 filing system must:

81 (a) Provide access through the Internet for the completion
82 and submission of disclosures of financial interests, statements
83 of financial interests, or any other form that is required under
84 s. 112.3144 or s. 112.3145.

85 (b) Make filings available in searchable format that is



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86 accessible by an individual using standard Internet-browsing
87 software.

88 (c) Issue a verification or receipt that the commission has
89 received the submitted disclosure or statement.

90 (d) Provide security that prevents unauthorized access to
91 the electronic filing system's functions or data.

92 (e) Provide a method for an attorney or a certified public
93 accountant licensed in this state to complete the disclosure or
94 statement and certify that he or she prepared the disclosure or
95 statement in accordance with s. 112.3144 or s. 112.3145 and the
96 instructions for completing the disclosure or statement, and
97 that, upon his or her reasonable knowledge and belief, the
98 information on the disclosure or statement is true and correct.

99 (3) Each unit of government shall provide an e-mail address
100 to any of its officers, members, or employees who must file a
101 disclosure of financial interests or a statement of financial
102 interests, and provide such e-mail addresses to the commission
103 by February 1 of each year. A person required to file a
104 disclosure of financial interests or statement of financial
105 interests must inform the commission immediately of any change
106 in his or her e-mail address.

107 (4) The commission shall provide each person required to
108 file a disclosure of financial interests or statement of
109 financial interests a secure log-in to the electronic filing
110 system. Such person is responsible for protecting his or her
111 secure log-in credentials from disclosure and is responsible for
112 all filings submitted to the commission with such credentials,
113 unless the person has notified the commission that his or her
114 credentials have been compromised.



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115 (5) If the electronic filing system is inoperable and
116 prevents timely submission of disclosures of financial interests
117 or statements of financial interests, as determined by the
118 commission chair, or if the Governor has declared a state of
119 emergency and a person required to submit a disclosure resides
120 in an area included in the state of emergency and is prevented
121 from submitting the disclosure electronically, the commission
122 chair must extend the filing deadline for submission by such
123 persons of disclosures or statements by either the same period
124 of time for which the system was deemed inoperable or by 90 days
125 for persons who reside in an area included in a state of
126 emergency, whichever is applicable.

127 Section 2. Effective January 1, 2020, subsection (10) of
128 section 112.312, Florida Statutes, is amended to read:

129 112.312 Definitions.—As used in this part and for purposes
130 of the provisions of s. 8, Art. II of the State Constitution,
131 unless the context otherwise requires:

132 (10) "Disclosure period" means the calendar taxable year,
133 if disclosure is required for the entire year, or the portion of
134 a calendar year ending with the last day of the period for which
135 disclosure is required for the person or business entity,
136 whether based on a calendar or fiscal year, immediately
137 preceding the date on which, or the last day of the period
138 during which, the financial disclosure statement required by
139 this part is required to be filed.

140 Section 3. Section 112.3144, Florida Statutes, is amended
141 to read:

142 112.3144 Full and public disclosure of financial
143 interests.—



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144 (1) An officer who is required by s. 8, Art. II of the
145 State Constitution to file a full and public disclosure of his
146 or her financial interests for any calendar or fiscal year, or
147 any other person required by law to file a disclosure under this
148 section, shall file that disclosure with the Florida Commission
149 on Ethics. Additionally, ~~beginning January 1, 2015,~~ an officer
150 who is required to complete annual ethics training pursuant to
151 s. 112.3142 must certify on his or her full and public
152 disclosure of financial interests that he or she has completed
153 the required training.

154 (2) Beginning January 1, 2022, a full and public disclosure
155 of financial interests and a final full and public disclosure of
156 financial interests, and amendments thereto, or any other form
157 required by this section, must be filed electronically with the
158 Commission through an electronic filing system created and
159 maintained by the commission as provided in s. 112.31446.

160 (3) A person who is required, pursuant to s. 8, Art. II of
161 the State Constitution, to file a full and public disclosure of
162 financial interests and who has filed a full and public
163 disclosure of financial interests for any calendar or fiscal
164 year shall not be required to file a statement of financial
165 interests pursuant to s. 112.3145(2) and (3) for the same year
166 or for any part thereof notwithstanding any requirement of this
167 part. Until the electronic filing system required by subsection
168 (2) is implemented, if an incumbent in an elective office has
169 filed the full and public disclosure of financial interests to
170 qualify for election to the same office or if a candidate for
171 office holds another office subject to the annual filing
172 requirement, the qualifying officer shall forward an electronic



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173 copy of the full and public disclosure of financial interests to
174 the commission no later than July 1. The electronic copy of the
175 full and public disclosure of financial interests satisfies the
176 annual disclosure requirement of this section. A candidate who
177 does not qualify until after the annual full and public
178 disclosure of financial interests has been filed pursuant to
179 this section shall file a copy of his or her disclosure with the
180 officer before whom he or she qualifies.

181 (4) Beginning January 1, 2022, an incumbent in an elective
182 office or a candidate holding another position subject to an
183 annual filing requirement may submit either a copy of the
184 disclosure filed with the Commission, or a verification or
185 receipt of the filing or submission, with the officer before
186 whom they qualify. A candidate not subject to an annual filing
187 requirement does not file with the commission, but may complete
188 and print a full and public disclosure of financial interests to
189 file with the officer before whom he or she qualifies.

190 (5)(3) For purposes of full and public disclosure under s.
191 8(a), Art. II of the State Constitution, the following items, if
192 not held for investment purposes and if valued at over \$1,000 in
193 the aggregate, may be reported in a lump sum and identified as
194 "household goods and personal effects":

- 195 (a) Jewelry;
- 196 (b) Collections of stamps, guns, and numismatic properties;
- 197 (c) Art objects;
- 198 (d) Household equipment and furnishings;
- 199 (e) Clothing;
- 200 (f) Other household items; and
- 201 (g) Vehicles for personal use.



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202 (6) (a) (4) (a) With respect to reporting, on forms prescribed
203 under this section, assets valued in excess of \$1,000 which the
204 reporting individual holds jointly with another person, the
205 amount reported shall be based on the reporting individual's
206 legal percentage of ownership in the property. However, assets
207 that are held jointly, with right of survivorship, must be
208 reported at 100 percent of the value of the asset. For purposes
209 of this subsection, a reporting individual is deemed to own a
210 percentage of a partnership which is equal to the reporting
211 individual's interest in the capital or equity of the
212 partnership.

213 (b)1. With respect to reporting, on forms prescribed under
214 this section, liabilities valued in excess of \$1,000 ~~on forms~~
215 ~~prescribed under this section~~ for which the reporting individual
216 is jointly and severally liable, the amount reported shall be
217 based on the reporting individual's percentage of liability
218 rather than the total amount of the liability. However,
219 liability for a debt that is secured by property owned by the
220 reporting individual but that is held jointly, with right of
221 survivorship, must be reported at 100 percent of the total
222 amount owed.

223 2. A separate section of the form shall be created to
224 provide for the reporting of the amounts of joint and several
225 liability of the reporting individual not otherwise reported in
226 subparagraph 1.

227 (c) With respect to reporting income, on forms prescribed
228 under this section, each separate source and amount of income
229 which exceeds \$1,000 must be identified. A federal income tax
230 return may not be used for purposes of reporting income, and the



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231 commission may not accept a federal income tax return or a copy
232 thereof.

233 (7)(a) The commission may not request, in any filing or
234 submission, a federal income tax return, or a copy thereof; a
235 social security number; a bank, mortgage, or brokerage account
236 number; a debit, charge, or credit card number; a personal
237 identification number; a taxpayer identification number; or any
238 other personal or account information that is legally protected
239 from disclosure under state or federal law.

240 (b) Beginning January 1, 2022, a public officer, a
241 candidate, or any other person may not include in a filing or
242 submission to the commission any of the information specified in
243 paragraph (a). If a public officer, a candidate, or other person
244 includes such information in his or her filing or submission,
245 the information may be made available as part of the official
246 records of the commission available for public inspection and
247 copying unless redaction is requested by the filer. The
248 commission is not liable for the release of social security
249 numbers or bank account, debit, charge, or credit card numbers
250 that are included on a filing or submission to the commission if
251 the holder has not requested redaction of the information.

252 (c) The commission shall redact a filer's social security
253 number; bank, mortgage, or brokerage account number; debit,
254 charge, or credit card number; or any other personal or account
255 information that is legally protected from disclosure under
256 state or federal law upon written notification from the filer of
257 its inadvertent inclusion. Such notice must specify the
258 information inadvertently included and the specific section or
259 sections of the disclosure in which it was included.



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260 (d) The commission must conspicuously post a notice, in
261 substantially the following form, in the instructions for the
262 electronic filing system specifying that:

263 1. Any person submitting information through the electronic
264 filing system may not include a social security number or a bank
265 account, debit, charge, or credit card number in any filing or
266 submission unless required by law.

267 2. All information submitted through the electronic filing
268 system may be open to public inspection and copying.

269 3. Any filer has a right to request the commission to
270 remove from his or her filing or submission any social security
271 number or bank, mortgage, or brokerage account number contained
272 in the submission. Such request must be made in writing and
273 delivered by mail or electronic transmission or in person to the
274 commission. The request must specify the information to be
275 redacted and the specific section or sections of the disclosure
276 in which it was included.

277 (8)(5) Forms or fields of information for compliance with
278 the full and public disclosure requirements of s. 8, Art. II of
279 the State Constitution shall be prescribed ~~created~~ by the
280 commission ~~on Ethics~~. The commission shall give notice of
281 disclosure deadlines and delinquencies and distribute forms in
282 the following manner:

283 (a) Not later than May 1 of each year, the commission shall
284 prepare a current list of the names, e-mail addresses, and
285 physical addresses of and the offices held by every person
286 required to file full and public disclosure annually by s. 8,
287 Art. II of the State Constitution, or other state law. ~~In~~
288 compiling the list, the commission shall be assisted by Each



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289 unit of government shall assist the commission in compiling the
290 list by ~~it~~ providing to the commission not later than February 1
291 of each year at the request of the commission the name, e-mail
292 address, physical address, and name of the office held by such
293 person each public official within the respective unit of
294 government as of December 31 of the preceding year.

295 (b) Not later than June 1 30 days before July 1 of each
296 year, the commission shall distribute mail a copy of the form
297 prescribed for compliance with full and public disclosure and a
298 notice of the filing deadline to each person on the mailing
299 list. Beginning January 1, 2022, the notice required under this
300 paragraph must be delivered by e-mail or other electronic means.

301 (c) Not later than August 1 30 days after July 1 of each
302 year, the commission shall determine which persons on the
303 mailing list have failed to file full and public disclosure and
304 shall send delinquency notices by certified mail to such
305 persons. Each notice must shall state that a grace period is in
306 effect until September 1 of the current year. Beginning January
307 1, 2022, the notice required under this paragraph must be
308 delivered by e-mail or other electronic means and must be
309 redelivered on a weekly basis so long as a person remains
310 delinquent.

311 (d) Disclosures Statements must be received by the
312 commission filed not later than 5 p.m. of the due date. However,
313 any disclosure statement that is postmarked by the United States
314 Postal Service by midnight of the due date is deemed to have
315 been filed in a timely manner, and a certificate of mailing
316 obtained from and dated by the United States Postal Service at
317 the time of the mailing, or a receipt from an established



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318 courier company which bears a date on or before the due date,
319 constitutes proof of mailing in a timely manner. Beginning
320 January 1, 2022, upon request of the filer, the commission must
321 provide verification to the filer that the commission has
322 received the submitted disclosure.

323 (e) Beginning January 1, 2022, a written declaration, as
324 provided for under s. 92.525(2), accompanied by an electronic
325 signature satisfies the requirement that the disclosure be
326 sworn.

327 (f) Any person who is required to file full and public
328 disclosure of financial interests and whose name is on the
329 commission's mailing list, and to whom notice has been sent, but
330 who fails to timely file is assessed a fine of \$25 per day for
331 each day late up to a maximum of \$1,500; however this \$1,500
332 limitation on automatic fines does not limit the civil penalty
333 that may be imposed if the statement is filed more than 60 days
334 after the deadline and a complaint is filed, as provided in s.
335 112.324. The commission must provide by rule the grounds for
336 waiving the fine and the procedures by which each person whose
337 name is on the mailing list and who is determined to have not
338 filed in a timely manner will be notified of assessed fines and
339 may appeal. The rule must provide for and make specific the
340 following:

- 341 1. The amount of the fine due is based upon the earliest of
342 the following:
343 a. When a statement is actually received by the office.
344 b. When the statement is postmarked.
345 c. When the certificate of mailing is dated.
346 d. When the receipt from an established courier company is



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347 dated.

348 2. Upon receipt of the disclosure statement or upon accrual
349 of the maximum penalty, whichever occurs first, the commission
350 shall determine the amount of the fine which is due and shall
351 notify the delinquent person. The notice must include an
352 explanation of the appeal procedure under subparagraph 3. Such
353 fine must be paid within 30 days after the notice of payment due
354 is transmitted, unless appeal is made to the commission pursuant
355 to subparagraph 3. The moneys shall be deposited into the
356 General Revenue Fund.

357 3. Any reporting person may appeal or dispute a fine, based
358 upon unusual circumstances surrounding the failure to file on
359 the designated due date, and may request and is entitled to a
360 hearing before the commission, which may waive the fine in whole
361 or in part for good cause shown. Any such request must be in
362 writing and received by the commission ~~made~~ within 30 days after
363 the notice of payment due is transmitted. In such a case, the
364 reporting person must, within the 30-day period, notify the
365 person designated to review the timeliness of reports in writing
366 of his or her intention to bring the matter before the
367 commission. For purposes of this subparagraph, the term "unusual
368 circumstances" does not include the failure to monitor an e-mail
369 account or failure to receive notice if the person has not
370 notified the commission of a change in his or her e-mail
371 address.

372 (g) (f) Any person subject to the annual filing of full and
373 public disclosure under s. 8, Art. II of the State Constitution,
374 or other state law, whose name is not on the commission's
375 mailing list of persons required to file full and public



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376 disclosure is not subject to the fines or penalties provided in
377 this part for failure to file full and public disclosure in any
378 year in which the omission occurred, but nevertheless is
379 required to file the disclosure statement.

380 (h) (g) The notification requirements and fines of this
381 subsection do not apply to candidates or to the first filing
382 required of any person appointed to elective constitutional
383 office or other position required to file full and public
384 disclosure, unless the person's name is on the commission's
385 notification list and the person received notification from the
386 commission. The appointing official shall notify such newly
387 appointed person of the obligation to file full and public
388 disclosure by July 1. The notification requirements and fines of
389 this subsection do not apply to the final filing provided for in
390 subsection (10) (7).

391 (i) (h) Notwithstanding any provision of chapter 120, any
392 fine imposed under this subsection which is not waived by final
393 order of the commission and which remains unpaid more than 60
394 days after the notice of payment due or more than 60 days after
395 the commission renders a final order on the appeal must be
396 submitted to the Department of Financial Services as a claim,
397 debt, or other obligation owed to the state, and the department
398 shall assign the collection of such fine to a collection agent
399 as provided in s. 17.20.

400 (9) (6) If a person holding public office or public
401 employment fails or refuses to file a full and public disclosure
402 of financial interests for any year in which the person received
403 notice from the commission regarding the failure to file and has
404 accrued the maximum automatic fine authorized under this



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405 section, regardless of whether the fine imposed was paid or
406 collected, the commission shall initiate an investigation and
407 conduct a public hearing without receipt of a complaint to
408 determine whether the person's failure to file is willful. Such
409 investigation and hearing must be conducted in accordance with
410 s. 112.324. Except as provided in s. 112.324(4), if the
411 commission determines that the person willfully failed to file a
412 full and public disclosure of financial interests, the
413 commission shall enter an order recommending that the officer or
414 employee be removed from his or her public office or public
415 employment. The commission shall forward its recommendations as
416 provided in s. 112.324.

417 (10)(7) Each person required to file full and public
418 disclosure of financial interests shall file a final disclosure
419 statement within 60 days after leaving his or her public
420 position for the period between January 1 of the year in which
421 the person leaves and the last day of office or employment,
422 unless within the 60-day period the person takes another public
423 position requiring financial disclosure under s. 8, Art. II of
424 the State Constitution, or is otherwise required to file full
425 and public disclosure for the final disclosure period. The head
426 of the agency of each person required to file full and public
427 disclosure for the final disclosure period shall notify such
428 persons of their obligation to file the final disclosure and may
429 designate a person to be responsible for the notification
430 requirements of this subsection.

431 (11) (a)(8)(a) The commission shall treat an amendment to a
432 amended full and public disclosure of financial interests which
433 is filed before September 1 of the year in which the disclosure



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434 is due as part of the original filing, regardless of whether a
435 complaint has been filed. If a complaint alleges only an
436 immaterial, inconsequential, or de minimis error or omission,
437 the commission may not take any action on the complaint other
438 than notifying the filer of the complaint. The filer must be
439 given 30 days to file an amendment to the amended full and
440 public disclosure of financial interests correcting any errors.
441 If the filer does not file an amendment to the amended full and
442 public disclosure of financial interests within 30 days after
443 the commission sends notice of the complaint, the commission may
444 continue with proceedings pursuant to s. 112.324.

445 (b) For purposes of the final full and public disclosure of
446 financial interests, the commission shall treat an amendment to
447 a new final full and public disclosure of financial interests as
448 part of the original filing if filed within 60 days after the
449 original filing, regardless of whether a complaint has been
450 filed. If, more than 60 days after a final full and public
451 disclosure of financial interests is filed, a complaint is filed
452 alleging a complete omission of any information required to be
453 disclosed by this section, the commission may immediately follow
454 the complaint procedures in s. 112.324. However, if the
455 complaint alleges an immaterial, inconsequential, or de minimis
456 error or omission, the commission may not take any action on the
457 complaint, other than notifying the filer of the complaint. The
458 filer must be given 30 days to file an amendment to the a new
459 final full and public disclosure of financial interests
460 correcting any errors. If the filer does not file an amendment
461 to the a new final full and public disclosure of financial
462 interests within 30 days after the commission sends notice of



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463 the complaint, the commission may continue with proceedings
464 pursuant to s. 112.324.

465 (c) For purposes of this section, an error or omission is
466 immaterial, inconsequential, or de minimis if the original
467 filing provided sufficient information for the public to
468 identify potential conflicts of interest. However, failure to
469 certify completion of annual ethics training required under s.
470 112.3142 does not constitute an immaterial, inconsequential, or
471 de minimis error or omission.

472 (12) (a) (9) (a) An individual required to file a disclosure
473 pursuant to this section may have the disclosure prepared by an
474 attorney in good standing with The Florida Bar or by a certified
475 public accountant licensed under chapter 473. After preparing a
476 disclosure form, the attorney or certified public accountant
477 must sign the form indicating that he or she prepared the form
478 in accordance with this section and the instructions for
479 completing and filing the disclosure forms and that, upon his or
480 her reasonable knowledge and belief, the disclosure is true and
481 correct. If a complaint is filed alleging a failure to disclose
482 information required by this section, the commission shall
483 determine whether the information was disclosed to the attorney
484 or certified public accountant. The failure of the attorney or
485 certified public accountant to accurately transcribe information
486 provided by the individual required to file is not a violation
487 of this section.

488 (b) An elected officer or candidate who chooses to use an
489 attorney or a certified public accountant to prepare his or her
490 disclosure may pay for the services of the attorney or certified
491 public accountant from funds in an office account created



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492 pursuant to s. 106.141 or, during a year that the individual
493 qualifies for election to public office, the candidate's
494 campaign depository pursuant to s. 106.021.

495 (13) (10) The commission shall adopt rules and forms
496 specifying how a person who is required to file full and public
497 disclosure of financial interests may amend his or her
498 disclosure statement to report information that was not included
499 on the form as originally filed. If the amendment is the subject
500 of a complaint filed under this part, the commission and the
501 proper disciplinary official or body shall consider as a
502 mitigating factor when considering appropriate disciplinary
503 action the fact that the amendment was filed before any
504 complaint or other inquiry or proceeding, while recognizing that
505 the public was deprived of access to information to which it was
506 entitled.

507 (14) The provisions of this section constitute a revision
508 to the schedule included in s. 8(i), Art. II of the State
509 Constitution.

510 Section 4. Section 112.3145, Florida Statutes, is amended
511 to read:

512 112.3145 Disclosure of financial interests and clients
513 represented before agencies.—

514 (1) For purposes of this section, unless the context
515 otherwise requires, the term:

516 (a) "Local officer" means:

517 1. Every person who is elected to office in any political
518 subdivision of the state, and every person who is appointed to
519 fill a vacancy for an unexpired term in such an elective office.

520 2. Any appointed member of any of the following boards,



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521 councils, commissions, authorities, or other bodies of any
522 county, municipality, school district, independent special
523 district, or other political subdivision of the state:
524 a. The governing body of the political subdivision, if
525 appointed;
526 b. A community college or junior college district board of
527 trustees;
528 c. A board having the power to enforce local code
529 provisions;
530 d. A planning or zoning board, board of adjustment, board
531 of appeals, community redevelopment agency board, or other board
532 having the power to recommend, create, or modify land planning
533 or zoning within the political subdivision, except for citizen
534 advisory committees, technical coordinating committees, and such
535 other groups who only have the power to make recommendations to
536 planning or zoning boards;
537 e. A pension board or retirement board having the power to
538 invest pension or retirement funds or the power to make a
539 binding determination of one's entitlement to or amount of a
540 pension or other retirement benefit; or
541 f. Any other appointed member of a local government board
542 who is required to file a statement of financial interests by
543 the appointing authority or the enabling legislation, ordinance,
544 or resolution creating the board.
545 3. Any person holding one or more of the following
546 positions: mayor; county or city manager; chief administrative
547 employee of a county, municipality, or other political
548 subdivision; county or municipal attorney; finance director of a
549 county, municipality, or other political subdivision; chief



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550 county or municipal building code inspector; county or municipal
551 water resources coordinator; county or municipal pollution
552 control director; county or municipal environmental control
553 director; county or municipal administrator, with power to grant
554 or deny a land development permit; chief of police; fire chief;
555 municipal clerk; district school superintendent; community
556 college president; district medical examiner; or purchasing
557 agent having the authority to make any purchase exceeding the
558 threshold amount provided for in s. 287.017 for CATEGORY TWO
559 ~~ONE~~, on behalf of any political subdivision of the state or any
560 entity thereof.
561 (b) "Specified state employee" means:
562 1. Public counsel created by chapter 350, an assistant
563 state attorney, an assistant public defender, a criminal
564 conflict and civil regional counsel, an assistant criminal
565 conflict and civil regional counsel, a full-time state employee
566 who serves as counsel or assistant counsel to any state agency,
567 ~~the Deputy Chief Judge of Compensation Claims, a judge of~~
568 ~~compensation claims~~, an administrative law judge, or a hearing
569 officer.
570 2. Any person employed in the office of the Governor or in
571 the office of any member of the Cabinet if that person is exempt
572 from the Career Service System, except persons employed in
573 clerical, secretarial, or similar positions.
574 3. The State Surgeon General or each appointed secretary,
575 assistant secretary, deputy secretary, executive director,
576 assistant executive director, or deputy executive director of
577 each state department, commission, board, or council; unless
578 otherwise provided, the division director, assistant division



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579 director, deputy director, and bureau chief, ~~and assistant~~
580 ~~bureau chief~~ of any state department or division; or any person
581 having the power normally conferred upon such persons, by
582 whatever title.

583 4. The superintendent or institute director of a state
584 mental health institute established for training and research in
585 the mental health field or the warden or director of any major
586 state institution or facility established for corrections,
587 training, treatment, or rehabilitation.

588 5. Business managers, purchasing agents having the power to
589 make any purchase exceeding the threshold amount provided for in
590 s. 287.017 for CATEGORY ~~TWO ONE~~, finance and accounting
591 directors, personnel officers, or grants coordinators for any
592 state agency.

593 6. Any person, other than a legislative assistant exempted
594 by the presiding officer of the house by which the legislative
595 assistant is employed, who is employed in the legislative branch
596 of government, except persons employed in maintenance, clerical,
597 secretarial, or similar positions.

598 7. Each employee of the Commission on Ethics.

599 (c) "State officer" means:

600 1. Any elected public officer, excluding those elected to
601 the United States Senate and House of Representatives, not
602 covered elsewhere in this part and any person who is appointed
603 to fill a vacancy for an unexpired term in such an elective
604 office.

605 2. An appointed member of each board, commission,
606 authority, or council having statewide jurisdiction, excluding a
607 member of an advisory body.



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608 3. A member of the Board of Governors of the State
609 University System or a state university board of trustees, the
610 Chancellor and Vice Chancellors of the State University System,
611 and the president of a state university.

612 4. A member of the judicial nominating commission for any
613 district court of appeal or any judicial circuit.

614 (2) (a) A person seeking nomination or election to a state
615 or local elective office shall file a statement of financial
616 interests together with, and at the same time he or she files,
617 qualifying papers. When a candidate has qualified for office
618 prior to the deadline to file an annual statement of financial
619 interests, the statement of financial interests that is filed
620 with the candidate's qualifying papers shall be deemed to
621 satisfy the annual disclosure requirement of this section. The
622 qualifying officer must record that the statement of financial
623 interests was timely filed. However, if a candidate does not
624 qualify until after the annual statement of financial interests
625 has been filed, the candidate may file a copy of his or her
626 statement with the qualifying officer.

627 (b) Each state or local officer and each specified state
628 employee shall file a statement of financial interests no later
629 than July 1 of each year. Each state officer, local officer, and
630 specified state employee shall file a final statement of
631 financial interests within 60 days after leaving his or her
632 public position for the period between January 1 of the year in
633 which the person leaves and the last day of office or
634 employment, unless within the 60-day period the person takes
635 another public position requiring financial disclosure under
636 this section or s. 8, Art. II of the State Constitution or



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637 otherwise is required to file full and public disclosure or a
638 statement of financial interests for the final disclosure
639 period. Each state or local officer who is appointed and each
640 specified state employee who is employed shall file a statement
641 of financial interests within 30 days from the date of
642 appointment or, in the case of a specified state employee, from
643 the date on which the employment begins, except that any person
644 whose appointment is subject to confirmation by the Senate shall
645 file prior to confirmation hearings or within 30 days from the
646 date of appointment, whichever comes first.

647 (c) Beginning January 1, 2023, an incumbent in an elective
648 office or a candidate holding another position subject to an
649 annual filing requirement may submit either a copy of the
650 disclosure filed with the commission, or a verification or
651 receipt of the filing or submission, with the officer before
652 whom they qualify. A candidate not subject to an annual filing
653 requirement does not file with the commission, but may complete
654 and print a statement of financial interests to file with the
655 officer before whom he or she qualifies.

656 (d) State officers and specified state employees shall file
657 their statements of financial interests with the commission ~~on~~
658 ~~Ethics~~. Local officers shall file their statements of financial
659 interests with the supervisor of elections of the county in
660 which they permanently reside. Local officers who do not
661 permanently reside in any county in the state shall file their
662 statements of financial interests with the supervisor of
663 elections of the county in which their agency maintains its
664 headquarters. Persons seeking to qualify as candidates for local
665 public office shall file their statements of financial interests



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666 with the officer before whom they qualify.

667 (e) Beginning January 1, 2023, a statement of financial
668 interests and a final statement of financial interests, and
669 amendments thereto, or any other form required by this section
670 to be filed with the commission, must be filed electronically
671 through an electronic filing system created and maintained by
672 the commission as provided in s. 112.31446.

673 (3) The statement of financial interests for state
674 officers, specified state employees, local officers, and persons
675 seeking to qualify as candidates for state or local office shall
676 be filed even if the reporting person holds no financial
677 interests requiring disclosure in a particular category, in
678 which case that section of the statement shall be marked "not
679 applicable." Otherwise, the statement of financial interests
680 must ~~shall~~ include the information under paragraph (a) or
681 paragraph (b). The reporting person shall indicate on the
682 statement whether he or she is using the reporting method under
683 paragraph (a) or paragraph (b). However, beginning January 1,
684 2023, only the reporting method specified under paragraph (b)
685 may be used. ~~, at the filer's option, either:~~

686 (a) 1. All sources of income in excess of 5 percent of the
687 gross income received during the disclosure period by the person
688 in his or her own name or by any other person for his or her use
689 or benefit, excluding public salary. However, this shall not be
690 construed to require disclosure of a business partner's sources
691 of income. The person reporting shall list such sources in
692 descending order of value with the largest source first;

693 2. All sources of income to a business entity in excess of
694 10 percent of the gross income of a business entity in which the



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695 reporting person held a material interest and from which he or
696 she received an amount which was in excess of 10 percent of his
697 or her gross income during the disclosure period and which
698 exceeds \$1,500. The period for computing the gross income of the
699 business entity is the fiscal year of the business entity which
700 ended on, or immediately prior to, the end of the disclosure
701 period of the person reporting;

702 3. The location or description of real property in this
703 state, except for residences and vacation homes, owned directly
704 or indirectly by the person reporting, when such person owns in
705 excess of 5 percent of the value of such real property, and a
706 general description of any intangible personal property worth in
707 excess of 10 percent of such person's total assets. For the
708 purposes of this paragraph, indirect ownership does not include
709 ownership by a spouse or minor child; and

710 4. Every individual liability that equals more than the
711 reporting person's net worth; or

712 (b)1. All sources of gross income in excess of \$2,500
713 received during the disclosure period by the person in his or
714 her own name or by any other person for his or her use or
715 benefit, excluding public salary. However, this shall not be
716 construed to require disclosure of a business partner's sources
717 of income. The person reporting shall list such sources in
718 descending order of value with the largest source first;

719 2. All sources of income to a business entity in excess of
720 10 percent of the gross income of a business entity in which the
721 reporting person held a material interest and from which he or
722 she received gross income exceeding \$5,000 during the disclosure
723 period. The period for computing the gross income of the



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724 business entity is the fiscal year of the business entity which
725 ended on, or immediately prior to, the end of the disclosure
726 period of the person reporting;

727 3. The location or description of real property in this
728 state, except for residence and vacation homes, owned directly
729 or indirectly by the person reporting, when such person owns in
730 excess of 5 percent of the value of such real property, and a
731 general description of any intangible personal property worth in
732 excess of \$10,000. For the purpose of this paragraph, indirect
733 ownership does not include ownership by a spouse or minor child;
734 and

735 4. Every liability in excess of \$10,000.

736
737 ~~A person filing a statement of financial interests shall~~
738 ~~indicate on the statement whether he or she is using the method~~
739 ~~specified in paragraph (a) or paragraph (b).~~

740 (4) (a) The commission may not request, in any filing or
741 submission, a federal income tax return, or a copy thereof; a
742 social security number; a bank, mortgage, or brokerage account
743 number; a debit, charge, or credit card number; a personal
744 identification number; a taxpayer identification number; or any
745 other personal or account information that is legally protected
746 from disclosure under state or federal law.

747 (b) Beginning January 1, 2022, a public officer, a
748 candidate, or any other person may not include in a filing or
749 submission to the commission any of the information specified in
750 paragraph (a). If a public officer, a candidate, or other person
751 includes such information, the information may be made available
752 as part of the official records of the commission available for



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753 public inspection and copying unless redaction is requested by
754 the filer. The commission is not liable for the release of
755 social security numbers, or bank account, debit, charge, or
756 credit card numbers, included on a filing or submission to the
757 commission if the holder has not requested redaction of the
758 information.

759 (c) The commission shall redact a filer's social security
760 number; bank, mortgage, or brokerage account number; debit,
761 charge, or credit card number; or any other personal or account
762 information that is legally protected from disclosure under
763 state or federal law upon written notification from the filer of
764 its inadvertent inclusion. Such notice must specify the
765 information inadvertently included and the specific section or
766 sections of the disclosure in which it was included.

767 (d) The commission must conspicuously post a notice, in
768 substantially the following form, in the instructions for the
769 electronic filing system specifying that:

770 1. Any person submitting information through the electronic
771 filing system may not include a social security number or a bank
772 account, debit, charge, or credit card number in any filing or
773 submission unless required by law.

774 2. All information submitted through the electronic filing
775 system may be open to public inspection and copying.

776 3. Any person has a right to request the commission to
777 remove from a filing or submission any social security number or
778 bank, mortgage, or brokerage account number contained in the
779 submission. Such request must be made in writing and delivered
780 by mail or electronic transmission or in person to the
781 commission. The request must specify the information to be



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782 redacted and the specific section or sections of the disclosure
783 in which it was included.

784 (5) Beginning January 1, 2015, An officer who is required
785 to complete annual ethics training pursuant to s. 112.3142 must
786 certify on his or her statement of financial interests that he
787 or she has completed the required training.

788 (6)(5) Each elected constitutional officer, state officer,
789 local officer, and specified state employee shall file a
790 quarterly report of the names of clients represented for a fee
791 or commission, except for appearances in ministerial matters,
792 before agencies at his or her level of government. For the
793 purposes of this part, agencies of government shall be
794 classified as state-level agencies or agencies below state
795 level. Each local officer shall file such report with the
796 supervisor of elections of the county in which the officer is
797 principally employed or is a resident. Each state officer,
798 elected constitutional officer, and specified state employee
799 shall file such report with the commission. The report shall be
800 filed only when a reportable representation is made during the
801 calendar quarter and shall be filed no later than the last day
802 of each calendar quarter, for the previous calendar quarter.
803 Representation before any agency shall be deemed to include
804 representation by such officer or specified state employee or by
805 any partner or associate of the professional firm of which he or
806 she is a member and of which he or she has actual knowledge. For
807 the purposes of this subsection, the term "representation before
808 any agency" does not include appearances before any court or the
809 Deputy Chief Judge of Compensation Claims or judges of
810 compensation claims or representations on behalf of one's agency



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811 in one's official capacity. Such term does not include the
812 preparation and filing of forms and applications merely for the
813 purpose of obtaining or transferring a license based on a quota
814 or a franchise of such agency or a license or operation permit
815 to engage in a profession, business, or occupation, so long as
816 the issuance or granting of such license, permit, or transfer
817 does not require substantial discretion, a variance, a special
818 consideration, or a certificate of public convenience and
819 necessity.

820 (7)(6) Each elected constitutional officer and each
821 candidate for such office, any other public officer required
822 pursuant to s. 8, Art. II of the State Constitution to file a
823 full and public disclosure of his or her financial interests,
824 and each state officer, local officer, specified state employee,
825 and candidate for elective public office who is or was during
826 the disclosure period an officer, director, partner, proprietor,
827 or agent, other than a resident agent solely for service of
828 process, of, or owns or owned during the disclosure period a
829 material interest in, any business entity which is granted a
830 privilege to operate in this state shall disclose such facts as
831 a part of the disclosure form filed pursuant to s. 8, Art. II of
832 the State Constitution or this section, as applicable. The
833 statement shall give the name, address, and principal business
834 activity of the business entity and shall state the position
835 held with such business entity or the fact that a material
836 interest is owned and the nature of that interest.

837 (8)(7) Forms for compliance with the disclosure
838 requirements of this section and a current list of persons
839 subject to disclosure shall be created by the commission and



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840 provided to each supervisor of elections. The commission and
841 each supervisor of elections shall give notice of disclosure
842 deadlines and delinquencies and distribute forms in the
843 following manner:

844 (a)1. Not later than May 1 of each year, the commission
845 shall prepare a current list of the names, e-mail addresses, and
846 physical addresses of, and the offices or positions held by,
847 every state officer, local officer, and specified employee. ~~In~~
848 ~~compiling the list, the commission shall be assisted by~~ Each
849 unit of government shall assist the commission in compiling the
850 list by ~~in~~ providing to the commission not later than February 1
851 of each year, ~~at the request of the commission,~~ the name, e-
852 mail address, physical address, and name of agency of, and the
853 office or position held by, each state officer, local officer,
854 or specified state employee within the respective unit of
855 government as of December 31 of the preceding year.

856 2. Not later than May 15 of each year, the commission shall
857 provide each supervisor of elections with a current ~~mailing~~ list
858 of all local officers required to file with such supervisor of
859 elections.

860 (b) Not later than June 1 ~~30 days before July 1~~ of each
861 year, the commission and each supervisor of elections, as
862 appropriate, shall distribute mail a copy of the form prescribed
863 for compliance with subsection (3) and a notice of all
864 applicable disclosure forms and filing deadlines to each person
865 required to file a statement of financial interests. Beginning
866 January 1, 2023, the notice required under this paragraph must
867 be delivered by e-mail or other electronic means.

868 (c) Not later than August 1 ~~30 days after July 1~~ of each



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869 year, the commission and each supervisor of elections shall
870 determine which persons required to file a statement of
871 financial interests in their respective offices have failed to
872 do so and shall send delinquency notices ~~by certified mail,~~
873 ~~return receipt requested,~~ to these persons. Each notice must
874 ~~shall~~ state that a grace period is in effect until September 1
875 of the current year; that no investigative or disciplinary
876 action based upon the delinquency will be taken by the agency
877 head or commission if the statement is filed by September 1 of
878 the current year; that, if the statement is not filed by
879 September 1 of the current year, a fine of \$25 for each day late
880 will be imposed, up to a maximum penalty of \$1,500; for notices
881 distributed sent by a supervisor of elections, that he or she is
882 required by law to notify the commission of the delinquency; and
883 that, if upon the filing of a sworn complaint the commission
884 finds that the person has failed to timely file the statement
885 within 60 days after September 1 of the current year, such
886 person will also be subject to the penalties provided in s.
887 112.317. Beginning January 1, 2023, the notice required under
888 this paragraph must be delivered by e-mail or other electronic
889 means and must be redelivered on a weekly basis so long as a
890 person remains delinquent.

891 (d) No later than November 15 of each year, the supervisor
892 of elections in each county shall certify to the commission a
893 list of the names and addresses of, and the offices or positions
894 held by, all persons who have failed to timely file the required
895 statements of financial interests. The certification must
896 include the earliest of the dates described in subparagraph
897 (g)1. (f)1. The certification shall be on a form prescribed by



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898 the commission and shall indicate whether the supervisor of
899 elections has provided the disclosure forms and notice as
900 required by this subsection to all persons named on the
901 delinquency list.

902 (e) Statements must be received by the commission ~~filed~~ not
903 later than 5 p.m. of the due date. However, any statement that
904 is postmarked by the United States Postal Service by midnight of
905 the due date is deemed to have been filed in a timely manner,
906 and a certificate of mailing obtained from and dated by the
907 United States Postal Service at the time of the mailing, or a
908 receipt from an established courier company which bears a date
909 on or before the due date, constitutes proof of mailing in a
910 timely manner. Beginning January 1, 2023, upon request of the
911 filer, the commission must provide verification to the filer
912 that the commission has received the submitted statement.

913 (f) Beginning January 1, 2023, the statement must be
914 accompanied by a declaration as provided in s. 92.525(2) and an
915 electronic acknowledgement thereof.

916 (g) Any person who is required to file a statement of
917 financial interests and whose name is on the commission's
918 ~~mailing~~ list, and to whom notice has been sent, but who fails to
919 timely file is assessed a fine of \$25 per day for each day late
920 up to a maximum of \$1,500; however, this \$1,500 limitation on
921 automatic fines does not limit the civil penalty that may be
922 imposed if the statement is filed more than 60 days after the
923 deadline and a complaint is filed, as provided in s. 112.324.
924 The commission must provide by rule the grounds for waiving the
925 fine and procedures by which each person whose name is on the
926 ~~mailing~~ list and who is determined to have not filed in a timely



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927 manner will be notified of assessed fines and may appeal. The
928 rule must provide for and make specific the following:
929 1. The amount of the fine due is based upon the earliest of
930 the following:
931 a. When a statement is actually received by the office.
932 b. When the statement is postmarked.
933 c. When the certificate of mailing is dated.
934 d. When the receipt from an established courier company is
935 dated.
936 2. For a specified state employee or a state officer, upon
937 receipt of the disclosure statement by the commission or upon
938 accrual of the maximum penalty, whichever occurs first, and for
939 a local officer upon receipt by the commission of the
940 certification from the local officer's supervisor of elections
941 pursuant to paragraph (d), the commission shall determine the
942 amount of the fine which is due and shall notify the delinquent
943 person. The notice must include an explanation of the appeal
944 procedure under subparagraph 3. The fine must be paid within 30
945 days after the notice of payment due is transmitted, unless
946 appeal is made to the commission pursuant to subparagraph 3. The
947 moneys are to be deposited into the General Revenue Fund.
948 3. Any reporting person may appeal or dispute a fine, based
949 upon unusual circumstances surrounding the failure to file on
950 the designated due date, and may request and is entitled to a
951 hearing before the commission, which may waive the fine in whole
952 or in part for good cause shown. Any such request must be in
953 writing and received by the commission ~~made~~ within 30 days after
954 the notice of payment due is transmitted. In such a case, the
955 reporting person must, within the 30-day period, notify the



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956 person designated to review the timeliness of reports in writing
957 of his or her intention to bring the matter before the
958 commission. For purposes of this subparagraph, the term "unusual
959 circumstances" does not include the failure to monitor an e-mail
960 account or failure to receive notice if the person has not
961 notified the commission of a change in his or her e-mail
962 address.
963 ~~(h)(g)~~ Any state officer, local officer, or specified
964 employee whose name is not on the ~~mailing~~ list of persons
965 required to file an annual statement of financial interests is
966 not subject to the penalties provided in s. 112.317 or the fine
967 provided in this section for failure to timely file a statement
968 of financial interests in any year in which the omission
969 occurred, but nevertheless is required to file the disclosure
970 statement.
971 ~~(i)(h)~~ The notification requirements and fines of this
972 subsection do not apply to candidates or to the first or final
973 filing required of any state officer, specified employee, or
974 local officer as provided in paragraph (2)(b).
975 ~~(j)(i)~~ Notwithstanding any provision of chapter 120, any
976 fine imposed under this subsection which is not waived by final
977 order of the commission and which remains unpaid more than 60
978 days after the notice of payment due or more than 60 days after
979 the commission renders a final order on the appeal must be
980 submitted to the Department of Financial Services as a claim,
981 debt, or other obligation owed to the state, and the department
982 shall assign the collection of such a fine to a collection agent
983 as provided in s. 17.20.
984 ~~(9)(a)(8)(a)~~ The appointing official or body shall notify



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985 each newly appointed local officer, state officer, or specified
986 state employee, not later than the date of appointment, of the
987 officer's or employee's duty to comply with the disclosure
988 requirements of this section. The agency head of each employing
989 agency shall notify each newly employed local officer or
990 specified state employee, not later than the day of employment,
991 of the officer's or employee's duty to comply with the
992 disclosure requirements of this section. The appointing official
993 or body or employing agency head may designate a person to be
994 responsible for the notification requirements of this paragraph.

995 (b) The agency head of the agency of each local officer,
996 state officer, or specified state employee who is required to
997 file a statement of financial interests for the final disclosure
998 period shall notify such persons of their obligation to file the
999 final disclosure and may designate a person to be responsible
1000 for the notification requirements of this paragraph.

1001 (c) If a person holding public office or public employment
1002 fails or refuses to file an annual statement of financial
1003 interests for any year in which the person received notice from
1004 the commission regarding the failure to file and has accrued the
1005 maximum automatic fine authorized under this section, regardless
1006 of whether the fine imposed was paid or collected, the
1007 commission shall initiate an investigation and conduct a public
1008 hearing without receipt of a complaint to determine whether the
1009 person's failure to file is willful. Such investigation and
1010 hearing must be conducted in accordance with s. 112.324. Except
1011 as provided in s. 112.324(4), if the commission determines that
1012 the person willfully failed to file a statement of financial
1013 interests, the commission shall enter an order recommending that



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1014 the officer or employee be removed from his or her public office
1015 or public employment. The commission shall forward its
1016 recommendation as provided in s. 112.324.

1017 ~~(10)(9)~~ A public officer who has filed a disclosure for any
1018 calendar or fiscal year shall not be required to file a second
1019 disclosure for the same year or any part thereof,
1020 notwithstanding any requirement of this act, except that any
1021 public officer who qualifies as a candidate for public office
1022 shall file a copy of the disclosure with the officer before whom
1023 he or she qualifies as a candidate at the time of qualification.

1024 ~~(11)(a)(10)(a)~~ The commission shall treat an amendment to
1025 an amended annual statement of financial interests which is
1026 filed before September 1 of the year in which the statement is
1027 due as part of the original filing, regardless of whether a
1028 complaint has been filed. If a complaint alleges only an
1029 immaterial, inconsequential, or de minimis error or omission,
1030 the commission may not take any action on the complaint other
1031 than notifying the filer of the complaint. The filer must be
1032 given 30 days to file an amendment to the amended statement of
1033 financial interests correcting any errors. If the filer does not
1034 file an amendment to the amended statement of financial
1035 interests within 30 days after the commission sends notice of
1036 the complaint, the commission may continue with proceedings
1037 pursuant to s. 112.324.

1038 (b) For purposes of the final statement of financial
1039 interests, the commission shall treat an amendment to a new
1040 final statement of financial interests as part of the original
1041 filing, if filed within 60 days of the original filing
1042 regardless of whether a complaint has been filed. If, more than



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1043 60 days after a final statement of financial interests is filed,
1044 a complaint is filed alleging a complete omission of any
1045 information required to be disclosed by this section, the
1046 commission may immediately follow the complaint procedures in s.
1047 112.324. However, if the complaint alleges an immaterial,
1048 inconsequential, or de minimis error or omission, the commission
1049 may not take any action on the complaint other than notifying
1050 the filer of the complaint. The filer must be given 30 days to
1051 file an amendment to the a new final statement of financial
1052 interests correcting any errors. If the filer does not file an
1053 amendment to the a new final statement of financial interests
1054 within 30 days after the commission sends notice of the
1055 complaint, the commission may continue with proceedings pursuant
1056 to s. 112.324.

1057 (c) For purposes of this section, an error or omission is
1058 immaterial, inconsequential, or de minimis if the original
1059 filing provided sufficient information for the public to
1060 identify potential conflicts of interest. However, failure to
1061 certify completion of annual ethics training required under s.
1062 112.3142 does not constitute an immaterial, inconsequential, or
1063 de minimis error or omission.

1064 (12) (a) (11) (a) An individual required to file a statement
1065 disclosure pursuant to this section may have the statement
1066 disclosure prepared by an attorney in good standing with The
1067 Florida Bar or by a certified public accountant licensed under
1068 chapter 473. After preparing a statement disclosure form, the
1069 attorney or certified public accountant must sign the form
1070 indicating that he or she prepared the form in accordance with
1071 this section and the instructions for completing and filing the



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1072 disclosure forms and that, upon his or her reasonable knowledge
1073 and belief, the disclosure is true and correct. If a complaint
1074 is filed alleging a failure to disclose information required by
1075 this section, the commission shall determine whether the
1076 information was disclosed to the attorney or certified public
1077 accountant. The failure of the attorney or certified public
1078 accountant to accurately transcribe information provided by the
1079 individual who is required to file the statement disclosure does
1080 not constitute a violation of this section.

1081 (b) An elected officer or candidate who chooses to use an
1082 attorney or a certified public accountant to prepare his or her
1083 statement disclosure may pay for the services of the attorney or
1084 certified public accountant from funds in an office account
1085 created pursuant to s. 106.141 or, during a year that the
1086 individual qualifies for election to public office, the
1087 candidate's campaign depository pursuant to s. 106.021.

1088 (13) (12) The commission shall adopt rules and forms
1089 specifying how a state officer, local officer, or specified
1090 state employee may amend his or her statement of financial
1091 interests to report information that was not included on the
1092 form as originally filed. If the amendment is the subject of a
1093 complaint filed under this part, the commission and the proper
1094 disciplinary official or body shall consider as a mitigating
1095 factor when considering appropriate disciplinary action the fact
1096 that the amendment was filed before any complaint or other
1097 inquiry or proceeding, while recognizing that the public was
1098 deprived of access to information to which it was entitled.

1099 Section 5. Section 112.31455, Florida Statutes, is amended
1100 to read:



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1101 112.31455 Collection methods for unpaid automatic fines for
1102 failure to timely file disclosure of financial interests.-

1103 (1) Before referring any unpaid fine accrued pursuant to s.
1104 112.3144(8) or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~
1105 to the Department of Financial Services, the commission shall
1106 attempt to determine whether the individual owing such a fine is
1107 a current public officer or current public employee. If so, the
1108 commission may notify the Chief Financial Officer or the
1109 governing body of the appropriate county, municipality, or
1110 special district of the total amount of any fine owed to the
1111 commission by such individual.

1112 (a) After receipt and verification of the notice from the
1113 commission, the Chief Financial Officer or the governing body of
1114 the county, municipality, or special district shall begin
1115 withholding the lesser of 10 percent or the maximum amount
1116 allowed under federal law from any salary-related payment. The
1117 withheld payments shall be remitted to the commission until the
1118 fine is satisfied.

1119 (b) The Chief Financial Officer or the governing body of
1120 the county, municipality, or special district may retain an
1121 amount of each withheld payment, as provided in s. 77.0305, to
1122 cover the administrative costs incurred under this section.

1123 (2) If the commission determines that the individual who is
1124 the subject of an unpaid fine accrued pursuant to s. 112.3144(8)
1125 or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~ is no longer
1126 a public officer or public employee or if the commission is
1127 unable to determine whether the individual is a current public
1128 officer or public employee, the commission may, 6 months after
1129 the order becomes final, seek garnishment of any wages to



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1130 satisfy the amount of the fine, or any unpaid portion thereof,
1131 pursuant to chapter 77. Upon recording the order imposing the
1132 fine with the clerk of the circuit court, the order shall be
1133 deemed a judgment for purposes of garnishment pursuant to
1134 chapter 77.

1135 (3) The commission may refer unpaid fines to the
1136 appropriate collection agency, as directed by the Chief
1137 Financial Officer, to utilize any collection methods provided by
1138 law. Except as expressly limited by this section, any other
1139 collection methods authorized by law are allowed.

1140 (4) Action may be taken to collect any unpaid fine imposed
1141 by ss. 112.3144 and 112.3145 within 20 years after the date the
1142 final order is rendered.

1143 Section 6. Except as otherwise expressly provided in this
1144 act, this act shall take effect upon becoming a law.

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 7040

INTRODUCER: Governmental Oversight and Accountability Committee and Ethics and Elections Committee

SUBJECT: Financial Disclosure

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Mitchell</u>	<u>Roberts</u>		EE Submitted as Committee Bill
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7040 revises the administration of the submission of information relating to the disclosures of financial interests and statements of financial interests.

The bill requires the Commission on Ethics (Commission) to procure and test an electronic filing system by January 1, 2022. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard internet-browsing software;
- Issue a verification or receipt that the Commission has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete the disclosure or statement and certify that he or she prepared it in accordance with s. 112.3144, F.S., or s. 112.3145, F.S., and that the information on the disclosure or statement is true and correct.

The bill requires electronic submission of CE Form 6 beginning January 1, 2022, and CE Form 1 beginning January 1, 2023. The Commission must provide notice and other communications to filers by email message. All disclosures (CE Form 1 and CE Form 6) must be for the calendar

year rather than for either the calendar year or the taxable year. Local officers will no longer submit financial statements to supervisors of elections. Beginning with required electronic submission of CE Form 1, filers must use the dollar value threshold method of reporting (rather than the comparative or percentage threshold).

II. Present Situation:

Financial Disclosure

Florida ethics laws provide for two tiers of financial disclosure:

- Full and public disclosure of financial interests (CE Form 6); and
- Statement of financial interests (CE Form 1).¹

The financial disclosure filing process is overseen by the Commission on Ethics (Commission) with the assistance of local qualifying officers and supervisors of elections.

Full and Public Disclosure of Financial Interests (CE Form 6)

Currently, all elected constitutional officers, candidates for such offices, and statewide elected officers are required by Art. II, s. 8 of the State Constitution, to file a full and public disclosure of their financial interests (CE Form 6) annually. The annual full and public disclosure is also required of any other public officers, candidates, and employees as determined by law.² Officers subject to either the constitutional or statutory requirement to file the CE Form 6 include:

- The Governor;
- Lieutenant Governor;
- Cabinet members;
- Legislators;
- County commissioners;
- State attorneys;
- Public defenders;
- Clerks of circuit courts;
- Sheriffs;
- Tax collectors;
- Property appraisers;
- Supervisors of elections;
- Elected superintendents of schools;
- District school board members;
- Jacksonville City Council members (including mayor);
- The Duval County superintendent of schools;
- Florida Housing Finance Corporation board members;
- Florida Prepaid College board members; and

¹ FLA. CONST., art. II, s. 8(a), s. 112.3144, F.S., and s. 112.3145, F.S.

² For example, statutory law provides that members of expressway, transportation, bridge, or toll authorities are required to comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution. Section 348.0003(4)(c), F.S.

- Each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 343 or 348, F.S., or any other general law.

The CE Form 6 requires the filer to disclose his or her net worth, each separate source of income in excess of \$1,000, and each asset and liability in excess of \$1,000.³ To show income, the filer may provide a copy of his or her most recent federal income tax return.⁴ These values are to be calculated as of December 31 of the preceding year.⁵ The CE Form 6 must be sworn⁶ and is due July 1. A grace period is provided until September 1 of each year.

A candidate for an office subject to the CE Form 6 filing requirement must file a CE Form 6 with his or her qualifying papers. If the candidate is an incumbent qualifying to run for the same office or holds another office subject to the CE Form 6 filing requirement, the qualifying officer must forward an electronic copy of the CE Form 6 to the Commission by July 1.⁷

General law also requires an individual subject to the CE Form 6 filing requirement to file a final disclosure statement within 60 days after leaving his or her public position.⁸ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office, unless the person takes another public position for which a CE Form 6 is required within the 60-day period, or if the person is otherwise required to file a CE Form 6.⁹ For calendar year 2018, there were 1,398 individuals required to file CE Form 6.¹⁰

Statement of Financial Interests (CE Form 1)

Persons seeking nomination or election to a state or local elective office, state officers, local officers, and specified state employees are required to file an annual statement of financial interests (CE Form 1).¹¹ CE Form 1 requires less detail than the CE Form 6. Examples of state officers required to file the CE Form 1 include:

- Appointed members of boards, commissions, authorities, or councils that have statewide jurisdiction – excluding advisory bodies;
- Members of the State University System Board of Governors;
- The State University System Chancellor and Vice Chancellor;
- Members of a state university board of trustees;
- The Deputy Chief Judge of Compensation Claims and any compensation claims judge; and

³ FLA. CONST., art. II, s. 8(i)1.

⁴ *Id.*

⁵ Fla. Admin. Code R. 34-8.004 (2019)

⁶ FLA. CONST., art. II, s. 8(i)1.

⁷ Section 112.3144(2), F.S.

⁸ Section 112.3144(7), F.S.

⁹ *Id.*

¹⁰ See Florida Commission on Ethics “Annual Report to the Florida Legislature for Calendar Year 2018.” A copy of the report may be obtained from the Florida Commission on Ethics.

¹¹ Section 112.3145(2)(a) and (b), F.S.

- Members of the judicial nominating commission for any district court of appeal or any judicial circuit.¹²

State officers subject to the CE Form 1 filing requirement file with the Commission on Ethics.¹³

Examples of state employees required to file the CE Form 1 include:

- The public counsel;
- Assistant state attorneys;
- Assistant public defenders;
- Criminal conflict and civil regional counsels (including assistant counsels);
- Each appointed agency secretary (including an assistant or deputy secretary);
- An executive director of a state department (including an assistant or deputy secretary);
- An agency division director, assistant division director, deputy director, bureau chief, and assistant bureau chief;
- A general counsel of a state agency (including deputy general counsels);
- Administrative law judges and hearing officers; and
- A business manager or purchasing agent with authority to make any purchase over \$20,000.¹⁴

State employees subject to the CE Form 1 filing requirement file with the Commission on Ethics.¹⁵

Examples of local officers required to file the CE Form 1 include:

- Elected political subdivision officers;
- Appointed members of political subdivision boards, councils, commissions, authorities, or other bodies of political subdivisions; and
- A community college or junior college district board of trustees.¹⁶

Local officers subject to the CE Form 1 filing requirement file with their local supervisor of elections.¹⁷

Examples of local employees required to file the CE Form 1 include, but are not limited to:

- A county or city manager;
- The chief administrative employee of a county, municipality, or other political subdivision;
- A chief county or municipal building code inspector;
- A chief of police;
- A fire chief;
- A municipal clerk;
- A community college president; and
- A purchasing agent with authority to make any purchase over \$20,000.¹⁸

Local officers subject to the CE Form 1 filing requirement file with their local supervisor of elections.¹⁹

¹² Section 112.3145(1)(c), F.S.

¹³ Section 112.3145(2)(c), F.S.

¹⁴ Section 112.3145(1)(b), F.S.

¹⁵ Section 112.3145(2)(c), F.S.

¹⁶ Section 112.3145(1)(a), F.S.

¹⁷ Section 112.3145(2)(c), F.S.

¹⁸ Section 112.3145(1)(a), F.S.

¹⁹ Section 112.3145(2)(c), F.S.

Those who are required to file a statement of financial interests pursuant to s. 112.3145, F.S. are required to disclose primary sources of income (other than from his or her public position), secondary sources of income (in certain circumstances), real property (other than a residence or vacation home in Florida), intangible personal property, liabilities, and interests in specified businesses.²⁰ The law permits a filer to report the required interests based upon one of two thresholds. First, the filer may calculate whether an interest is required to be reported based upon whether that interest exceeds a specified percentage of his or her net worth. This is referred to as the “comparative (percentage) threshold.” Alternatively, the filer may determine whether an interest is reported if the interest exceeds a specified dollar value. This is referred to as the “dollar value threshold.” Because the law permits a filer to choose which threshold he or she is going to use, the CE Form 1 promulgated by the Commission requires a filer to identify the threshold used by checking a box. The statute does not expressly require this designation on the CE Form 1. The CE Form 1 is due July 1. A grace period is provided until September 1 of each year.

A candidate for an office subject to the CE Form 1 filing requirement must file a CE Form 1 with his or her qualifying papers.²¹ If the candidate qualifies prior to the annual CE Form 1 filing deadline, the CE Form 1 that is filed with the candidate’s qualifying papers will satisfy the annual disclosure requirement.²² If the candidate qualifies after the annual CE Form 1 filing deadline, the candidate must file a copy of the CE Form 1 with the qualifying officer.²³

General law also requires an individual subject to the CE Form 1 filing requirement to file a final disclosure statement within 60 days after leaving his or her public position.²⁴ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office or employment, unless the person takes another public position for which a CE Form 1 or CE Form 6 is required within the 60-day period, or if the person is otherwise required to file a CE Form 1 or CE Form 6.²⁵ For calendar year 2018, there were 36,787 individuals required to file CE Form 1.²⁶ Of these, 13,975 were state level CE Form 1 filers, while 22,812 individuals were local level CE Form 1 filers.²⁷

Commission Forms and Depositories of Forms

The Commission has promulgated forms by which a filer may amend his or her full public disclosure of financial interests (CE Form 6X) or statement of financial interests (CE Form 1X). The Commission has also promulgated disclosure forms required of a public officer or employee upon leaving office or public employment. Those forms are the final full and public disclosure of financial interests (CE Form 6F) and the final statement of financial interests (CE Form 1F).

²⁰ Section 112.3145(3), F.S.

²¹ Section 112.3145(2)(a), F.S.

²² *Id.*

²³ *Id.*

²⁴ Section 112.3145(2)(b), F.S.

²⁵ *Id.*

²⁶ See Florida Commission on Ethics ‘Annual Report to the Florida Legislature for Calendar Year 2018.’ A copy of the report may be obtained from the Florida Commission on Ethics.

²⁷ *Id.*

There is no specific form by which to amend a final full and public disclosure of financial interests or a final statement of financial interests.

The Commission serves as the depository for financial disclosure filings of state officers or employees. Those who serve at a local level file their financial disclosure with the local supervisor of elections. The Commission and supervisors of elections are statutorily required to assist each other in identifying those subject to the financial disclosure requirement, providing notice to those individuals, and tracking receipt of financial disclosures. In the event that an individual fails to timely file his or her financial disclosure, the Commission imposes an automatic fine of \$25 per day for failure to timely file. The automatic fine is capped at \$1,500. Neither the Commission nor supervisors of elections are required to examine the financial disclosure filings.

If a filer is uncertain about whether he or she is required to disclose information, the filer may contact the Commission for guidance. Usually, the Commission's staff can answer simple questions by telephone or letter. In some circumstances, staff may not be able to provide such informal guidance. The Commission's staff will usually provide the filer the "safe harbor" advice to disclose the information or advise the filer to seek a formal opinion from the Commission at its next available meeting. Upon receipt of the guidance, the filer must include the information on their original form or, if necessary, file an amendment form. A member of the public can file a complaint with the Commission alleging that the person failed to disclose information which they were legally obligated to disclose. That complaint follows the same procedure as any complaint alleging a violation of one of the standards of conduct in the Code of Ethics. In the event that the Commission finds the filer in violation, he or she is subject to the penalties in s. 112.317, F.S.

Electronic Financial Disclosure

In 2013, the Legislature created s. 112.31445, F.S., to require the Commission to scan all CE Form 6 filings and to make them available in an online searchable database beginning with the 2012 filing year. The act also required the Commission to prepare, by December 1, 2015, a proposal for submission to the President of the Senate and the Speaker of the House of Representatives for the creation of an online financial disclosure filings system. The system would be similar to the system used by candidates, political committees, and others pursuant to the campaign financing requirements of ch. 106, F.S. At a minimum, the proposal was required to:

- Mandate an online filing system for CE Form 6 filers;
- Provide a secure method that prevents unauthorized access to electronic filing system functions;
- Permit the filer, or his or her CPA, to file via the internet portal;
- Permit a CPA to prepare and electronically sign a financial disclosure form to indicate that it was completed in compliance with the applicable financial disclosure law and the instructions on the financial disclosure form;
- Require that the filings in the database be accessible to the public;
- Describe any necessary statutory or rule authority changes;
- Provide for an alternative filing method in case the filing system is inoperable;
- Provide for a receipt to be obtained verifying that the officer has filed his or her form; and

- Address the feasibility of subjecting those who file the less detailed statement of financial interests to the electronic financial disclosure filing requirement.

Following the statutory guidelines, the Commission on Ethics submitted its report in 2015, including a proposal to legislative leaders for a mandatory electronic filing system.²⁸

III. Effect of Proposed Changes:

Electronic Financial Disclosure Filing System

Section 1 requires the Commission to procure and test a mandatory electronic filing system by January 1, 2022. Filers who file the full and public disclosure of financial interests (CE Form 6), final full and public disclosure of financial interests (CE Form 6F), or any amendments thereto, must file electronically beginning January 1, 2022. Those who file the statement of financial interests (CE Form 1), final statement of financial interests (CE Form 1F), and any amendments thereto, must file electronically beginning January 1, 2023.

The electronic filing system must, at a minimum:

- Provide access through the Internet for the completion and submission of CE Form 6, CE Form 1, and other required forms;
- Establish a procedure to make filings available in a searchable format that is accessible by an individual using standard web-browsing software;
- Issue a verification or receipt that the Commission has received the filing of the financial disclosure form;
- Provide a secure method that prevents unauthorized access to electronic filing system functions or data; and
- Provide a method for an attorney or certified public accountant to complete the disclosure or statement, to certify that he or she prepared the form in accordance with provisions of law and the instructions for completing the disclosure or statement and that, upon his or her reasonable knowledge and belief, the form is true and correct. The filer must sign the form and submit it.

The bill requires the Commission to provide each filer a secure log-in to the electronic filing system. If the electronic filing system to be inoperable or a state of emergency is declared, the bill requires the Commission Chair to extend the filing deadlines for those affected.

To assist the electronic financial disclosure filing process, the bill requires each unit of government to assign an electronic mail account to its officers, members, or employees who must file a form with the Commission. The bill requires each filer to provide the electronic mail account address to the Commission on Ethics, so that it can be used to notify filers of filing requirements, deadlines, and any applicable fines for non-compliance with the filing requirement.

²⁸ A copy of the proposal is on file with the Senate Committee on Ethics and Elections.

Revision to the Disclosure Period

Section 2 revises the definition of the term ‘disclosure period’ to limit it to a calendar year rather than a taxable year. This change is effective January 1, 2020.

Revisions to FORM 6 Filing Process

Section 3 amends s. 112.3144, F.S., to require, beginning January 1, 2022, CE Form 6, CE Form 6F, any amendments thereto, and any other form required by s. 112.3144, F.S., to be filed electronically with the Commission. However, these individuals will continue to file with their qualifying officer. Form 6 filers will be required to electronically sign their disclosure, under penalty of perjury, declaring that the information stated in the disclosure is true.

The Commission is required to provide notice to filers that any information entered will be publicly released. If any of the above information is submitted by the filer, the section provides that the Commission shall not be held liable for its release. The Commission must redact a filer’s social security number; bank, mortgage, or brokerage account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law upon written notification from the filer of its inadvertent inclusion. The notice from the filer must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

To facilitate the electronic financial disclosure filing process, and to reduce the reliance on mailing forms and notices, the bill requires the Commission to collect filer email addresses. Each unit of government with officers subject to the filing requirement must assist the Commission in these efforts. By January 1, 2022, the Commission is required to remind filers of the filing deadline and send delinquency notices by email. Upon the request of the filer, the Commission must provide verification to the filer that the Commission has received the submitted disclosure. Also beginning January 1, 2022, a written declaration, as provided by verification of documents requirements,²⁹ accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

Revisions to FORM 1 Filing Process

Section 4 amends s. 112.3145, F.S., to require, beginning January 1, 2023, CE Form 1, CE Form 1F, any amendments thereto, quarterly client disclosures (CE Form 2), and any other form required by s. 112.3145, F.S., to be filed electronically with the Commission. This electronic filing requirement is applicable to candidates running for an office who are also subject to the CE Form 1 filing requirement. However, these individuals will still file with their qualifying officer. CE Form 1 filers will be required to electronically sign their disclosure, under penalty of perjury, declaring that the information stated in the disclosure is true.

The section reduces the number of individuals subject to the CE Form 1 filing requirement by removing compensation claims judges, including the Deputy Chief Judge, who are required to file a CE Form 6. By recommendation of the Commission, the CE Form 1 filing requirement is

²⁹ Section 92.525(2), F.S.

no longer applicable to assistant bureau chiefs. Finally, the section increases the purchasing power threshold that subjects a state employee who is a business manager or purchasing agent to the CE Form 1 filing requirement. Pursuant to the bill, the threshold is increased to \$35,000 (Category Two) from \$20,000 (Category One).

Section 4 also discontinues, beginning January 1, 2023, a filer's option to report using a comparative threshold based on a percentage value. The filer will be required to report using dollar value thresholds.

Revisions to Confidentiality

Sections 3 and 4 include provisions that prohibit the Commission from requesting, and a filer from providing, in any filing or submission, any of the following information:

- Federal income tax returns;
- Social security numbers;
- Bank, mortgage, or brokerage account numbers;
- Debit, charge, or credit card numbers;
- Personal identification numbers;
- Taxpayer identification numbers; or
- Any other personal or account information that is legally protected from disclosure under state or federal law.

If any of the above information is submitted by the filer, the section provides that the Commission shall not be held liable for its release. This language is intended to supersede the provisions of s. 119.071(5)(a)5., F.S., that requires all agencies, including the Commission, to treat social security numbers (and other information) confidential and exempt from public inspection and copying. Under the bill, the Commission must redact a filer's social security number; bank, mortgage, or brokerage account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law only upon written request from the filer of its inadvertent inclusion. The notice from the filer must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

To facilitate the electronic financial disclosure filing process, and to reduce the reliance on mailing forms and notices, the bill requires the Commission to collect filer email addresses. The bill requires each unit of government with officers subject to the filing requirement to assist the Commission in these efforts. By January 1, 2023, the Commission is required to remind filers of the filing deadline and send delinquency notices by email. Upon the request of the filer, the Commission must provide verification to the filer that the Commission has received the submitted disclosure. Also beginning January 1, 2023, a written declaration, as provided by verification of documents requirements,³⁰ accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

³⁰ Section 92.525(2), F.S.

Other provisions

Section 5 amends s. 112.31455, F.S., to update cross-references to conform to changes made in the bill.

Section 6 provides that, except for Section 2, which becomes effective January 1, 2020, the bill takes effect upon becoming a law.

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

Not Applicable. 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:

The bill creates an electronic filing system for financial disclosures and requires the Commission to provide filers a secure log-in to the system. Use of the system by filers contemplates draft input of information and data to the forms an unlimited number of times before the submission of a final form. The integrity of the system may fail if passwords used to access the system or information and data in draft form were subject to availability as public records. The bill contemplates that this information should be exempt from public records requirements and these exemptions are the subject of a travelling companion bill, SB 7042. Under SB 7042, the information and data contained therein are exempt from public records disclosure requirements until the filer officially submits the information on the electronic filing system.

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:

The Commission will likely be dependent upon an increased appropriation in order to accomplish the procurement, testing, and activation of an electronic filing system. The Commission on Ethics will increase their filings from 22,812 to 36,787, leading to increased management costs.

The Office of Legislative Information Technology Services has estimated the cost will be \$6,500,000 due to updating the 15 year old system to accommodate the online filings. This figure may vary from the cost of implementation of this bill. The figure does not include staff costs for the Commission on Ethics or the Office of Legislative Information Technology Services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 112.31446 of the Florida Statutes.

This bill substantially amends sections 112.312, 112.3144, and 112.3145 of the Florida Statutes.

This bill makes technical amendments to section 112.31455 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 26, 2019:

The CS makes the following changes:

- Allows the commission chair to extend filing deadlines in case of system inoperability or emergency (rather than the Governor deem the system inoperable)
- Provides that the commission is not liable for release of any information not requested with regards to Form 1 and Form 6.
- Provides notice to filers that information entered into the electronic system is open to public inspection and copying.
- Clarifies that local candidates with no annual filing requirement are not to file with the Commission on Ethics.

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 Ethics and Elections

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1 A bill to be entitled
 2 An act relating to financial disclosure; creating s.
 3 112.31446, F.S.; providing definitions; requiring the
 4 Commission on Ethics to procure and test an electronic
 5 filing system by a certain date; providing minimum
 6 requirements for such system; providing duties for
 7 units of government, the commission, and persons
 8 required to file specified financial disclosure forms;
 9 providing for alternative means of filing in the event
 10 the electronic filing system is inoperable; amending
 11 s. 112.312, F.S.; revising the definition of the term
 12 "disclosure period"; amending s. 112.3144, F.S.;
 13 requiring the electronic filing of full and public
 14 disclosures of financial interests beginning on a
 15 specified date; revising requirements with respect to
 16 reporting income; prohibiting the commission from
 17 requesting, accepting, or retaining certain
 18 information; providing for the redaction of protected
 19 information if certain conditions are met; modifying
 20 requirements regarding preparation of the list of
 21 reporting persons; requiring electronic delivery for
 22 certain notices; requiring the commission to provide
 23 certain verification to a filer upon request;
 24 requiring a declaration be submitted with a
 25 disclosure; specifying that certain actions do not
 26 constitute an unusual circumstance when appealing or
 27 disputing a fine; revising a schedule to the State
 28 Constitution; amending s. 112.3145, F.S.; revising the
 29 definition of the term "specified state employee";

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30 requiring the electronic filing of statements of
 31 financial interests beginning on a specified date;
 32 modifying the options for reporting thresholds on a
 33 statement of financial interests; prohibiting the
 34 commission from requesting, accepting, or retaining
 35 certain information; providing for the redaction of
 36 protected information if certain conditions are met;
 37 modifying requirements regarding preparation of the
 38 list of reporting persons; requiring electronic
 39 delivery for certain notices; requiring the commission
 40 to provide certain verification to a filer upon
 41 request; requiring a declaration be submitted with a
 42 statement; specifying that certain actions do not
 43 constitute an unusual circumstance when appealing or
 44 disputing a fine; amending s. 112.31455, F.S.;
 45 conforming cross-references to changes made by the
 46 act; providing effective dates.

47
 48 Be It Enacted by the Legislature of the State of Florida:

49
 50 Section 1. Section 112.31446, Florida Statutes, is created
 51 to read:

52 112.31446 Electronic filing system for financial
 53 disclosure.-

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

55 (a) "Disclosure of financial interests" or "disclosure"
 56 includes a full and public disclosure of financial interests and
 57 a final full and public disclosure of financial interests, and
 58 any amendments thereto.

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59 (b) "Electronic filing system" means an Internet-based
 60 system for receiving, reporting, and publishing disclosures of
 61 financial interests, statements of financial interests, or any
 62 other form that is required under s. 112.3144 or s. 112.3145.

63 (c) "Statement of financial interests" or "statement"
 64 includes a statement of financial interests and a final
 65 statement of financial interests, and any amendments thereto.

66 (2) By January 1, 2022, the commission shall procure and
 67 test an electronic filing system. At a minimum, the electronic
 68 filing system must:

69 (a) Provide access through the Internet for the completion
 70 and submission of disclosures of financial interests, statements
 71 of financial interests, or any other form that is required under
 72 s. 112.3144 or s. 112.3145.

73 (b) Upload submitted information to the commission using
 74 software that is approved by the commission.

75 (c) Allow for a procedure to make filings available in a
 76 searchable format that is accessible by an individual using
 77 standard Internet-browsing software.

78 (d) Issue a verification or receipt that the commission has
 79 received the submitted disclosure or statement.

80 (e) Provide security that prevents unauthorized access to
 81 the electronic filing system's functions or data.

82 (f) Provide a method for an attorney or a certified public
 83 accountant licensed in this state to complete the disclosure or
 84 statement and certify that he or she prepared the disclosure or
 85 statement in accordance with s. 112.3144 or s. 112.3145 and the
 86 instructions for completing the disclosure or statement, and
 87 that, upon his or her reasonable knowledge and belief, the

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88 information on the disclosure or statement is true and correct.

89 (3) Each unit of government shall provide an e-mail address
 90 to any of its officers, members, or employees who must file a
 91 disclosure of financial interests or a statement of financial
 92 interests, and provide such e-mail addresses to the commission
 93 by February 1 of each year. A person required to file a
 94 disclosure of financial interests or statement of financial
 95 interests must inform the commission immediately of any change
 96 in his or her e-mail address.

97 (4) The commission shall provide each person required to
 98 file a disclosure of financial interests or statement of
 99 financial interests a secure log-in to the electronic filing
 100 system. Such person is responsible for protecting his or her
 101 secure log-in credentials from disclosure and is responsible for
 102 all filings submitted to the commission with such credentials,
 103 unless the person has notified the commission that his or her
 104 credentials have been compromised.

105 (5) If the Governor declares the electronic filing system
 106 to be inoperable, the commission must accept submissions of
 107 disclosures of financial interests or statements of financial
 108 interests required under s. 112.3144 or s. 112.3145,
 109 respectively, through other methods as specified by order of the
 110 Governor.

111 Section 2. Effective January 1, 2020, subsection (10) of
 112 section 112.312, Florida Statutes, is amended to read:

113 112.312 Definitions.—As used in this part and for purposes
 114 of the provisions of s. 8, Art. II of the State Constitution,
 115 unless the context otherwise requires:

116 (10) "Disclosure period" means the calendar taxable year,

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 117 if disclosure is required for the entire year, or the portion of
 118 a calendar year ending with the last day of the period for which
 119 disclosure is required for the person or business entity,
 120 whether based on a calendar or fiscal year, immediately
 121 preceding the date on which, or the last day of the period
 122 during which, the financial disclosure statement required by
 123 this part is required to be filed.

124 Section 3. Section 112.3144, Florida Statutes, is amended
 125 to read:

126 112.3144 Full and public disclosure of financial
 127 interests.-

128 (1) An officer who is required by s. 8, Art. II of the
 129 State Constitution to file a full and public disclosure of his
 130 or her financial interests for any calendar or fiscal year, or
 131 any other person required by law to file a disclosure under this
 132 section, shall file that disclosure with the Florida Commission
 133 on Ethics. Additionally, ~~beginning January 1, 2015,~~ an officer
 134 who is required to complete annual ethics training pursuant to
 135 s. 112.3142 must certify on his or her full and public
 136 disclosure of financial interests that he or she has completed
 137 the required training.

138 (2) Beginning January 1, 2022, a full and public disclosure
 139 of financial interests and a final full and public disclosure of
 140 financial interests, and amendments thereto, or any other form
 141 required by this section, must be filed electronically through
 142 an electronic filing system created and maintained by the
 143 commission as provided in s. 112.31446.

144 (3) A person who is required, pursuant to s. 8, Art. II of
 145 the State Constitution, to file a full and public disclosure of

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 146 financial interests and who has filed a full and public
 147 disclosure of financial interests for any calendar or fiscal
 148 year shall not be required to file a statement of financial
 149 interests pursuant to s. 112.3145(2) and (3) for the same year
 150 or for any part thereof notwithstanding any requirement of this
 151 part. Until the electronic filing system required by subsection
 152 (2) is implemented, if an incumbent in an elective office has
 153 filed the full and public disclosure of financial interests to
 154 qualify for election to the same office or if a candidate for
 155 office holds another office subject to the annual filing
 156 requirement, the qualifying officer shall forward an electronic
 157 copy of the full and public disclosure of financial interests to
 158 the commission no later than July 1. The electronic copy of the
 159 full and public disclosure of financial interests satisfies the
 160 annual disclosure requirement of this section. A candidate who
 161 does not qualify until after the annual full and public
 162 disclosure of financial interests has been filed pursuant to
 163 this section shall file a copy of his or her disclosure with the
 164 officer before whom he or she qualifies.

165 (4)(3) For purposes of full and public disclosure under s.
 166 8(a), Art. II of the State Constitution, the following items, if
 167 not held for investment purposes and if valued at over \$1,000 in
 168 the aggregate, may be reported in a lump sum and identified as
 169 "household goods and personal effects":

- 170 (a) Jewelry;
- 171 (b) Collections of stamps, guns, and numismatic properties;
- 172 (c) Art objects;
- 173 (d) Household equipment and furnishings;
- 174 (e) Clothing;

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175 (f) Other household items; and

176 (g) Vehicles for personal use.

177 (5) (a) (4) (a) With respect to reporting, on forms prescribed
178 under this section, assets valued in excess of \$1,000 which the
179 reporting individual holds jointly with another person, the
180 amount reported shall be based on the reporting individual's
181 legal percentage of ownership in the property. However, assets
182 that are held jointly, with right of survivorship, must be
183 reported at 100 percent of the value of the asset. For purposes
184 of this subsection, a reporting individual is deemed to own a
185 percentage of a partnership which is equal to the reporting
186 individual's interest in the capital or equity of the
187 partnership.

188 (b)1. With respect to reporting, on forms prescribed under
189 this section, liabilities valued in excess of \$1,000 ~~on forms~~
190 ~~prescribed under this section~~ for which the reporting individual
191 is jointly and severally liable, the amount reported shall be
192 based on the reporting individual's percentage of liability
193 rather than the total amount of the liability. However,
194 liability for a debt that is secured by property owned by the
195 reporting individual but that is held jointly, with right of
196 survivorship, must be reported at 100 percent of the total
197 amount owed.

198 2. A separate section of the form shall be created to
199 provide for the reporting of the amounts of joint and several
200 liability of the reporting individual not otherwise reported in
201 subparagraph 1.

202 (c) With respect to reporting income, on forms prescribed
203 under this section, each separate source and amount of income

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204 which exceeds \$1,000 must be identified. For purposes of
205 reporting income, a person required to file a full and public
206 disclosure of financial interests may not provide, and the
207 commission may not accept, a federal income tax return or a copy
208 thereof.

209 (6) The commission may not request, and a public officer,
210 candidate, or any other person may not provide, in any filing or
211 submission, a federal income tax return or a copy thereof; a
212 social security number; a bank, mortgage, or brokerage account
213 number; a debit, charge, or credit card number; a personal
214 identification number; a taxpayer identification number; or any
215 other personal or account information that is legally protected
216 from disclosure under state or federal law. Once the electronic
217 filing system is implemented, if a public officer, candidate, or
218 other person voluntarily provides such information, the
219 information is not subject to any confidentiality or public
220 records exemptions found in s. 119.071. The commission shall
221 redact a filer's social security number; bank, mortgage, or
222 brokerage account number; debit, charge, or credit card number;
223 or any other personal or account information that is legally
224 protected from disclosure under state or federal law upon
225 written notification from the filer of its inadvertent
226 inclusion. Such notice must specify the information
227 inadvertently included and the specific section or sections of
228 the disclosure in which it was included.

229 (7)(5) Until the electronic filing system required by
230 subsection (2) is implemented, forms for compliance with the
231 full and public disclosure requirements of s. 8, Art. II of the
232 State Constitution shall be prescribed ~~created~~ by the commission

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233 ~~on Ethics~~. The commission shall give notice of disclosure
234 deadlines and delinquencies and distribute forms in the
235 following manner:

236 (a) Not later than May 1 of each year, the commission shall
237 prepare a current list of the names, e-mail addresses, and
238 physical addresses of and the offices held by every person
239 required to file full and public disclosure annually by s. 8,
240 Art. II of the State Constitution, or other state law. ~~In~~
241 ~~compiling the list, the commission shall be assisted by~~ Each
242 unit of government shall assist the commission in compiling the
243 list by ~~in~~ providing to the commission not later than February 1
244 of each year at the request of the commission the name, e-mail
245 address, physical address, and name of the office held by such
246 person each public official within the respective unit of
247 government as of December 31 of the preceding year.

248 (b) Not later than June 1 ~~30 days before July 1~~ of each
249 year, the commission shall distribute mail a copy of the form
250 prescribed for compliance with full and public disclosure and a
251 notice of the filing deadline to each person on the ~~mailing~~
252 list. Beginning January 1, 2022, notice required under this
253 paragraph must be delivered by e-mail or other electronic means.

254 (c) Not later than August 1 ~~30 days after July 1~~ of each
255 year, the commission shall determine which persons on the
256 ~~mailing~~ list have failed to file full and public disclosure and
257 shall send delinquency notices ~~by certified mail~~ to such
258 persons. Each notice must ~~shall~~ state that a grace period is in
259 effect until September 1 of the current year. Beginning January
260 1, 2022, notice required under this paragraph must be delivered
261 by e-mail or other electronic means and must be redelivered on a

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262 weekly basis so long as a person remains delinquent.

263 (d) Disclosures Statements must be received by the
264 commission ~~filed~~ not later than 5 p.m. of the due date. However,
265 any disclosure statement that is postmarked by the United States
266 Postal Service by midnight of the due date is deemed to have
267 been filed in a timely manner, and a certificate of mailing
268 obtained from and dated by the United States Postal Service at
269 the time of the mailing, or a receipt from an established
270 courier company which bears a date on or before the due date,
271 constitutes proof of mailing in a timely manner. Beginning
272 January 1, 2022, upon request of the filer, the commission must
273 provide verification to the filer that the commission has
274 received the submitted disclosure.

275 (e) Beginning January 1, 2022, a written declaration, as
276 provided for under s. 92.525(2), accompanied by an electronic
277 signature satisfies the requirement that the disclosure be
278 sworn.

279 (f) Any person who is required to file full and public
280 disclosure of financial interests and whose name is on the
281 commission's ~~mailing~~ list, and to whom notice has been sent, but
282 who fails to timely file is assessed a fine of \$25 per day for
283 each day late up to a maximum of \$1,500; however this \$1,500
284 limitation on automatic fines does not limit the civil penalty
285 that may be imposed if the statement is filed more than 60 days
286 after the deadline and a complaint is filed, as provided in s.
287 112.324. The commission must provide by rule the grounds for
288 waiving the fine and the procedures by which each person whose
289 name is on the ~~mailing~~ list and who is determined to have not
290 filed in a timely manner will be notified of assessed fines and

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291 may appeal. The rule must provide for and make specific the
 292 following:

293 1. The amount of the fine due is based upon the earliest of
 294 the following:

295 a. When a statement is actually received by the office.
 296 b. When the statement is postmarked.
 297 c. When the certificate of mailing is dated.
 298 d. When the receipt from an established courier company is
 299 dated.

300 2. Upon receipt of the disclosure statement or upon accrual
 301 of the maximum penalty, whichever occurs first, the commission
 302 shall determine the amount of the fine which is due and shall
 303 notify the delinquent person. The notice must include an
 304 explanation of the appeal procedure under subparagraph 3. Such
 305 fine must be paid within 30 days after the notice of payment due
 306 is transmitted, unless appeal is made to the commission pursuant
 307 to subparagraph 3. The moneys shall be deposited into the
 308 General Revenue Fund.

309 3. Any reporting person may appeal or dispute a fine, based
 310 upon unusual circumstances surrounding the failure to file on
 311 the designated due date, and may request and is entitled to a
 312 hearing before the commission, which may waive the fine in whole
 313 or in part for good cause shown. Any such request must be in
 314 writing and received by the commission ~~made~~ within 30 days after
 315 the notice of payment due is transmitted. In such a case, the
 316 reporting person must, within the 30-day period, notify the
 317 person designated to review the timeliness of reports in writing
 318 of his or her intention to bring the matter before the
 319 commission. For purposes of this subparagraph, the term "unusual

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320 circumstances" does not include the failure to monitor an e-mail
 321 account or failure to receive notice if the person has not
 322 notified the commission of a change in his or her e-mail
 323 address.

324 ~~(g)(f)~~ Any person subject to the annual filing of full and
 325 public disclosure under s. 8, Art. II of the State Constitution,
 326 or other state law, whose name is not on the commission's
 327 ~~mailing~~ list of persons required to file full and public
 328 disclosure is not subject to the fines or penalties provided in
 329 this part for failure to file full and public disclosure in any
 330 year in which the omission occurred, but nevertheless is
 331 required to file the disclosure statement.

332 ~~(h)(g)~~ The notification requirements and fines of this
 333 subsection do not apply to candidates or to the first filing
 334 required of any person appointed to elective constitutional
 335 office or other position required to file full and public
 336 disclosure, unless the person's name is on the commission's
 337 notification list and the person received notification from the
 338 commission. The appointing official shall notify such newly
 339 appointed person of the obligation to file full and public
 340 disclosure by July 1. The notification requirements and fines of
 341 this subsection do not apply to the final filing provided for in
 342 subsection ~~(9)~~ ~~(7)~~.

343 ~~(i)(h)~~ Notwithstanding any provision of chapter 120, any
 344 fine imposed under this subsection which is not waived by final
 345 order of the commission and which remains unpaid more than 60
 346 days after the notice of payment due or more than 60 days after
 347 the commission renders a final order on the appeal must be
 348 submitted to the Department of Financial Services as a claim,

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349 debt, or other obligation owed to the state, and the department
350 shall assign the collection of such fine to a collection agent
351 as provided in s. 17.20.

352 ~~(8)(6)~~ If a person holding public office or public
353 employment fails or refuses to file a full and public disclosure
354 of financial interests for any year in which the person received
355 notice from the commission regarding the failure to file and has
356 accrued the maximum automatic fine authorized under this
357 section, regardless of whether the fine imposed was paid or
358 collected, the commission shall initiate an investigation and
359 conduct a public hearing without receipt of a complaint to
360 determine whether the person's failure to file is willful. Such
361 investigation and hearing must be conducted in accordance with
362 s. 112.324. Except as provided in s. 112.324(4), if the
363 commission determines that the person willfully failed to file a
364 full and public disclosure of financial interests, the
365 commission shall enter an order recommending that the officer or
366 employee be removed from his or her public office or public
367 employment. The commission shall forward its recommendations as
368 provided in s. 112.324.

369 ~~(9)(7)~~ Each person required to file full and public
370 disclosure of financial interests shall file a final disclosure
371 statement within 60 days after leaving his or her public
372 position for the period between January 1 of the year in which
373 the person leaves and the last day of office or employment,
374 unless within the 60-day period the person takes another public
375 position requiring financial disclosure under s. 8, Art. II of
376 the State Constitution, or is otherwise required to file full
377 and public disclosure for the final disclosure period. The head

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378 of the agency of each person required to file full and public
379 disclosure for the final disclosure period shall notify such
380 persons of their obligation to file the final disclosure and may
381 designate a person to be responsible for the notification
382 requirements of this subsection.

383 ~~(10)(a)(8)(a)~~ The commission shall treat an amendment to a
384 ~~amended~~ full and public disclosure of financial interests which
385 is filed before September 1 of the year in which the disclosure
386 is due as part of the original filing, regardless of whether a
387 complaint has been filed. If a complaint alleges only an
388 immaterial, inconsequential, or de minimis error or omission,
389 the commission may not take any action on the complaint other
390 than notifying the filer of the complaint. The filer must be
391 given 30 days to file an amendment to the ~~amended~~ full and
392 public disclosure of financial interests correcting any errors.
393 If the filer does not file an amendment to the ~~amended~~ full and
394 public disclosure of financial interests within 30 days after
395 the commission sends notice of the complaint, the commission may
396 continue with proceedings pursuant to s. 112.324.

397 (b) For purposes of the final full and public disclosure of
398 financial interests, the commission shall treat an amendment to
399 a new final full and public disclosure of financial interests as
400 part of the original filing if filed within 60 days after the
401 original filing, regardless of whether a complaint has been
402 filed. If, more than 60 days after a final full and public
403 disclosure of financial interests is filed, a complaint is filed
404 alleging a complete omission of any information required to be
405 disclosed by this section, the commission may immediately follow
406 the complaint procedures in s. 112.324. However, if the

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 407 complaint alleges an immaterial, inconsequential, or de minimis
 408 error or omission, the commission may not take any action on the
 409 complaint, other than notifying the filer of the complaint. The
 410 filer must be given 30 days to file an amendment to the a new
 411 final full and public disclosure of financial interests
 412 correcting any errors. If the filer does not file an amendment
 413 to the a new final full and public disclosure of financial
 414 interests within 30 days after the commission sends notice of
 415 the complaint, the commission may continue with proceedings
 416 pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is
 417 immaterial, inconsequential, or de minimis if the original
 418 filing provided sufficient information for the public to
 419 identify potential conflicts of interest. However, failure to
 420 certify completion of annual ethics training required under s.
 421 112.3142 does not constitute an immaterial, inconsequential, or
 422 de minimis error or omission.

(11) (a) (9) (a) An individual required to file a disclosure
 424 pursuant to this section may have the disclosure prepared by an
 425 attorney in good standing with The Florida Bar or by a certified
 426 public accountant licensed under chapter 473. After preparing a
 427 disclosure form, the attorney or certified public accountant
 428 must sign the form indicating that he or she prepared the form
 429 in accordance with this section and the instructions for
 430 completing and filing the disclosure forms and that, upon his or
 431 her reasonable knowledge and belief, the disclosure is true and
 432 correct. If a complaint is filed alleging a failure to disclose
 433 information required by this section, the commission shall
 434 determine whether the information was disclosed to the attorney
 435

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 436 or certified public accountant. The failure of the attorney or
 437 certified public accountant to accurately transcribe information
 438 provided by the individual required to file is not a violation
 439 of this section.

(b) An elected officer or candidate who chooses to use an
 440 attorney or a certified public accountant to prepare his or her
 441 disclosure may pay for the services of the attorney or certified
 442 public accountant from funds in an office account created
 443 pursuant to s. 106.141 or, during a year that the individual
 444 qualifies for election to public office, the candidate's
 445 campaign depository pursuant to s. 106.021.

(12) (10) The commission shall adopt rules and forms
 447 specifying how a person who is required to file full and public
 448 disclosure of financial interests may amend his or her
 449 disclosure statement to report information that was not included
 450 on the form as originally filed. If the amendment is the subject
 451 of a complaint filed under this part, the commission and the
 452 proper disciplinary official or body shall consider as a
 453 mitigating factor when considering appropriate disciplinary
 454 action the fact that the amendment was filed before any
 455 complaint or other inquiry or proceeding, while recognizing that
 456 the public was deprived of access to information to which it was
 457 entitled.
 458

(13) The provisions of this section constitute a revision
 459 to the schedule included in s. 8(i), Art. II of the State
 460 Constitution.

Section 4. Section 112.3145, Florida Statutes, is amended
 462 to read:

112.3145 Disclosure of financial interests and clients
 464

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465 represented before agencies.—

466 (1) For purposes of this section, unless the context
467 otherwise requires, the term:

468 (a) "Local officer" means:

469 1. Every person who is elected to office in any political
470 subdivision of the state, and every person who is appointed to
471 fill a vacancy for an unexpired term in such an elective office.

472 2. Any appointed member of any of the following boards,
473 councils, commissions, authorities, or other bodies of any
474 county, municipality, school district, independent special
475 district, or other political subdivision of the state:

476 a. The governing body of the political subdivision, if
477 appointed;

478 b. A community college or junior college district board of
479 trustees;

480 c. A board having the power to enforce local code
481 provisions;

482 d. A planning or zoning board, board of adjustment, board
483 of appeals, community redevelopment agency board, or other board
484 having the power to recommend, create, or modify land planning
485 or zoning within the political subdivision, except for citizen
486 advisory committees, technical coordinating committees, and such
487 other groups who only have the power to make recommendations to
488 planning or zoning boards;

489 e. A pension board or retirement board having the power to
490 invest pension or retirement funds or the power to make a
491 binding determination of one's entitlement to or amount of a
492 pension or other retirement benefit; or

493 f. Any other appointed member of a local government board

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494 who is required to file a statement of financial interests by
495 the appointing authority or the enabling legislation, ordinance,
496 or resolution creating the board.

497 3. Any person holding one or more of the following
498 positions: mayor; county or city manager; chief administrative
499 employee of a county, municipality, or other political
500 subdivision; county or municipal attorney; finance director of a
501 county, municipality, or other political subdivision; chief
502 county or municipal building code inspector; county or municipal
503 water resources coordinator; county or municipal pollution
504 control director; county or municipal environmental control
505 director; county or municipal administrator, with power to grant
506 or deny a land development permit; chief of police; fire chief;
507 municipal clerk; district school superintendent; community
508 college president; district medical examiner; or purchasing
509 agent having the authority to make any purchase exceeding the
510 threshold amount provided for in s. 287.017 for CATEGORY TWO
511 ~~ONE~~, on behalf of any political subdivision of the state or any
512 entity thereof.

513 (b) "Specified state employee" means:

514 1. Public counsel created by chapter 350, an assistant
515 state attorney, an assistant public defender, a criminal
516 conflict and civil regional counsel, an assistant criminal
517 conflict and civil regional counsel, a full-time state employee
518 who serves as counsel or assistant counsel to any state agency,
519 ~~the Deputy Chief Judge of Compensation Claims, a judge of~~
520 ~~compensation claims~~, an administrative law judge, or a hearing
521 officer.

522 2. Any person employed in the office of the Governor or in

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523 the office of any member of the Cabinet if that person is exempt
524 from the Career Service System, except persons employed in
525 clerical, secretarial, or similar positions.

526 3. The State Surgeon General or each appointed secretary,
527 assistant secretary, deputy secretary, executive director,
528 assistant executive director, or deputy executive director of
529 each state department, commission, board, or council; unless
530 otherwise provided, the division director, assistant division
531 director, deputy director, and bureau chief, ~~and assistant~~
532 ~~bureau chief~~ of any state department or division; or any person
533 having the power normally conferred upon such persons, by
534 whatever title.

535 4. The superintendent or institute director of a state
536 mental health institute established for training and research in
537 the mental health field or the warden or director of any major
538 state institution or facility established for corrections,
539 training, treatment, or rehabilitation.

540 5. Business managers, purchasing agents having the power to
541 make any purchase exceeding the threshold amount provided for in
542 s. 287.017 for CATEGORY TWO ~~ONE~~, finance and accounting
543 directors, personnel officers, or grants coordinators for any
544 state agency.

545 6. Any person, other than a legislative assistant exempted
546 by the presiding officer of the house by which the legislative
547 assistant is employed, who is employed in the legislative branch
548 of government, except persons employed in maintenance, clerical,
549 secretarial, or similar positions.

550 7. Each employee of the Commission on Ethics.

551 (c) "State officer" means:

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552 1. Any elected public officer, excluding those elected to
553 the United States Senate and House of Representatives, not
554 covered elsewhere in this part and any person who is appointed
555 to fill a vacancy for an unexpired term in such an elective
556 office.

557 2. An appointed member of each board, commission,
558 authority, or council having statewide jurisdiction, excluding a
559 member of an advisory body.

560 3. A member of the Board of Governors of the State
561 University System or a state university board of trustees, the
562 Chancellor and Vice Chancellors of the State University System,
563 and the president of a state university.

564 4. A member of the judicial nominating commission for any
565 district court of appeal or any judicial circuit.

566 (2) (a) A person seeking nomination or election to a state
567 or local elective office shall file a statement of financial
568 interests together with, and at the same time he or she files,
569 qualifying papers. Until the electronic filing system is
570 implemented under paragraph (d), when a candidate has qualified
571 for office prior to the deadline to file an annual statement of
572 financial interests, the statement of financial interests that
573 is filed with the candidate's qualifying papers shall be deemed
574 to satisfy the annual disclosure requirement of this section.
575 The qualifying officer must record that the statement of
576 financial interests was timely filed. However, if a candidate
577 does not qualify until after the annual statement of financial
578 interests has been filed, the candidate may file a copy of his
579 or her statement with the qualifying officer.

580 (b) Each state or local officer and each specified state

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581 employee shall file a statement of financial interests no later
 582 than July 1 of each year. Each state officer, local officer, and
 583 specified state employee shall file a final statement of
 584 financial interests within 60 days after leaving his or her
 585 public position for the period between January 1 of the year in
 586 which the person leaves and the last day of office or
 587 employment, unless within the 60-day period the person takes
 588 another public position requiring financial disclosure under
 589 this section or s. 8, Art. II of the State Constitution or
 590 otherwise is required to file full and public disclosure or a
 591 statement of financial interests for the final disclosure
 592 period. Each state or local officer who is appointed and each
 593 specified state employee who is employed shall file a statement
 594 of financial interests within 30 days from the date of
 595 appointment or, in the case of a specified state employee, from
 596 the date on which the employment begins, except that any person
 597 whose appointment is subject to confirmation by the Senate shall
 598 file prior to confirmation hearings or within 30 days from the
 599 date of appointment, whichever comes first.

600 (c) State officers and specified state employees shall file
 601 their statements of financial interests with the commission ~~on~~
 602 ~~Ethics~~. Local officers shall file their statements of financial
 603 interests with the supervisor of elections of the county in
 604 which they permanently reside. Local officers who do not
 605 permanently reside in any county in the state shall file their
 606 statements of financial interests with the supervisor of
 607 elections of the county in which their agency maintains its
 608 headquarters. Persons seeking to qualify as candidates for local
 609 public office shall file their statements of financial interests

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610 with the officer before whom they qualify.

611 (d) Beginning January 1, 2023, a statement of financial
 612 interests and a final statement of financial interests, and
 613 amendments thereto, or any other form required by this section,
 614 must be filed electronically through an electronic filing system
 615 created and maintained by the commission as provided in s.
 616 112.31446.

617 (3) The statement of financial interests for state
 618 officers, specified state employees, local officers, and persons
 619 seeking to qualify as candidates for state or local office shall
 620 be filed even if the reporting person holds no financial
 621 interests requiring disclosure in a particular category, in
 622 which case that section of the statement shall be marked "not
 623 applicable." Otherwise, the statement of financial interests
 624 must shall include the information under paragraph (a) or
 625 paragraph (b). The reporting person shall indicate on the
 626 statement whether he or she is using the reporting method under
 627 paragraph (a) or paragraph (b). However, beginning January 1,
 628 2023, only the reporting method specified under paragraph (b)
 629 may be used. , at the filer's option, either:

630 (a) 1. All sources of income in excess of 5 percent of the
 631 gross income received during the disclosure period by the person
 632 in his or her own name or by any other person for his or her use
 633 or benefit, excluding public salary. However, this shall not be
 634 construed to require disclosure of a business partner's sources
 635 of income. The person reporting shall list such sources in
 636 descending order of value with the largest source first;

637 2. All sources of income to a business entity in excess of
 638 10 percent of the gross income of a business entity in which the

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639 reporting person held a material interest and from which he or
640 she received an amount which was in excess of 10 percent of his
641 or her gross income during the disclosure period and which
642 exceeds \$1,500. The period for computing the gross income of the
643 business entity is the fiscal year of the business entity which
644 ended on, or immediately prior to, the end of the disclosure
645 period of the person reporting;

646 3. The location or description of real property in this
647 state, except for residences and vacation homes, owned directly
648 or indirectly by the person reporting, when such person owns in
649 excess of 5 percent of the value of such real property, and a
650 general description of any intangible personal property worth in
651 excess of 10 percent of such person's total assets. For the
652 purposes of this paragraph, indirect ownership does not include
653 ownership by a spouse or minor child; and

654 4. Every individual liability that equals more than the
655 reporting person's net worth; or

656 (b)1. All sources of gross income in excess of \$2,500
657 received during the disclosure period by the person in his or
658 her own name or by any other person for his or her use or
659 benefit, excluding public salary. However, this shall not be
660 construed to require disclosure of a business partner's sources
661 of income. The person reporting shall list such sources in
662 descending order of value with the largest source first;

663 2. All sources of income to a business entity in excess of
664 10 percent of the gross income of a business entity in which the
665 reporting person held a material interest and from which he or
666 she received gross income exceeding \$5,000 during the disclosure
667 period. The period for computing the gross income of the

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668 business entity is the fiscal year of the business entity which
669 ended on, or immediately prior to, the end of the disclosure
670 period of the person reporting;

671 3. The location or description of real property in this
672 state, except for residence and vacation homes, owned directly
673 or indirectly by the person reporting, when such person owns in
674 excess of 5 percent of the value of such real property, and a
675 general description of any intangible personal property worth in
676 excess of \$10,000. For the purpose of this paragraph, indirect
677 ownership does not include ownership by a spouse or minor child;
678 and

679 4. Every liability in excess of \$10,000.

680
681 ~~A person filing a statement of financial interests shall~~
682 ~~indicate on the statement whether he or she is using the method~~
683 ~~specified in paragraph (a) or paragraph (b).~~

684 (4) The commission may not request, and a local or state
685 officer or specified state employee may not provide, in any
686 filing or submission, a federal income tax return or a copy
687 thereof; a social security number; a bank, mortgage, or
688 brokerage account number; a debit, charge, or credit card
689 number; a personal identification number; a taxpayer
690 identification number; or any other personal or account
691 information that is legally protected from disclosure under
692 state or federal law. Once the electronic filing system is
693 implemented, if a public officer, candidate, or other person
694 voluntarily provides such information, the information is not
695 subject to any confidentiality or public records exemptions
696 found in s. 119.071. The commission shall redact a filer's

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697 social security number; bank, mortgage, or brokerage account
 698 number; debit, charge, or credit card number; or any other
 699 personal or account information that is legally protected from
 700 disclosure under state or federal law upon written notification
 701 from the filer of its inadvertent inclusion. Such notice must
 702 specify the information inadvertently included and the specific
 703 section or sections of the disclosure in which it was included.

704 ~~(5)~~ ~~Beginning January 1, 2015,~~ An officer who is required
 705 to complete annual ethics training pursuant to s. 112.3142 must
 706 certify on his or her statement of financial interests that he
 707 or she has completed the required training.

708 ~~(6)~~(5) Each elected constitutional officer, state officer,
 709 local officer, and specified state employee shall file a
 710 quarterly report of the names of clients represented for a fee
 711 or commission, except for appearances in ministerial matters,
 712 before agencies at his or her level of government. For the
 713 purposes of this part, agencies of government shall be
 714 classified as state-level agencies or agencies below state
 715 level. Each local officer shall file such report with the
 716 supervisor of elections of the county in which the officer is
 717 principally employed or is a resident. Each state officer,
 718 elected constitutional officer, and specified state employee
 719 shall file such report with the commission. The report shall be
 720 filed only when a reportable representation is made during the
 721 calendar quarter and shall be filed no later than the last day
 722 of each calendar quarter, for the previous calendar quarter.
 723 Representation before any agency shall be deemed to include
 724 representation by such officer or specified state employee or by
 725 any partner or associate of the professional firm of which he or

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726 she is a member and of which he or she has actual knowledge. For
 727 the purposes of this subsection, the term "representation before
 728 any agency" does not include appearances before any court or the
 729 Deputy Chief Judge of Compensation Claims or judges of
 730 compensation claims or representations on behalf of one's agency
 731 in one's official capacity. Such term does not include the
 732 preparation and filing of forms and applications merely for the
 733 purpose of obtaining or transferring a license based on a quota
 734 or a franchise of such agency or a license or operation permit
 735 to engage in a profession, business, or occupation, so long as
 736 the issuance or granting of such license, permit, or transfer
 737 does not require substantial discretion, a variance, a special
 738 consideration, or a certificate of public convenience and
 739 necessity.

740 ~~(7)~~(6) Each elected constitutional officer and each
 741 candidate for such office, any other public officer required
 742 pursuant to s. 8, Art. II of the State Constitution to file a
 743 full and public disclosure of his or her financial interests,
 744 and each state officer, local officer, specified state employee,
 745 and candidate for elective public office who is or was during
 746 the disclosure period an officer, director, partner, proprietor,
 747 or agent, other than a resident agent solely for service of
 748 process, of, or owns or owned during the disclosure period a
 749 material interest in, any business entity which is granted a
 750 privilege to operate in this state shall disclose such facts as
 751 a part of the disclosure form filed pursuant to s. 8, Art. II of
 752 the State Constitution or this section, as applicable. The
 753 statement shall give the name, address, and principal business
 754 activity of the business entity and shall state the position

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755 held with such business entity or the fact that a material
756 interest is owned and the nature of that interest.

757 ~~(8)(7)~~ Forms for compliance with the disclosure
758 requirements of this section and a current list of persons
759 subject to disclosure shall be created by the commission and
760 provided to each supervisor of elections. The commission and
761 each supervisor of elections shall give notice of disclosure
762 deadlines and delinquencies and distribute forms in the
763 following manner:

764 (a)1. Not later than May 1 of each year, the commission
765 shall prepare a current list of the names, e-mail addresses, and
766 physical addresses of, and the offices or positions held by,
767 every state officer, local officer, and specified employee. ~~In~~
768 ~~compiling the list, the commission shall be assisted by~~ Each
769 unit of government shall assist the commission in compiling the
770 list by ~~in~~ providing to the commission not later than February 1
771 of each year, at the request of the commission, the name, e-
772 mail address, physical address, and name of agency of, and the
773 office or position held by, each state officer, local officer,
774 or specified state employee within the respective unit of
775 government as of December 31 of the preceding year.

776 2. Not later than May 15 of each year, the commission shall
777 provide each supervisor of elections with a current ~~mailing~~ list
778 of all local officers required to file with such supervisor of
779 elections.

780 (b) Not later than ~~June 1 30 days before July 1~~ of each
781 year, the commission and each supervisor of elections, as
782 appropriate, shall distribute ~~mail~~ a copy of the form prescribed
783 for compliance with subsection (3) and a notice of all

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784 applicable disclosure forms and filing deadlines to each person
785 required to file a statement of financial interests. Beginning
786 January 1, 2023, notice required under this paragraph must be
787 delivered by e-mail or other electronic means.

788 (c) Not later than ~~August 1 30 days after July 1~~ of each
789 year, the commission and each supervisor of elections shall
790 determine which persons required to file a statement of
791 financial interests in their respective offices have failed to
792 do so and shall send delinquency notices ~~by certified mail,~~
793 ~~return receipt requested,~~ to these persons. Each notice must
794 ~~shall~~ state that a grace period is in effect until September 1
795 of the current year; that no investigative or disciplinary
796 action based upon the delinquency will be taken by the agency
797 head or commission if the statement is filed by September 1 of
798 the current year; that, if the statement is not filed by
799 September 1 of the current year, a fine of \$25 for each day late
800 will be imposed, up to a maximum penalty of \$1,500; for notices
801 distributed ~~sent~~ by a supervisor of elections, that he or she is
802 required by law to notify the commission of the delinquency; and
803 that, if upon the filing of a sworn complaint the commission
804 finds that the person has failed to timely file the statement
805 within 60 days after September 1 of the current year, such
806 person will also be subject to the penalties provided in s.
807 112.317. Beginning January 1, 2023, notice required under this
808 paragraph must be delivered by e-mail or other electronic means
809 and must be redelivered on a weekly basis so long as a person
810 remains delinquent.

811 (d) No later than November 15 of each year, the supervisor
812 of elections in each county shall certify to the commission a

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813 list of the names and addresses of, and the offices or positions
 814 held by, all persons who have failed to timely file the required
 815 statements of financial interests. The certification must
 816 include the earliest of the dates described in subparagraph
 817 (g)1. ~~(f)1.~~ The certification shall be on a form prescribed by
 818 the commission and shall indicate whether the supervisor of
 819 elections has provided the disclosure forms and notice as
 820 required by this subsection to all persons named on the
 821 delinquency list.

822 (e) Statements must be received by the commission ~~filed~~ not
 823 later than 5 p.m. of the due date. However, any statement that
 824 is postmarked by the United States Postal Service by midnight of
 825 the due date is deemed to have been filed in a timely manner,
 826 and a certificate of mailing obtained from and dated by the
 827 United States Postal Service at the time of the mailing, or a
 828 receipt from an established courier company which bears a date
 829 on or before the due date, constitutes proof of mailing in a
 830 timely manner. Beginning January 1, 2023, upon request of the
 831 filer, the commission must provide verification to the filer
 832 that the commission has received the submitted statement.

833 (f) Beginning January 1, 2023, the statement must be
 834 accompanied by a declaration as provided in s. 92.525(2) and an
 835 electronic acknowledgement thereof.

836 (g) Any person who is required to file a statement of
 837 financial interests and whose name is on the commission's
 838 ~~mailing~~ list, and to whom notice has been sent, but who fails to
 839 timely file is assessed a fine of \$25 per day for each day late
 840 up to a maximum of \$1,500; however, this \$1,500 limitation on
 841 automatic fines does not limit the civil penalty that may be

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842 imposed if the statement is filed more than 60 days after the
 843 deadline and a complaint is filed, as provided in s. 112.324.
 844 The commission must provide by rule the grounds for waiving the
 845 fine and procedures by which each person whose name is on the
 846 ~~mailing~~ list and who is determined to have not filed in a timely
 847 manner will be notified of assessed fines and may appeal. The
 848 rule must provide for and make specific the following:

849 1. The amount of the fine due is based upon the earliest of
 850 the following:
 851 a. When a statement is actually received by the office.
 852 b. When the statement is postmarked.
 853 c. When the certificate of mailing is dated.
 854 d. When the receipt from an established courier company is
 855 dated.

856 2. For a specified state employee or a state officer, upon
 857 receipt of the disclosure statement by the commission or upon
 858 accrual of the maximum penalty, whichever occurs first, and for
 859 a local officer upon receipt by the commission of the
 860 certification from the local officer's supervisor of elections
 861 pursuant to paragraph (d), the commission shall determine the
 862 amount of the fine which is due and shall notify the delinquent
 863 person. The notice must include an explanation of the appeal
 864 procedure under subparagraph 3. The fine must be paid within 30
 865 days after the notice of payment due is transmitted, unless
 866 appeal is made to the commission pursuant to subparagraph 3. The
 867 moneys are to be deposited into the General Revenue Fund.

868 3. Any reporting person may appeal or dispute a fine, based
 869 upon unusual circumstances surrounding the failure to file on
 870 the designated due date, and may request and is entitled to a

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871 hearing before the commission, which may waive the fine in whole
 872 or in part for good cause shown. Any such request must be in
 873 writing and received by the commission ~~made~~ within 30 days after
 874 the notice of payment due is transmitted. In such a case, the
 875 reporting person must, within the 30-day period, notify the
 876 person designated to review the timeliness of reports in writing
 877 of his or her intention to bring the matter before the
 878 commission. For purposes of this subparagraph, the term "unusual
 879 circumstances" does not include the failure to monitor an e-mail
 880 account or failure to receive notice if the person has not
 881 notified the commission of a change in his or her e-mail
 882 address.

883 (h) ~~(g)~~ Any state officer, local officer, or specified
 884 employee whose name is not on the ~~mailing~~ list of persons
 885 required to file an annual statement of financial interests is
 886 not subject to the penalties provided in s. 112.317 or the fine
 887 provided in this section for failure to timely file a statement
 888 of financial interests in any year in which the omission
 889 occurred, but nevertheless is required to file the disclosure
 890 statement.

891 (i) ~~(h)~~ The notification requirements and fines of this
 892 subsection do not apply to candidates or to the first or final
 893 filing required of any state officer, specified employee, or
 894 local officer as provided in paragraph (2) (b).

895 (j) ~~(i)~~ Notwithstanding any provision of chapter 120, any
 896 fine imposed under this subsection which is not waived by final
 897 order of the commission and which remains unpaid more than 60
 898 days after the notice of payment due or more than 60 days after
 899 the commission renders a final order on the appeal must be

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900 submitted to the Department of Financial Services as a claim,
 901 debt, or other obligation owed to the state, and the department
 902 shall assign the collection of such a fine to a collection agent
 903 as provided in s. 17.20.

904 (9) (a) ~~(8) (a)~~ The appointing official or body shall notify
 905 each newly appointed local officer, state officer, or specified
 906 state employee, not later than the date of appointment, of the
 907 officer's or employee's duty to comply with the disclosure
 908 requirements of this section. The agency head of each employing
 909 agency shall notify each newly employed local officer or
 910 specified state employee, not later than the day of employment,
 911 of the officer's or employee's duty to comply with the
 912 disclosure requirements of this section. The appointing official
 913 or body or employing agency head may designate a person to be
 914 responsible for the notification requirements of this paragraph.

915 (b) The agency head of the agency of each local officer,
 916 state officer, or specified state employee who is required to
 917 file a statement of financial interests for the final disclosure
 918 period shall notify such persons of their obligation to file the
 919 final disclosure and may designate a person to be responsible
 920 for the notification requirements of this paragraph.

921 (c) If a person holding public office or public employment
 922 fails or refuses to file an annual statement of financial
 923 interests for any year in which the person received notice from
 924 the commission regarding the failure to file and has accrued the
 925 maximum automatic fine authorized under this section, regardless
 926 of whether the fine imposed was paid or collected, the
 927 commission shall initiate an investigation and conduct a public
 928 hearing without receipt of a complaint to determine whether the

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929 person's failure to file is willful. Such investigation and
 930 hearing must be conducted in accordance with s. 112.324. Except
 931 as provided in s. 112.324(4), if the commission determines that
 932 the person willfully failed to file a statement of financial
 933 interests, the commission shall enter an order recommending that
 934 the officer or employee be removed from his or her public office
 935 or public employment. The commission shall forward its
 936 recommendation as provided in s. 112.324.

937 (10)(9) A public officer who has filed a disclosure for any
 938 calendar or fiscal year shall not be required to file a second
 939 disclosure for the same year or any part thereof,
 940 notwithstanding any requirement of this act, except that any
 941 public officer who qualifies as a candidate for public office
 942 shall file a copy of the disclosure with the officer before whom
 943 he or she qualifies as a candidate at the time of qualification.

944 (11)(a)(10)(a) The commission shall treat an amendment to
 945 an amended annual statement of financial interests which is
 946 filed before September 1 of the year in which the statement is
 947 due as part of the original filing, regardless of whether a
 948 complaint has been filed. If a complaint alleges only an
 949 immaterial, inconsequential, or de minimis error or omission,
 950 the commission may not take any action on the complaint other
 951 than notifying the filer of the complaint. The filer must be
 952 given 30 days to file an amendment to the amended statement of
 953 financial interests correcting any errors. If the filer does not
 954 file an amendment to the amended statement of financial
 955 interests within 30 days after the commission sends notice of
 956 the complaint, the commission may continue with proceedings
 957 pursuant to s. 112.324.

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958 (b) For purposes of the final statement of financial
 959 interests, the commission shall treat an amendment to a new
 960 final statement of financial interests as part of the original
 961 filing, if filed within 60 days of the original filing
 962 regardless of whether a complaint has been filed. If, more than
 963 60 days after a final statement of financial interests is filed,
 964 a complaint is filed alleging a complete omission of any
 965 information required to be disclosed by this section, the
 966 commission may immediately follow the complaint procedures in s.
 967 112.324. However, if the complaint alleges an immaterial,
 968 inconsequential, or de minimis error or omission, the commission
 969 may not take any action on the complaint other than notifying
 970 the filer of the complaint. The filer must be given 30 days to
 971 file an amendment to the a-new final statement of financial
 972 interests correcting any errors. If the filer does not file an
 973 amendment to the a-new final statement of financial interests
 974 within 30 days after the commission sends notice of the
 975 complaint, the commission may continue with proceedings pursuant
 976 to s. 112.324.

977 (c) For purposes of this section, an error or omission is
 978 immaterial, inconsequential, or de minimis if the original
 979 filing provided sufficient information for the public to
 980 identify potential conflicts of interest. However, failure to
 981 certify completion of annual ethics training required under s.
 982 112.3142 does not constitute an immaterial, inconsequential, or
 983 de minimis error or omission.

984 (12)(a)(11)(a) An individual required to file a statement
 985 disclosure pursuant to this section may have the statement
 986 disclosure prepared by an attorney in good standing with The

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987 Florida Bar or by a certified public accountant licensed under
 988 chapter 473. After preparing a statement disclosure form, the
 989 attorney or certified public accountant must sign the form
 990 indicating that he or she prepared the form in accordance with
 991 this section and the instructions for completing and filing the
 992 disclosure forms and that, upon his or her reasonable knowledge
 993 and belief, the disclosure is true and correct. If a complaint
 994 is filed alleging a failure to disclose information required by
 995 this section, the commission shall determine whether the
 996 information was disclosed to the attorney or certified public
 997 accountant. The failure of the attorney or certified public
 998 accountant to accurately transcribe information provided by the
 999 individual who is required to file the statement disclosure does
 1000 not constitute a violation of this section.

1001 (b) An elected officer or candidate who chooses to use an
 1002 attorney or a certified public accountant to prepare his or her
 1003 statement disclosure may pay for the services of the attorney or
 1004 certified public accountant from funds in an office account
 1005 created pursuant to s. 106.141 or, during a year that the
 1006 individual qualifies for election to public office, the
 1007 candidate's campaign depository pursuant to s. 106.021.

1008 ~~(13)-(12)~~ The commission shall adopt rules and forms
 1009 specifying how a state officer, local officer, or specified
 1010 state employee may amend his or her statement of financial
 1011 interests to report information that was not included on the
 1012 form as originally filed. If the amendment is the subject of a
 1013 complaint filed under this part, the commission and the proper
 1014 disciplinary official or body shall consider as a mitigating
 1015 factor when considering appropriate disciplinary action the fact

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1016 that the amendment was filed before any complaint or other
 1017 inquiry or proceeding, while recognizing that the public was
 1018 deprived of access to information to which it was entitled.
 1019 Section 5. Section 112.31455, Florida Statutes, is amended
 1020 to read:
 1021 112.31455 Collection methods for unpaid automatic fines for
 1022 failure to timely file disclosure of financial interests.—
 1023 (1) Before referring any unpaid fine accrued pursuant to s.
 1024 112.3144(7) or s. 112.3145(8) s. 112.3144(5) or s. 112.3145(7)
 1025 to the Department of Financial Services, the commission shall
 1026 attempt to determine whether the individual owing such a fine is
 1027 a current public officer or current public employee. If so, the
 1028 commission may notify the Chief Financial Officer or the
 1029 governing body of the appropriate county, municipality, or
 1030 special district of the total amount of any fine owed to the
 1031 commission by such individual.
 1032 (a) After receipt and verification of the notice from the
 1033 commission, the Chief Financial Officer or the governing body of
 1034 the county, municipality, or special district shall begin
 1035 withholding the lesser of 10 percent or the maximum amount
 1036 allowed under federal law from any salary-related payment. The
 1037 withheld payments shall be remitted to the commission until the
 1038 fine is satisfied.
 1039 (b) The Chief Financial Officer or the governing body of
 1040 the county, municipality, or special district may retain an
 1041 amount of each withheld payment, as provided in s. 77.0305, to
 1042 cover the administrative costs incurred under this section.
 1043 (2) If the commission determines that the individual who is
 1044 the subject of an unpaid fine accrued pursuant to s. 112.3144(7)

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1045 or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~ is no longer
1046 a public officer or public employee or if the commission is
1047 unable to determine whether the individual is a current public
1048 officer or public employee, the commission may, 6 months after
1049 the order becomes final, seek garnishment of any wages to
1050 satisfy the amount of the fine, or any unpaid portion thereof,
1051 pursuant to chapter 77. Upon recording the order imposing the
1052 fine with the clerk of the circuit court, the order shall be
1053 deemed a judgment for purposes of garnishment pursuant to
1054 chapter 77.

1055 (3) The commission may refer unpaid fines to the
1056 appropriate collection agency, as directed by the Chief
1057 Financial Officer, to utilize any collection methods provided by
1058 law. Except as expressly limited by this section, any other
1059 collection methods authorized by law are allowed.

1060 (4) Action may be taken to collect any unpaid fine imposed
1061 by ss. 112.3144 and 112.3145 within 20 years after the date the
1062 final order is rendered.

1063 Section 6. Except as otherwise expressly provided in this
1064 act, this act shall take effect upon becoming a law.

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: PCS/SB 7042 (Barcode 593344)

INTRODUCER: Governmental Oversight and Accountability Committee and Ethics and Elections Committee

SUBJECT: Public Records/Commission on Ethics

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Mitchell</u>	<u>Roberts</u>		EE Submitted as Committee Bill
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Pre-meeting
2.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7042 exempts from public inspection and copying secure login credentials held by the Commission on Ethics (Commission) for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion. The bill also exempts from public inspection and copying any information entered in the electronic filing system for purposes of financial disclosure until a disclosure of financial interests or statement of financial interests is submitted by the filer to the Commission, or in the case of a candidate, filed with a qualifying officer.

The bill provides that the exemptions are subject to the Open Government Sunset Review Act (OGSRA), and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution.

The bill's effective date is contingent upon, and concurrent with, passage of SPB 7040 or similar legislation. SPB 7040, if enacted, will take effect upon becoming a law.

Because the bill creates new public records exemptions, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

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

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

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

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

¹ FLA. CONST., art. I, s. 24(a).

² *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” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

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

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

⁹ FLA. CONST., art. I, s. 24(c)

¹⁰ *Id.*

¹¹ *Id.*

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

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

Historically, secure login credentials have been treated as confidential and exempt under the security system exemptions contained in ss. 281.301 and 119.071(3), F.S.

Open Government Sunset Review Act

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

The OGSRA 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

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

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

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

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

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(b)1., F.S.

¹⁹ Section 119.15(6)(b)2., F.S.

²⁰ Section 119.15(6)(b)3., F.S.

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

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

SB 7040 (2019)

SB 7040 requires the Commission to procure and test an electronic filing system by a date certain. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Upload submitted information to the Commission;
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard Internet-browsing software;
- Issue a verification or receipt that the Commission has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete and file the disclosure or statement and certify that he or she prepared it in accordance with:
 - s. 112.3144, F.S. or s. 112.3145; and
 - the instructions for completing and filing the disclosure or statement; and that
- The information on the disclosure or statement is true and correct.

The bill establishes dates certain after which all submissions of CE Form 6 and, later, all submissions of CE Form 1 must be made to the Commission and accomplished electronically. Submission of paper forms will be discontinued. The Commission will provide notice and other communications to filers by email message. All disclosures must be for the calendar year, not the taxable year. Candidates will continue to submit required disclosures to his or her qualifying officer, but local officers will no longer submit financial statements to supervisors of elections. Beginning with required electronic submission of CE Form 1, filers must use the dollar threshold method of reporting. The percent in excess of income or value method will no longer be in use.

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

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

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

The information requested in CE Forms 1 and 6 include name, mailing address, name of office or position held or sought, sources of income, real property, liabilities, business interests, and gifts received. None of the information requested is otherwise confidential or exempt.

III. Effect of Proposed Changes:

This bill exempts from public copying and inspection requirements those secure login credentials held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion. The bill also exempts from public copying and inspection requirements any information entered in the electronic filing system for purposes of financial disclosure until a disclosure of financial interests or statement of financial interests is submitted by the filer to the Commission, or in the case of a candidate, filed with a qualifying officer.

The bill provides that the exemptions are subject to the OGSRA, and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution. It states that the public's need for access to information included in disclosures or statements of financial interests filed by reporting individuals should be balanced with the filer's interest in safeguarding personally sensitive information and that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system would be hindered.

The bill's effective date is contingent upon, and concurrent with, passage of SB 7040 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. SB 7040, if enacted, will take effect upon becoming a law.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

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. Likewise, it does reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public records or public meetings

exemption. The bill creates new public record exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record exemptions; therefore, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the stated purpose of the law. This bill exempts secure login credentials held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion, and draft information input into the electronic system before a filer's submission is finalized. Based on the legislative findings in the statement of public necessity, the public records exemption in this bill appears to be no broader than necessary to accomplish its stated purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 112.31446 of the Florida Statutes, created in SB 7040 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IX. Additional Information:

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

PCS (593344) by Governmental Oversight and Accountability on March 25, 2019:

The proposed committee substitute corrects the reference to the public records requirements from s. 119.071(1), F.S. to s. 119.07(1), F.S.

The proposed committee substitute changes the term “passwords” to “secure login credentials” to align with the language of SB 7040.

- B. **Amendments:**

None.



593344

585-03349-19

Proposed Committee Substitute by the Committee on Governmental Oversight and Accountability

A bill to be entitled

An act relating to public records; amending s. 112.31446, F.S.; providing exemptions from public records requirements for secure login credentials held by the Commission on Ethics and certain information entered into the electronic filing system for financial disclosure forms; specifying conditions under which such information is no longer exempt; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (6) is added to section 112.31446, Florida Statutes, as created by PCS/SB 7040, 2019 Regular Session, to read:

112.31446 Electronic filing system for financial disclosure.—

(6) (a) All secure login credentials held by the commission for the purpose of allowing access to the electronic filing system are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Information entered in the electronic filing system for purposes of financial disclosure is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Information entered in the electronic filing system is no longer exempt once the



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disclosure of financial interests or statement of financial interests is submitted to the commission or, in the case of a candidate, filed with a qualifying officer, whichever occurs first.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that all secure login credentials held by the Commission on Ethics for the purpose of allowing access to the electronic filing system for financial disclosures, and information entered into the system, be exempt from public records requirements. The Legislature finds that the public's need for access to information included in the full and public disclosures of financial interests or statements of financial interests filed by reporting individuals be balanced with the filer's interest in safeguarding personally sensitive information. The Legislature further finds that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system, which otherwise is designed to increase the ease of filing for reporting individuals and to improve the public's access to financial disclosure information, would be hindered. For these reasons, the Legislature finds that it is a public necessity to exempt such information from public records requirements.

Section 3. This act shall take effect on the same date that



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57 PCS/SB 7040 or similar legislation takes effect, if such
58 legislation is adopted in the same legislative session or an
59 extension thereof and becomes a law.

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 7042

INTRODUCER: Governmental Oversight and Accountability Committee and Ethics and Elections Committee

SUBJECT: Public Records/Commission on Ethics

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Mitchell</u>	<u>Roberts</u>		EE Submitted as Committee Bill
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7042 exempts from public inspection and copying secure login credentials held by the Commission on Ethics (Commission) for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion. The bill also exempts from public inspection and copying any information entered in the electronic filing system for purposes of financial disclosure until a disclosure of financial interests or statement of financial interests is submitted by the filer to the Commission, or in the case of a candidate, filed with a qualifying officer.

The bill provides that the exemptions are subject to the Open Government Sunset Review Act (OGSRA), and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution.

The bill's effective date is contingent upon, and concurrent with, passage of SB 7040 or similar legislation. SB 7040, if enacted, will take effect upon becoming a law.

Because the bill creates new public records exemptions, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

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

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

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

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

¹ FLA. CONST., art. I, s. 24(a).

² *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” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

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

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

⁹ FLA. CONST., art. I, s. 24(c)

¹⁰ *Id.*

¹¹ *Id.*

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

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

Historically, secure login credentials have been treated as confidential and exempt under the security system exemptions contained in ss. 281.301 and 119.071(3), F.S.

Open Government Sunset Review Act

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

The OGSRA 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

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

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

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

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

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(b)1., F.S.

¹⁹ Section 119.15(6)(b)2., F.S.

²⁰ Section 119.15(6)(b)3., F.S.

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

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

SB 7040 (2019)

SB 7040 requires the Commission to procure and test an electronic filing system by a date certain. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Upload submitted information to the Commission;
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard Internet-browsing software;
- Issue a verification or receipt that the Commission has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete and file the disclosure or statement and certify that he or she prepared it in accordance with:
 - s. 112.3144, F.S. or s. 112.3145; and
 - the instructions for completing and filing the disclosure or statement; and that
- The information on the disclosure or statement is true and correct.

The bill establishes dates certain after which all submissions of CE Form 6 and, later, all submissions of CE Form 1 must be made to the Commission and accomplished electronically. Submission of paper forms will be discontinued. The Commission will provide notice and other communications to filers by email message. All disclosures must be for the calendar year, not the taxable year. Candidates will continue to submit required disclosures to his or her qualifying officer, but local officers will no longer submit financial statements to supervisors of elections. Beginning with required electronic submission of CE Form 1, filers must use the dollar threshold method of reporting. The percent in excess of income or value method will no longer be in use.

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

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

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

The information requested in CE Forms 1 and 6 include name, mailing address, name of office or position held or sought, sources of income, real property, liabilities, business interests, and gifts received. None of the information requested is otherwise confidential or exempt.

III. Effect of Proposed Changes:

This bill exempts from public copying and inspection requirements those secure login credentials held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion. The bill also exempts from public copying and inspection requirements any information entered in the electronic filing system for purposes of financial disclosure until a disclosure of financial interests or statement of financial interests is submitted by the filer to the Commission, or in the case of a candidate, filed with a qualifying officer.

The bill provides that the exemptions are subject to the OGSRA, and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution. It states that the public's need for access to information included in disclosures or statements of financial interests filed by reporting individuals should be balanced with the filer's interest in safeguarding personally sensitive information and that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system would be hindered.

The bill's effective date is contingent upon, and concurrent with, passage of SB 7040 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. SB 7040, if enacted, will take effect upon becoming a law.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

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. Likewise, it does reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public records or public meetings

exemption. The bill creates new public record exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record exemptions; therefore, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the stated purpose of the law. This bill exempts secure login credentials held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion, and draft information input into the electronic system before a filer's submission is finalized. Based on the legislative findings in the statement of public necessity, the public records exemption in this bill appears to be no broader than necessary to accomplish its stated purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 112.31446 of the Florida Statutes, created in SB 7040 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

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

CS by Governmental Oversight and Accountability on March 26, 2019:

The CS corrects the reference to the public records requirements from s. 119.071(1), F.S. to s. 119.07(1), F.S.

The proposed committee substitute changes the term “passwords” to “secure login credentials” to align with the language of SB 7040.

B. Amendments:

None.

By the Committee on Ethics and Elections

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A bill to be entitled

An act relating to public records; amending s. 112.31446, F.S.; providing exemptions from public records requirements for certain passwords that are held by the Commission on Ethics and certain information entered into the electronic filing system for financial disclosure forms; specifying conditions under which such information is no longer exempt; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (6) is added to section 112.31446, Florida Statutes, as created by SB 7040, 2019 Regular Session, to read:

112.31446 Electronic filing system for financial disclosure.—

(6) (a) All passwords held by the commission for the purpose of allowing access to the electronic filing system are exempt from s. 119.071(1) and s. 24(a), Art. I of the State Constitution.

(b) Information entered in the electronic filing system for purposes of financial disclosure is exempt from s. 119.071(1) and s. 24(a), Art. I of the State Constitution. Information entered in the electronic filing system is no longer exempt once the disclosure of financial interests or statement of financial interests is submitted to the commission, or in the case of a

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candidate, filed with a qualifying officer, whichever occurs first.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that all passwords held by the Commission on Ethics for the purpose of allowing access to the electronic filing system for financial disclosures, and information entered into the system, be exempt from public records requirements. The Legislature finds that the public's need for access to information included in the full and public disclosures of financial interests or statements of financial interests filed by reporting individuals be balanced with the filer's interest in safeguarding personally sensitive information. The Legislature further finds that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system that otherwise is designed to increase the ease of filing for reporting individuals and to improve the public's access to financial disclosure information would be hindered. For these reasons, the Legislature finds that it is a public necessity to exempt such information from public records requirements.

Section 3. This act shall take effect on the same date that SB 7040 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension

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59 | thereof and becomes a law.

CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 3/26/2019 1:30:59 PM

Ends: 3/26/2019 2:33:40 PM

Length: 01:02:42

1:30:58 PM Meeting called to order
1:31:07 PM Roll Call - Quorum is present
1:31:23 PM Comments from Chair
1:31:34 PM Tab 10 - SB 7040 (Financial Disclosure) by Ethics and Elections Committee, presented by Senator Baxley
1:32:22 PM Chair
1:32:33 PM Motion to hear the PCS Amendment 693868 by Governmental Oversight and Accountability
1:32:41 PM Motion made by Senator Albritton to hear the PCS.
1:32:47 PM Motion to hear PCS is adopted
1:32:56 PM Senator Baxley explains PCS
1:33:40 PM Questions?
1:33:49 PM Senator Rader
1:34:10 PM Senator Baxley
1:34:10 PM Senator Baxley
1:34:37 PM Questions on PCS? None
1:35:11 PM Debate on PCS? None
1:35:16 PM Senator Baxley waives close
1:35:23 PM Voice vote on adopting the Proposed Committee Substitute; the PCS is adopted.
1:35:28 PM Roll Call CS/SB 7040 - Favorable
1:35:53 PM Tab 11 - SB 7042 by Ethics and Elections Committee, presented by Senator Baxley
1:36:07 PM Motion to take up Proposed Committee Substitute barcode 593344
1:36:13 PM Senator Rader moves to take up the PCS
1:36:24 PM Motion is adopted
1:36:29 PM Senator Baxley explains the Proposed Committee Substitute
1:36:54 PM Senator Baxley
1:37:19 PM Questions on PCS?
1:38:03 PM Senator Rader
1:38:58 PM Senator Baxley
1:39:57 PM Senator Rader
1:40:08 PM Senator Baxley
1:40:35 PM Senator Torres
1:41:02 PM Senator Baxley
1:41:15 PM Appearance Forms? None
1:41:59 PM Debate?
1:42:03 PM Senator Rader
1:42:48 PM Senator Baxley to close
1:43:16 PM Voice vote to adopt the PCS; the PCS is adopted.
1:44:17 PM Roll Call - CS/SB 7042 - Favorable
1:44:20 PM Senator Rader
1:45:08 PM Chair
1:45:49 PM Senator Baxley
1:46:02 PM Tab 2 - CS/SB 42 by Senator Taddeo - Relief of Dominguez by Hillsborough County
1:47:49 PM Questions?
1:48:49 PM Senator Rader
1:48:56 PM Appearance Cards? None
1:49:02 PM Debate? None
1:49:06 PM Senator Taddeo waives close
1:49:10 PM Roll Call CS/SB 42 - Favorable
1:49:31 PM Tab 3- CS/SB 196 by Senator Powell - Office of Public Counsel
1:49:41 PM Questions? None
1:50:41 PM Appearance Cards? None
1:50:42 PM Debate? None

1:50:45 PM Senator Powell waives close
1:50:50 PM Roll Call CS/SB 196 - Favorable
1:51:13 PM Tab 4 -CS/SB 450 by Senator Gibson - Public Records and Public Meetings/Local Government Utility
1:52:00 PM Delete all amendment 637814 by Senator Gibson
1:53:07 PM Questions on Amendment? None
1:53:17 PM Appearance Cards on amendment? None
1:53:21 PM Debate on amendment? None
1:53:24 PM Objection to amendment? None
1:53:29 PM Amendment is adopted
1:53:31 PM Back on bill as amended
1:53:43 PM Suzane Goss, Government Relations Specialist, JEA, waives in support
1:53:53 PM Kevin Noonan, Director, Legislative Affairs, Orlando Utilities, waives in support
1:53:59 PM Amy Zubaly, Executive Director, Florida Municipal Electric Association, waives in support
1:54:12 PM Debate? None
1:54:22 PM Senator Gibson waives close
1:54:29 PM Roll Call - CS/CS SB 450 - favorable
1:54:35 PM Tab 5 - CS/CS SB 452 by Senator Gibson - Elder Abuse Fatality Review Teams
1:54:37 PM Amendment 584510 by Senator Gibson
1:55:34 PM Substitute Amendment 658758 by Senator Gibson
1:57:07 PM Late filed Amendment to Substitute Amendment 529814 by Senator Gibson
1:58:07 PM Objections to late filed amendment?
1:58:15 PM No objections to taking up the late-filed amendment to the substitute amendment
1:58:26 PM Senator Gibson is recognized to explain the amendment to the substitute amendment
1:58:42 PM Questions on amendment to the substitute amendment? None.
1:59:06 PM Appearance Cards? None
1:59:13 PM Debate on Amendment to Substitute Amendment? None
1:59:15 PM Senator Gibson waives her close on the amendment to the substitute amendment
1:59:25 PM Any objections to the amendment to the substitute amendment?
1:59:34 PM The amendment to the substitute amendment is adopted.
1:59:36 PM Back on Substitute Amendment as amended
1:59:42 PM Questions?
1:59:44 PM Appearance Cards? None.
1:59:48 PM Senator Torres
2:00:19 PM Senator Gibson
2:00:47 PM Debate on Amendment? None
2:00:54 PM Senator Gibson waives close on the Substitute Amendment as Amended
2:01:00 PM Objections? None
2:01:03 PM Show the Substitute Amendment as amended adopted
2:01:05 PM Back on bill as amended
2:01:16 PM Questions? None Appearance Cards? None
2:01:23 PM Debate? None.
2:02:16 PM Senator Gibson to close
2:02:18 PM Roll Call CS/CS/CS/ SB 452 - Favorable
2:02:41 PM Tab 1 - CS/SB 24 by Senator Simmons - Relief of the Estate of Eric Scot Tenner by the Miami-Dade County Board of County Commissioners
2:03:56 PM Questions?
2:04:08 PM Senator Rader
2:04:24 PM Senator Simmons
2:04:41 PM Senator Rader
2:05:24 PM Senator Simmons
2:06:42 PM Chair
2:06:47 PM Appearance Forms? None
2:06:54 PM Debate?
2:06:56 PM Senator Rader
2:09:11 PM Senator Simmons to close
2:10:34 PM Roll Call on CS/SB 24 - Favorable
2:11:36 PM Chair
2:11:57 PM Tab 6 - Chair announces that CS/SB 454 by Senator Gibson is temporarily postponed
2:12:30 PM Tab 7 - CS/SB 524 by Senator Diaz - Health Insurance Savings Programs, presented by Senator Bean
2:13:48 PM Questions? None
2:14:47 PM Appearance Forms?
2:14:52 PM Mike Cusick, Lobbyist, Opportunity Solutions, waives in support

2:14:59 PM Mrs. Logan Padgett, Director of Communication and Public Affairs, The James Madison Institute, waives in support
2:15:07 PM Matthew Chay, Director, waives in support
2:15:16 PM Phillip Suderman, Policy Director, Americans for Prosperity, waives in support
2:15:26 PM Debate?
2:15:29 PM Senator Rader
2:15:59 PM Senator Torres
2:16:17 PM Senator Bean
2:16:20 PM Senator Torres
2:16:27 PM Senator Bean to close
2:17:01 PM Roll Call CS/SB 524 - Favorable
2:17:24 PM Tab 8 - SB 702 by Senator Lee - Qualified Blind Trusts
2:19:57 PM Questions? None
2:20:58 PM Appearance Cards? None
2:21:03 PM Debate? None
2:21:05 PM Senator Lee waives close
2:21:09 PM Roll Call SB 702 - Favorable
2:21:18 PM Vice Chair Rader in Chair
2:21:29 PM Tab -9 SB 1570 by Senator Hooper - Information Technology Reorganization
2:22:37 PM Questions? None
2:23:30 PM Appearance?
2:23:36 PM Gary Christensen, General Manager - STATES, Intersystems, speaking for bill
2:28:45 PM Chair
2:29:46 PM Ramon Maury, Managing Partner, Maury Rawling Brown, waives in support
2:29:57 PM Chuck Cliborne, Lobbyist, AIF, waives in support
2:30:07 PM Carol Bracy, Consultant, Amazon, waives in support
2:30:19 PM David Clark, Chief of Staff, Department of Management Services, speaking for the bill
2:31:37 PM Chair
2:31:51 PM Debate? None
2:31:56 PM Senator Hooper to close
2:32:22 PM Roll Call SB 1570 - Favorable
2:33:00 PM Senator Hooper in chair
2:33:04 PM Senator Bean moves to be shown as voting in the affirmative for CS/SB 24, CS/SB 42, CS/SB 196, CS/CS/SB 450, CS/CS/CS/SB 452, CS/SB 7040 and CS/SB 7042
2:33:15 PM Objection? None Motion is adopted
2:33:20 PM Any other business before the Committee? None
2:33:24 PM Senator Torres moves we adjourn. Without objection we are adjourned.