

<b>Tab 1 CS/SB 90 by EE, Baxley; Vote-by-mail Ballots</b>						
969560	PCS	S	RCS	GO		03/10 12:59 PM
588080	A	S	UNFAV	GO, Torres	Delete L.47 - 56:	03/10 12:59 PM
924624	A	S	UNFAV	GO, Torres	Delete L.336 - 343.	03/10 12:59 PM
351544	A	S		GO, Stewart	Delete L.15 - 56:	03/09 10:28 AM
833194	A	S		GO, Torres	Delete L.18 - 56:	03/09 09:40 AM
<b>Tab 2 SB 1040 by Brodeur; (Similar to CS/CS/H 00515) Duties of the Attorney General</b>						
491666	A	S	RCS	GO, Brodeur	Delete L.237 - 246:	03/10 12:59 PM
706196	A	S	RCS	GO, Brodeur	btw L.387 - 388:	03/10 12:59 PM
<b>Tab 3 SB 1076 by Brodeur; (Identical to CS/H 00053) Public Works Projects</b>						
635516	A	S	RCS	GO, Brodeur	Delete L.22 - 80:	03/10 12:59 PM
<b>Tab 4 SB 1404 by Hooper; (Identical to H 00909) Cultural and Historical Programs</b>						
<b>Tab 5 SB 1428 by Wright; (Identical to H 01149) Procurement Procedures</b>						
712862	A	S	RCS	GO, Wright	Delete L.22 - 27:	03/10 12:59 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY**

**Senator Rodrigues, Chair**  
**Senator Gruters, Vice Chair**

**MEETING DATE:** Wednesday, March 10, 2021

**TIME:** 10:30 a.m.—12:30 p.m.

**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Rodrigues, Chair; Senator Gruters, Vice Chair; Senators Mayfield, Stargel, Stewart, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	<b>CS/SB 90</b> Ethics and Elections / Baxley	Vote-by-mail Ballots; Limiting the duration of requests for vote-by-mail ballots to all elections through the end of the calendar year of the next regularly scheduled general election; authorizing the canvassing of vote-by-mail ballots upon the completion of the public preelection testing of automatic tabulating equipment, etc.  EE 02/16/2021 Fav/CS GO 03/10/2021 Fav/CS RC	Fav/CS Yeas 4 Nays 2
2	<b>SB 1040</b> Brodeur (Similar CS/H 515)	Duties of the Attorney General; Relieving the Department of Legal Affairs from certain duties associated with specified neighborhood improvement districts; repealing a provision relating to the Safe Neighborhoods Program; repealing a provision relating to funding of neighborhood improvement districts inside enterprise zones; specifying that the Crimes Compensation Trust Fund is exempt from the service charge into the General Revenue Fund, etc.  GO 03/10/2021 Fav/CS ACJ AP	Fav/CS Yeas 6 Nays 0
3	<b>SB 1076</b> Brodeur (Identical CS/H 53)	Public Works Projects; Revising a prohibition relating to any solicitation for construction services paid for with state or locally appropriated funds, or any combination thereof; revising the definition of the term "public works project"; prohibiting the state or any political subdivision that contracts for a public works project from taking specified action against certain persons that are engaged in a public works project or have submitted a bid for such a project, etc.  GO 03/10/2021 Fav/CS CA RC	Fav/CS Yeas 4 Nays 2

**COMMITTEE MEETING EXPANDED AGENDA**

Governmental Oversight and Accountability

Wednesday, March 10, 2021, 10:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1404</b> Hooper (Identical H 909)	Cultural and Historical Programs; Designating the Museum of Florida History as the official state history museum; providing that the Secretary of State shall be known as "Florida's Chief Arts and Culture Officer"; transferring certain responsibilities from the Division of Cultural Affairs to the Division of Historical Resources; revising provisions relating to the Museum of Florida History museum store, the establishment and operation of a certain nonprofit organization or association, and the deposit of certain funds; removing the requirement that a museum inform a lender of certain provisions in certain circumstances, etc.  GO 03/10/2021 Favorable ATD AP	Favorable Yeas 6 Nays 0
5	<b>SB 1428</b> Wright (Identical H 1149)	Procurement Procedures; Requiring the Department of Management Services to develop procedures that require current and prospective contractors to disclose whether such contractor is owned or controlled by a foreign government before providing commodities or contractual services to the state; requiring any such disclosure to be in writing, under penalty of perjury, etc.  GO 03/10/2021 Fav/CS JU RC	Fav/CS Yeas 6 Nays 0
Other Related Meeting Documents			

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: PCS/CS/SB 90 (Barcode 969560)

INTRODUCER: Governmental Oversight and Accountability Committee; Ethics and Elections  
Committee and Senator Baxley

SUBJECT: Election Administration

DATE: March 9, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Candeleria</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 90 makes the following changes to the Election Code:

- Reduces the number of elections for which one request for a vote-by-mail ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election;
- Moves up the starting time for canvassing vote-by-mail ballots from 22 days before an election to 35-40 days before an election;
- Limits persons who may lawfully be in possession of a vote-by-mail ballot to the voter and his or her immediate family;
- Prohibits the use of drop boxes for return of a vote-by-mail ballot;
- Prohibits a supervisor of elections from mailing or otherwise providing a vote-by-mail ballot without a request;
- Requires the signature on a voter's certificate or ballot cure affidavit to match the most recent one on file;
- Requires an additional identifier number when a written or telephonic request is made for a vote-by-mail ballot;
- Prohibits display of partisan information on the outside of vote-by-mail ballots or envelopes; and

- Requires supervisors of elections to record instances in which a signature on a completed vote-by-mail ballot does not match the one on file.

The bill takes effect July 1, 2021.

## **II. Present Situation:**

Please see “Effect of Proposed Changes.”

## **III. Effect of Proposed Changes:**

### **Request for Vote-by-Mail Ballot (Section 1)**

#### Present Situation

Florida law allows an elector to request a vote-by-mail (VBM) ballot to be used in lieu of voting at the polls during early voting or on Election Day. An elector does not need to provide a reason for a VBM ballot request.

An elector can request a VBM ballot in person, in writing, or by telephone.<sup>1</sup> In addition, a request for a VBM ballot can be made by the elector’s legal guardian or, if directed by the elector, a member of the elector’s immediate family. The person making the request must disclose:

- The name of the elector for whom the ballot is requested;
- The elector’s address;
- The elector’s date of birth;
- The requester’s name;
- The requester’s address;
- The requester’s driver license number, if available;
- The requester’s relationship to the elector; and
- The requester’s signature, if the request is made in writing.<sup>2</sup>

If an elector requests a VBM ballot to be sent to an address not on file in the Florida Voter Registration System, the request must be made in writing and signed by the elector, unless the elector is an absent uniformed service voter or overseas voter.<sup>3</sup>

Current law does not specifically prohibit a supervisor of elections (supervisor) from mailing or otherwise providing a VBM ballot without a request.

For each request for a vote-by-mail ballot received, the supervisor must record:

- The date the request was made;
- The date the vote-by-mail ballot was delivered to the voter or voter’s designee<sup>4</sup> or to the post office or other carrier;

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<sup>1</sup> Sections 101.62(1)(a)-(b), F.S.

<sup>2</sup> Section 101.62(1)(b), F.S.

<sup>3</sup> Section 101.62(1)(b), F.S.

<sup>4</sup> An elector may designate in writing a person to pick up the VBM ballot for the elector, in compliance with ballot possession limitations (s. 101.62(4)(c)4., F.S.).

- The date the ballot was received by the supervisor;
- The absence of the elector's signature on the voter's certificate, if applicable; and
- Such other information he or she may deem necessary.<sup>5</sup>

#### Effect of Proposed Changes

Section 1 requires a person making a written or telephonic request for a VBM ballot to additionally provide one of the following identifiers:

- The elector's Florida driver license number;
- The elector's Florida identification card number; or
- The last four digits of the elector's social security number.

Section 1 also prohibits a supervisor from mailing or otherwise providing a VBM ballot unless a request is made.

Section 1 adds to the types of information related to vote-by-mail ballots that supervisors must record to also include whether the voter's certificate on a returned ballot contains a signature that does not match the elector's signature in the registration books or precinct register.<sup>6</sup>

### **Delivery of Vote-by-Mail Ballot (Section 2)**

#### Present Situation

Current law requires a supervisor to enclose with each VBM ballot two envelopes:

- A secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and
- A mailing envelope, into which the absent elector shall then place the secrecy envelope.<sup>7</sup>

Current law does not prohibit display of partisan information on the outside of VBM ballots or accompanying envelopes.

#### Effect of Proposed Changes

Section 2 provides that the outside of a VBM ballot and the secrecy and mailing envelopes may not display the party affiliation of the absent elector who has been issued such ballot or display any other partisan information.

### **Return of Vote-by-Mail Ballot (Sections 3, 5, and 6)**

#### Present Situation

Current law allows a voter to return a completed VBM ballot via mail or drop it off at an authorized site. It requires supervisors to allow voters to physically return completed VBM ballots by placing the envelope containing the marked ballot in a secure drop box.<sup>8</sup> Secure drop boxes must be placed at the main office of the supervisor, at each branch office of the supervisor, and each early voting site. Drop boxes may also be placed at any other site that would otherwise

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<sup>5</sup> Section 101.62(3), F.S.

<sup>6</sup> Section 98.461(2), F.S., requires a computer printout or electronic database to be used at the polls as a precinct register. The precinct register must contain the date of the election, the precinct number, specified information related to each registered voter, and spaces for the voter's signature and for the initials of the witnessing clerk or inspector.

<sup>7</sup> Section 101.64(1), F.S.

<sup>8</sup> Section 101.69(2), F.S.

qualify as an early voting site if such site is staffed during the county's early voting hours of operation by an employee of the supervisor's office or a sworn law enforcement officer.<sup>9</sup>

Current law makes it a first-degree misdemeanor for a person to provide or offer to provide, and for any person to accept, a benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two VBM ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member.<sup>10</sup>

#### Effect of Proposed Changes

Section 5 prohibits the use of drop boxes for return of completed VBM ballots.

Section 6 also limits persons who may lawfully possess a VBM ballot to the voter and his or her immediate family and makes a conforming change to persons who may be designated by an elector to pick up his or her VBM ballot.

#### **Effective Period for Vote-by-Mail Ballot Request (Sections 1 and 7)**

##### Present Situation

A general election is held on the first Tuesday after the first Monday in November of every even-numbered year – this means that a general election is held every two years.<sup>11</sup> A primary election is held 11 weeks before each general election.<sup>12</sup> The dates for the next primary election and general election are:

- Primary election – August 23, 2022; and
- General election – November 8, 2022.

Florida law provides that one request from an elector for a VBM ballot is sufficient to receive a VBM ballot for all elections through the end of the calendar year of the second ensuing regularly scheduled general election,<sup>13</sup> unless the elector indicates at the time of the request the elections for which he or she would like to receive a VBM ballot.<sup>14</sup> A request for a VBM ballot may be considered canceled when any first-class mail sent by the supervisor of elections (supervisor) to the elector is returned as undeliverable.<sup>15</sup>

Since the establishment of Florida's absentee/vote-by-mail program, the number of elections for which one request for a VBM ballot is sufficient has varied, including:

- All elections held within a calendar year;<sup>16</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> Section 104.0616(2), F.S. The term "immediate family" means a person's spouse or the parent, child, grandparent, or sibling of the person or the person's spouse (s. 104.0616(1), F.S.).

<sup>11</sup> Article VI, s. 5(a), FLA. CONST.; and s. 100.031, F.S. A general election is held to choose a successor to each elective federal, state, county, and district officer whose term will expire before the next general election.

<sup>12</sup> Section 100.061, F.S. A primary election is held to determine party nominees to be on the ballot in the general election to fill each federal, state, county, or district office.

<sup>13</sup> For example, under the current law, if a voter makes a general request for a VBM ballot in February 2021, then he or she would receive VBM ballots for all elections through the end of 2024, because the next two general elections will be held in November 2022 and November 2024, respectively.

<sup>14</sup> Section 101.62(1)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> *See, e.g.,* the 2006 Florida Statutes.

- All elections through the next regularly scheduled general election;<sup>17</sup>
- All elections through the next two regularly scheduled general elections;<sup>18</sup> and
- All elections through the end of the calendar year of the second ensuing regularly scheduled general election.<sup>19</sup>

In addition to Florida law, the federal Uniformed and Overseas Citizens Absentee Voter Act (UOCAVA) provides absentee voting requirements for federal offices for voters who are United States uniformed services members on active duty, Merchant Marine members, spouses or dependents thereof, or United States citizens residing outside of the United States.<sup>20</sup> In part, the UOCAVA requires establishment of an official post card form, known as the federal post card application (FPCA), to be used for voter registration application and absentee ballot application.<sup>21</sup> The UOCAVA does not specify a length of time for which one FPCA request is effective. The Federal Voting Assistance Program, which is tasked with administrative responsibilities for the UOCAVA, currently provides guidance that the FPCA request allow an eligible voter to request an absentee ballot for all federal elections in the calendar year.<sup>22</sup> The guidance further recommends that eligible voters send in a new FPCA request every January and each time they move.<sup>23</sup>

#### Effect of Proposed Changes

Section 1 reduces the number of elections for which one request for a VBM ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election.<sup>24</sup>

Section 7 specifically provides that if an elector has already submitted a VBM ballot request that would, under the current law, be effective through the end of the calendar year of the second ensuing regularly scheduled general election, he or she must resubmit a VBM ballot request after the effective date of the bill in order to receive VBM ballots for the 2022 primary election and general election.

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<sup>17</sup> See, e.g., ch. 2010-167, s. 7, L.O.F.

<sup>18</sup> See, e.g., ch. 2007-30, s. 30, L.O.F.

<sup>19</sup> See, e.g., ch. 2011-40, s. 37, L.O.F.

<sup>20</sup> 52 U.S.C. 203.

<sup>21</sup> 52 U.S.C. ss. 20301(b)(2) and 20302(a)(4).

<sup>22</sup> Federal Voting Assistance Program, *Frequently Asked Questions about Absentee Voting*, available at <https://www.fvap.gov/guide/appendix/faq>, last accessed February 17, 2021.

<sup>23</sup> *Id.*

<sup>24</sup> For example, under the proposed changes, if a voter makes a request for a VBM ballot on August 1, 2021, then he or she would receive VBM ballots for all elections held through December 31, 2022, which is the end of the calendar year of the next regularly scheduled general election.



## Starting Date for Vote-by-Mail Canvassing Period (Section 4)

### Present Situation

Florida law allows county canvassing boards<sup>25</sup> to begin canvassing VBM ballots starting at 7 a.m. on the 22nd day before an election.<sup>26</sup> In 2019, the Legislature extended this starting period from 15 days before an election to 22 days before an election.<sup>27</sup>

In 2020, at the request of the supervisors and in response to the COVID-19 pandemic, Governor Ron DeSantis issued an executive order suspending the 22-day timeframe and allowing each county canvassing board to begin canvassing VBM ballots as soon as the Logic and Accuracy (L&A) testing of the machines/equipment was completed.<sup>28</sup> The L&A tests are designed to ensure the integrity and accuracy of the tabulators and voting machines.<sup>29</sup> Because the timing of these L&A tests is tied to the beginning of early voting in each county,<sup>30</sup> which varies from 10 to 15 days before an election,<sup>31</sup> in 2020 counties were generally able to start their VBM canvass 35 to 40 days before the primary election and general election, which is 13 to 18 days earlier than the 22 days that the current statute provides.

The media has credited the canvassing of VBM ballots prior to Election Day as one of the reasons Florida's 2020 general election went so smoothly and why results were available so much more quickly than for states, such as Pennsylvania, that had to wait until Election Day to start counting.<sup>32</sup>

### Effect of Proposed Changes

Section 4 allows a county canvassing board to begin canvassing VBM ballots as soon as the county finishes L&A testing. In practice, this means that:

- A county that begins early voting as soon as permitted under law (15 days before an election) may begin VBM canvassing as early as the 40th day before an election instead of the 22nd day before an election, providing an additional 18 days to count; and
- A county that waits until 10 days before an election to begin early voting will be permitted to begin VBM canvassing as early as the 35th day before an election instead of the 22nd day before an election, providing an additional 13 days to count.

This change will facilitate a more orderly election administration process and quicker reporting of results.

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<sup>25</sup> A county canvassing board is composed of the supervisor of elections; a county court judge, who acts as chair; and the chair of the board of county commissioners (s. 102.141(1), F.S.).

<sup>26</sup> Section 101.68(2)(a), F.S.

<sup>27</sup> Chapter 2019-162, s. 19, L.O.F.

<sup>28</sup> Office of the Governor, Executive Order No. 20-149 (June 17, 2020), available at [https://www.flgov.com/wp-content/uploads/orders/2020/EO\\_20-149.pdf](https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-149.pdf), last accessed February 4, 2021.

<sup>29</sup> Section 101.5612(2), F.S.

<sup>30</sup> Each supervisor must complete an L&A test on any day up to 25 days before the start of early voting (*id.*).

<sup>31</sup> *Id.*; see also, s. 101.657(1)(d), F.S. (counties *may* start early voting 15 days before an election, but *must* start no later than 10 days before).

<sup>32</sup> See, e.g., Tampa Bay News 10 (WTSP), *Florida Counted Votes Quickly in the 2020 Election – What Happened in the Other States?* (Nov. 18, 2020), available at <https://www.wtsp.com/article/news/politics/florida-2020-election-counting/67-33b47308-7571-4c70-8afc-cfa8b872bcca>, last accessed February 4, 2021.

## **Canvassing of Vote-by-Mail Ballots/Signatures (Section 4)**

### Present Situation

The mailing envelope in which an absent elector sends back a marked VBM ballot must bear on the back side a voter's certificate via which the elector must affirm with a signature that he or she is a qualified and registered voter of the relevant county and that he or she has not and will not vote more than one ballot in the election.<sup>33</sup>

If an elector returns a VBM ballot that does not include a signature or contains a signature that does not match the one in the registration books or precinct register, the supervisor must notify the elector of the signature deficiency and direct the elector to the cure affidavit<sup>34</sup> and instructions on the supervisor's website.<sup>35</sup> Along with the cure affidavit, the elector must submit a copy of one of a specified list of acceptable identifications.<sup>36</sup>

During canvassing of VBM ballots, a canvassing board must, if the supervisor has not already done so, compare the elector's signature on the voter's certificate or the ballot cure affidavit with the elector's signature in the registration books or the precinct register. A VBM ballot may only be counted if:

- The signature on the voter's certificate or the cure affidavit matches the signature in the registration books or precinct register;<sup>37</sup> or
- The cure affidavit contains a signature that does not match the signature in the registration books or precinct register, but the elector has submitted a current and valid "Tier 1 identification"<sup>38</sup> that confirms the identity of the elector.<sup>39</sup>

### Effect of Proposed Changes

Section 4 requires the signature on a voter's certificate or ballot cure affidavit to match the *most recent* signature in the registration books or precinct register.

## **Effective Date of the Bill (Section 8)**

The bill takes effect July 1, 2021.

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<sup>33</sup> Section 101.64(1), F.S.

<sup>34</sup> The VBM ballot cure affidavit requires the elector to affirm with a signature that he or she requested and returned the VBM ballot and has not and will not vote more than one ballot in the election (s. 101.68(4)(c), F.S.).

<sup>35</sup> Section 101.68(4)(a), F.S. The supervisor may make the notification via email, text message, or telephone.

<sup>36</sup> Section 101.68(4)(d)3., F.S.

<sup>37</sup> In the case of a cure affidavit, the supporting identification must also confirm the identity of the elector.

<sup>38</sup> "Tier 1 identification" means a current and valid identification that includes the elector's name and photograph, including a Florida driver license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles; United States passport; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; public assistance identification; veteran health identification card issued by the United States Department of Veterans Affairs; Florida license to carry a concealed weapon or firearm; of employee identification card issued by any branch, department, agency, or entity of the federal government, the state, a county, or a municipality (s. 101.68(4)(d)2., F.S.).

<sup>39</sup> Section 101.68(2)(c)1., F.S.

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

Not applicable. Bills that affect state or local elections are exempt from the requirements of Art. VII, s. 18 of the State Constitution.

**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:**

If the reduced time period for which one VBM ballot request is sufficient results in a higher total number of requests, supervisors are likely to incur additional processing costs.

Elimination of drop boxes as a method for returning VBM ballots may reduce supervisors' workload because supervisors will no longer be required to staff off-site drop boxes.

Requiring supervisors of elections to record instances in which a signature on a returned VBM ballot does not match the one on file may slightly increase supervisors of elections' workload.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 101.62, 101.64, 101.65, 101.68, 101.69, and 104.0616.

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

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

**PCS (barcode 969560) by Governmental Oversight and Accountability on March 9, 2021:**

The proposed committee substitute makes the following changes:

- Reduces the number of elections for which one request for a vote-by-mail ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election;
- Moves up the starting time for canvassing vote-by-mail ballots from 22 days before an election to 35-40 days before an election;
- Limits persons who may lawfully be in possession of a vote-by-mail ballot to the voter and his or her immediate family;
- Prohibits the use of drop boxes for return of a vote-by-mail ballot;
- Prohibits a supervisor of elections from mailing or otherwise providing a vote-by-mail ballot without a request;
- Requires the signature on a voter's certificate or ballot cure affidavit to match the most recent one on file;
- Requires an additional identifier number when a written or telephonic request is made for a vote-by-mail ballot;
- Prohibits display of partisan information on the outside of vote-by-mail ballots or envelopes; and
- Requires supervisors of elections to record instances in which a signature on a completed vote-by-mail ballot does not match the one on file.

**CS by Ethics and Elections on February 16, 2021:**

As originally filed, the bill reduced the number of elections for which one VBM ballot request is sufficient to all elections held within a calendar year of the request. The committee substitute instead reduces the number to all elections through the end of the calendar year of the next regularly scheduled general election.

B. Amendments:

None.

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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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588080

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/10/2021	.	
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The Committee on Governmental Oversight and Accountability  
(Torres) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 47 - 56

and insert:

(1)(a) The supervisor shall accept a request for a vote-by-mail ballot from an elector in person or in writing. One request is shall be deemed sufficient to receive a vote-by-mail ballot for all elections until the elector or the elector's designee notifies the supervisor that the elector rescinds such request ~~through the end of the calendar year of the second ensuing~~



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~~regularly scheduled general election~~, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive a vote-by-mail ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

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

And the title is amended as follows:

Delete lines 3 - 6

and insert:

s. 101.62, F.S.; authorizing standing vote-by-mail ballot requests until such a request is rescinded by an elector or the elector's designee; requiring vote-by-mail ballot



924624

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/10/2021	.	
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The Committee on Governmental Oversight and Accountability  
(Torres) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 336 - 343.

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

And the title is amended as follows:

Delete line 37

and insert:

an





969560

585-02514A-21

Proposed Committee Substitute by the Committee on Governmental Oversight and Accountability

A bill to be entitled

An act relating to election administration; amending s. 101.62, F.S.; limiting the duration of requests for vote-by-mail ballots to all elections through the end of the calendar year of the next regularly scheduled general election; requiring vote-by-mail ballot requests to include additional identifying information regarding the requesting elector; prohibiting the supervisor from mailing, delivering, or otherwise providing vote-by-mail ballots to an elector, or a designee thereof, unless a request has been made for such ballot; requiring supervisors of elections to record whether a voter's certificate on a vote-by-mail ballot has a mismatched signature; restricting who an elector may designate to pick up a vote-by-mail ballot to conform to changes made by the act; amending s. 101.64, F.S.; prohibiting the display of an absent elector's party affiliation or other partisan information on the outside of vote-by-mail ballots and return and secrecy envelopes; amending s. 101.65, F.S.; revising instructions to absent electors to conform to changes made by the act; amending s. 101.68, F.S.; authorizing the canvassing of vote-by-mail ballots upon the completion of the public preelection testing of automatic tabulating equipment; requiring the canvassing board to use the most recent signature of an elector when verifying a signature on



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a vote-by-mail ballot or a cure affidavit; amending s. 101.69, F.S.; prohibiting the use of drop boxes for the return of vote-by-mail ballots; amending s. 104.0616, F.S.; prohibiting any person from distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing a vote-by-mail ballot of another person, not including a ballot belonging to an immediate family member; providing an exception; providing a penalty; providing for construction and applicability; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1), subsection (3), and paragraph (c) of subsection (4) of section 101.62, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) of that section, to read:

101.62 Request for vote-by-mail ballots.—

(1) (a) The supervisor shall accept a request for a vote-by-mail ballot from an elector in person or in writing. One request ~~is shall be~~ deemed sufficient to receive a vote-by-mail ballot for all elections through the end of the calendar year of the ~~next second ensuing~~ regularly scheduled general election, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive a vote-by-mail ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.



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(b) The supervisor may accept a written or telephonic request for a vote-by-mail ballot to be mailed to an elector's address on file in the Florida Voter Registration System from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian. If the ballot is requested to be mailed to an address other than the elector's address on file in the Florida Voter Registration System, the request must be made in writing and signed by the elector. However, an absent uniformed service voter or an overseas voter seeking a vote-by-mail ballot is not required to submit a signed, written request for a vote-by-mail ballot that is being mailed to an address other than the elector's address on file in the Florida Voter Registration System. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(c). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested.

2. The elector's address.

3. The elector's date of birth.

4. The elector's Florida driver license number or Florida identification card number or the last four digits of the elector's social security number.

5. The requester's name.

~~6.5-~~ The requester's address.

~~7.6-~~ The requester's driver license number, if available.

~~8.7-~~ The requester's relationship to the elector.

~~9.8-~~ The requester's signature (written requests only).

(d) A supervisor may not mail or otherwise deliver or



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provide a vote-by-mail ballot to an elector or an elector's designee unless a request for such ballot has been made that meets the requirements of this section.

(3) ~~(a)~~ For each request for a vote-by-mail ballot received, the supervisor shall record the date the request was made; ~~the date the vote-by-mail ballot was delivered to the voter or the voter's designee or the date the vote-by-mail ballot was delivered to the post office or other carrier;~~ the date the ballot was received by the supervisor; ~~the absence of the voter's signature on the voter's certificate, if applicable;~~ and such other information he or she may deem necessary. ~~This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary until 15 days after the general election and shall be contemporaneously provided to the division. This information shall be confidential and exempt from s. 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees for political purposes only.~~

(b) For each returned vote-by-mail ballot, the supervisor shall record whether the voter's certificate contains a signature that does not match the elector's signature in the registration books or precinct register.

(c) The information specified in paragraphs (a) and (b) shall be provided in electronic format as prescribed by division



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115 rule. The information shall be updated and made available no  
116 later than 8 a.m. of each day, including weekends, beginning 60  
117 days before the primary election until 15 days after the general  
118 election and shall be contemporaneously provided to the  
119 division.

120 (4)

121 (c) The supervisor shall provide a vote-by-mail ballot to  
122 each elector by whom a request for that ballot has been made by  
123 one of the following means:

124 1. By nonforwardable, return-if-undeliverable mail to the  
125 elector's current mailing address on file with the supervisor or  
126 any other address the elector specifies in the request.

127 2. By forwardable mail, e-mail, or facsimile machine  
128 transmission to absent uniformed services voters and overseas  
129 voters. The absent uniformed services voter or overseas voter  
130 may designate in the vote-by-mail ballot request the preferred  
131 method of transmission. If the voter does not designate the  
132 method of transmission, the vote-by-mail ballot shall be mailed.

133 3. By personal delivery before 7 p.m. on election day to  
134 the elector, upon presentation of the identification required in  
135 s. 101.043.

136 4. By delivery to a designee on election day or up to 9  
137 days before prior to the day of an election. Any elector may  
138 designate in writing an immediate family member a person to pick  
139 up the ballot for the elector; ~~however, the person designated~~  
140 ~~may not pick up more than two vote by mail ballots per election,~~  
141 ~~other than the designee's own ballot, except that additional~~  
142 ~~ballots may be picked up for members of the designee's immediate~~  
143 ~~family.~~ For purposes of this section, "immediate family" means



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144 the ~~elector's designee's~~ spouse or the parent, child,  
145 grandparent, or sibling of the ~~elector designee~~ or of the  
146 designee's spouse. The designee shall provide to the supervisor  
147 the written authorization by the elector and a picture  
148 identification of the designee and must complete an affidavit.  
149 The designee shall state in the affidavit that the designee is  
150 authorized by the elector to pick up that ballot and that shall  
151 ~~indicate if~~ the elector is a member of the designee's immediate  
152 family and indicate, if so, the relationship. The department  
153 shall prescribe the form of the affidavit. If the supervisor is  
154 satisfied that the designee is authorized to pick up the ballot  
155 and that the signature of the elector on the written  
156 authorization matches the signature of the elector on file, the  
157 supervisor shall give the ballot to that designee for delivery  
158 to the elector.

159 5. Except as provided in s. 101.655, the supervisor may not  
160 deliver a vote-by-mail ballot to an elector or an elector's  
161 immediate family member on the day of the election unless there  
162 is an emergency, to the extent that the elector will be unable  
163 to go to his or her assigned polling place. If a vote-by-mail  
164 ballot is delivered, the elector or his or her designee shall  
165 execute an affidavit affirming to the facts which allow for  
166 delivery of the vote-by-mail ballot. The department shall adopt  
167 a rule providing for the form of the affidavit.

168 Section 2. Subsection (6) is added to section 101.64,  
169 Florida Statutes, to read:

170 101.64 Delivery of vote-by-mail ballots; envelopes; form.—

171 (6) The outside of the ballot and the secrecy and mailing  
172 envelopes may not display the party affiliation of the absent



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elector who has been issued such ballot or display any other  
partisan information.

Section 3. Section 101.65, Florida Statutes, is amended to  
read:

101.65 Instructions to absent electors.—The supervisor  
shall enclose with each vote-by-mail ballot separate printed  
instructions in substantially the following form; however, where  
the instructions appear in capitalized text, the text of the  
printed instructions must be in bold font:

READ THESE INSTRUCTIONS CAREFULLY  
BEFORE MARKING BALLOT.

1. VERY IMPORTANT. In order to ensure that your vote-by-  
mail ballot will be counted, it should be completed and returned  
as soon as possible so that it can reach the supervisor of  
elections of the county in which your precinct is located no  
later than 7 p.m. on the day of the election. However, if you  
are an overseas voter casting a ballot in a presidential  
preference primary or general election, your vote-by-mail ballot  
must be postmarked or dated no later than the date of the  
election and received by the supervisor of elections of the  
county in which you are registered to vote no later than 10 days  
after the date of the election. Note that the later you return  
your ballot, the less time you will have to cure any signature  
deficiencies, which is authorized until 5 p.m. on the 2nd day  
after the election.

2. Mark your ballot in secret as instructed on the ballot.  
You must mark your own ballot unless you are unable to do so



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because of blindness, disability, or inability to read or write.

3. Mark only the number of candidates or issue choices for  
a race as indicated on the ballot. If you are allowed to "Vote  
for One" candidate and you vote for more than one candidate,  
your vote in that race will not be counted.

4. Place your marked ballot in the enclosed secrecy  
envelope.

5. Insert the secrecy envelope into the enclosed mailing  
envelope which is addressed to the supervisor.

6. Seal the mailing envelope and completely fill out the  
Voter's Certificate on the back of the mailing envelope.

7. VERY IMPORTANT. In order for your vote-by-mail ballot to  
be counted, you must sign your name on the line above (Voter's  
Signature). A vote-by-mail ballot will be considered illegal and  
not be counted if the signature on the voter's certificate does  
not match the signature on record. The signature on file at the  
time the supervisor of elections in the county in which your  
precinct is located receives your vote-by-mail ballot is the  
signature that will be used to verify your signature on the  
voter's certificate. If you need to update your signature for  
this election, send your signature update on a voter  
registration application to your supervisor of elections so that  
it is received before your vote-by-mail ballot is received.

8. VERY IMPORTANT. If you are an overseas voter, you must  
include the date you signed the Voter's Certificate on the line  
above (Date) or your ballot may not be counted.

9. Mail, deliver, or have delivered the completed mailing  
envelope. Be sure there is sufficient postage if mailed. THE  
COMPLETED MAILING ENVELOPE CAN BE DELIVERED TO THE OFFICE OF THE



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231 SUPERVISOR OF ELECTIONS OF THE COUNTY IN WHICH YOUR PRECINCT IS  
232 LOCATED OR DROPPED OFF AT AN AUTHORIZED SECURE DROP BOX,  
233 AVAILABLE AT EACH EARLY VOTING LOCATION.

234 10. FELONY NOTICE. It is a felony under Florida law to  
235 accept any gift, payment, or gratuity in exchange for your vote  
236 for a candidate. It is also a felony under Florida law to vote  
237 in an election using a false identity or false address, or under  
238 any other circumstances making your ballot false or fraudulent.

239 Section 4. Paragraphs (a) and (c) of subsection (2) of  
240 section 101.68, Florida Statutes, are amended to read:

241 101.68 Canvassing of vote-by-mail ballot.—

242 (2)(a) The county canvassing board may begin the canvassing  
243 of vote-by-mail ballots upon the completion of the public  
244 testing of automatic tabulating equipment pursuant to s.  
245 101.5612(2) at 7 a.m. on the 22nd day before the election, but  
246 must begin such canvassing by no not later than noon on the day  
247 following the election. In addition, for any county using  
248 electronic tabulating equipment, the processing of vote by mail  
249 ballots through such tabulating equipment may begin at 7 a.m. on  
250 the 22nd day before the election. However, notwithstanding any  
251 such authorization to begin canvassing or otherwise processing  
252 vote-by-mail ballots early, no result shall be released until  
253 after the closing of the polls in that county on election day.  
254 Any supervisor, deputy supervisor, canvassing board member,  
255 election board member, or election employee who releases the  
256 results of a canvassing or processing of vote-by-mail ballots  
257 prior to the closing of the polls in that county on election day  
258 commits a felony of the third degree, punishable as provided in  
259 s. 775.082, s. 775.083, or s. 775.084.



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260 (c)1. The canvassing board must, if the supervisor has not  
261 already done so, compare the signature of the elector on the  
262 voter's certificate or on the vote-by-mail ballot cure affidavit  
263 as provided in subsection (4) with the most recent signature of  
264 the elector in the registration books or the precinct register  
265 to see that the elector is duly registered in the county and to  
266 determine the legality of that vote-by-mail ballot. A vote-by-  
267 mail ballot may only be counted if:

268 a. The signature on the voter's certificate or the cure  
269 affidavit matches the elector's signature in the registration  
270 books or precinct register; however, in the case of a cure  
271 affidavit, the supporting identification listed in subsection  
272 (4) must also confirm the identity of the elector; or

273 b. The cure affidavit contains a signature that does not  
274 match the elector's signature in the registration books or  
275 precinct register, but the elector has submitted a current and  
276 valid Tier 1 identification pursuant to subsection (4) which  
277 confirms the identity of the elector.

278  
279 For purposes of this subparagraph, any canvassing board finding  
280 that an elector's signatures do not match must be by majority  
281 vote and beyond a reasonable doubt.

282 2. The ballot of an elector who casts a vote-by-mail ballot  
283 shall be counted even if the elector dies on or before election  
284 day, as long as, before the death of the voter, the ballot was  
285 postmarked by the United States Postal Service, date-stamped  
286 with a verifiable tracking number by a common carrier, or  
287 already in the possession of the supervisor.

288 3. A vote-by-mail ballot is not considered illegal if the



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signature of the elector does not cross the seal of the mailing envelope.

4. If any elector or candidate present believes that a vote-by-mail ballot is illegal due to a defect apparent on the voter's certificate or the cure affidavit, he or she may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of that ballot, specifying the precinct, the ballot, and the reason he or she believes the ballot to be illegal. A challenge based upon a defect in the voter's certificate or cure affidavit may not be accepted after the ballot has been removed from the mailing envelope.

5. If the canvassing board determines that a ballot is illegal, a member of the board must, without opening the envelope, mark across the face of the envelope: "rejected as illegal." The cure affidavit, if applicable, the envelope, and the ballot therein shall be preserved in the manner that official ballots are preserved.

Section 5. Subsection (2) of section 101.69, Florida Statutes, is amended to read:

101.69 Voting in person; return of vote-by-mail ballot.-

(2) The supervisor may not ~~shall~~ allow an elector who has received a vote-by-mail ballot to physically return a voted vote-by-mail ballot to the supervisor by placing the envelope containing his or her marked ballot in a ~~secure~~ drop box. ~~Secure drop boxes shall be placed at the main office of the supervisor, at each branch office of the supervisor, and at each early voting site. Secure drop boxes may also be placed at any other site that would otherwise qualify as an early voting site under~~



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~~s. 101.657(1); provided, however, that any such site must be staffed during the county's early voting hours of operation by an employee of the supervisor's office or a sworn law enforcement officer.~~

Section 6. Subsection (2) of section 104.0616, Florida Statutes, is amended to read:

104.0616 Vote-by-mail ballots and voting; violations.-

(2) Any person who distributes, orders, requests, collects, delivers provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possesses a vote-by-mail ballot of another person, not including possessing more than two vote-by-mail ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member, except as provided in ss. 101.6105-101.694, commits a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Notwithstanding that an elector has submitted a vote-by-mail ballot request before the effective date of this act initially applicable through the end of the calendar year of the second ensuing regularly scheduled general election, any such elector must affirmatively resubmit a vote-by-mail ballot request following the effective date of this act in order to receive vote-by-mail ballots for the 2022 primary and general elections.

Section 8. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/CS/SB 90

INTRODUCER: Governmental Oversight and Accountability Committee; Ethics and Elections  
Committee and Senator Baxley

SUBJECT: Election Administration

DATE: March 10, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Candeleria</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 90 makes the following changes to the Election Code:

- Reduces the number of elections for which one request for a vote-by-mail ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election;
- Moves up the starting time for canvassing vote-by-mail ballots from 22 days before an election to 35-40 days before an election;
- Limits persons who may lawfully be in possession of a vote-by-mail ballot to the voter and his or her immediate family;
- Prohibits the use of drop boxes for return of a vote-by-mail ballot;
- Prohibits a supervisor of elections from mailing or otherwise providing a vote-by-mail ballot without a request;
- Requires the signature on a voter's certificate or ballot cure affidavit to match the most recent one on file;
- Requires an additional identifier number when a written or telephonic request is made for a vote-by-mail ballot;
- Prohibits display of partisan information on the outside of vote-by-mail ballots or envelopes; and

- Requires supervisors of elections to record instances in which a signature on a completed vote-by-mail ballot does not match the one on file.

The bill takes effect July 1, 2021.

## **II. Present Situation:**

Please see “Effect of Proposed Changes.”

## **III. Effect of Proposed Changes:**

### **Request for Vote-by-Mail Ballot (Section 1)**

#### Present Situation

Florida law allows an elector to request a vote-by-mail (VBM) ballot to be used in lieu of voting at the polls during early voting or on Election Day. An elector does not need to provide a reason for a VBM ballot request.

An elector can request a VBM ballot in person, in writing, or by telephone.<sup>1</sup> In addition, a request for a VBM ballot can be made by the elector’s legal guardian or, if directed by the elector, a member of the elector’s immediate family. The person making the request must disclose:

- The name of the elector for whom the ballot is requested;
- The elector’s address;
- The elector’s date of birth;
- The requester’s name;
- The requester’s address;
- The requester’s driver license number, if available;
- The requester’s relationship to the elector; and
- The requester’s signature, if the request is made in writing.<sup>2</sup>

If an elector requests a VBM ballot to be sent to an address not on file in the Florida Voter Registration System, the request must be made in writing and signed by the elector, unless the elector is an absent uniformed service voter or overseas voter.<sup>3</sup>

Current law does not specifically prohibit a supervisor of elections (supervisor) from mailing or otherwise providing a VBM ballot without a request.

For each request for a vote-by-mail ballot received, the supervisor must record:

- The date the request was made;
- The date the vote-by-mail ballot was delivered to the voter or voter’s designee<sup>4</sup> or to the post office or other carrier;

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<sup>1</sup> Sections 101.62(1)(a)-(b), F.S.

<sup>2</sup> Section 101.62(1)(b), F.S.

<sup>3</sup> Section 101.62(1)(b), F.S.

<sup>4</sup> An elector may designate in writing a person to pick up the VBM ballot for the elector, in compliance with ballot possession limitations (s. 101.62(4)(c)4., F.S.).



- The date the ballot was received by the supervisor;
- The absence of the elector's signature on the voter's certificate, if applicable; and
- Such other information he or she may deem necessary.<sup>5</sup>

#### Effect of Proposed Changes

Section 1 requires a person making a written or telephonic request for a VBM ballot to additionally provide one of the following identifiers:

- The elector's Florida driver license number;
- The elector's Florida identification card number; or
- The last four digits of the elector's social security number.

Section 1 also prohibits a supervisor from mailing or otherwise providing a VBM ballot unless a request is made.

Section 1 adds to the types of information related to vote-by-mail ballots that supervisors must record to also include whether the voter's certificate on a returned ballot contains a signature that does not match the elector's signature in the registration books or precinct register.<sup>6</sup>

### **Delivery of Vote-by-Mail Ballot (Section 2)**

#### Present Situation

Current law requires a supervisor to enclose with each VBM ballot two envelopes:

- A secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and
- A mailing envelope, into which the absent elector shall then place the secrecy envelope.<sup>7</sup>

Current law does not prohibit display of partisan information on the outside of VBM ballots or accompanying envelopes.

#### Effect of Proposed Changes

Section 2 provides that the outside of a VBM ballot and the secrecy and mailing envelopes may not display the party affiliation of the absent elector who has been issued such ballot or display any other partisan information.

### **Return of Vote-by-Mail Ballot (Sections 3, 5, and 6)**

#### Present Situation

Current law allows a voter to return a completed VBM ballot via mail or drop it off at an authorized site. It requires supervisors to allow voters to physically return completed VBM ballots by placing the envelope containing the marked ballot in a secure drop box.<sup>8</sup> Secure drop boxes must be placed at the main office of the supervisor, at each branch office of the supervisor, and each early voting site. Drop boxes may also be placed at any other site that would otherwise

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<sup>5</sup> Section 101.62(3), F.S.

<sup>6</sup> Section 98.461(2), F.S., requires a computer printout or electronic database to be used at the polls as a precinct register. The precinct register must contain the date of the election, the precinct number, specified information related to each registered voter, and spaces for the voter's signature and for the initials of the witnessing clerk or inspector.

<sup>7</sup> Section 101.64(1), F.S.

<sup>8</sup> Section 101.69(2), F.S.

qualify as an early voting site if such site is staffed during the county's early voting hours of operation by an employee of the supervisor's office or a sworn law enforcement officer.<sup>9</sup>

Current law makes it a first-degree misdemeanor for a person to provide or offer to provide, and for any person to accept, a benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two VBM ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member.<sup>10</sup>

#### Effect of Proposed Changes

Section 5 prohibits the use of drop boxes for return of completed VBM ballots.

Section 6 also limits persons who may lawfully possess a VBM ballot to the voter and his or her immediate family and makes a conforming change to persons who may be designated by an elector to pick up his or her VBM ballot.

#### **Effective Period for Vote-by-Mail Ballot Request (Sections 1 and 7)**

##### Present Situation

A general election is held on the first Tuesday after the first Monday in November of every even-numbered year – this means that a general election is held every two years.<sup>11</sup> A primary election is held 11 weeks before each general election.<sup>12</sup> The dates for the next primary election and general election are:

- Primary election – August 23, 2022; and
- General election – November 8, 2022.

Florida law provides that one request from an elector for a VBM ballot is sufficient to receive a VBM ballot for all elections through the end of the calendar year of the second ensuing regularly scheduled general election,<sup>13</sup> unless the elector indicates at the time of the request the elections for which he or she would like to receive a VBM ballot.<sup>14</sup> A request for a VBM ballot may be considered canceled when any first-class mail sent by the supervisor of elections (supervisor) to the elector is returned as undeliverable.<sup>15</sup>

Since the establishment of Florida's absentee/vote-by-mail program, the number of elections for which one request for a VBM ballot is sufficient has varied, including:

- All elections held within a calendar year;<sup>16</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> Section 104.0616(2), F.S. The term "immediate family" means a person's spouse or the parent, child, grandparent, or sibling of the person or the person's spouse (s. 104.0616(1), F.S.).

<sup>11</sup> Article VI, s. 5(a), FLA. CONST.; and s. 100.031, F.S. A general election is held to choose a successor to each elective federal, state, county, and district officer whose term will expire before the next general election.

<sup>12</sup> Section 100.061, F.S. A primary election is held to determine party nominees to be on the ballot in the general election to fill each federal, state, county, or district office.

<sup>13</sup> For example, under the current law, if a voter makes a general request for a VBM ballot in February 2021, then he or she would receive VBM ballots for all elections through the end of 2024, because the next two general elections will be held in November 2022 and November 2024, respectively.

<sup>14</sup> Section 101.62(1)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> *See, e.g.,* the 2006 Florida Statutes.

- All elections through the next regularly scheduled general election;<sup>17</sup>
- All elections through the next two regularly scheduled general elections;<sup>18</sup> and
- All elections through the end of the calendar year of the second ensuing regularly scheduled general election.<sup>19</sup>

In addition to Florida law, the federal Uniformed and Overseas Citizens Absentee Voter Act (UOCAVA) provides absentee voting requirements for federal offices for voters who are United States uniformed services members on active duty, Merchant Marine members, spouses or dependents thereof, or United States citizens residing outside of the United States.<sup>20</sup> In part, the UOCAVA requires establishment of an official post card form, known as the federal post card application (FPCA), to be used for voter registration application and absentee ballot application.<sup>21</sup> The UOCAVA does not specify a length of time for which one FPCA request is effective. The Federal Voting Assistance Program, which is tasked with administrative responsibilities for the UOCAVA, currently provides guidance that the FPCA request allow an eligible voter to request an absentee ballot for all federal elections in the calendar year.<sup>22</sup> The guidance further recommends that eligible voters send in a new FPCA request every January and each time they move.<sup>23</sup>

#### Effect of Proposed Changes

Section 1 reduces the number of elections for which one request for a VBM ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election.<sup>24</sup>

Section 7 specifically provides that if an elector has already submitted a VBM ballot request that would, under the current law, be effective through the end of the calendar year of the second ensuing regularly scheduled general election, he or she must resubmit a VBM ballot request after the effective date of the bill in order to receive VBM ballots for the 2022 primary election and general election.

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<sup>17</sup> See, e.g., ch. 2010-167, s. 7, L.O.F.

<sup>18</sup> See, e.g., ch. 2007-30, s. 30, L.O.F.

<sup>19</sup> See, e.g., ch. 2011-40, s. 37, L.O.F.

<sup>20</sup> 52 U.S.C. 203.

<sup>21</sup> 52 U.S.C. ss. 20301(b)(2) and 20302(a)(4).

<sup>22</sup> Federal Voting Assistance Program, *Frequently Asked Questions about Absentee Voting*, available at <https://www.fvap.gov/guide/appendix/faq>, last accessed February 17, 2021.

<sup>23</sup> *Id.*

<sup>24</sup> For example, under the proposed changes, if a voter makes a request for a VBM ballot on August 1, 2021, then he or she would receive VBM ballots for all elections held through December 31, 2022, which is the end of the calendar year of the next regularly scheduled general election.

## Starting Date for Vote-by-Mail Canvassing Period (Section 4)

### Present Situation

Florida law allows county canvassing boards<sup>25</sup> to begin canvassing VBM ballots starting at 7 a.m. on the 22nd day before an election.<sup>26</sup> In 2019, the Legislature extended this starting period from 15 days before an election to 22 days before an election.<sup>27</sup>

In 2020, at the request of the supervisors and in response to the COVID-19 pandemic, Governor Ron DeSantis issued an executive order suspending the 22-day timeframe and allowing each county canvassing board to begin canvassing VBM ballots as soon as the Logic and Accuracy (L&A) testing of the machines/equipment was completed.<sup>28</sup> The L&A tests are designed to ensure the integrity and accuracy of the tabulators and voting machines.<sup>29</sup> Because the timing of these L&A tests is tied to the beginning of early voting in each county,<sup>30</sup> which varies from 10 to 15 days before an election,<sup>31</sup> in 2020 counties were generally able to start their VBM canvass 35 to 40 days before the primary election and general election, which is 13 to 18 days earlier than the 22 days that the current statute provides.

The media has credited the canvassing of VBM ballots prior to Election Day as one of the reasons Florida's 2020 general election went so smoothly and why results were available so much more quickly than for states, such as Pennsylvania, that had to wait until Election Day to start counting.<sup>32</sup>

### Effect of Proposed Changes

Section 4 allows a county canvassing board to begin canvassing VBM ballots as soon as the county finishes L&A testing. In practice, this means that:

- A county that begins early voting as soon as permitted under law (15 days before an election) may begin VBM canvassing as early as the 40th day before an election instead of the 22nd day before an election, providing an additional 18 days to count; and
- A county that waits until 10 days before an election to begin early voting will be permitted to begin VBM canvassing as early as the 35th day before an election instead of the 22nd day before an election, providing an additional 13 days to count.

This change will facilitate a more orderly election administration process and quicker reporting of results.

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<sup>25</sup> A county canvassing board is composed of the supervisor of elections; a county court judge, who acts as chair; and the chair of the board of county commissioners (s. 102.141(1), F.S.).

<sup>26</sup> Section 101.68(2)(a), F.S.

<sup>27</sup> Chapter 2019-162, s. 19, L.O.F.

<sup>28</sup> Office of the Governor, Executive Order No. 20-149 (June 17, 2020), available at [https://www.flgov.com/wp-content/uploads/orders/2020/EO\\_20-149.pdf](https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-149.pdf), last accessed February 4, 2021.

<sup>29</sup> Section 101.5612(2), F.S.

<sup>30</sup> Each supervisor must complete an L&A test on any day up to 25 days before the start of early voting (*id.*).

<sup>31</sup> *Id.*; see also, s. 101.657(1)(d), F.S. (counties *may* start early voting 15 days before an election, but *must* start no later than 10 days before).

<sup>32</sup> See, e.g., Tampa Bay News 10 (WTSP), *Florida Counted Votes Quickly in the 2020 Election – What Happened in the Other States?* (Nov. 18, 2020), available at <https://www.wtsp.com/article/news/politics/florida-2020-election-counting/67-33b47308-7571-4c70-8afc-cfa8b872bcca>, last accessed February 4, 2021.

## **Canvassing of Vote-by-Mail Ballots/Signatures (Section 4)**

### Present Situation

The mailing envelope in which an absent elector sends back a marked VBM ballot must bear on the back side a voter's certificate via which the elector must affirm with a signature that he or she is a qualified and registered voter of the relevant county and that he or she has not and will not vote more than one ballot in the election.<sup>33</sup>

If an elector returns a VBM ballot that does not include a signature or contains a signature that does not match the one in the registration books or precinct register, the supervisor must notify the elector of the signature deficiency and direct the elector to the cure affidavit<sup>34</sup> and instructions on the supervisor's website.<sup>35</sup> Along with the cure affidavit, the elector must submit a copy of one of a specified list of acceptable identifications.<sup>36</sup>

During canvassing of VBM ballots, a canvassing board must, if the supervisor has not already done so, compare the elector's signature on the voter's certificate or the ballot cure affidavit with the elector's signature in the registration books or the precinct register. A VBM ballot may only be counted if:

- The signature on the voter's certificate or the cure affidavit matches the signature in the registration books or precinct register;<sup>37</sup> or
- The cure affidavit contains a signature that does not match the signature in the registration books or precinct register, but the elector has submitted a current and valid "Tier 1 identification"<sup>38</sup> that confirms the identity of the elector.<sup>39</sup>

### Effect of Proposed Changes

Section 4 requires the signature on a voter's certificate or ballot cure affidavit to match the *most recent* signature in the registration books or precinct register.

## **Effective Date of the Bill (Section 8)**

The bill takes effect July 1, 2021.

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<sup>33</sup> Section 101.64(1), F.S.

<sup>34</sup> The VBM ballot cure affidavit requires the elector to affirm with a signature that he or she requested and returned the VBM ballot and has not and will not vote more than one ballot in the election (s. 101.68(4)(c), F.S.).

<sup>35</sup> Section 101.68(4)(a), F.S. The supervisor may make the notification via email, text message, or telephone.

<sup>36</sup> Section 101.68(4)(d)3., F.S.

<sup>37</sup> In the case of a cure affidavit, the supporting identification must also confirm the identity of the elector.

<sup>38</sup> "Tier 1 identification" means a current and valid identification that includes the elector's name and photograph, including a Florida driver license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles; United States passport; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; public assistance identification; veteran health identification card issued by the United States Department of Veterans Affairs; Florida license to carry a concealed weapon or firearm; of employee identification card issued by any branch, department, agency, or entity of the federal government, the state, a county, or a municipality (s. 101.68(4)(d)2., F.S.).

<sup>39</sup> Section 101.68(2)(c)1., F.S.

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

Not applicable. Bills that affect state or local elections are exempt from the requirements of Art. VII, s. 18 of the State Constitution.

**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:**

If the reduced time period for which one VBM ballot request is sufficient results in a higher total number of requests, supervisors are likely to experience additional workload and incur additional processing costs.

Elimination of drop boxes as a method for returning VBM ballots may reduce supervisors' workload because supervisors will no longer be required to staff off-site drop boxes.

Requiring supervisors of elections to record instances in which a signature on a returned VBM ballot does not match the one on file may slightly increase supervisors of elections' workload.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 101.62, 101.64, 101.65, 101.68, 101.69, and 104.0616.

**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 10, 2021:**

The committee substitute makes the following changes:

- Reduces the number of elections for which one request for a vote-by-mail ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election;
- Moves up the starting time for canvassing vote-by-mail ballots from 22 days before an election to 35-40 days before an election;
- Limits persons who may lawfully be in possession of a vote-by-mail ballot to the voter and his or her immediate family;
- Prohibits the use of drop boxes for return of a vote-by-mail ballot;
- Prohibits a supervisor of elections from mailing or otherwise providing a vote-by-mail ballot without a request;
- Requires the signature on a voter's certificate or ballot cure affidavit to match the most recent one on file;
- Requires an additional identifier number when a written or telephonic request is made for a vote-by-mail ballot;
- Prohibits display of partisan information on the outside of vote-by-mail ballots or envelopes; and
- Requires supervisors of elections to record instances in which a signature on a completed vote-by-mail ballot does not match the one on file.

**CS by Ethics and Elections on February 16, 2021:**

As originally filed, the bill reduced the number of elections for which one VBM ballot request is sufficient to all elections held within a calendar year of the request. The committee substitute instead reduces the number to all elections through the end of the calendar year of the next regularly scheduled general election.

B. Amendments:

None.

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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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351544

LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment (with title amendment)**

Delete lines 15 - 56

and insert:

Section 1. Paragraph (a) of subsection (2) of section  
101.68, Florida Statutes, is amended to read:

101.68 Canvassing of vote-by-mail ballot.—

(2) (a) The county canvassing board may begin the canvassing  
of vote-by-mail ballots upon the completion of the public  
testing of automatic tabulating equipment pursuant to s.



351544

101.5612(2) ~~at 7 a.m. on the 22nd day before the election, but~~  
~~must begin such canvassing by no not later than noon on the day~~  
~~following the election. In addition, for any county using~~  
~~electronic tabulating equipment, the processing of vote-by-mail~~  
~~ballots through such tabulating equipment may begin at 7 a.m. on~~  
~~the 22nd day before the election.~~ However, notwithstanding any  
such authorization to begin canvassing or otherwise processing  
vote-by-mail ballots early, no result shall be released until  
after the closing of the polls in that county on election day.  
Any supervisor, deputy supervisor, canvassing board member,  
election board member, or election employee who releases the  
results of a canvassing or processing of vote-by-mail ballots  
prior to the closing of the polls in that county on election day  
commits a felony of the third degree, punishable as provided in  
s. 775.082, s. 775.083, or s. 775.084.

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

And the title is amended as follows:

Delete lines 3 - 10

and insert:

101.68, F.S.; authorizing the canvassing of vote-by-  
mail ballots upon the completion of the public  
preelection testing of automatic tabulating equipment;  
providing an effective



833194

LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment (with title amendment)**

Delete lines 18 - 56

and insert:

(1)(a) The supervisor shall accept a request for a vote-by-mail ballot from an elector in person or in writing. One request is shall be deemed sufficient to receive a vote-by-mail ballot for all elections until the elector or the elector's designee notifies the supervisor that the elector rescinds such request ~~through the end of the calendar year of the second ensuing~~



833194

~~regularly scheduled general election~~, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive a vote-by-mail ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

Section 2. Paragraph (a) of subsection (2) of section 101.68, Florida Statutes, is amended to read:

101.68 Canvassing of vote-by-mail ballot.—

(2)(a) The county canvassing board may begin the canvassing of vote-by-mail ballots upon the completion of the public testing of automatic tabulating equipment pursuant to s. 101.5612(2) ~~at 7 a.m. on the 22nd day before the election~~, but must begin such canvassing by no ~~not~~ later than noon on the day following the election. ~~In addition, for any county using electronic tabulating equipment, the processing of vote-by-mail ballots through such tabulating equipment may begin at 7 a.m. on the 22nd day before the election.~~ However, notwithstanding any such authorization to begin canvassing or otherwise processing vote-by-mail ballots early, no result shall be released until after the closing of the polls in that county on election day. Any supervisor, deputy supervisor, canvassing board member, election board member, or election employee who releases the results of a canvassing or processing of vote-by-mail ballots prior to the closing of the polls in that county on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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



833194

And the title is amended as follows:

Delete lines 3 - 10

and insert:

101.62, F.S.; authorizing standing vote-by-mail ballot requests until such a request is rescinded by an elector or the elector's designee; amending s. 101.68, F.S.; authorizing the canvassing of vote-by-mail ballots upon the completion of the public preelection testing of automatic tabulating equipment; providing an effective

By the Committee on Ethics and Elections; and Senator Baxley

582-02172-21

202190c1

A bill to be entitled

An act relating to vote-by-mail ballots; amending s. 101.62, F.S.; limiting the duration of requests for vote-by-mail ballots to all elections through the end of the calendar year of the next regularly scheduled general election; amending s. 101.68, F.S.; authorizing the canvassing of vote-by-mail ballots upon the completion of the public preelection testing of automatic tabulating equipment; providing for construction and applicability; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 101.62, Florida Statutes, is amended to read:

101.62 Request for vote-by-mail ballots.—

(1) (a) The supervisor shall accept a request for a vote-by-mail ballot from an elector in person or in writing. One request ~~is shall be~~ deemed sufficient to receive a vote-by-mail ballot for all elections through the end of the calendar year of the ~~next second ensuing~~ regularly scheduled general election, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive a vote-by-mail ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

Section 2. Paragraph (a) of subsection (2) of section 101.68, Florida Statutes, is amended to read:

Page 1 of 2

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

582-02172-21

202190c1

101.68 Canvassing of vote-by-mail ballot.—

(2) (a) The county canvassing board may begin the canvassing of vote-by-mail ballots upon the completion of the public testing of automatic tabulating equipment pursuant to s. 101.5612(2) at 7 a.m. on the 22nd day before the election, but ~~must begin such canvassing by no not~~ later than noon on the day following the election. ~~In addition, for any county using electronic tabulating equipment, the processing of vote-by-mail ballots through such tabulating equipment may begin at 7 a.m. on the 22nd day before the election.~~ However, notwithstanding any such authorization to begin canvassing or otherwise processing vote-by-mail ballots early, no result shall be released until after the closing of the polls in that county on election day. Any supervisor, deputy supervisor, canvassing board member, election board member, or election employee who releases the results of a canvassing or processing of vote-by-mail ballots prior to the closing of the polls in that county on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Notwithstanding that an elector has submitted a vote-by-mail ballot request before the effective date of this act initially applicable through the end of the calendar year of the second ensuing regularly scheduled general election, any such elector must affirmatively resubmit a vote-by-mail ballot request following the effective date of this act in order to receive vote-by-mail ballots for the 2022 primary and general elections.

Section 4. This act shall take effect July 1, 2021.

Page 2 of 2

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/10

Meeting Date

SB 90

Bill Number (if applicable)

PCS for SB 90

Amendment Barcode (if applicable)

Topic ELECTIONS

Name ALAN HAYS

Job Title LEGISLATIVE CHAIRMAN, FSE

Address P.O. Box 457

TAVARES, FL 32778

City

State

Zip

Phone 352-343-9734

Email alan@lakevotes.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing LAKE COUNTY SUPERVISOR OF ELECTIONS

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**

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3/10

Meeting Date

SB 90

Bill Number (if applicable)

PCS for SB 90

Amendment Barcode (if applicable)

Topic ELECTIONS

Name MARK EARLEY

Job Title LEON COUNTY SUPERVISOR OF ELECTIONS

Address 2990-1 APALACHEE PARKWAY

Phone 850-606-8683

Street

TALLAHASSEE

FL

32301

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing LEON COUNTY SUPERVISOR OF ELECTIONS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)



GOV OVERSIGHT

THE FLORIDA SENATE

APPEARANCE RECORD

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3/10/21  
Meeting Date

90  
Bill Number (if applicable)  
96950  
Amendment Barcode (if applicable)

Topic VOTE BY MAIL

Name TRISH NEELY

Job Title DIRECTOR

Address 2024 SHANGRI LA LANE  
Street

Phone 8503223317

TALLY FL 32303  
City State Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing LEAGUE WOMEN VOTERS FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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## THE FLORIDA SENATE

## APPEARANCE RECORD

3/10/21

Meeting Date

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90

Bill Number (if applicable)

Topic VOTE BY MAIL

Amendment Barcode (if applicable)

Name TRISH NEELYJob Title DIRECTORAddress 2024 SHANGRI LA LANE  
StreetPhone 850 322 3317FALLY FL 32303  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)Representing LEAGUE WOMEN VOTERS FLORIDAAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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3/10/2021

Meeting Date

THE FLORIDA SENATE

## APPEARANCE RECORD

90

Bill Number (if applicable)

Topic Vote-by-mail Ballots

Amendment Barcode (if applicable)

Name Jonathan Webber

Job Title Deputy Director

Address 1700 N. Monroe St. #11-286

Phone 954-593-4449

Street

Tallahassee

FL

32303

Email jwebber@fcvoters.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Conservation Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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3/10/21

Meeting Date

SB 90

Bill Number (if applicable)

Topic Vote - By - Mail

Amendment Barcode (if applicable)

Name Brad Ashwell

Job Title State Director for "All Voting is Local"

Address 1576 Chili Nene

Street

Phone 850-294-1008

Tallahassee

City

FL

State

32301

Zip

Email brad@allvotingislocal.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/10/21

Meeting Date

90

Bill Number (if applicable)

Topic Vote by mail ballots

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title

Address

Street

Phone

City

State

Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/10/21

Meeting Date

SB 90

Bill Number (if applicable)

Topic Elections

Amendment Barcode (if applicable)

Name Dr. Rick Templin

Job Title \_\_\_\_\_

Address 139 S. Monroe

Phone 224 - 6926

Street

Tallahassee

City

FL

State

32309

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida AFL - CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

Gov. Messieft

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-10-21

Meeting Date

90

Bill Number (if applicable)

Topic Vote by Mail

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title \_\_\_\_\_

Address 625 E. Brevard St  
Street

Phone 251-4280

Email barbadevane1@Yahoo.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL NOW and FL Alliance for Retired Americans

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/10/21

Meeting Date

SB 90

Bill Number (if applicable)

Topic Vote by mail ballots

Amendment Barcode (if applicable)

Name Sabrina Javellana

Job Title Commissioner

Address 816 NE 27th Ave  
Street

Phone 305 9823006

Hallandale Beach FL 33009  
City State Zip

Email Sabrina.jave@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)



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

3/10/21

Meeting Date

Room A2

THE FLORIDA SENATE

**APPEARANCE RECORD**

CS/SB 90

Bill Number (if applicable)

Topic VBM Vote-by-Mail

Amendment Barcode (if applicable)

Name Susan Caplowe

Job Title Volunteer

Address PO box 1201

Phone 850-567-2448

Street

Tallahassee

FL

32302

Email susiecaplowe@comcast-net

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against

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

Representing Concerned citizen and Voting Rights Advocate

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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

Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

3/10/2021

Meeting Date

90

Bill Number (if applicable)

Topic Vote-By-Mail Ballots

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title \_\_\_\_\_

Address 104 S. Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

City

State

Zip

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/10/21  
Meeting Date

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

90

Bill Number (if applicable)

Topic Vote By Mail

Amendment Barcode (if applicable)

Name Carrie Boyd

Job Title Policy Director

Address P.O. Box 10788

Phone 850 570 9560

Tallahassee FL 32303  
City State Zip

Email carrie.boyd@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SPLC Action Fund

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

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)

3/10/21

Meeting Date

SB 90

Bill Number (if applicable)

Topic Vote by Mail

Amendment Barcode (if applicable)

Name Theresa King

Job Title \_\_\_\_\_

Address 200 S. College St

Phone 850-228-8940

Street

Tallahassee

City

FL

State

32300

338

Zip

Email fbt.tking@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

**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.)

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

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BILL: CS/SB 1040

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Brodeur

SUBJECT: Duties of the Attorney General

DATE: March 10, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVaney	GO	<b>Fav/CS</b>
2.			ACJ	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1040 repeals several functions of, and transfers to other agencies numerous current duties of, the Department of Legal Affairs (DLA), and the Attorney General (AG).

The bill eliminates the DLA's duties and responsibilities relating to neighborhood improvement districts.

The bill also transfers the duties and responsibilities of the DLA relating to claims for restitution from the DLA to the Department of Children and Families (DCF), the Department of Health (DOH), the Department of Juvenile Justice (DJJ), the Department of Corrections (DOC), or the Agency for Persons with Disabilities (APD).

The bill transfers the duties relating to the security of convenience businesses, their training curriculums, and enforcement authority from the DLA and the Attorney General to the Department of Business and Professional Regulation (DBPR).

The bill exempts the Crimes Compensation Trust Fund from the service charge transferred into the General Revenue Trust Fund.

Current law makes it unlawful and a violation of unfair methods of competition law for any person to impose unconscionable prices:

- For the rent or sale of any essential commodity for consumption or use as a direct result of the emergency; or
- For the rental or lease of any dwelling unit or self-storage facility during a period of declared state of emergency.

The bill slightly modifies the current prohibitions against unconscionable prices, to make the rental or sale of a dwelling unit or self storage facility that is necessary for habitation or use as a direct result of the emergency at an unconscionable price unlawful and a violation of unfair methods competition law. The bill allows the governor, by executive order with specific reference, rather than by renewals of the declared state of emergency, to extend both prohibitions.

The bill extends the repeal date for the Attorney General to have access to records ordered by a court in regard to the prescription drug monitoring program. The repeal date is delayed from June 30, 2021, to June 30, 2023.

The bill will reduce revenues deposited into the General Revenue Fund by \$1.2 million annually. The Crimes Compensation Trust Fund within the DLA will retain a like amount over the same period.

The DLA is expected to have decreased workload and costs associated with no longer having the duties and responsibilities for various programs. Consequently, the DCF, DOH, DJJ, DOC, APD, and DBPR is expected to have increased workload and costs associated with incurring the duties and responsibilities for various programs.

The bill takes effect on June 30, 2021.

## **II. Present Situation:**

### **The Attorney General**

The Attorney General (AG) is a statewide elected official directed by the Florida Constitution to serve as the chief legal officer for the State of Florida. The AG is responsible for protecting consumers from various types of fraud, enforcing the state's antitrust laws, defending the state in civil litigation cases, and represents the people of the state when criminals appeal their convictions in state and federal courts.<sup>1</sup> The AG defends the statutes enacted by the Legislature and is authorized to form official legal opinions at the request of public officials on questions relating to the application of state law. The AG serves as a member of the Florida Cabinet along with the Chief Financial Officer, and the Commissioner of Agriculture. The AG is the head of the Department of Legal Affairs (DLA) and is responsible for providing all legal services required by any department.<sup>2</sup>

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<sup>1</sup> Office of the Attorney General, *Role and Function of the Attorney General*, available at <http://myfloridalegal.com/pages.nsf/Main/F06F66DA272F37C885256CCB0051916F>, last visited (March 3, 2021)

<sup>2</sup> Section 16.015, F.S.

## **Florida Supreme Court Reporter**

Since 1881, the Florida Supreme Court Clerk has been required to deliver to the AG a copy of each volume of Florida Supreme Court opinions in the Clerk's care or custody which the AG's office may be without. The AG must keep the copies at her office at the capitol and has been, by law, the official Supreme Court reporter since 1885. However, Florida Supreme Court opinions are now published online and in other reporters available in the AG's law library.<sup>3</sup>

## **Safe Neighborhood Improvement District**

A safe neighborhood improvement district (district) is a district located in an area in which more than 75 percent of the land is used for residential purposes, commercial, or business purposes, excluding land area used for public facilities.<sup>4</sup> An established district must have a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques. A district is required to register within 30 days with the Department of Economic Opportunity (DEO) and the DLA, providing the departments with the district's name, size, location, and type. There are currently 27 active districts in the state.<sup>5</sup> The governing body of the county is this eligible to request a grant through from the Safe Neighborhoods Program.<sup>6</sup>

## ***Safe Neighborhoods Program***

The Safe Neighborhoods Program was created to provide planning grants and technical assistance on a 100-percent matching basis to the neighborhood improvement districts. Applications for planning grants must have verification that the local governing body has passed an ordinance creating neighborhood improvement districts, and verification of commitment to provide matching funds for the purposes of planning of neighborhood improvement districts.<sup>7</sup> Planning grants shall be rewarded to eligible applicants, with the amount totaling as follows:

- Property owner's association neighborhood improvement districts may receive up to \$20,000;
- Local government neighborhood improvement district may receive up to \$100,000;
- Special neighborhood improvement districts may receive up to \$50,000; and
- Community redevelopment neighborhood improvement districts may receive up to \$50,000.<sup>8</sup>

Each neighborhood improvement district that receives funds is required to submit an audit.

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<sup>3</sup> Section 16.101, F.S.

<sup>4</sup> Section 163.503(1), F.S.

<sup>5</sup> Florida Department of Economic Opportunity, *Division of Community Development, Official List of Special Districts Online*, available at <http://specialdistrictreports.floridajobs.org/webreports/functionsdetail.aspx> (last visited March 9, 2021).

<sup>6</sup> *Id.*

<sup>7</sup> Section 163.517(2)(a-b), F.S.

<sup>8</sup> Section 163.517(1)(a-d), F.S.

## Crimes Compensation Trust Fund

The Crime Compensation Trust Fund (CCTF) provides for the payment of all necessary and proper expenses incurred by the operation of the DLA and the payment of claims.<sup>9</sup> The CCTF funds the Victim's Compensation Program.<sup>10</sup> The CCTF is funded by legislative appropriations to compensate the victims of crime and other claimants, and by moneys recovered on behalf of the DLA, by subrogation or other action, from restitution, the Federal Government, additional court costs, fines, or any other public or private source.<sup>11</sup>

Any person pleading guilty or nolo contendere to, or being convicted for any felony, misdemeanor, delinquent act, or criminal traffic offense, is required to pay as an additional cost in the case the sum of \$50.<sup>12</sup> These costs may not be waived by the court.<sup>13</sup> The clerk of the court must collect and forward \$49 of each \$50 collected to the Department of Revenue, to be deposited in the CCTF.<sup>14</sup> The clerk must retain the remaining \$1 of each \$50 collected as an additional cost by the clerk's office.<sup>15</sup>

For fiscal year 2020-2021, the CCTF generated \$19,443,607.00 in revenue and directed \$1,411,969.00 to the General Revenue Fund for the 8% service charge. For fiscal year 2019-2020, the CCTF service charge was \$1,017,988.00 and for fiscal year 2018-2019, the service charge was \$1,146,136.00.<sup>16</sup>

## Trust Fund Contribution to the General Revenue Fund

Section 215.20, F.S., imposes a service charge of 8 percent on "all income of a revenue nature" deposited in all trust funds except those specifically enumerated in s. 215.22, F.S. Income of a revenue includes all earnings received or credited by such trust funds, including the interest or benefits received from the investment of the principal of such trust funds. The service charges imposed pursuant to s. 215.20, F.S., are transferred from the affected trust funds to the General Revenue Fund representing the estimated pro rata share of the "cost of general government" paid from the General Revenue Fund.<sup>17</sup>

## State Institutions Claims Program

The State Institutions Claims Program was created to make restitution of property damages and direct medical expenses for injuries caused by shelter children, foster children, escapees, inmates, or patients of state institutions or developmental disabilities center. Claims for

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<sup>9</sup> Section 960.21(1), F.S.

<sup>10</sup> The Victim's Compensation Program provides financial assistance to eligible persons for specified crime-related economic losses, including wage loss, certain violence-related relocation costs, funeral expenses, and medical and mental health treatment costs, if such persons are unable to obtain compensation for their losses from any other source

<sup>11</sup> Section 960.21(2), F.S.

<sup>12</sup> Section 938.03(1), F.S.

<sup>13</sup> Section 938.03(2), F.S.

<sup>14</sup> Section 938.03(4), F.S.

<sup>15</sup> Section 938.03(4), F.S.

<sup>16</sup> Revenue Estimating Conference, *Revenue Impact Results*, available at <http://www.edr.state.fl.us/content/conferences/revenueimpact/archives/2021/pdf/Impact0219.pdf> (last visited, March 9, 2021)

<sup>17</sup> Section 215.20(1), F.S.



restitution may be filed with the DLA, and the DLA shall have full power to hear, investigate, and determine all questions about the claims. The DLA is authorized to pay individual claims up to \$1,000 or up to \$1,500 for children in foster care and their families. The DLA is responsible for working with other state agencies to streamline the process of investigations, hearings, and determinations.<sup>18</sup> In the past five years, the Agency for Persons with Disabilities has had 41 claims filed, with 30 of them considered eligible for restitution.<sup>19</sup> In the past five years, the Department of Juvenile Justice has had three claims filed.<sup>20</sup>

### **Price Gouging during a Declared State of Emergency**

Section 501.160, F.S., is referred to as the Price Gouging Law, and was passed to prevent the dramatic increases in the prices of certain essential commodities during periods of disaster.<sup>21</sup> The price of an essential commodity is considered unconscionable if the amount charged represents a gross disparity between the price of the commodity and the average price of that commodity when rented, leased, or sold in the usual course of business during the 30 days prior to a declaration of emergency. Upon a declaration of a state of emergency by the Governor, a person or their agent is prohibited from renting or selling at an unconscionable price. It is unlawful and a violation of s. 501.204, F.S., for any person to impose unconscionable prices for the rental, lease, or sale of any commodity, dwelling unit, or self-storage unit. Price increases approved by an appropriate governmental entity is not a violation of s. 501.204, F.S. The prohibition on unconscionable pricing within the area of the state of emergency is limited to no more than 60 days under the initial declared state of emergency. The prohibition may be “renewed” by a statement of any subsequent “renewals” of the declared state of emergency. The state attorney or AG may prosecute any violation of s. 501.204, F.S.

### **Convenience Business Security**

The DLA has the rulemaking authority as necessary to implement provisions of the Business Security Act (Act).<sup>22</sup> Rule 2A-5.005, F.A.C., provides safety standards, training curriculum and enforcement procedures for the Act.

A convenience business is any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time between 11:00 p.m. and 5:00 a.m.<sup>23</sup> Every convenience business is required to have certain security devices. These include a security camera, a safe or cash management device, a lighted parking lot, a sign stating cash register contains less than \$50, window signage that allows a clear view from outside the building, and a cash management policy limiting cash at hand after 11:00 p.m. If a murder, robbery, sexual battery, aggravated assault, aggravated battery, or kidnapping or false

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<sup>18</sup> Section 402.181, F.S.

<sup>19</sup> See Agency for Persons with Disabilities, *Senate Bill 1040 Agency Legislative Analysis* (February 24, 2021) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>20</sup> See Department of Juvenile Justice, *Senate Bill 1040 Agency Legislative Analysis* (February 25, 2021) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>21</sup> Section 501.160, F.S.

<sup>22</sup> Section 812.176, F.S.

<sup>23</sup> Section 812.171, F.S.

imprisonment, occurs or has occurred at a convenience business since July 1, 1989, the business needs to implement one of the following policies:

- Provide at least two employees on the premises at all times after 11:00 p.m. and before 5:00 a.m.;
- Install for use by employees at all times after 11:00 p.m. and before 5:00 a.m. a secured safety enclosure of transparent polycarbonate or other material;
- Provide a security guard on the premises at all times after 11:00 p.m. and before 5:00 a.m.;
- Lock the business premises throughout the hours of 11:00 p.m. to 5:00 a.m., and only transact business through an indirect pass-through trough, trapdoor, or window; or
- Close the business at all times after 11:00 p.m. and before 5:00 a.m.

The DLA will provide notice to any convenience business to which an incident has previously occurred. A business can file a notice for exemption with the DLA if no incident has occurred for no less than 24 months immediately preceding the filing of a notice of exemption.<sup>24</sup> The DLA has the authority to enforce violations of the law which result in civil penalties up to \$5,000.<sup>25</sup>

### ***Training of Employees***

The owner of a convenience business is required to provide proper robbery deterrence and safety training by an approved curriculum to its retail employees within 60 days of employment. The curriculum shall be submitted to the AG. The AG will review and approve or disapprove the curriculum in writing within 60 days after receipt. Any curriculum approved by the AG since September of 1990 is subject to reapproval by the AG two years from the anniversary of initial approval and biennially thereafter.

### **Prescription Drug Monitoring Program**

The Prescription Drug Monitoring Program (PDMP) uses a comprehensive electronic system/database, maintained by the Department of Health (DOH), to monitor the prescribing and dispensing information of certain controlled substances. Section 893.0551(3)(e), F.S., authorizes the AG, upon authorization by a trial court, to use confidential and exempt information from the PDMP database that has been de-identified for active investigations or pending civil or criminal litigation involving prescribed controlled substances. The AG must ensure that the obtained de-identified information is used only for the purpose stated in the court order. The AG must maintain a log of each person with which the information is shared, execute a confidentiality agreement or an agreement bound by a protective order with each such person, ensure the information is maintained in a secure manner, and require each such person to return all information or certify its destruction to the AG upon the final resolution of the matter for which the information was requested.<sup>26</sup> The AG's access to information in the PDMP is scheduled to be repealed on June 30, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

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<sup>24</sup> Section 812.173(5), F.S.

<sup>25</sup> The Department of Legal Affairs, *The Convenience Business Security Act*, available at <http://www.fcpti.com/fcpti.nsf/pages/CBSA>, (last visited March 5, 2021)

<sup>26</sup> Section 893.055(5)(b), F.S.

## **The Department of Economic Opportunity**

The purpose of the DEO, as established by s. 20.60, F.S., is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. The head of the DEO is the executive director, appointed by the Governor, subject to confirmation by the Senate, and serving at the pleasure of and reporting to the Governor.<sup>27</sup> The DEO has the following divisions:

- The Division of Strategic Business Development;
- The Division of Community Development;
- The Division of Workforce Services;
- The Division of Finance and Administration; and
- The Division of Information Technology.

### **III. Effect of Proposed Changes:**

**Sections 1** repeals s. 16.10, F.S., which requires the clerk of the Florida Supreme Court to provide the decisions of the Supreme Court and requires the AG to maintain the decisions within the AG's office in the capitol.

**Section 2** repeals s. 16.101, F.S., which requires the AG to be the reporter for the Florida Supreme Court.

**Section 3** amends s. 163.503, F.S., relating to the Safe Neighborhoods Act, to change the definition of "department" to mean the DEO rather than the DLA.

**Section 4** amends s. 163.504, F.S., to eliminate the authority of a city or county that creates a safe neighborhood improvement district to request a grant from the Safe Neighborhood Program.

**Section 5** amends s. 163.5055, F.S., to eliminate the duty of a neighborhood improvement district to register with the DLA (the duty to register with DEO remains), and to eliminate the duty of a local governing body that authorizes the dissolution of a district to notify the DLA (the duty to notify the DEO remains).

**Section 6** amends s. 163.506, F.S., to eliminate a requirement that a new local government neighborhood improvement district notify the DLA within 30 days of its creation (the duty to notify DEO remains).

**Section 7** amends s. 163.508, F.S., to eliminate a requirement that a new property owners' association neighborhood improvement district notify the DLA within 30 days of its creation (the duty to notify DEO remains).

**Section 8** amends s. 163.511, F.S., to eliminate a requirement that a new special residential or business neighborhood improvement district notify the DLA within 30 days of its creation (the duty to notify DEO remains).

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<sup>27</sup> Section 20.60(2), F.S.

**Section 9** repeals s. 163.517, F.S., which creates the Safe Neighborhoods Program.

**Section 10** repeals s. 163.519, F.S., which outlines the duties of the DLA in relation to neighborhood improvement districts.

**Section 11** repeals s. 163.521, F.S., which establishes a grant program for neighborhood improvement districts.

**Section 12** repeals s. 163.5215, F.S., which establishes that the provisions of neighborhood improvement districts may not be construed to modify, limit, expand, or supersede any existing laws relating to the closing or abandonment of public roads, the denial of access to areas for public use, or the use of public facilities.

**Section 13** repeals s. 163.522, F.S., which provides that any county or municipality that has authorized the creation of a community redevelopment area be directed to give consideration to the creation of a neighborhood improvement district within said area.

**Section 14** repeals s. 163.523, F.S., which allows local governments to cooperate with community organizations in the creation of safe neighborhood improvement districts.

**Section 15** amends s. 163.524, F.S., to conform to the changes of the bill.

**Section 16** amends s. 215.22, F.S., to exempt the “Crimes Compensation Trust Fund” from the service charge imposed on all income of a revenue nature.

**Section 17** amends s. 376.84, F.S., to conform to the changes of the bill.

**Section 18** amends s. 402.181, F.S., to require claims to be filed with the Department of Children and Families (DCF), the Department of Juvenile Justice (DJJ), the Department of Health (DOH), the Department of Corrections (DOC), or the Agency for Persons with Disabilities (APD).

The section transfers the power and authority to approve and deny claims from the DLA to the agencies and departments that deal with the claims.

The section provides that the DCF, the DJJ, the DOH, the DOC, and the APD adopt rules to process the claims and to ensure that eligible claimants receive restitution. Previously, the DLA was responsible for working with the departments and agencies to create a process.

**Section 19** amends s. 501.160, F.S., to make the rental or sale of a dwelling unit or self storage facility that is necessary for habitation or use as a direct result of the emergency at an unconscionable price unlawful and a violation of unfair methods competition law. The bill allows the governor, by executive order with specific reference, rather than by renewals of the declared state of emergency, to extend the prohibition on essential commodities, or on any dwelling unit or self-storage facility.

**Section 20** amends s. 775.083, F.S., to conform to the changes of the bill.

**Section 21** amends s. 812.173, F.S., to transfer the duties relating to convenience business security from the DLA to the Department of Business and Professional Regulations (DBPR).

**Section 22** amends s. 812.174, F.S., to transfer the duties relating to convenience business scrutiny training their employees on safety training and robbery deterrence from the AG to the DBPR.

**Section 23** amends s. 812.175, F.S., to transfer the duties relating to violations and fines for convenience business security from the AG to the DBPR.

**Section 24** amends s. 812.176, F.S., to transfer the duties of adopting rules as necessary to implement the provisions of the Convenience Business Security Act from the DLA to the DBPR.

**Section 25** amends ss. 893.055 and 893.0551, F.S., to delay the scheduled repeal of provisions granting the Attorney General access to records ordered by a court in regard to the prescription drug monitoring program. [The repeal date moves to June 30, 2023. Currently, the repeal date is June 30, 2021.]

**Section 26** amends s. 960.21, F.S., to remove the service charge of the CCTF from being paid out of moneys collected and deposited into the trust fund. This section conforms to the provision exempting the CCTF from the service charge imposed on all income of a revenue nature.

**Section 27** provides that the bill take effect June 30, 2021.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

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

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill eliminates price gouging protections relating to rent of a dwelling unit or a self-service storage facility during a declared state of emergency, which could subject Florida consumers to higher rent prices during a state of emergency.

C. Government Sector Impact:

The DEO may experience a workload increase relating to the processing of registrations and dissolutions of safe neighborhood improvement districts. Consequently, the DLA may experience a workload decrease by no longer having this responsibility.

The DCF, the DJJ, the DOH, the DOC, and the APD may have increased workload and may incur costs associated with receiving and processing restitution claims. Consequently, the DLA may experience a workload decrease and cost savings by no longer having this responsibility.

The DBPR may have a workload increase and may incur costs associated with processing exemption requests, approving proposed training curriculum, and enforcing provisions under the convenience business security act. Consequently, the DLA may experience a workload decrease and cost savings by no longer having this responsibility.

On February 19, 2021, the Revenue Estimating Conference (“REC”) considered section 16 of the bill. The REC determined that exempting the CCTF from the eight percent service charge will result in an increase in funds retained in the CCTF of approximately \$1.2 million annually for FY 2021-22 through FY 2025-26 but a decrease in funds transferred in the General Revenue Fund by the same amount during the same period.<sup>28</sup>

**VI. Technical Deficiencies:**

None.

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<sup>28</sup> Revenue Estimating Conference, *Revenue Impact Results*, available at [http://www.edr.state.fl.us/content/conferences/revenueimpact/archives/2021/\\_pdf/Impact0219.pdf](http://www.edr.state.fl.us/content/conferences/revenueimpact/archives/2021/_pdf/Impact0219.pdf) (last visited, March 9, 2021)

**VII. Related Issues:**

Lines 369 to 370 change the grant of rulemaking authority under the Convenience Security Act (Act) from DLA to the DBPR. However, the bill as currently drafted does not provide for the transfer of the Act's sole rule - Rule 2A-5.005, F.A.C., which implements the provisions of the Convenience Security Act. Thus, during the time frame in which the DBPR takes to promulgate the rule, there will be no rule in effect regarding the Act. The Legislature may consider an amendment providing an explicit transfer of the administrative rule in chapter 2A-5 from the DLA to the DBPR.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 163.503, 163.504, 163.5055, 163.506, 163.508, 163.511, 163.524, 215.22, 376.84, 402.181, 501.160, 775.083, 812.173, 812.174, 812.175, 812.176, and 960.21.

This bill repeals the following sections of the Florida Statutes: 16.10, 16.101, 163.517, 163.519, 163.521, 163.5215, 163.522, and 163.523.

**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 10, 2021:**

The CS removes the service charge of the Crimes Compensation Trust Fund from being paid out of moneys collected and deposited into the trust fund.

The CS provides that it is unlawful for a person to rent or sell, at an unconscionable price any dwelling unit or self-storage facility, which is limited to that which is necessary for consumption or use within the area for which a state of emergency is declared.

**B. Amendments:**

None.



491666

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2021	.	
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The Committee on Governmental Oversight and Accountability  
(Brodeur) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 237 - 246

and insert:

which the state of emergency is declared:7

(a) Any essential commodity including, but not limited to,  
supplies, services, provisions, or equipment that is necessary  
for consumption or use as a direct result of the emergency.

(b) Any dwelling unit or self-storage facility that is  
necessary for habitation or use as a direct result of the





491666

emergency.

This prohibition is effective not to exceed 60 days under the initial declared state of emergency as defined in s. 252.36(2) and may be extended an additional 60 days by an executive order issued by the Governor specifically referencing this section ~~shall be renewed by statement in any subsequent renewals of the declared state of emergency by the Governor.~~

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

And the title is amended as follows:

Delete lines 41 - 44

and insert:

amending ss. 775.083 and 812.173,



706196

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2021	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Between lines 387 and 388  
insert:

Section 26. Subsection (3) of section 960.21, Florida  
Statutes, is amended to read:

960.21 Crimes Compensation Trust Fund.—

(3) All administrative costs of this chapter ~~and the~~  
~~service charge provided for in chapter 215~~ shall be paid out of  
moneys collected under ~~pursuant to~~ this chapter and deposited in



706196

the Crimes Compensation Trust Fund.

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

And the title is amended as follows:

Delete line 56

and insert:

Legislature; amending s. 960.21, F.S.; deleting a  
reference to the service charge provided for in ch.  
215, F.S.; providing an effective date.

By Senator Brodeur

9-00623A-21

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1 A bill to be entitled  
 2 An act relating to duties of the Attorney General;  
 3 repealing s. 16.10, F.S., relating to the receipt of  
 4 Supreme Court decisions by the Attorney General;  
 5 repealing s. 16.101, F.S., relating to the Supreme  
 6 Court reporter; amending s. 163.503, F.S.; revising  
 7 the definition of "department" to conform to changes  
 8 made by the act; amending s. 163.504, F.S.; deleting  
 9 provisions relating to the Safe Neighborhoods Program;  
 10 amending ss. 163.5055, 163.506, 163.508, and 163.511,  
 11 F.S.; relieving the Department of Legal Affairs from  
 12 certain duties associated with specified neighborhood  
 13 improvement districts; repealing s. 163.517, F.S.,  
 14 relating to the Safe Neighborhoods Program; repealing  
 15 s. 163.519, F.S., relating to the duties of the  
 16 Department of Legal Affairs; repealing s. 163.521,  
 17 F.S., relating to funding of neighborhood improvement  
 18 districts inside enterprise zones; repealing s.  
 19 163.5215, F.S., relating to the construction of the  
 20 Safe Neighborhoods Act; repealing s. 163.522, F.S.,  
 21 relating to state redevelopment programs; repealing s.  
 22 163.523, F.S., relating to the cooperation and  
 23 involvement of community organizations to create safe  
 24 neighborhood districts; amending s. 163.524, F.S.;  
 25 conforming a provision to changes made by the act;  
 26 amending s. 215.22, F.S.; specifying that the Crimes  
 27 Compensation Trust Fund is exempt from the service  
 28 charge into the General Revenue Fund; amending s.  
 29 376.84, F.S.; conforming a cross-reference; amending

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

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30 s. 402.181, F.S.; requiring certain claims for  
 31 restitution to be filed with specified entities;  
 32 removing the Department of Legal Affairs as an entity  
 33 for such filings; authorizing the Department of  
 34 Children and Families, the Department of Health, the  
 35 Department of Juvenile Justice, the Department of  
 36 Corrections, and the Agency for Persons with  
 37 Disabilities to adopt rules to process specified  
 38 claims; amending s. 501.160, F.S.; authorizing certain  
 39 declarations during a state of emergency to be  
 40 extended for specified days by executive order;  
 41 removing a provision making it unlawful for a person  
 42 to impose unconscionable prices to rent or lease a  
 43 dwelling unit or self-storage facility during declared  
 44 states of emergency; amending ss. 775.083 and 812.173,  
 45 F.S.; conforming a provision to changes made by the  
 46 act; amending ss. 812.174, 812.175, and 812.176, F.S.;  
 47 revising provisions to require the Department of  
 48 Business and Professional Regulation and not the  
 49 Attorney General to regulate convenience businesses;  
 50 amending chapter 2019-127, Laws of Florida; extending  
 51 the timeframe for the Attorney General to have access  
 52 to records when ordered by a court under specified  
 53 provisions; postponing the scheduled repeal of  
 54 amendments until a specified date unless reviewed and  
 55 saved from repeal through reenactment by the  
 56 Legislature; providing an effective date.

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

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

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Section 1. Section 16.10, Florida Statutes, is repealed.

Section 2. Section 16.101, Florida Statutes, is repealed.

Section 3. Subsection (3) of section 163.503, Florida

Statutes, is amended to read:

163.503 Definitions.—

(3) "Department" means the Department of Economic Opportunity ~~Legal Affairs~~.

Section 4. Section 163.504, Florida Statutes, is amended to read:

163.504 Safe neighborhood improvement districts; planning funds.—

~~(1)~~ The governing body of any municipality or county may authorize the formation of safe neighborhood improvement districts through the adoption of a planning ordinance which specifies that such districts may be created by one or more of the methods established in ss. 163.506, 163.508, 163.511, and 163.512. No district may overlap the jurisdictional boundaries of a municipality and the unincorporated area of a county, except by interlocal agreement.

~~(2) If the governing body of a municipality or county elects to create a safe neighborhood improvement district, it shall be eligible to request a grant from the Safe Neighborhoods Program, created pursuant to s. 163.517 and administered by the Department of Legal Affairs, to prepare a safe neighborhood improvement plan for the district.~~

~~(3) Municipalities and counties may implement the provisions of this section without planning funds from the Department of Legal Affairs. However, nothing in this section~~

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~~shall be construed to exempt any district from the requirements of providing a safe neighborhood improvement plan pursuant to s. 163.516.~~

Section 5. Subsection (1) of section 163.5055, Florida Statutes, is amended to read:

163.5055 Registration of district establishment; notice of dissolution.—

(1) (a) Each neighborhood improvement district authorized and established under this part shall within 30 days thereof register with ~~both~~ the Department of Economic Opportunity ~~and the Department of Legal Affairs~~ by providing the department ~~these departments~~ with the district's name, location, size, and type, and such other information as the department ~~departments~~ may require.

(b) Each local governing body that authorizes the dissolution of a district shall notify ~~both~~ the Department of Economic Opportunity ~~and the Department of Legal Affairs~~ within 30 days after the dissolution of the district.

Section 6. Paragraph (h) of subsection (1) of section 163.506, Florida Statutes, is amended to read:

163.506 Local government neighborhood improvement districts; creation; advisory council; dissolution.—

(1) After a local planning ordinance has been adopted authorizing the creation of local government neighborhood improvement districts, the local governing body of a municipality or county may create local government neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(h) Requires the district to notify the ~~Department of Legal~~

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117 ~~Affairs and the~~ Department of Economic Opportunity in writing of  
 118 its establishment within 30 days thereof pursuant to s.  
 119 163.5055.

120 Section 7. Paragraph (g) of subsection (1) of section  
 121 163.508, Florida Statutes, is amended to read:  
 122 163.508 Property owners' association neighborhood  
 123 improvement districts; creation; powers and duties; duration.—  
 124 (1) After a local planning ordinance has been adopted  
 125 authorizing the creation of property owners' association  
 126 neighborhood improvement districts, the local governing body of  
 127 a municipality or county may create property owners' association  
 128 neighborhood improvement districts by the enactment of a  
 129 separate ordinance for each district, which ordinance:  
 130 (g) Requires the district to notify the ~~Department of Legal~~  
 131 ~~Affairs and the~~ Department of Economic Opportunity in writing of  
 132 its establishment within 30 days thereof pursuant to s.  
 133 163.5055.

134 Section 8. Paragraph (i) of subsection (1) of section  
 135 163.511, Florida Statutes, is amended to read:  
 136 163.511 Special neighborhood improvement districts;  
 137 creation; referendum; board of directors; duration; extension.—  
 138 (1) After a local planning ordinance has been adopted  
 139 authorizing the creation of special neighborhood improvement  
 140 districts, the governing body of a municipality or county may  
 141 declare the need for and create special residential or business  
 142 neighborhood improvement districts by the enactment of a  
 143 separate ordinance for each district, which ordinance:  
 144 (i) Requires the district to notify the ~~Department of Legal~~  
 145 ~~Affairs and the~~ Department of Economic Opportunity in writing of

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146 its establishment within 30 days thereof pursuant to s.  
 147 163.5055.

148 Section 9. Section 163.517, Florida Statutes, is repealed.  
 149 Section 10. Section 163.519, Florida Statutes, is repealed.  
 150 Section 11. Section 163.521, Florida Statutes, is repealed.  
 151 Section 12. Section 163.5215, Florida Statutes, is  
 152 repealed.  
 153 Section 13. Section 163.522, Florida Statutes, is repealed.  
 154 Section 14. Section 163.523, Florida Statutes, is repealed.  
 155 Section 15. Subsection (5) of section 163.524, Florida  
 156 Statutes, is amended to read:  
 157 163.524 Neighborhood Preservation and Enhancement Program;  
 158 participation; creation of Neighborhood Preservation and  
 159 Enhancement Districts; creation of Neighborhood Councils and  
 160 Neighborhood Enhancement Plans.—  
 161 (5) The Neighborhood Council and local government planning  
 162 agency shall be eligible to receive grants ~~from the Safe~~  
 163 ~~Neighborhoods Program as provided in s. 163.517.~~

164 Section 16. Paragraph (w) is added to subsection (1) of  
 165 section 215.22, Florida Statutes, to read:  
 166 215.22 Certain income and certain trust funds exempt.—  
 167 (1) The following income of a revenue nature or the  
 168 following trust funds shall be exempt from the appropriation  
 169 required by s. 215.20(1):  
 170 (w) The Crimes Compensation Trust Fund.  
 171 Section 17. Paragraph (c) of subsection (1) of section  
 172 376.84, Florida Statutes, is amended to read:  
 173 376.84 Brownfield redevelopment economic incentives.—It is  
 174 the intent of the Legislature that brownfield redevelopment

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activities be viewed as opportunities to significantly improve the utilization, general condition, and appearance of these sites. Different standards than those in place for new development, as allowed under current state and local laws, should be used to the fullest extent to encourage the redevelopment of a brownfield. State and local governments are encouraged to offer redevelopment incentives for this purpose, as an ongoing public investment in infrastructure and services, to help eliminate the public health and environmental hazards, and to promote the creation of jobs in these areas. Such incentives may include financial, regulatory, and technical assistance to persons and businesses involved in the redevelopment of the brownfield pursuant to this act.

(1) Financial incentives and local incentives for redevelopment may include, but not be limited to:

(c) Safe neighborhood improvement districts as provided in ss. 163.501-163.516 ~~ss. 163.501-163.523~~.

Section 18. Subsections (2) and (3) of section 402.181, Florida Statutes, are amended to read:

402.181 State Institutions Claims Program.—

(2) Claims for restitution may be filed with the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, or the Agency for Persons with Disabilities. The claim must be filed with the department or agency responsible for monitoring the person that caused the medical injury or the property damage ~~Legal Affairs at its office in accordance with regulations prescribed by the Department of Legal Affairs~~. The departments and agencies ~~Department of Legal Affairs~~ shall have the full

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power and authority to approve or deny ~~hear, investigate, and determine all questions in respect to such claims and may is~~ ~~authorized~~, within the limits of current appropriations, ~~to~~ pay individual claims up to \$1,000 or, with respect to children in foster care and their families, individual claims up to \$1,500. Claims in excess of these amounts shall continue to require legislative approval.

(3)~~(a)~~ The Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, and the Agency for Persons with Disabilities shall adopt rules to process claims and to ensure that eligible claimants receive restitution within a reasonable time ~~The Department of Legal Affairs shall make or cause to be made such investigations as it considers necessary in respect to such claims. Hearings shall be held in accordance with chapter 120.~~

~~(b) The Department of Legal Affairs shall work with the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, and the Agency for Persons with Disabilities to streamline the process of investigations, hearings, and determinations with respect to claims under this section, to ensure that eligible claimants receive restitution within a reasonable time.~~

Section 19. Subsections (2) and (3) of section 501.160, Florida Statutes, are amended to read:

501.160 Rental or sale of essential commodities during a declared state of emergency; prohibition against unconscionable prices.—

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(2) Upon a declaration of a state of emergency by the Governor, it is unlawful and a violation of s. 501.204 for a person or her or his agent or employee to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency. This prohibition is effective not to exceed 60 days under the initial declared state of emergency as defined in s. 252.36(2) and may be extended an additional 60 days, by an executive order issued by the Governor specifically referencing this section shall be renewed by statement in any subsequent renewals of the declared state of emergency by the Governor.

~~(3) It is unlawful and a violation of s. 501.204 for any person to impose unconscionable prices for the rental or lease of any dwelling unit or self-storage facility during a period of declared state of emergency.~~

Section 20. Subsection (2) of section 775.083, Florida Statutes, is amended to read:

775.083 Fines.—

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be \$50 for a felony and \$20 for any other offense

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and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county~~— including safe neighborhood programs under ss. 163.501-163.523.~~

Section 21. Subsections (3) and (5) of section 812.173, Florida Statutes, are amended to read:

812.173 Convenience business security.—

(3) Every convenience business shall be equipped with a silent alarm to law enforcement or a private security agency, unless application for an exemption is made to and granted by the Department of Business and Professional Regulation Attorney General. An application for exemption must be in writing and must be accompanied by an administrative fee of \$25 for each store for which an exemption would apply.

(5) For purposes of this section, any convenience business that by law implemented any of the security measures set forth in paragraphs (4)(a)-(e) and has maintained said measures as required by the Department of Business and Professional Regulation ~~Legal Affairs~~ without any occurrence or incidence of the crimes identified by subsection (4) for a period of no less than 24 months immediately preceding the filing of a notice of exemption, may file with the department a notice of exemption from these enhanced security measures. In no event shall this exemption be interpreted to preclude full compliance with the security measures set forth in subsection (4) should any occurrence or incidence of the crimes identified by subsection



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291 (4) cause subsection (4) to be statutorily applicable. As of  
 292 ~~July 1, 2021 the date this act becomes law~~, the Department of  
 293 ~~Business and Professional Regulation Legal Affairs~~ will provide  
 294 notice to any convenience business to which a subsection (4)  
 295 incident has previously occurred. In no event shall the state or  
 296 the Department of Business and Professional Regulation ~~Legal~~  
 297 ~~Affairs~~ incur any liability for the regulation and enforcement  
 298 of this act.

299 Section 22. Section 812.174, Florida Statutes, is amended  
 300 to read:

301 812.174 Training of employees.—The owner or principal  
 302 operator of a convenience business or convenience businesses  
 303 shall provide proper robbery deterrence and safety training by  
 304 an approved curriculum to its retail employees within 60 days of  
 305 employment. ~~Existing retail employees shall receive training~~  
 306 ~~within 6 months of April 8, 1992.~~ A proposed curriculum shall be  
 307 submitted in writing to the Department of Business and  
 308 Professional Regulation ~~Attorney General~~ with an administrative  
 309 fee not to exceed \$100. The Department of Business and  
 310 Professional Regulation ~~Attorney General~~ shall review and  
 311 approve or disapprove the curriculum in writing within 60 days  
 312 after receipt. The state shall have no liability for approving  
 313 or disapproving a training curriculum under this section.  
 314 Approval shall be given to a curriculum which trains and  
 315 familiarizes retail employees with the security principles,  
 316 devices, and measures required by s. 812.173. Disapproval of a  
 317 curriculum shall be subject to the provisions of chapter 120. No  
 318 person shall be liable for ordinary negligence due to  
 319 implementing an approved curriculum if the training was actually

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320 provided. A curriculum shall be submitted for reapproval  
 321 biennially with an administrative fee not to exceed \$100. Any  
 322 curriculum approved by the Attorney General ~~between~~ since  
 323 September 1990 and June 30, 2021, and any curriculum approved on  
 324 or after July 1, 2021, by the Department of Business and  
 325 Professional Regulation shall be subject to reapproval 2 years  
 326 from the anniversary of initial approval and biennially  
 327 thereafter.

328 Section 23. Section 812.175, Florida Statutes, is amended  
 329 to read:

330 812.175 Enforcement; civil fine.—

331 (1) The violation of any provision of this act by any owner  
 332 or principal operator of a convenience business shall result in  
 333 a notice of violation from the Department of Business and  
 334 Professional Regulation ~~Attorney General~~. Violators shall have  
 335 30 days after receipt of the notice to provide proof of  
 336 compliance to the Department of Business and Professional  
 337 Regulation ~~Attorney General's office~~. If the violation continues  
 338 after the 30-day period, the Department of Business and  
 339 Professional Regulation ~~Attorney General~~ may impose a civil fine  
 340 not to exceed \$5,000. The Department of Business and  
 341 Professional Regulation ~~Attorney General~~ has the authority to  
 342 investigate any alleged violation and may compromise any alleged  
 343 violation by accepting from the owner or principal operator an  
 344 amount not to exceed \$5,000. The Department of Business and  
 345 Professional Regulation ~~Attorney General~~ may suspend the  
 346 imposition of any fine conditioned upon terms the Department of  
 347 Business and Professional Regulation ~~Attorney General's office~~  
 348 in its discretion deems appropriate. Notices of violation and

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civil fines shall be subject to the provisions of chapter 120.

(2) Moneys received by the Department of Business and Professional Regulation ~~Attorney General~~ pursuant to this act shall be deposited in the General Revenue Fund.

(3) The Department of Business and Professional Regulation ~~Attorney General~~ is given full power and authority to petition for an injunction when it is determined that the health, safety, and public welfare is threatened by continued operation of a convenience business in violation of this act. In any action for injunction, the Department of Business and Professional Regulation ~~Attorney General~~ may seek a civil penalty not to exceed \$5,000 per violation, plus attorney's fees and costs.

(4) The Department of Business and Professional Regulation ~~Attorney General~~ may enter into agreements with local governments to assist in the enforcement of ss. 812.1701-812.175. Such agreements may include provision for reimbursement of investigative and enforcement costs incurred by such local governments.

Section 24. Section 812.176, Florida Statutes, is amended to read:

812.176 Rulemaking authority.—The Department of Business and Professional Regulation ~~may Legal Affairs shall have the power to~~ adopt rules pursuant to chapter 120 as necessary to implement the provisions of the Convenience Business Security Act. The security measures and training provisions of ss. 812.173 and 812.174 shall meet the requirements of the department as set forth by rule.

Section 25. Section 3 of chapter 2019-127, Laws of Florida, is amended to read:

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Section 3. The amendments to ss. 893.055 and 893.0551, Florida Statutes, made by this act shall stand repealed on June 30, 2023 ~~June 30, 2021~~, unless reviewed and saved from repeal through reenactment by the Legislature. If such amendments are not saved from repeal, the text of ss. 893.055 and 893.0551, Florida Statutes, shall revert to that in existence on June 30, 2019, except that any amendments to such text other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

Section 26. This act shall take effect June 30, 2021.



The Florida Senate

## Committee Agenda Request

**To:** Senator Ray Wesley Rodrigues, Chair  
Committee on Government Oversight and Accountability

**Subject:** Committee Agenda Request

**Date:** March 1, 2021

---

I respectfully request that **Senate Bill 1040**, relating to Duties of the Attorney General, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

---

Senator Jason Brodeur  
Florida Senate, District 9

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

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/10/21

Meeting Date

1040

Bill Number (if applicable)

Topic Duties of the Attorney General

Amendment Barcode (if applicable)

Name Daniel Olson

Job Title Director of Government Relations

Address 400 S. Monroe St

Street

Tallahassee

City

FL

State

32399

Zip

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of the Attorney General

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)



## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

### Agency for Persons with Disabilities

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	SB 1040
<b>BILL TITLE:</b>	<u>Duties of the Attorney General</u>
<b>BILL SPONSOR:</b>	Senator Brodeur
<b>EFFECTIVE DATE:</b>	June 30, 2021

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Judiciary Committee
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations Committee
4)
5)

<b><u>CURRENT COMMITTEE</u></b>
Judiciary Committee

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b><u>PREVIOUS LEGISLATION</u></b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	
<b>YEAR:</b>	
<b>LAST ACTION:</b>	

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	HB 515
<b>SPONSOR:</b>	Representative Mariano

<b><u>Is this bill part of an agency package?</u></b>
No.

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	For further information, please contact JP Bell at (850) 544-7487.
<b>LEAD AGENCY ANALYST:</b>	Tom Rice
<b>ADDITIONAL ANALYST(S):</b>	
<b>LEGAL ANALYST:</b>	Francis Carbone
<b>FISCAL ANALYST:</b>	Debbie Patten

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

To the extent that SB 1040 relates to the Agency for Persons with Disabilities (APD), this bill transfers the process of receiving and adjudicating claims for restitution (under the State Institution Claims Program pursuant to s. 402.181, F.S.) from the Department of Legal Affairs to APD.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

APD operates two Developmental Disabilities Centers for clients who need structured residential care 24 hours a day. Tacachale in Gainesville and Sunland in Marianna are full-service residential facilities that provide medical care, vocational services, and a variety of recreational opportunities to over 500 people. Additionally, individuals with developmental disabilities charged with committing a felony crime may be court-ordered into APD's Developmental Disabilities Defendant Program (DDDP). DDDP is a 146-bed secure residential facility located in Chattahoochee for defendants with developmental disabilities who are deemed incompetent to stand trial. In this program, residents with a secure court order receive competency training and other services in accordance with their needs. The agency also has 34 secure beds in the Pathways program located on the Sunland campus (which is administratively operated under DDDP).

Section 402.181, F.S., establishes the State Institution Claims Program for the purpose of making restitution for property damages and direct medical expenses for injuries caused by residents of state-operated institutions. Presently, claims are filed with the Department of Legal Affairs which is responsible for investigating and authorizing the payment of such claims up to \$1,500. Authorized claims are paid for out of each agency's budget. Claims greater than \$1,500 require legislative approval.

The table below breaks down the number of claims submitted by each state agency, how many were determined eligible, and provides the annual total value of the claims approved for the past five state fiscal years:

SFY	Agency	Number of Claims Rec'd	Number Eligible	Total Value Approved
<b>2019-20</b>		<b>0</b>	<b>0</b>	<b>\$0.00</b>
	APD	0	0	\$0.00
<b>2018-19</b>		<b>4</b>	<b>3</b>	<b>\$355.41</b>
	APD	4	3	\$355.41
<b>2017-18</b>		<b>4</b>	<b>3</b>	<b>\$1,601.02</b>
	APD	4	3	\$1,601.02
<b>2016-17</b>		<b>5</b>	<b>4</b>	<b>\$399.80</b>
	APD	5	4	\$399.80
<b>2015-16</b>		<b>5</b>	<b>5</b>	<b>\$3,664.20</b>
	APD	5	5	\$3,664.20

According to the Department of Legal Affairs Program Specialists who currently process these claims, applications received (which are complete and accompanied by the applicable documentation) take approximately 30 minutes to process. All decisions are subject to appeal so additional legal support would be required should an applicant's claim be denied and subsequently appealed to the Division of Administrative Hearings.

## 2. EFFECT OF THE BILL:

The proposed statutory change shifts the administrative function of receiving and adjudicating claims for restitution under the program from the Department of Legal Affairs to the state agency which was "...responsible for monitoring the person that caused the medical injury or the property damage."

As a result, APD would need to establish and convene an internal committee (with representatives from the Division of Programs, Office of Human Resources, Division of Budget, Planning and Administration, and the Office of General Counsel) to review, investigate and render decisions on submitted claims.

The relatively small number of claims submitted on behalf of APD-operated facilities, coupled with the fact that nearly all of such claims are historically approved, implies that the proposed statutory change to the institutional claims program could be assumed by existing Agency staff.

APD would be required to promulgate a rule to further define and describe the claims submission and adjudication process.

## 3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES

If yes, explain:	APD would need to promulgate a rule to define and describe the claims submission and adjudication process.
What is the expected impact to the agency's core mission?	N/A
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

## 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	N/A
Provide a summary of the proponents' and opponents' positions:	N/A

## 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

**6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? NO**

Board:	
Board Purpose:	
Who Appoints:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS****1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT? N/A**

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?**

Revenues:	N/A
Expenditures:	Due to the small number of claims which are historically submitted on behalf of APD-operated facilities, the transfer of this administrative function to APD is not expected to result in a material increase in expenditures for APD.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	No

**3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR? N/A**

Revenues:	N/A
Expenditures:	N/A
Other:	



**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? NO**

Does the bill increase taxes, fees or fines?	No
Does the bill decrease taxes, fees or fines?	No
What is the impact of the increase or decrease?	
Bill Section Number:	

**TECHNOLOGY IMPACT**

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	No
If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A

**FEDERAL IMPACT**

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	
If yes, describe the anticipated impact including any fiscal impact.	

**ADDITIONAL COMMENTS**

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments and recommended action:	None noted.
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## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Department of Juvenile Justice**

### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 1040
<b>BILL TITLE:</b>	Duties of Attorney General
<b>BILL SPONSOR:</b>	Brodeur
<b>EFFECTIVE DATE:</b>	6/30/21

### COMMITTEES OF REFERENCE

1) Judiciary
2) Appropriations Sub. Criminal and Civil Justice
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

### CURRENT COMMITTEE

Judiciary
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### SIMILAR BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	HB 515
<b>SPONSOR:</b>	Mariano

### Is this bill part of an agency package?

Click or tap here to enter text.

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	02/25/2021
<b>LEAD AGENCY ANALYST:</b>	Sam Kerce, Deputy Legislative Affairs Director. 850-717-2717
<b>ADDITIONAL ANALYST(S):</b>	Click or tap here to enter text.
<b>LEGAL ANALYST:</b>	John Milla, Asst. General Counsel
<b>FISCAL ANALYST:</b>	Click or tap here to enter text.

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

**This analysis will pertain only to the sections of the bill that affect the Department of Juvenile of Justice.**

The bill makes changes to the duties of the Attorney General and the Department of Legal Affairs.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

Section 402.181, F.S., creates a “*State Institutions Claims Program, for the purpose of making restitution for property damages and direct medical expenses for injuries caused by shelter children or foster children, or escapees, inmates, or patients of state institutions or developmental disabilities centers under the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, or the Agency for Persons with Disabilities.*”

Currently this State Claims Program is overseen by the Department of Legal Affairs and claims are filed through their office. The Department of Legal Affairs will hear, investigate, and determine all questions in respect to such claims and can pay individual claims up to \$1,000 or, with respect to children in foster care and their families, individual claims up to \$1,500. Over the last five (5) fiscal years, the Department of Juvenile Justice has received three (3) claims.

#### 2. EFFECT OF THE BILL:

**This analysis will pertain only to the sections of the bill that affect the Department of Juvenile of Justice.**

##### Section 18:

The bill amends s. 402.181 (2), F.S., the process of the State Institutions Claims Program, by removing the Department of Legal Affairs from the process. Claims instead will be approved or denied by the respective agency that the claim is made against. The bill goes on to amend s. 402.181(3) F.S., requiring the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, and the Agency for Persons with Disabilities to adopt rules to process claims and to ensure that eligible claimants receive restitution within a reasonable time.

##### Section 26:

Provides for an effective date of June 30, 2021.

### 3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☐

If yes, explain:	Section 18 of the bill requires the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, and the Agency for Persons with Disabilities to adopt rules to process claims and to ensure that eligible claimants receive restitution within a reasonable time
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

### 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?**Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

## FISCAL ANALYSIS

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**Y ☐ N ☒

Revenues:	Click or tap here to enter text.
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Expenditures:	Any potential cost related to DJJ now processing these claims under s. 402, 181(3), F.S., could be absorbed in existing resources.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

**TECHNOLOGY IMPACT****1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?**Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	Click or tap here to enter text.
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**FEDERAL IMPACT****1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?**Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
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**ADDITIONAL COMMENTS**

Click or tap here to enter text.

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments:	Click or tap here to enter text.
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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.)

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

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BILL: CS/SB 1076

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Brodeur

SUBJECT: Public Works Projects

DATE: March 10, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ponder	McVaney	GO	Fav/CS
2.			CA	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1076 prohibits a state college, county, municipality, school district, or other political subdivision of the state from using certain preferences in competitive solicitations for construction services when any state-appropriated funds or locally-appropriated funds are to be used to fund the project. Current law provides that for a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision of the state may not use a local ordinance or regulation that provides a preference based upon: (1) the contractor's maintaining an office or place of business within a particular local jurisdiction; (2) the contractor's hiring employees or subcontractors from within a particular local jurisdiction; or (3) the contractor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

The bill removes the 50 percent or more threshold and applies the prohibition on local preference to all solicitations that will be paid for with funding that is state-appropriated or locally-appropriated.

The bill authorizes, except as otherwise prohibited, a state college, county, municipality, school district, or other political subdivision of the state to offer incentives or award point preferences to a contractor in the bidding process for a contract for construction services, so long as acceptance of any such incentive or preference does not impose any fine, penalty, or other sanction on a contractor.



The bill amends the definition of the term “public works project” to remove the 50 percent or more cost threshold and provide that the term applies to activities paid for with state appropriated or locally-appropriated funds. Additionally, this definition is amended to remove the limitation to appropriations at the time of the competitive solicitation.

The bill prohibits the state or any political subdivision that contracts for a public works project, except as required by federal or state law, from taking the following action:

- Granting a preference or imposing a penalty during the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residence of the employees of such contractor, subcontractor, or material supplier or carrier; or
- Requiring a contractor, subcontractor, or material supplier or carrier engaged in a public works project to train employees in designated programs with a restricted curriculum or from a single source.

The bill also prohibits a contractor, subcontractor, or material supplier or carrier who is qualified, licensed, or certified by state or local law - from receiving information about public works opportunities.

The bill specifies that the state or political subdivision is not prevented from offering any incentive or awarding any point preference in the bidding process, not otherwise prohibited, so long as acceptance of any such incentive or preference does not impose a fine, a penalty, or another sanction on the bidder.

The bill may have an indeterminate fiscal impact on local governments.

The bill takes effect on July 1, 2021.

## **II. Present Situation:**

### **Procurement of Construction Services**

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. Section 255.29, F.S., authorizes the Department of Management Services to adopt rules for bidding on building construction contracts. These rules must establish:

- Procedures for determining the qualifications and responsibility of potential bidders prior to advertising for and receiving bids for building construction contracts;
- Procedures for awarding each state agency construction project to the lowest qualified bidder;
- Procedures to govern negotiations for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state; and
- Procedures for entering into performance-based contracts for the development of public facilities when those contracts are determined to be in the best interest of the state.<sup>1</sup>

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<sup>1</sup> Section 255.29, F.S.; *See* Rule 60D-5.001 et seq., Florida Administrative Code.

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.<sup>2</sup> A county, municipality, special district as defined in chapter 189, or other political subdivision seeking to construct or improve a public building must competitively award to an appropriately licensed contractor each project that is estimated to cost more than \$300,000.<sup>3</sup>

Section 255.0525(1), F.S., requires the solicitation of competitive bids or proposals for any state construction project that is projected to cost more than \$200,000 to be publicly advertised in the Florida Administrative Register (FAR) at least 21 days prior to the established bid opening. If the cost of the construction project is projected to exceed \$500,000, the advertisement must be published in the FAR at least 30 days prior to the bid opening, and at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the bid opening.<sup>4</sup> Similar publishing requirements apply to counties, municipalities, and political subdivisions under s. 255.0525(2), F.S.

### ***Florida Preference to State Residents***

Florida law provides a preference for the employment of state residents in construction contracts funded by state funds.<sup>5</sup> Such contracts must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work if state residents have “substantially equal qualifications”<sup>6</sup> to those of non-residents.<sup>7</sup> A contract for construction funded by local funds may contain such a provision but is not required to be included.<sup>8</sup> A contractor required to employ state residents must contact the Department of Economic Opportunity to post the contractor’s employment needs in the state’s job bank system.<sup>9</sup>

### ***Prohibited Local Government Preferences***

Section 255.0991, F.S., prohibits a local ordinance or regulation from giving preference to a local contractor in certain circumstances. For a competitive solicitation<sup>10</sup> for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision of the state may not use a local ordinance or regulation that provides a preference based upon:

- The contractor’s maintaining an office or place of business within a particular local jurisdiction;
- The contractor’s hiring employees or subcontractors from within a particular local jurisdiction; or

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<sup>2</sup> Section 255.0525, F.S.,

<sup>3</sup> Section 255.20, F.S.

<sup>4</sup> Section 255.0525(1), F.S.

<sup>5</sup> Section 255.099(1), F.S.

<sup>6</sup> Section 255.099(1)(a), F.S., defines the term “substantially equal qualifications” to mean the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons.

<sup>7</sup> Section 255.099(1), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 255.099(1)(b), F.S.

<sup>10</sup> Section 255.248(2), F.S., defines “competitive solicitation” to mean an invitation to bid, a request for proposals, or an invitation to negotiate.

- The contractor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.<sup>11</sup>

When 50 percent or more of the costs will be paid from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision must disclose in the solicitation document the amount of such funds or the percentage of such funds as compared to the anticipated total cost of the construction services.<sup>12</sup> If less than 50 percent of the costs for the construction services will be funded from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision is not prevented from awarding a contract to a contractor in accordance with applicable state laws or local ordinances or regulations.<sup>13</sup>

### ***Public Works Projects***

In 2017, the Legislature created s. 255.0992, F.S., addressing limitations with respect to public works contracts - except for contracts issued by the Department of Transportation (DOT) under ch. 337, F.S.<sup>14</sup> This section defines the terms "political subdivision" and "public works project." A political subdivision is defined to mean:

[A] separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term includes, but is not limited to, a county; a city, town, or other municipality; or a department, commission, authority, school district, taxing district, water management district, board, public corporation, institution of higher education, or other public agency or body thereof authorized to expend public funds for construction, maintenance, repair, or improvement of public works.

The term "public works project" means:

[A]n activity of which 50 percent or more of the cost will be paid from state-appropriated funds that were appropriated at the time of the competitive solicitation and which consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned in whole or in part by any political subdivision.

Except as required by federal or state law, the state or any political subdivision that contracts for a public works project may not require a contractor, subcontractor, or material supplier or carrier engaged in the project to:

- Pay employees a predetermined amount of wages or prescribe any wage rate;
- Provide employees a specified type, amount, or rate of employee benefits;

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<sup>11</sup> Section 255.0991(2), F.S.

<sup>12</sup> Section 255.0991(3), F.S.

<sup>13</sup> Section 255.0991(4), F.S.

<sup>14</sup> Chapter 2017-113, L.O.F.

- Control, limit, or expand staffing; or
- Recruit, train, or hire employees from a designated, restricted, or single source.<sup>15</sup>

The state or any political subdivision that contracts for a public works project may not prohibit any contractor, subcontractor, or material supplier or carrier able to perform such work who is qualified, licensed, or certified as required by state law to perform such work from submitting a bid on the public works project.<sup>16</sup> This provision does not apply to vendors listed on the convicted and discriminatory vendor list.

### **Federal Labor and Wage Laws**

The National Labor Relations Act of 1935<sup>17</sup> and the Labor Management Relations Act of 1947<sup>18</sup> constitute a comprehensive scheme of regulations guaranteeing employees the right to organize, to bargain collectively through chosen representatives, and to engage in concerted activities to secure their rights in industries involved in or affected by interstate commerce.

The Fair Labor Standards Act (FLSA or act) establishes a federal minimum wage, which is the lowest hourly wage that can be paid in the United States.<sup>19</sup> A state may set the rate higher than the federal minimum, but not lower.<sup>20</sup> The act also requires employers to pay time and a half to their employees for overtime hours worked,<sup>21</sup> and establishes standards for recordkeeping<sup>22</sup> and child labor.<sup>23</sup> Over 135 million workers are covered under the act;<sup>24</sup> most, but not all, jobs are covered by the FLSA. In addition, some jobs covered by the act are considered “exempt” from the FLSA overtime requirements.<sup>25</sup>

On February 12, 2014, President Obama signed Executive Order 13658, which establishes a minimum wage for certain federal contractors.<sup>26</sup> The Executive Order requires parties who contract with the federal government to pay workers performing work on or in connection with covered federal contracts at least \$10.10 per hour beginning January 1, 2015. Beginning

<sup>15</sup> Section 255.0992(2)(a), F.S.

<sup>16</sup> Section 255.0992(2)(b), F.S.

<sup>17</sup> 29 U.S.C. ss. 151-169 (encouraging the practice and procedure of collective bargaining and protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection).

<sup>18</sup> 29 U.S.C. ss. 141-197 (prescribing the rights of both employees and employers in their relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the rights of the other, to protect the rights of individual employees in their relations with labor organizations whose activities affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce).

<sup>19</sup> 29 U.S.C. s. 206 .

<sup>20</sup> 29 U.S.C. s. 218(a).

<sup>21</sup> 29 U.S.C. s. 207(a)(1).

<sup>22</sup> 29 U.S.C. s. 211.

<sup>23</sup> 29 U.S.C. s. 212.

<sup>24</sup> United States Department of Labor, *Wage and Hour Division: Resources for Workers*, available at <http://www.dol.gov/whd/workers.htm> (last visited February 22, 2021).

<sup>25</sup> 29 U.S.C. s. 213; United States Department of Labor, *Fact Sheet #14: Coverage Under the Fair Labor Standards Act (FLSA)*, [www.dol.gov/whd/regs/compliance/whdfs14.pdf](http://www.dol.gov/whd/regs/compliance/whdfs14.pdf) (last visited February 22, 2021).

<sup>26</sup> 30 Exec. Order 13658, 79 Fed. Reg. 9851 (Feb. 12, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/02/12/executive-order-minimum-wage-contractors> (last visited February 22, 2021).

January 1, 2016, and annually thereafter, such workers must be paid an amount determined by the Secretary of Labor in accordance with the Executive Order. The order stated that “[r]aising the pay of low-wage workers increases their morale and the productivity and quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs.”<sup>27</sup> The Executive Order hourly minimum wage in effect from January 1, 2021, through December 31, 2021, is \$10.95.<sup>28</sup>

The Davis-Bacon Act<sup>29</sup> applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.<sup>30</sup> Contractors and subcontractors subject to the Davis-Bacon Act are required to pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area, as determined by the Department of Labor.<sup>31</sup> The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts.<sup>32</sup> Many federal laws that authorize federal assistance for construction through grants, loans, loan guarantees, and insurance are referred to as Davis-Bacon “related Acts.”<sup>33</sup> The “related Acts” include provisions that require the prevailing wage provisions of the Davis-Bacon Act to apply to most federally assisted construction.<sup>34</sup>

### State Labor and Wage Regulations

The State Constitution protects the right for workers to collectively bargain, including public sector employees.<sup>35</sup> It provides, in pertinent part, that “[t]he right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.” The Florida Supreme Court has held that public employees maintain the same rights to collectively bargain as do private employees.<sup>36</sup>

In addition, the State Constitution provides that “[a]ll working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to

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<sup>27</sup> *Id.*

<sup>28</sup> 85 Fed. Reg. 53850 (August 31, 2020), available at <https://www.federalregister.gov/documents/2020/08/31/2020-19037/establishing-a-minimum-wage-for-contractors-notice-of-rate-change-in-effect-as-of-january-1-2021> (last visited February 22, 2021).

<sup>29</sup> Davis-Bacon Act, 40 U.S.C. s. 3141-3148.

<sup>30</sup> United States Department of Labor, *Wage and Hour Division: Davis-Bacon and Related Acts*, available at <http://www.dol.gov/whd/govcontracts/dbra.htm> (last visited February 24, 2021).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> United States Department of Labor, *Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA)*, <http://www.dol.gov/whd/regs/compliance/whdfs66.pdf> (last visited February 24, 2021). Examples of “related Acts” are the Federal Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.

<sup>34</sup> *Id.*

<sup>35</sup> Art. I, s. 6, FLA. CONST.

<sup>36</sup> See *Hillsborough Cnty. Gov’t Emps. Ass’n, Inc. v. Hillsborough Cnty. Aviation Auth.*, 522 So. 2d 358 (Fla. 1988); *City of Tallahassee v. Public Employees Relations Comm’n*, 410 So. 2d 487 (Fla. 1981); *Dade Cnty. Classroom Teachers Ass’n v. Legislature of Fla.*, 269 So. 2d 684 (Fla. 1972).

rely on taxpayer-funded public services in order to avoid economic hardship.”<sup>37</sup> Employers must pay employees no less than the minimum wage for all hours worked in Florida.<sup>38</sup> The current state minimum wage is \$8.65 per hour,<sup>39</sup> which is higher than the federal rate.<sup>40</sup>

### **Department of Transportation Construction Projects**

Chapter 337, F.S., governs contracting by DOT. Any person who wants to bid for a construction contract in excess of \$250,000 must be certified by DOT as qualified.<sup>41</sup> Certification is also required to bid on road, bridge, or public transportation construction projects of more than \$250,000.<sup>42</sup> The purpose of certification is to ensure professional and financial competence relating to the performance of construction contracts by evaluating bidders “with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor which are necessary to perform the specific class of work for which the contractor seeks certification.”<sup>43</sup>

### **Home Rule**

#### ***Counties***

A county without a charter has such power of self-government as provided by general<sup>44</sup> or special law, and may enact county ordinances not inconsistent with general law.<sup>45</sup> Counties operating under county charters have all the powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors.<sup>46</sup> General law authorizes counties “the power to carry on county government”<sup>47</sup> and to “perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law.”<sup>48</sup>

#### ***Municipalities***

Chapter 166, F.S., also known as the Municipal Home Rule Powers Act,<sup>49</sup> acknowledges the constitutional grant to municipalities of governmental, corporate, and proprietary power necessary to conduct municipal government, functions, and services.<sup>50</sup> Chapter 166, F.S.,

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<sup>37</sup> Art. X, s. 24(a), FLA. CONST.

<sup>38</sup> Art. X, s. 24(c), FLA. CONST.

<sup>39</sup> Department of Economic Opportunity, *Display Posters and Required Notices*, [https://floridajobs.org/docs/default-source/business-growth-and-partnerships/for-employers/posters-and-required-notices/2021-minimum-wage/poster-fl-minimum-wage-2021-english.pdf?sfvrsn=74a4bb0\\_2](https://floridajobs.org/docs/default-source/business-growth-and-partnerships/for-employers/posters-and-required-notices/2021-minimum-wage/poster-fl-minimum-wage-2021-english.pdf?sfvrsn=74a4bb0_2) (last visited February 2, 2021).

<sup>40</sup> The federal minimum wage is \$7.25 per hour. For more information about federal minimum wage provisions, *see* <http://www.dol.gov/whd/minimumwage.htm> (last visited February 24, 2021).

<sup>41</sup> Section 337.14(1), F.S.

<sup>42</sup> Section 337.14(2), F.S.

<sup>43</sup> Section 337.14(1), F.S.

<sup>44</sup> Chapter 125, Part I, F.S.

<sup>45</sup> FLA. CONST. art. VIII, s. 1(f).

<sup>46</sup> FLA. CONST. art. VIII, s. 1(g).

<sup>47</sup> Section 125.01(1), F.S.

<sup>48</sup> Section 125.01(1)(w), F.S.

<sup>49</sup> Section 166.011, F.S.

<sup>50</sup> Florida House of Representatives, Publications, *The Local Government Formation Manual 2018-2020*, p. 16, *available at* <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Se>

provides municipalities with broad home rule powers, respecting expressed limits on municipal powers established by the Florida Constitution, applicable laws, and county charters.<sup>51</sup>

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

### **Preemption**

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. Where state preemption applies, it precludes a local government from exercising authority in that particular area.<sup>52</sup> Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.<sup>53</sup> Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.<sup>54</sup> In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.<sup>55,56</sup>

In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.<sup>57</sup> Implied preemption is actually a decision by a court to create preemption in the absence of an explicit legislative directive.<sup>58</sup> Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.<sup>59</sup> Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.<sup>60</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 255.0991, F.S., to remove the 50 percent or more state-appropriated funding threshold for competitive solicitations for construction services and thus prohibit certain local preferences to solicitations that will be paid for with funding that is state-appropriated or locally-appropriated.

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[ssion=2020&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual.pdf.](#)

<sup>51</sup> Section 166.021(4), F.S.

<sup>52</sup> Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

<sup>53</sup> See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

<sup>54</sup> *Mulligan*, 934 So.2d at 1243.

<sup>55</sup> *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).

<sup>56</sup> Examples of activities “expressly preempted to the state” include: operator use of commercial mobile radio services and electronic communications devices in motor vehicles, s. 316.0075, F.S.; regulation of the use of cameras for enforcing provisions of the Florida Uniform Traffic Control Law, s. 316.0076, F.S.; and, the adoption of standards and fines related to specified subject areas under the purview of the Department of Agriculture and Consumer Services, s. 570.07, F.S.

<sup>57</sup> See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

<sup>58</sup> *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

<sup>59</sup> *Id.*

<sup>60</sup> *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.

This section also provides that, except as otherwise prohibited, a state college, county, municipality, school district, or other political subdivision of the state to offer incentives or award point preferences to a contractor in the bidding process for a contract for construction services, so long as acceptance of any such incentive or preference does not impose any fine, penalty, or other sanction on a contractor.

**Section 2** amends s. 255.09992, F.S., to modify the definition of the term “public works project” to remove the 50 percent or more cost threshold and provide that the term applies to activities paid for with state appropriated or locally appropriated funds. Additionally, this definition is amended to remove the limitation to appropriations at the time of the competitive solicitation.

This section prohibits the state or any political subdivision that contracts for public works project, except as required by federal or state law, from taking the following action:

- Granting a preference or imposing a penalty during the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residence of the employees of such contractor, subcontractor, or material supplier or carrier; or
- Requiring a contractor, subcontractor, or material supplier or carrier engaged in a public works project to train employees in designated programs with a restricted curriculum or from a single source.

This section prohibits a contractor, subcontractor, or material supplier or carrier who is qualified, licensed, or certified – by state or local law - from receiving information about public works opportunities.

Additionally, this section provides that the state or a political subdivision is not prevented from offering any incentive or awarding any point preference in the bidding process, which are not otherwise prohibited, so long as acceptance of any such incentive or preference does not impose a fine, a penalty, or another sanction on the bidder.

**Section 3** provides that the bill takes effect on July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

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

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.



**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

The bill may have a positive indeterminate impact to the extent fewer contractors, subcontractors, or material suppliers or carriers will no longer be required to meet certain pre-bid requirements.

**C. Government Sector Impact:**

The bill will have an indeterminate fiscal impact on local governments.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Several counties and municipalities have adopted local preference ordinances for procurement under the current 50 percent or more state-appropriated funding threshold for public works projects.<sup>61</sup> The bill does not contain an express Legislative statement to preempt to the state the subject of competitive solicitation for construction services. However, there is a clear and direct conflict between the language of the bill and the local ordinances addressing local preference. Thus, such ordinances would likely be found to be unconstitutional based on implied legislative preemption.

**VIII. Statutes Affected:**

This bill substantially amends sections 255.0991 and 255.0992 of the Florida Statutes.

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<sup>61</sup> See Broward County, Florida, County Code § 1-75 (2020); Hallandale Beach, Florida, Municipal Code § 23-6 (2016), St. Johns County, Florida, County Code § 302.25 (2021).

**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 10, 2021:**

The CS removes unnecessary language and provides that specified entities may offer incentives or award point preferences – except as otherwise prohibited - to a contractor in the bidding process so long as acceptance of any such incentive or preference does not impose any fine, penalty, or other sanction on a contractor.

- B. **Amendments:**

None.



635516

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2021	.	
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The Committee on Governmental Oversight and Accountability  
(Brodeur) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 22 - 80  
and insert:  
services paid for with funding that is state-appropriated or  
locally appropriated ~~in which 50 percent or more of the cost~~  
~~will be paid from state-appropriated funds which have been~~  
~~appropriated at the time of the competitive solicitation, a~~  
state college, county, municipality, school district, or other  
political subdivision of the state may not use a local ordinance



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or regulation that provides a preference based upon:

(a) The contractor's maintaining an office or place of business within a particular local jurisdiction;

(b) The contractor's hiring employees or subcontractors from within a particular local jurisdiction; or

(c) The contractor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

(4) Except as provided in subsection (2), this section does not prevent a state college, county, municipality, school district, or other political subdivision of the state from:

(a) Awarding a contract to a contractor in accordance with applicable state laws or local ordinances or regulations; or

(b) Offering any incentive or awarding any point preference to a contractor in the bidding process for a contract for construction services, so long as acceptance of any such incentive or preference does not impose any fine, penalty, or other sanction on a contractor.

Section 2. Paragraph (b) of subsection (1) and subsections (2) and (3) of section 255.0992, Florida Statutes, are amended to read:

255.0992 Public works projects; prohibited governmental actions.—

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

(b) "Public works project" means an activity ~~of which 50 percent or more of the cost will be paid for with from~~ state-appropriated or locally appropriated funds ~~that were appropriated at the time of the competitive solicitation and~~ which consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road,



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street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned in whole or in part by any political subdivision.

(2) ~~(a)~~ Except as required by federal or state law, the state or any political subdivision that contracts for a public works project may not take the following actions:

(a) Grant a preference or impose a penalty during the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residences of employees of such contractor, subcontractor, or material supplier or carrier.

(b) Require that a contractor, subcontractor, or material supplier or carrier engaged in a public works ~~such~~ project:

1. Pay employees a predetermined amount of wages or prescribe any wage rate;

2. Provide employees a specified type, amount, or rate of employee benefits;

3. Control, limit, or expand staffing; ~~or~~

4. Recruit, ~~train,~~ or hire employees from a designated, restricted, or single source; or

5. Train employees in designated programs with a restricted curriculum or from a single source.

~~(c) (b) The state or any political subdivision that contracts for a public works project may not~~ Prohibit any contractor, subcontractor, or material supplier or carrier able to perform such work that ~~who~~ is qualified, licensed, or



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certified as required by state or local law to perform such work from receiving information about public works opportunities or from submitting a bid on the public works project. This paragraph does not apply to vendors listed under ss. 287.133 and 287.134.

(3) This section does not:

(a) Apply to contracts executed under chapter 337; or

(b) Prevent the state or a political subdivision from offering any incentive or awarding any point preference in the bidding process which are not prohibited under this section so long as acceptance of any such incentive or preference does not impose a fine, a penalty, or another sanction on the bidder.

===== D I R E C T O R Y C L A U S E A M E N D M E N T=====

And the directory clause is amended as follows:

Delete lines 17 - 18

and insert:

Section 1. Subsections (2) and (4) of section 255.0991, Florida Statutes, are amended to read:

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

And the title is amended as follows:

Delete lines 5 - 12

and insert:

state or locally appropriated funds; providing construction; amending s. 255.0992, F.S.; revising the definition of the term "public works project"; prohibiting the state or any political subdivision that contracts for a public works project from taking



635516

98        specified action against certain persons that are  
99        engaged in a public works project or have submitted a  
100       bid for such a project; providing construction;  
101       providing an

By Senator Brodeur

9-00577B-21

20211076\_\_

1 A bill to be entitled  
 2 An act relating to public works projects; amending s.  
 3 255.0991, F.S.; revising a prohibition relating to any  
 4 solicitation for construction services paid for with  
 5 state or locally appropriated funds, or any  
 6 combination thereof; amending s. 255.0992, F.S.;  
 7 revising the definition of the term "public works  
 8 project"; prohibiting the state or any political  
 9 subdivision that contracts for a public works project  
 10 from taking specified action against certain persons  
 11 that are engaged in a public works project or have  
 12 submitted a bid for such a project; providing an  
 13 effective date.  
 14  
 15 Be It Enacted by the Legislature of the State of Florida:  
 16  
 17 Section 1. Subsection (2) of section 255.0991, Florida  
 18 Statutes, is amended to read:  
 19 255.0991 Contracts for construction services; prohibited  
 20 local government preferences.—  
 21 (2) For any a competitive solicitation for construction  
 22 services paid for with funding that is state-appropriated,  
 23 locally appropriated, or any combination thereof in which 50  
 24 percent or more of the cost will be paid from state-appropriated  
 25 funds which have been appropriated at the time of the  
 26 competitive solicitation, a state college, county, municipality,  
 27 school district, or other political subdivision of the state may  
 28 not use a local ordinance or regulation that provides a  
 29 preference based upon:

Page 1 of 3

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

9-00577B-21

20211076\_\_

30 (a) The contractor's maintaining an office or place of  
 31 business within a particular local jurisdiction;  
 32 (b) The contractor's hiring employees or subcontractors  
 33 from within a particular local jurisdiction; or  
 34 (c) The contractor's prior payment of local taxes,  
 35 assessments, or duties within a particular local jurisdiction.  
 36 Section 2. Paragraph (b) of subsection (1) and subsection  
 37 (2) of section 255.0992, Florida Statutes, are amended to read:  
 38 255.0992 Public works projects; prohibited governmental  
 39 actions.—  
 40 (1) As used in this section, the term:  
 41 (b) "Public works project" means an activity of which 50  
 42 percent or more of the cost will be paid for with from state-  
 43 appropriated or locally appropriated funds, or any combination  
 44 thereof, that were appropriated at the time of the competitive  
 45 solicitation and which consists of the construction,  
 46 maintenance, repair, renovation, remodeling, or improvement of a  
 47 building, road, street, sewer, storm drain, water system, site  
 48 development, irrigation system, reclamation project, gas or  
 49 electrical distribution system, gas or electrical substation, or  
 50 other facility, project, or portion thereof that is owned in  
 51 whole or in part by any political subdivision.  
 52 (2) ~~(a)~~ Except as required by federal or state law, the  
 53 state or any political subdivision that contracts for a public  
 54 works project may not take the following actions:  
 55 (a) Grant a preference or impose a penalty during the  
 56 bidding process based on the geographic location of the company  
 57 headquarters or offices of the contractor, subcontractor, or  
 58 material supplier or carrier submitting a bid on a public works

Page 2 of 3

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



9-00577B-21

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59 project or the residences of employees of such contractor,  
60 subcontractor, or material supplier or carrier.

61 (b) Require that a contractor, subcontractor, or material  
62 supplier or carrier engaged in a public works ~~such~~ project:

63 1. Pay employees a predetermined amount of wages or  
64 prescribe any wage rate;

65 2. Provide employees a specified type, amount, or rate of  
66 employee benefits;

67 3. Control, limit, or expand staffing; ~~or~~

68 4. Recruit, ~~train~~, or hire employees from a designated,  
69 restricted, or single source; or

70 5. Train employees in designated programs with a restricted  
71 curriculum or from a single source.

72 (c)(b) ~~The state or any political subdivision that~~  
73 ~~contracts for a public works project may not~~ Prohibit any  
74 contractor, subcontractor, or material supplier or carrier able  
75 to perform such work that who is qualified, licensed, or  
76 certified as required by state or local law to perform such work  
77 from receiving information about public works opportunities or  
78 from submitting a bid on the public works project. This  
79 paragraph does not apply to vendors listed under ss. 287.133 and  
80 287.134.

81 Section 3. This act shall take effect July 1, 2021.  
82



The Florida Senate

## Committee Agenda Request

**To:** Senator Ray Wesley Rodrigues, Chair  
Committee on Government Oversight and Accountability

**Subject:** Committee Agenda Request

**Date:** February 10, 2021

---

I respectfully request that **Senate Bill 1076**, relating to a Public Works Projects, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

---

Senator Jason Brodeur  
Florida Senate, District 9

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/10/21

Meeting Date

1076

Bill Number (if applicable)

635516

Amendment Barcode (if applicable)

Topic Public Works Projects

Name Carol Bowen

Job Title Chief Lobbyist

Address 3730 Coconut Creek Pkwy

Street

Phone (954) 465-6811

Coconut Creek FL 33446

City

State

Zip

Email cbowen@theheartofpalm.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Builders and Contractors

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

3-10-24

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

2B 1076

Meeting Date

Bill Number (if applicable)

Topic

Public Works

635516

Amendment Barcode (if applicable)

Name

KARI HEBRANK

Job Title

Address

215 S. MONROE ST #500

Phone

566-9824

Street

TALLAHASSEE FL 32301

Email

Khebrank@carlton

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

NATIONAL UTILITY CONTRACTORS OF FL

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/10/21

Meeting Date

1076

Bill Number (if applicable)

# 635516

Amendment Barcode (if applicable)

Topic Public Works

Name Dr. Rich Templin

Job Title \_\_\_\_\_

Address 135 S. Monroe

Street

Tallahassee

City

FL

State

32301

Zip

Phone 224 - 6926

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/10/21

Meeting Date

1076

Bill Number (if applicable)

635516

Amendment Barcode (if applicable)

Topic Public Works Preemption

Name Theresa King

Job Title President

Address 200 E College

Street

Phone 850-228-8940

Tallahassee

City

FL

State

Zip

Email flbt.king@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Building & Construction Trades Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/10/21

Meeting Date

SB-1076

Bill Number (if applicable)

Topic LOCAL PREEMPTION

Amendment Barcode (if applicable)

Name J.B. CLARK

Job Title LOBBYIST

Address 2071 CYNTHIA DRIVE

Phone 850-556-8143

Street

TALLAHASSEE FL 32303

City

State

Zip

Email JCLARK5@EARTHLINK.NET

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ELECTRICAL WORKERS ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/10/20  
Meeting Date

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

1076  
Bill Number (if applicable)

Topic Public works projects

Amendment Barcode (if applicable)

Name Sabrina Javellana (Ha-veg-yana)

Job Title Commissioner

Address 816 NE 27th Ave  
Street

Phone 305 9883006

Hallandale Beach FL  
City State Zip

Email SabrinaJave@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)



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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/10/2021

*Meeting Date*

1076

*Bill Number (if applicable)*

Topic Public Works Projects

*Amendment Barcode (if applicable)*

Name Warren Husband

Job Title \_\_\_\_\_

Address PO Box 10909

Phone (850) 205-9000

*Street*

Tallahassee

FL

32302

*City*

*State*

*Zip*

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. Associated General Contractors Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3-10-21

Meeting Date

1076

Bill Number (if applicable)

Topic PUBLIC WORKS

Amendment Barcode (if applicable)

Name Jess M. McCarty

Job Title Assistant County Attorney

Address 111 NW 1st Street

Phone 305-979-7110

Street

Miami

FL

33156

City

State

Zip

Email jmm2@miamidade.gov

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Miami-Dade County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3-10-21

Meeting Date

1076

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Carol Bower

Job Title Chief Lobbyist

Address 3730 Coconut Creek Pkwy

Phone (954) 445-6811

Street

Coconut Creek Fl 33066

City

State

Zip

Email cbower@abcsouth.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Builders and Contractors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

03.10.21  
Meeting Date

SB-1076  
Bill Number (if applicable)

Topic Local Preemption

Amendment Barcode (if applicable)

Name Ken Williams

Job Title \_\_\_\_\_

Address 7411 Meadow Drive  
Street

Phone 813-493-7685

Tampa  
City

State

33634  
Zip

Email 79KWilliams@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/10/21

Meeting Date

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

1076

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Marty Cassini

Job Title Manager

Address 100 S. Andrews Ave

Phone 954-357-7575

Street

Fort Lauderdale

FL

33301

City

State

Zip

Email mcassini@broward.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Broward County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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)

3/10/21  
Meeting Date

1076  
Bill Number (if applicable)

Topic Public works

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title \_\_\_\_\_

Address 135 S Monroe  
Street

Phone 224-6926

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/21

Meeting Date

1076

Bill Number (if applicable)

Topic Public Works Project

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_  
Street

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

3-10-21

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

SB 1076

Meeting Date

Bill Number (if applicable)

Topic

PUBLIC WORKS

Amendment Barcode (if applicable)

Name

KARI HEBRANK

Job Title

Address

215 S. MONROE ST. #500

Phone

850-566-1824

Street

TALLAHASSEE

State

FL

Zip

32301

Email

Khebrank@carltonfields.com

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

NUCA of Florida

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/10/21

Meeting Date

SB 1076

Bill Number (if applicable)

Topic Public Works Preemption

Amendment Barcode (if applicable)

Name Theresa King

Job Title President

Address 200 E College

Street

Phone 850-228-8940

Tallahassee FL

City

State

Zip

Email lbt.king@gmail

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Building & Construction Trades

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.)

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

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BILL: SB 1404

INTRODUCER: Senator Hooper

SUBJECT: Cultural and Historical Programs

DATE: March 9, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ponder	McVaney	GO	<b>Favorable</b>
2.			ATD	
3.			AP	

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**I. Summary:**

SB 1404 designates the Museum of Florida History as the official state history museum and makes several changes to the Division of Cultural Affairs and Division of Historical Resources.

The bill renames the “Division of Cultural Affairs” to the “Division of Arts and Culture”; and provides that the Secretary of State will be known as “Florida’s Chief Arts and Culture Officer.”

The bill transfers the Florida Folklife Program from the Division of Historical Resources to the newly named Division of Arts and Culture. The bill also transfers the operation of the Museum of Florida History from the Division of Cultural Affairs to the Division of Historical Resources.

The bill requires the Division of Historical Resources to establish professional standards for the preservation of the collections under state ownership and take appropriate action to foster appreciation of Florida history and culture.

The bill transfers and revises provisions relating to property on loan to museums and property abandoned at museums. The bill revises inventory responsibilities of the Division of Historical Resources for objects of historical or archaeological value by raising the threshold value or cost of objects in custody to \$1,000 instead of \$500.

The Department of State may experience an indeterminate positive fiscal impact as the reassignment of the Florida Folklife Program brings the program in line with new federal funding program requirements from the National Endowment for the Arts.

The bill takes effect on July 1, 2021.

## **II. Present Situation:**

### **Official State Emblems**

Chapter 15, F.S., statutorily designates official state emblems. To date, there are designations for an official state seal, motto, tree, fruit, beverage, citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal and saltwater mammal, butterfly, reptile, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad museums, transportation museum, flagship, soil, fiddle contest, band, sports hall of fame, pie, honey, horse, and heritage cattle breed.<sup>1</sup>

### **Department of State**

The Department of State (department), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs and Administration. The head of the department is the Secretary of State (Secretary).<sup>2</sup> The Secretary is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor. The Secretary performs functions conferred by the State Constitution upon the custodian of records.

The department is authorized to create Community Support Organizations for its Divisions of Cultural Affairs<sup>3</sup>, Historical Resources<sup>4</sup>, and Library and Information Services.<sup>5</sup> Citizen support organizations (CSOs) are statutorily-created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes.

### ***The Division of Cultural Affairs***

The Division of Cultural Affairs is Florida's designated state arts agency. The division promotes arts and culture as essential to the quality of life for all Floridians. To promote excellence and encourage access to cultural opportunities, the division provides funding, programs and resources, including grants for: arts in education, local arts agencies, state service organizations, museums, theater, dance, folk arts, literature, media arts, multidisciplinary, music, sponsor/presenter, and visual arts programs and projects.

The Division of Cultural Affairs also administers the Museum of Florida History and has its offices in the historic Brokaw-McDougall House.<sup>6</sup> Opened in 1977, the Museum of Florida History collects, preserves, exhibits, and interprets evidence of past and present cultures in Florida, and promotes knowledge and appreciation of this heritage. As the state history museum, it focuses on artifacts and eras unique to Florida's development and on roles that Floridians have

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<sup>1</sup> Sections 15.0301, F.S. through 15.0527, F.S.

<sup>2</sup> Section 20.10, F.S.

<sup>3</sup> Section 265.703(1), F.S.

<sup>4</sup> Section 267.17(1), F.S.

<sup>5</sup> Section 257.43(1), F.S.

<sup>6</sup> Florida Department of State, Division of Cultural Affairs, About Us, Mission, available at <https://dos.myflorida.com/cultural/about-us/mission/> (last visited on March 5, 2021).

played in national and global events. Through exhibits, educational programs, research, and collections, the Museum reflects the ways that people have shaped and reacted to their cultural and natural environments.<sup>7</sup> The Division of Cultural Affairs also oversees the Museum and Capitol gift shops as well as the citizen support organization charged with supporting the Museum.<sup>8</sup>

The Friends of the Museums of Florida, Inc., is the CSO created to support programs, exhibits, collections, and activities of the Museum of Florida History and the Knott House Museum.<sup>9</sup> A citizen support organization is defined as an organization that is:

- A not-for-profit corporation approved by the Department of State;
- Organized and operated to conduct programs and activities, raise funds, request and receive grants, and make expenditures to benefit the division;
- Determined by the division to be consistent with the goals of the division and in the best interest of the state; and
- Approved in writing by the division to operate for the benefit of the division.<sup>10</sup>

The identity of donors to the CSO who desire to remain anonymous are confidential and exempt from public records requirements.<sup>11</sup>

### ***Florida Historical Resources Act***

The Florida Historical Resources Act<sup>12</sup> was established to preserve archaeological sites and objects of antiquity for the public benefit.<sup>13</sup> The Florida Historical Resources Act recognizes Florida's rich and unique heritage of historic properties as an important legacy to be valued and conserved for present and future generations. Accordingly, Florida has adopted a state policy to lead, assist, administer, and encourage public entities and private citizens to preserve the state's historic environment and resources.<sup>14</sup>

### ***Florida Arts and Cultural Act***

The Florida Arts and Cultural Act (the Act) is set forth in ss. 265.281-265.709, F.S. The Legislative intent of the Act is to provide state support for, and to gain national and international recognition of, the efforts, works, and performances of Florida artists, art agencies, museums and nonprofit organizations.<sup>15</sup> The Act defines the term "division" to mean the Division of Cultural Affairs of the Department of State.<sup>16</sup> The division is charged with directly administering and overseeing all programs authorized by the Act. The division must:

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<sup>7</sup> Department of State, *Museum of Florida History*, <https://museumoffloridahistory.com/> (last visited March 5, 2021).

<sup>8</sup> Sections 265.703, and 265.707, F.S.; Department of State, *Museum of Florida History*, <https://museumoffloridahistory.com/> (last visited March 5, 2021).

<sup>9</sup> Department of State, *Museum of Florida History*, <https://museumoffloridahistory.com/support/membership-program/about-the-friends-of-the-museums-of-florida-history-inc/> (last visited March 5, 2021).

<sup>10</sup> Section 265.703(1), F.S.

<sup>11</sup> Section 265.703(3), F.S.

<sup>12</sup> Sections 267.011-267.1736, F.S.

<sup>13</sup> Section 267.14, F.S.

<sup>14</sup> Section 267.061(2)(a), F.S.

<sup>15</sup> Section 285.282, F.S.

<sup>16</sup> Section 285.283(4), F.S.

- Accept and administer state and federal funds appropriated by the Legislature or funds received from other public or private sources;
- Advance funds for grants on a quarterly basis;
- Enter into agreements for awarding grants or other contracts;
- Consult with and advise other individuals, groups, organizations or state agencies and officials, particularly the Governor and the Cabinet, concerning the acquisition by gift or purchase of fine art works, the appropriate use and display of state-owned art treasures for maximum public benefit, and the suitability of any structures or fixtures, including framing, primarily intended for ornamental or decorative purposes in the interior of public buildings;
- Accept on behalf of the state donations of money, property, art objects, and antiquities;<sup>17</sup>
- Sponsor performances and exhibits; promote and encourage the study and appreciation of arts and culture; and collect, publish, and print pamphlets, papers, newsletters, and other materials related to arts and cultural programs available throughout the state;
- Conduct and support cultural programs and cultural exchanges by coordinating with the appropriate state agencies and other organizations;
- Accept funding and other forms of support for the purposes in this act;
- Notwithstanding s. 287.022 or s. 287.025(1)(e), enter into contracts to insure museum collections, artifacts, relics, and fine arts to which it holds title or which are on loan to the division; and
- Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.<sup>18</sup>

### ***Cultural Facilities – Grants for Acquisition***

The Division of Cultural Affairs is permitted to accept and administer moneys appropriated to it for providing grants to counties, municipalities, and qualifying nonprofit corporations for the acquisition, renovation, or construction of cultural facilities.<sup>19</sup> A county, municipality or qualified corporation<sup>20</sup> may apply for a grant of state funds for the acquisition, renovation, or construction of a cultural facility.<sup>21</sup> The Florida Council on Arts and Culture must review each application for a grant and must annually submit to the Secretary for approval lists of all applications recommended by the council for award of grants, arranged in order of priority.<sup>22</sup>

Any contract administered under s. 265.701, F.S., must require the recordation of a restrictive covenant by the grantee and property owner or purchase of a bond as prescribed by rule to ensure that the facility continues to be used as a cultural facility for a period of 10 years following the grant award.<sup>23</sup>

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<sup>17</sup> Such donations of money and any cash income may be received from the disposal of any donations of property, art objects, or antiquities, which shall be deposited into the Grants and Donations Trust Fund and are hereby appropriated for use by the division for the purposes authorized in the Act.

<sup>18</sup> Section 265.284(3)(a) – (j), F.S.

<sup>19</sup> Section 265.701(1), F.S.

<sup>20</sup> For the purposes of this section, a “qualified corporation” is a corporation which is designated a not-for-profit corporation pursuant to s. 501(c)(3) or (4) of the Internal Revenue Code of 1954, and which is described in, and allowed to receive contributions pursuant to the provisions of, s. 170 of the Internal Revenue Code of 1954, and which is a corporation not for profit incorporated pursuant to chapter 617.

<sup>21</sup> Section 265.701(2), F.S.

<sup>22</sup> Section 265.701(3), F.S.

<sup>23</sup> Section 265.701(4), F.S.

### ***Division of Historical Resources***

The Division of Historical Resources is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites, coordinates outreach programs, such as the State Historical Markers program and Florida Folklife program which identifies and promotes the state's traditional culture. The division director serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.<sup>24</sup>

The Division of Historical Resources is also tasked with administering the Florida Folklife Program. Under the program, the division must identify, research, interpret, and present Florida folk arts, artists, performers, folklore, traditions, customs, and cultural heritage and make folk cultural resources and folklife projects available throughout the state. The division is assisted by the Florida Folklife Council, a seven member council appointed by the Secretary of State, in carrying out its duties under the program.<sup>25</sup> The program is funded in part by the National Endowment for the Arts.<sup>26</sup>

### ***Division of Library and Information Services***

The Division of Library and Information Services manages the State Library and Archives, supports public libraries, directs record management services, and is the designated information resource provider for the state of Florida.<sup>27</sup>

The division may receive gifts of money, books, or other property and may purchase books, periodicals, furniture, and equipment it deems necessary to carry out its mission. The division may also give aid and assistance to all school, state, academic, free, and public libraries, and to all communities in the state which may establish libraries. The division is required to maintain a library for state officials and employees and provide research and informational services for all state agencies. The division must also provide library services to blind and physically handicapped persons within the state.<sup>28</sup>

### ***Secretary of State – Florida's Chief Cultural Officer***

The Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the department promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity.<sup>29</sup> The Secretary is designated as "Florida's Chief Cultural Officer" and is encouraged to initiate and develop relationships between the state

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<sup>24</sup> Florida Department of State, Division of Historical Resources, About, Program Areas, available at <https://dos.myflorida.com/historical/about/> (last visited on February 4, 2020).

<sup>25</sup> Section 267.161, F.S.

<sup>26</sup> Florida Department of State, Agency Analysis of 2021 SB 1404 (February 24, 2021) (on file with the Senate Governmental Oversight and Accountability Committee); *see also* Florida Division of Historical Resources, *Florida Folklife Program*, <https://dos.myflorida.com/historical/preservation/florida-folklife-program/#:~:text=A%20component%20of%20the%20Florida,Folk%20and%20Traditional%20Arts%20Program>. (last visited March 5, 2021).

<sup>27</sup> Florida Department of State, Division of Library and Information Services, available at <https://dos.myflorida.com/library-archives/> (last visited on February 4, 2020).

<sup>28</sup> Section 257.04, F.S.

<sup>29</sup> Section 15.18, F.S.

and foreign governmental officials in order to promote Florida as the center of American creativity.<sup>30</sup> As Florida's Chief Cultural Officer, the Secretary must coordinate international activities with Enterprise Florida, Inc., and any other organization the Secretary deems to be appropriate.<sup>31</sup> To accomplish these purposes, the secretary has the power and authority to do the following:

- Disseminate any information pertaining to the state which promotes the state's cultural assets;
- Plan and carry out activities designed to cause improved cultural and governmental programs and exchanges with foreign countries;
- Plan and implement cultural and social activities for visiting foreign heads of state, diplomats, dignitaries, and exchange groups;
- Encourage and cooperate with other public and private organizations or groups in their efforts to promote the cultural advantages of Florida;
- Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of expanding international and cultural relations; and
- Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section.<sup>32</sup>

### **Property Abandoned at Museums**

The Legislature has declared that the people of Florida benefit from having property of artistic, historic, cultural, or scientific value loaned to Florida museums.<sup>33</sup> However, problems arise in relation to indefinite or long term loans when museums and lenders fail to maintain contact. In response to these problems, the Legislature has established uniform procedures governing the disposition of unclaimed property<sup>34</sup> on loan to museums. The rules are designed to:

- Encourage museums and their lenders to exercise due diligence in monitoring loans;
- Allocate fairly responsibilities between lenders and borrowing museums;
- Establish procedures for lenders to preserve their interests in property loaned to museums for indefinite or long terms; and
- Resolve expeditiously the title to the unclaimed loans left in the custody of museums.<sup>35</sup>

Whenever property is loaned to a museum, the museum is required to:

- Make and retain a written record containing the lender's contact information, a description of the property, a description of the property's general condition, and the beginning and ending date of the loan;
- Provide the lender with a signed receipt or loan agreement;

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Museum" is defined to mean a public or private not-for-profit agency or institution located in Florida and organized on a permanent basis for primarily educational, scientific, or aesthetic purposes, which owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis. Section 265.565(2)(c), F.S.

<sup>34</sup> "Unclaimed property" is defined to mean property which is on loan to the museum and in regard to which the lender, or anyone acting legitimately on the lender's behalf, has not contacted the museum for at least 25 years from the date of the beginning of the loan, if the loan was for an indefinite or undetermined period, or for at least 5 years after the date upon which the loan for a definite period expired. Section 265.565(2)(f), F.S.

<sup>35</sup> Section 265.565(1), F.S.

- Inform the lender of the Florida Arts and Culture Act; and
- Provide the lender with a copy of the Florida Arts and Culture Act upon request.<sup>36</sup>

If there is a change in the lender's contact information, change in the ownership of the loaned property, or a change in the duration of the loan is negotiated, the museum must update its records to reflect the change. Whenever a museum renews or updates the records of an existing loan, the museum must inform the lender of the existence of the Florida Arts and Culture Act and provide the lender with a copy upon the lender's request.<sup>37</sup> The museum is also required to give the lender prompt notice of any injury to or loss of property on the loan.<sup>38</sup>

The lender is responsible for notifying the museum of any change in the lender's address or change in ownership of the property. Failure to provide the required notification could result in the owner's loss of rights to the property.<sup>39</sup> Additionally, it is the responsibility of a successor of a lender to document the passage of rights of control of the property that is in the custody of a museum.<sup>40</sup>

In order to terminate a loan for unclaimed property, the museum must make a good faith and reasonable search for the identity and last known address of the lender from the museum records and other records that are reasonably available to museum staff.<sup>41</sup> If the museum is able to identify the lender and his or her last known address, the museum must provide notice of termination via certified mail. The notice of termination must include:

- The name of the lender;
- A description of the property sufficient in detail for ready identification;
- The beginning date of the loan, if known;
- The termination date of the loan, if applicable;
- The name and address of the appropriate museum official to contact regarding the loan; and
- A statement that within 90 days the lender is required to remove the property from the museum or contact the designated official in the museum to preserve the lender's interests in the property.<sup>42</sup>

If the museum is unable to acquire enough information to send a letter by certified mail, or if a signed return receipt is not received within 30 days, the museum must publish a notice of termination containing all the above required information at least twice in a publication of general circulation in the county in which the museum is located and the county of the lender's last known address. The publications must be at least 60 or more days apart.<sup>43</sup>

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<sup>36</sup> Section 265.565(3)(a), F.S.

<sup>37</sup> Section 265.565(3)(b), F.S.

<sup>38</sup> Section 265.565(3)(c), F.S.

<sup>39</sup> Section 265.565(4)(a), F.S.

<sup>40</sup> Section 265.565(4)(b), F.S.

<sup>41</sup> Section 265.565(5)(a), F.S.

<sup>42</sup> Section 265.565(5)(b), F.S.

<sup>43</sup> Section 265.565(5)(c), F.S.



If the lender fails to respond to the notice of termination sent via certified mail or included in a publication of general circulation within 90 days, the title to the unclaimed property will pass to the museum.<sup>44</sup>

### **National Endowment for the Arts**

The National Endowment for the Arts (NEA) is an independent, federal agency with substantial discretion to award financial grants to support the arts. The NEA awards grants to groups and individuals whose artistic endeavors have substantial artistic and cultural significance or are otherwise worthy of public support, and to state agencies established to serve the same purpose.<sup>45</sup> All states have a State Arts Agency recognized by the NEA. The NEA distributes program funding to those State Arts Agencies, with each state devoting its own appropriated funds to support arts programs throughout the state.<sup>46</sup> The Division of Cultural Affairs is recognized by the NEA as Florida's official State Arts Agency and receives an annual partnership grant from the NEA.<sup>47</sup>

### **III. Effect of Proposed Changes:**

**Section 1** creates s. 15.0455, F.S., to designate the Museum of Florida History, located in Tallahassee, as the official state history museum.

**Section 2** amends s. 15.18, F.S., to provide that the Secretary of State will be known as "Florida's Chief Arts and Cultural Officer" instead of the chief cultural officer.

**Section 3** amends s. 20.10, F.S., to rename the Division of Cultural Affairs as the Division of Arts and Culture.

**Section 4** amends s. 265.281, F.S., to correct statutory references.

**Section 5** amends s. 265.283, F.S., to update references to the division and defines the term "folklife" to mean:

[T]he traditional expressive culture shared within the various groups in Florida; familial, ethnic, occupational, religious, and regional. Expressive culture includes a wide range of creative and symbolic forms, such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, and handicraft, which forms are

<sup>44</sup> Section 265.565(6), F.S.

<sup>45</sup> 20 U.S.C. § 954 (2018).

<sup>46</sup> Americans for the Arts, *National Endowment for the Arts – Funding for Art Agencies*, <https://www.americansforthearts.org/by-program/reports-and-data/legislation-policy/legislative-issue-center/national-endowment-for-the-arts%E2%80%9494funding-for-arts-agencies#:~:text=In%20a%20striking%20example%20of,arts%20programs%20throughout%20the%20state> (last visited March 5, 2021).

<sup>47</sup> Florida Department of State, *Division of Cultural Affairs - National Endowment for the Arts*, <https://dos.myflorida.com/cultural/about-us/partners/national-endowment-for-the-arts/> (last visited February 27, 2021); National Assembly of State Arts Agencies, *State Arts Agency Directory*, <https://nasaa-arts.org/state-arts-agencies/saa-directory/> (last visited March 5, 2021).

generally learned orally, by imitation, or in performance and are maintained or perpetuated without formal instruction or institutional direction.

**Sections 6, 7, and 8** amend ss. 265.286, 265.2865, and 265.701, F.S., respectively, to correct statutory references and update references to the division.

**Section 9** repeals s. 265.7025, F.S., regarding definitions relating to historic programs.

**Section 10** amends s. 265.703, F.S., to delete a public record exemption for the Museum of Florida History citizen support organization no longer necessary due to changes made by the bill.

**Sections 11, 12, 13, and 14** repeal ss. 265.704, 265.705, 265.706, and 265.709, F.S., respectively, relating to the Division of Cultural Affairs' powers and duties relating to historic programs.

**Section 15** amends s. 267.021, F.S., to define the term "historical museum" and remove the definition of "folklife." The term "historical museum" is defined to mean

[A] department or a department or an agency of state or local government or a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of sponsoring, producing, and exhibiting educational programs that are related to the historical resources of Florida.

**Section 16** amends 267.071, F.S., to require the Division of Historical Resources to establish professional standards for the preservation, exclusive of acquisition, of each of the collections under state ownership or control and to take appropriate action to foster appreciation of Florida history and culture.

**Section 17** transfers and renumbers s. 265.707, F.S., as s. 267.0721, F.S., authorizing the Division of Historical Resources (1) to operate the Museum of Florida History; (2) to establish accounts in credit card banks for the deposit of credit card sales invoices; and (3) to promote and encourage knowledge and appreciation in other museums operated by the division.

Current law requires the division to deposit gifts and donations for the purpose of assisting the Museum of Florida History and its programs. This section authorizes the division, at its discretion, to also deposit grant funding and adds that the funding may be for the purposes of "other museums operated by the division."

**Section 18** transfers and renumbers s. 265.565, F.S., relating to property loaned to museums, as s. 267.0723, F.S. Chapter 267, F.S. relates to historical resources. This section defines the term "abandoned property" to mean "property left at or delivered to a museum with no loan, deed of gift, or donation paperwork."

Current law requires a museum to inform a lender of the existence of the Florida Arts and Culture Act relating to property loaned to a museum and to provide the lender with a copy of such statutory provisions upon the lender's request. Section 18 removes the requirement for a

museum to inform but maintains the requirement that upon a lender's request, a museum must provide a copy of the relevant statutory provisions.

This section amends the notice of termination provision to allow for the required information to be provided on the museum's website and specifies that publication may be by physical or online means.

This section also provides for the disposition of abandoned property by authorizing a museum to keep, transfer, sell or dispose of abandoned property.

**Section 19** amends s. 267.115, F.S., to revise the cost or value threshold that triggers a complete inventory of objects of historical or archaeological value from \$500 to \$1000. For objects valued or costing less than \$1,000, only a sample inventory is required.

**Section 20** renumbers s. 267.16, F.S., as s. 265.802, F.S., to transfer the duties and responsibilities of the Division of Historical Resources regarding the Florida Folklife Program to the Division of Arts and Culture.

**Section 21** renumbers s. 267.161, F.S., as s. 265.803, F.S., to transfer the Florida Folklife Council from the Division of Historical Resources to the Division of Arts and Culture.<sup>48</sup>

**Sections 22, 23, and 24** amend ss. 258.081, 464.401, and 553.902, F.S., respectively, to make conforming changes.

**Section 25** amends chapter 2020-88, Laws of Florida, to make conforming changes.

**Section 26** provides that the bill takes effect July 1, 2021.

#### **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 shares with counties and municipalities.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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<sup>48</sup> The department indicates that such reassignment of the Florida Folklife Program will bring the program in line with new federal funding program requirements from the National Endowment for the Arts. *See* Florida Department of State, Agency Analysis of 2021 SB 1404, p. 6 (February 24, 2021) (on file with the Senate Governmental Oversight and Accountability Committee)

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 may experience an indeterminate positive fiscal impact as the reassignment of the Florida Folklife Program brings the program in line with new federal funding program requirements from the National Endowment for the Arts.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 15.18, 20.10, 265.281, 265.283, 265.286, 265.2865, 265.701, 265.703, 267.021, 267.071, 265.707, 267.0721, 265.565, 267.0723, 267.115, 267.16, 265.802, 267.161, 265.803, 258.081, 468.401, and 553.902.

This bill creates section 15.0455 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 265.7025, 265.704, 265.705, 265.706, and 265.709

**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.

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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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By Senator Hooper

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1 A bill to be entitled  
 2 An act relating to cultural and historical programs;  
 3 creating s. 15.0455, F.S.; designating the Museum of  
 4 Florida History as the official state history museum;  
 5 amending s. 15.18, F.S.; providing that the Secretary  
 6 of State shall be known as "Florida's Chief Arts and  
 7 Culture Officer"; conforming a provision to changes  
 8 made by the act; amending s. 20.10, F.S.; renaming the  
 9 Division of Cultural Affairs as the Division of Arts  
 10 and Culture; amending s. 265.281, F.S.; conforming  
 11 provisions to changes made by the act; reordering and  
 12 amending s. 265.283, F.S.; conforming provisions to  
 13 changes made by the act; defining the term "folklife";  
 14 amending s. 265.286, F.S.; conforming a cross-  
 15 reference; amending ss. 265.2865 and 265.701, F.S.;  
 16 conforming provisions to changes made by the act;  
 17 repealing s. 265.7025, F.S., relating to definitions  
 18 relating to historic programs; amending s. 265.703,  
 19 F.S.; conforming provisions to changes made by the  
 20 act; repealing ss. 265.704, 265.705, 265.706, and  
 21 265.709, F.S., relating to historical museums and  
 22 powers and duties of the Division of Cultural Affairs,  
 23 state policy relative to historical properties,  
 24 objects of historical or archaeological value, and  
 25 publications, respectively; reordering and amending s.  
 26 267.021, F.S.; deleting the definition of the term  
 27 "folklife"; defining the term "historical museum";  
 28 amending s. 267.071, F.S.; revising the duties of the  
 29 Division of Historical Resources; transferring,

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

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30 renumbering, and amending s. 265.707, F.S.;  
 31 transferring certain responsibilities from the  
 32 Division of Cultural Affairs to the Division of  
 33 Historical Resources; revising provisions relating to  
 34 the Museum of Florida History museum store, the  
 35 establishment and operation of a certain nonprofit  
 36 organization or association, and the deposit of  
 37 certain funds; transferring, renumbering, and amending  
 38 s. 265.565, F.S.; defining the term "abandoned  
 39 property"; removing the requirement that a museum  
 40 inform a lender of certain provisions in certain  
 41 circumstances; revising publication requirements for a  
 42 termination of loan notice; providing for the  
 43 disposition of abandoned property; amending s.  
 44 267.115, F.S.; revising the duties of the Division of  
 45 Historical Resources relating to objects of historical  
 46 or archaeological value; transferring and renumbering  
 47 ss. 267.16 and 267.161, F.S., relating to Florida  
 48 Folklife Programs and the Florida Folklife Council,  
 49 respectively; amending ss. 258.081, 468.401, and  
 50 553.902, F.S.; conforming provisions and cross-  
 51 references to changes made by the act; amending  
 52 chapter 2020-88, Laws of Florida; conforming a  
 53 provision to changes made by the act; providing an  
 54 effective date.

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

58 Section 1. Section 15.0455, Florida Statutes, is created to

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read:

15.0455 Official state history museum.—The Museum of Florida History, located in Tallahassee, is hereby designated as the official state history museum.

Section 2. Section 15.18, Florida Statutes, is amended to read:

15.18 International and cultural relations.—The Divisions of Arts and Culture ~~Cultural Affairs~~, Historical Resources, and Library and Information Services of the Department of State promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity. The Secretary of State, as the head administrator of these divisions, shall hereafter be known as "Florida's Chief Arts and Culture ~~Cultural~~ Officer." As this officer, the Secretary of State is encouraged to initiate and develop relationships between the state and foreign cultural officers, their representatives, and other foreign governmental officials in order to promote Florida as the center of American creativity. The Secretary of State shall coordinate international activities pursuant to this section with Enterprise Florida, Inc., and any other organization the secretary deems appropriate. For the accomplishment of this purpose, the Secretary of State shall have the power and authority to:

(1) Disseminate any information pertaining to the State of Florida which promotes the state's cultural assets.

(2) Plan and carry out activities designed to cause improved cultural and governmental programs and exchanges with foreign countries.

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(3) Plan and implement cultural and social activities for visiting foreign heads of state, diplomats, dignitaries, and exchange groups.

(4) Encourage and cooperate with other public and private organizations or groups in their efforts to promote the cultural advantages of Florida.

(5) Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of this section.

(6) Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section.

Section 3. Paragraph (e) of subsection (2) of section 20.10, Florida Statutes, is amended to read:

20.10 Department of State.—There is created a Department of State.

(2) The following divisions of the Department of State are established:

(e) Division of Arts and Culture ~~Cultural Affairs~~.

Section 4. Section 265.281, Florida Statutes, is amended to read:

265.281 Florida Arts and Culture Act; short title.—Sections 265.281-265.703 ~~Sections 265.281-265.709~~ may be cited as the "Florida Arts and Culture Act."

Section 5. Section 265.283, Florida Statutes, is reordered and amended to read:

265.283 Definitions.—The following definitions shall apply to ss. 265.281-265.703 ~~ss. 265.281-265.709~~:

(3) ~~(1)~~ "Council" means the Florida Council on Arts and

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117 Culture.

118 ~~(6)(2)~~ "Department" means the Department of State.

119 ~~(7)(3)~~ "Director" means the Director of the Division of  
120 ~~Arts and Culture Cultural Affairs~~ of the Department of State.

121 ~~(8)(4)~~ "Division" means the Division of Arts and Culture  
122 ~~Cultural Affairs~~ of the Department of State.

123 ~~(12)(5)~~ "Panel" means a grant review panel.

124 ~~(14)(6)~~ "Secretary" means the Secretary of State.

125 ~~(1)(7)~~ "Arts and cultural disciplines" include, but are not  
126 limited to, music, dance, theatre, creative writing, literature,  
127 architecture, painting, sculpture, folk arts, photography,  
128 crafts, media arts, visual arts, programs of museums, and other  
129 such allied, major art forms.

130 ~~(11)(8)~~ "Local arts agency" means a public or private  
131 nonprofit organization located in Florida and operating on a  
132 permanent basis for the primary purpose of strengthening,  
133 supporting, and stabilizing the activities of one or more county  
134 art and cultural constituencies.

135 ~~(10)(9)~~ "Historical museum" means a department or agency of  
136 state or local government or a public or private nonprofit  
137 organization located in Florida and operating on a permanent  
138 basis for the primary purpose of sponsoring, producing, and  
139 exhibiting educational programs that are related to the  
140 historical resources of Florida.

141 ~~(13)(10)~~ "Science museum" means a public or private  
142 nonprofit organization located in Florida and operating on a  
143 permanent basis for the primary purpose of sponsoring,  
144 producing, and exhibiting programs for the observation and study  
145 of various types of natural science and science technology.

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146 ~~(18)(11)~~ "Youth and children's museum" means a public or  
147 private nonprofit organization located in Florida and operating  
148 on a permanent basis for the primary purpose of sponsoring,  
149 producing, and exhibiting multidisciplinary and participatory  
150 programs for visitors who are 6 months to 15 years old, and  
151 their families, teachers, and caregivers.

152 ~~(15)(12)~~ "State service organization" means a public or  
153 private nonprofit organization located in Florida operating on a  
154 permanent basis for the primary purpose of implementing programs  
155 that have cultural significance and that emphasize American  
156 creativity and the maintenance and encouragement of professional  
157 excellence.

158 ~~(2)(13)~~ "Arts in education grants" means grants used to  
159 cultivate the learning and artistic development of all students  
160 and teachers by promoting, encouraging, and supporting arts and  
161 culture as an integral part of education and lifelong learning  
162 for residents and visitors.

163 ~~(4)(14)~~ "Cultural support grants" means grants that provide  
164 support for general programs and specific cultural projects.

165 ~~(16)(15)~~ "State touring program grants" means grants used  
166 to provide performances, activities, and exhibitions by Florida  
167 artists to communities.

168 ~~(17)(16)~~ "Underserved arts community assistance program  
169 grants" means grants used by qualified organizations under the  
170 Rural Economic Development Initiative, pursuant to ss. 288.0656  
171 and 288.06561, for the purpose of economic and organizational  
172 development for underserved cultural organizations.

173 ~~(5)(17)~~ "Culture Builds Florida grants" means grants used  
174 for the purpose of connecting the arts to key areas of the



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division's long-term strategic plan.

(9) "Folklife" means the traditional expressive culture shared within the various groups in Florida: familial, ethnic, occupational, religious, and regional. Expressive culture includes a wide range of creative and symbolic forms, such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, and handicraft, which forms are generally learned orally, by imitation, or in performance and are maintained or perpetuated without formal instruction or institutional direction.

Section 6. Paragraph (a) of subsection (5) of section 265.286, Florida Statutes, is amended to read:

265.286 Art and cultural grants.—

(5) The division shall fund:

(a) Grants for general program support for science museums, youth and children's museums, historical museums, local arts agencies, state service organizations, and organizations that have cultural program activities in any of the art and cultural disciplines defined in s. 265.283 ~~s. 265.283(7)~~.

Section 7. Subsection (6) of section 265.2865, Florida Statutes, is amended to read:

265.2865 Florida Artists Hall of Fame.—

(6) The Division of Arts and Culture ~~Cultural Affairs~~ of the Department of State shall adopt rules necessary to carry out the purposes of this section, including, but not limited to, procedures for accepting nominations to, making recommendations for, selecting members of the Florida Artists Hall of Fame, and providing travel expenses for such recipients. Notwithstanding ~~the provisions of s. 112.061~~, the Secretary of State may approve

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first-class travel accommodations for recipients of the Florida Artists Hall of Fame award and their representatives for health or security purposes.

Section 8. Subsections (1) and (5) of section 265.701, Florida Statutes, are amended to read:

265.701 Cultural facilities; grants for acquisition, renovation, or construction; funding; approval; allocation.—

(1) The Division of Arts and Culture ~~Cultural Affairs~~ may accept and administer moneys appropriated to it for providing grants to counties, municipalities, and qualifying nonprofit corporations for the acquisition, renovation, or construction of cultural facilities.

(5) The Division of Arts and Culture ~~Cultural Affairs~~ shall adopt rules prescribing the criteria to be applied by the Florida Council on Arts and Culture in recommending applications for the award of grants and rules providing for the administration of ~~the other provisions of~~ this section.

Section 9. Section 265.7025, Florida Statutes, is repealed.

Section 10. Subsection (3) of section 265.703, Florida Statutes, is amended to read:

265.703 Citizen support organizations; use of state administrative services and property; audit.—

(3) ANNUAL AUDIT.—The citizen support organization shall provide for an annual financial audit in accordance with s. 215.981. ~~Information of the Museum of Florida History citizen support organization which is confidential and exempt pursuant to s. 267.17 shall retain its confidential and exempt status.~~

Section 11. Section 265.704, Florida Statutes, is repealed.

Section 12. Section 265.705, Florida Statutes, is repealed.

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233 Section 13. Section 265.706, Florida Statutes, is repealed.  
 234 Section 14. Section 265.709, Florida Statutes, is repealed.  
 235 Section 15. Section 267.021, Florida Statutes, is reordered  
 236 and amended to read:

237 267.021 Definitions.—For the purpose of this act, the term:  
 238 (2)(1) “Division” means the Division of Historical  
 239 Resources of the Department of State.

240 (1)(2) “Agency” means any state, county, or municipal  
 241 officer, department, division, board, bureau, commission, or  
 242 other separate unit of government created or established by law.

243 (5)(3) “Historic property” or “historic resource” means any  
 244 prehistoric or historic district, site, building, object, or  
 245 other real or personal property of historical, architectural, or  
 246 archaeological value, and folklife resources. These properties  
 247 or resources may include, but are not limited to, monuments,  
 248 memorials, Indian habitations, ceremonial sites, abandoned  
 249 settlements, sunken or abandoned ships, engineering works,  
 250 treasure trove, artifacts, or other objects with intrinsic  
 251 historical or archaeological value, or any part thereof,  
 252 relating to the history, government, and culture of the state.

253 (8)(4) “Preservation” or “historic preservation” means the  
 254 identification, evaluation, recordation, documentation,  
 255 analysis, recovery, interpretation, curation, acquisition,  
 256 protection, management, rehabilitation, restoration,  
 257 stabilization, maintenance, or reconstruction of historic  
 258 properties.

259 (6)(5) “National Register of Historic Places” means the  
 260 list of historic properties significant in American history,  
 261 architecture, archaeology, engineering, and culture, maintained

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262 by the Secretary of the Interior, as established by the National  
 263 Historic Preservation Act of 1966, as amended.

264 ~~(6) “Folklife” means the traditional expressive culture~~  
 265 ~~shared within the various groups in Florida: familial, ethnic,~~  
 266 ~~occupational, religious, and regional. Expressive culture~~  
 267 ~~includes a wide range of creative and symbolic forms such as~~  
 268 ~~custom, belief, technical skill, language, literature, art,~~  
 269 ~~architecture, music, play, dance, drama, ritual, pageantry, and~~  
 270 ~~handicraft, which forms are generally learned orally, by~~  
 271 ~~imitation, or in performance and are maintained or perpetuated~~  
 272 ~~without formal instruction or institutional direction.~~

273 (3)(7) “Florida history museum” means a public or private  
 274 nonprofit institution which is established permanently in this  
 275 state for the purpose of promoting and encouraging knowledge and  
 276 appreciation of Florida history through the collection,  
 277 preservation, exhibition, and interpretation of artifacts and  
 278 other historical properties related to Florida history and the  
 279 primary role of which is to collect and care for artifacts and  
 280 other objects of intrinsic historical or archaeological value  
 281 and exhibit them regularly through a facility or facilities  
 282 owned or operated by the institution.

283 (7)(8) “Official Florida Historical Marker” means any  
 284 marker, plaque, or similar device awarded, approved, or  
 285 administered by the Division of Historical Resources for the  
 286 purpose of recognizing and informing the general public about  
 287 historic properties, persons, events, and other topics relating  
 288 to the history and culture of the state.

289 (4) “Historical museum” means a department or an agency of  
 290 state or local government or a public or private nonprofit

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291 organization located in Florida and operating on a permanent  
 292 basis for the primary purpose of sponsoring, producing, and  
 293 exhibiting educational programs that are related to the  
 294 historical resources of Florida.

295 Section 16. Subsection (2) of section 267.071, Florida  
 296 Statutes, is amended, and subsection (4) is added to that  
 297 section, to read:

298 267.071 Historical museums.—It is the duty of the division  
 299 to:

300 (2) Encourage, promote, maintain, and operate historical  
 301 museums, including the Museum of Florida History, ~~but not~~  
 302 limited to, mobile museums, and other Florida history junior  
 303 museums.

304 (4) (a) Establish professional standards for the  
 305 preservation, exclusive of acquisition, of each of the  
 306 collections under state ownership or control.

307 (b) Take such other actions as are necessary or appropriate  
 308 to locate, acquire, preserve, operate, interpret, and promote  
 309 the location, acquisition, protection, preservation, operation,  
 310 and interpretation of historical artifacts and resources to  
 311 foster an appreciation of Florida history and culture.

312 Section 17. Section 265.707, Florida Statutes, is  
 313 transferred, renumbered as section 267.0721, Florida Statutes,  
 314 and amended to read:

315 267.0721 ~~265.707~~ Museum of Florida History and programs;  
 316 other historical museums.—

317 (1) The division is authorized to operate the Museum of  
 318 Florida History and other historical museums.

319 (2) The division shall establish and administer a museum

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320 store ~~for in~~ the Museum of Florida History to provide  
 321 information and materials relating to Florida history, museum  
 322 exhibits, collections, and programs to the public and may  
 323 operate additional stores associated with the museum. The stores  
 324 ~~store~~ may produce, acquire, and sell craft products, clearly  
 325 marked replicas and reproductions of artifacts, documents, and  
 326 other merchandise relating to historical and cultural resources  
 327 and may make a reasonable charge for such merchandise. All  
 328 proceeds received from sales must be deposited into ~~the Grants~~  
 329 ~~and Donations Trust Fund, or funds in excess of the amount~~  
 330 ~~required to pay employees involved in the direct management of~~  
 331 ~~the museum store may be deposited into a bank account of a the~~  
 332 citizen support organization created pursuant to s. 267.17 or  
 333 created before July 1, 2021, pursuant to s. 265.703 and may be  
 334 used only to support operations of the museum stores and the  
 335 programs of the Museum of Florida History or other museums  
 336 operated by the division. The museum stores ~~store~~ may enter into  
 337 agreements and accept credit card ~~credit-card~~ payments as  
 338 compensation for goods and products sold. The division may  
 339 establish accounts in credit card ~~credit-card~~ banks for the  
 340 deposit of credit card ~~credit-card~~ sales invoices and to pay  
 341 discounts and service charges in connection with the use of  
 342 credit cards.

343 (3) The division shall support the establishment and  
 344 operation of a nonprofit organization or association established  
 345 pursuant to s. 267.17 or established before July 1, 2021,  
 346 pursuant to s. 265.703 to promote and encourage knowledge and  
 347 appreciation of Florida history and the programs of the Museum  
 348 of Florida History and other museums operated by the division

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and to cooperate with historical societies and other organizations to provide funding and promotional support for the programs of the museum. Such organization or association may, with the consent of the division, operate the museum store or conduct special events and programs in the museum. All proceeds must be used to support the programs of the Museum of Florida History and other museums operated by the division.

(4) The division ~~may shall~~ deposit grant funding, gifts, and donations for the purpose of assisting the Museum of Florida History and its programs and other museums operated by the division in an appropriate in the Grants and Donations trust fund to be used exclusively for the benefit of programs of the museum and in a manner consistent with any terms or conditions agreed to by the division in accepting such grants, gifts, and donations.

Section 18. Section 265.565, Florida Statutes, is transferred and renumbered as section 267.0723, Florida Statutes, and present paragraphs (a) through (f) of subsection (2) of that section are redesignated as paragraphs (b) through (g), respectively, a new paragraph (a) is added to that subsection and subsection (13) is added to that section, and paragraphs (a) and (b) of subsection (3), paragraph (c) of subsection (5), and subsections (6) and (12) of that section are amended, to read:

267.0723 ~~265.565~~ Property loaned to or abandoned at museums; obligations to lenders; notice; loan termination; acquisition of title; liens; conservation or disposal.—

(2) DEFINITIONS.—

(a) "Abandoned property" means property left at or

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delivered to a museum with no loan, deed of gift, or donation paperwork.

(3) OBLIGATIONS OF MUSEUMS TO LENDERS.—

(a) For property loaned to a museum after the effective date of this act, the museum shall:

1. Make and retain a written record containing, at a minimum, the lender's name, address, and telephone number, a description of the property loaned in sufficient detail for clear identification, including a description of the general condition of the property at the time of the loan, the beginning date of the loan, and the expiration date of the loan.

2. Provide the lender with a signed receipt or loan agreement containing, at a minimum, the record set forth in subparagraph 1.

~~3. Inform the lender of the existence of the provisions of this act and~~ Provide the lender with a copy of ~~the provisions of~~ this act upon the lender's request.

(b) Regardless of the date of a loan of property, the museum shall:

1. Update its records if a lender informs the museum of a change of address or change in ownership of property loaned, or if the lender and museum negotiate a change in the duration of the loan.

~~2. Inform the lender of the existence of the provisions of this act~~ When renewing or updating the records of an existing loan, and provide the lender with a copy of ~~the provisions of~~ this act upon the lender's request.

(5) TERMINATION OF LOANS.—

(c) If the museum is unable to identify sufficient

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 information to send notice pursuant to paragraph (b), or if a signed return receipt of a notice sent by certified mail pursuant to paragraph (b) is not received by the museum within 30 days after the notice is mailed, the museum shall publish the notice of termination of loan containing all the information available to the museum provided in paragraph (b) on its website ~~and at least twice, 60 or more days apart,~~ in a publication of general physical or online circulation in the county in which the museum is located and the county of the lender's last known address, if known.

(6) MUSEUM GAINING TITLE TO LOANED PROPERTY; CONDITIONS.—As of the effective date of this act, a museum acquires title to unclaimed property under any of the following circumstances:

(a) For property for which a museum provides notice to a lender in accordance with paragraph (5)(b) and a signed receipt is received, if the lender of the property does not contact the museum within 90 days after the date notice was received.

(b) For property for which notice by publication is made pursuant to paragraph (5)(c), if the lender or anyone claiming a legal interest in the property does not contact the museum within 90 days after the date of the ~~second~~ publication.

(12) LIABILITY.—If a museum applies conservation measures to or disposes of a property pursuant to subsection (11), the museum shall have a lien on the property and on the proceeds from any disposition thereof for the costs incurred by the museum, and the museum shall not be liable for injury to or loss of the property if:

(a) The museum had a reasonable belief at the time the action was taken that the action was necessary to protect the

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 property on loan or other property in the custody of the museum, or that the property on loan constituted a hazard to the health and safety of the public or the museum's staff.

(b) The museum exercised reasonable care in the choice and application of conservation measures.

(13) DISPOSITION OF ABANDONED PROPERTY.—A museum may keep, transfer, sell, or dispose of abandoned property.

Section 19. Subsection (1) of section 267.115, Florida Statutes, is amended to read:

267.115 Objects of historical or archaeological value.—The division shall acquire, maintain, preserve, interpret, exhibit, and make available for study objects which have intrinsic historical or archaeological value relating to the history, government, or culture of the state. Such objects may include tangible personal property of historical or archaeological value. Objects acquired under this section belong to the state, and title to such objects is vested in the division.

(1) Notwithstanding s. 273.02, the division shall maintain an adequate record of all objects in its custody which have a historical or archaeological value. Once each year, on July 1 or as soon thereafter as practicable, the division shall take a complete inventory of all such objects in its custody the value or cost of which is \$1,000 ~~\$500~~ or more and a sample inventory of such objects the value or cost of which is less than \$1,000 ~~\$500~~. Each inventory shall be compared with the property record, and all discrepancies shall be traced and reconciled. Objects of historical or archaeological value are not required to be identified by marking or other physical alteration of the objects.

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465 Section 20. Section 267.16, Florida Statutes, is  
 466 transferred and renumbered as section 265.802, Florida Statutes.

467 Section 21. Section 267.161, Florida Statutes, is  
 468 transferred and renumbered as section 265.803, Florida Statutes.

469 Section 22. Section 258.081, Florida Statutes, is amended  
 470 to read:

471 258.081 Stephen Foster State Folk Culture Center.—The  
 472 division shall maintain and operate the Stephen Foster State  
 473 Folk Culture Center facility in such manner that the performing  
 474 arts component of the Florida Folklife Programs provided in s.  
 475 265.802 ~~s. 267.16~~ shall have priority use of the facility.

476 Section 23. Subsection (4) of section 468.401, Florida  
 477 Statutes, is amended to read:

478 468.401 Regulation of talent agencies; definitions.—As used  
 479 in this part or any rule adopted pursuant hereto:

480 (4) "Engagement" means any employment or placement of an  
 481 artist, where the artist performs in his or her artistic  
 482 capacity. However, the term "engagement" shall not apply to  
 483 procuring opera, music, theater, or dance engagements for any  
 484 organization defined in s. 501(c)(3) of the Internal Revenue  
 485 Code or any nonprofit Florida arts organization that has  
 486 received a grant from the Division of Arts and Culture ~~Cultural~~  
 487 ~~Affairs~~ of the Department of State or has participated in the  
 488 state touring program of the Division of Arts and Culture  
 489 ~~Cultural Affairs~~.

490 Section 24. Paragraph (d) of subsection (2) of section  
 491 553.902, Florida Statutes, is amended to read:

492 553.902 Definitions.—As used in this part, the term:

493 (2) "Exempted building" means:

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494 (d) A historical building as defined ~~described~~ in s.  
 495 267.021 ~~s. 267.021(3)~~.

496  
 497 The Florida Building Commission may recommend to the Legislature  
 498 additional types of buildings which should be exempted from  
 499 compliance with the Florida Building Code-Energy Conservation.

500 Section 25. Subsection (1) of section 2 of chapter 2020-88,  
 501 Laws of Florida, is amended to read:

502 Section 2. The Secretary of State is directed to:

503 (1) In coordination with the Division of Historical  
 504 Resources ~~Cultural Affairs~~ of the Department of State, determine  
 505 how the Museum of Florida History and other state museums will  
 506 promote the history of the 1920 Ocoee Election Day Riots through  
 507 exhibits and educational programs.

508 Section 26. This act shall take effect July 1, 2021.

Page 18 of 18

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Ray Wesley Rodrigues, Chair  
Committee on Governmental Oversight and Accountability

**Subject:** Committee Agenda Request

**Date:** March 1, 2021

---

I respectfully request that **Senate Bill # 1404**, relating to Cultural and Historical Programs, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper  
Florida Senate, District 16

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/10/21

Meeting Date

SB 1404

Bill Number (if applicable)

Topic Cultural & Historical Programs Bill

Amendment Barcode (if applicable)

Name Brittany Dover

Job Title Legislative Affairs Director

Address 500 S. Bronough Street

Phone 850-245-6509

Street

Tallahassee

FL

32399

City

State

Zip

Email Brittany.Dover@DO

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Department of State

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

Duplicate

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/10/21

Meeting Date

SB 1404

Bill Number (if applicable)





# 2021 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Department of State**

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	SB 1404
<b>BILL TITLE:</b>	Cultural and Historical Programs
<b>BILL SPONSOR:</b>	Senator Hooper
<b>EFFECTIVE DATE:</b>	July 1, 2021

<b><u>COMMITTEES OF REFERENCE</u></b>	
1) Governmental Oversight and Accountability	
2) Appropriations Subcommittee on Transportation, Tourism, and Economic Development	
3) Appropriations	
4) N/A	
5) N/A	
<b><u>PREVIOUS LEGISLATION</u></b>	
<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A
<b>YEAR:</b>	N/A
<b>LAST ACTION:</b>	N/A

<b><u>CURRENT COMMITTEE</u></b>
Governmental Oversight and Accountability

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	HB 909
<b>SPONSOR:</b>	Representative Sirois

<b>Is this bill part of an agency package?</b>
N/A

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	2/24/21
<b>LEAD AGENCY ANALYST:</b>	Brittany Dover/Shruti Graf
<b>ADDITIONAL ANALYST(S):</b>	Sarah Liko/ Curtis Young
<b>LEGAL ANALYST:</b>	Click or tap here to enter text.
<b>FISCAL ANALYST:</b>	Click or tap here to enter text.

## **POLICY ANALYSIS**

## 1. **EXECUTIVE SUMMARY**

Cultural and Historical Programs: Designates Museum of Florida History as official state history museum; renames Division of Cultural Affairs as Division of Arts & Culture; transfers certain responsibilities from Division of Cultural Affairs to Division of Historical Resources; revises provisions relating to Museum of Florida History museum store; provides for disposition of abandoned property.

## **2. SUBSTANTIVE BILL ANALYSIS**

### 1. **PRESENT SITUATION:**

Presently, the statutory provisions related to the Museum of Florida History are found in the chapter of Florida Statutes related to Arts and Culture, and the statutory provisions related to the Florida Folklife Program are found in the chapter of Florida Statutes related to Historical Resources.

- The National Endowment for the Arts recognizes the Department of State Division of Cultural Affairs as Florida's official State Arts Agency
  - State Arts Agencies were created by Federal mandate
  - 50 of the 56 State Arts Agencies include the word *arts* in their names
- The title of Chapter 265, F.S is Memorials, Museums, And **Arts and Culture**.
- The vast majority of the division's grantees are **Arts** organizations.
- The division struggles with visibility issues. Grantees know who the division is, but the stakeholders (which include grantees) are convinced that the impact of division programs is not widely known throughout the state.
- The name was suitable at the time of its creation because the division administered the Ringling Museum and all historical commissions and preservation boards. Those activities have shifted to other agencies since then.
- Florida currently does not have a designated State History Museum. The Museum of Florida History was established by the Florida Legislature in 1967 and opened in 1977. Presenting Florida's history from the prehistoric era to the mid-20<sup>th</sup> Century, the Museum of Florida History welcomes more than 55,000 visitors annually and provides statewide programming for Florida History Day and traveling exhibits. Located in the R.A. Gray Building, the Museum of Florida History also includes the Knott House Museum and three retail gift shop locations. The Museum of Florida History was operated by the Division of Historical Resources until 2008, when it was transferred to the Division of Cultural Affairs. The Museum's funding is included in the Division of Cultural Affairs' annual budget allocation.
- The Florida Folklife Program is administered by the Division of Historical Resources. Folklife programming includes the Folklife Apprenticeship Program, the Florida Folk Heritage Awards, research, an artist-in-residence series, information gathering and dissemination. The Florida Folklife Council is the Florida Folklife Program's advisory council. Established by the Florida Legislature in 1979, the Florida Folklife Program is funded in part by the National Endowment for the Arts (NEA). Federal funding for the Florida Folklife Program has historically been directed to the Division of Cultural Resources by the NEA. Due to a restructuring of NEA requirements, NEA folklife funds will be directed to the Division of Arts and Culture beginning with the 2021-2022 fiscal year as part of its annual State Partnership grant.

### 2. **EFFECT OF THE BILL:**

- Designates the Museum of Florida History, located in Tallahassee, as the official state history museum. (lines 51-53, page 3)
  - Creates a definition of "Historical museum" to apply to Florida Statutes relating to Historical Resources. (lines 255-260, page 11)
- Transfers the statutory provisions relating to the Museum of Florida History and programs, and other historical museums to the chapter of Florida Statutes relating to Historical Resources. (lines 305-356, pages 13-15).
  - Eliminates the requirement that the proceeds from sales at museum stores, administered by the Division of Historical Resources, be deposited in Grants and Donations Trust Fund but maintains the deposit of

such funds into a bank account of a specified citizen support organization under law; and authorizes the use of such funds for museum store operations. (lines 320-329, pages 13-14)

- Transfers the statutory provisions relating to property loaned to museums to the chapter of Florida Statutes relating to Historical Resources. (lines 357-459, pages 15-19)
  - Creates a definition of “abandoned property” to mean a property left at or delivered to the museum with no loan, deed of gift, or donation paperwork. (lines 369-371, page 15)
  - Removes the requirement for a museum to inform a lender of the statutory provisions relating to property loaned to (or abandoned at) the museum but the bill maintains the existing requirement in law that the museum provide a copy of specified information to the lender, upon the lender’s request. (lines 372-396, pages 15-16)
  - Revises current law regarding the acquisition of the title to an unclaimed property by a museum if the lender or anyone claiming a legal interest in the property does not contact the museum within 90 days after the date of the publication of the notice of termination of loan. (lines 434-444, page 18)
    - Under current law, a museum is allowed to acquire the title to an unclaimed property within 90 days after the date of the second publication of the notice.
  - Authorizes a museum to keep, transfer, sell, or dispose of abandoned property. (lines 458-459, page 19)
- Adds to the duties of the Division of Historical Resources to require the division to establish professional standards for the preservation of collections under state ownership and take appropriate action to foster appreciation of Florida history and culture. (lines 296-304, pages 12-13)
- Revises a responsibility of the Division of Historical Resources relating to conducting an inventory of all objects in the division’s custody which are of historical or archaeological value to require such inventory for objects which are valued at least \$1,000 instead of \$500 as is required under current law. (lines 470-481, pages 19-20)
- Repeals sections of the Florida Statutes relating to historical museums and powers and duties of the Division of Cultural Affairs, state policy relative to historical properties, objects of historical or archaeological value, and publications, respectively. (lines 213-214; 224-225, page 9)
- Transfers the statutory provisions relating to Florida Folklife Programs and Florida Folklife Council to the chapter of Florida Statutes relating to Arts and Culture. (lines 482-485, page 20); and makes a conforming change to move the definition of “Folklife” from Florida Statutes relating to Historical Resources to Florida Statutes relating to Arts and Culture. (lines 130-138, page 6; and lines 266-274, page 11)
- Aligns the division more closely with its advisory board, the Florida Council on **Arts and Culture**.
- A name change provides more consistent branding as well as greater alignment and clarity to the division’s mission to advance, support and promote **arts and culture**.
- Assigns the administration of the Museum of Florida History to the Division of Historical Resources, more closely aligning the Museum to its mission to collect, preserve, exhibit and interpret evidence of past and present cultures in Florida and to promote knowledge and appreciation of this heritage. Additionally, the activities of the Museum will assist in the mission of the Division of Historical Resources to inspire a love of history through preservation and education.
- Brings the activities of the Florida Folklife Program into agreement with new National Endowment for the Arts state arts agency Partnership Agreement requirements.

3. **DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?** Y ☒ N ☐

If yes, explain:	Existing rules would be amended to reflect the changes in HB 909
Is the change consistent with the agency’s core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	<p>1A-40, 1P-1, 1T-12 will all need to be updated to reflect the move of the Museum of Florida History to DHR and the move of the Florida Folklife Program to DCA.</p> <p>1T-1.001, 1T-1.036 section (1), 1T-1.039 section (1), 1T-1.040 section (1), 1T-1.042 sections (1), (2) and (3), 1T-12.001 section (9), 1T-12.002 section (1), 1P-1.009 sections (1) and (2)</p>

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**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?**Y ☒ N ☐

Board:	Florida Folklife Council
Board Purpose:	To advise the Division of Historical Resources and the State folklorist including encouraging statewide public interest and participation on folk arts and folklore; developing and promoting Florida folk artists, performers, festivals projects and resources; recommending projects for identification, collection and preservation of Florida folklore, folk arts, traditions, cultural heritage, skills, and customs and making them available throughout the State; and assisting with the development of proposals and grant applications to fund Florida folklife programs
Who Appoints:	Secretary of State
Changes:	The only change will be moving the Florida Folklife Council under the Division of Cultural Affairs along with the Florida Folklife Program.
Bill Section Number(s):	Click or tap here to enter text.

## FISCAL ANALYSIS

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local	N/A

referendum or local governing body public vote prior to implementation of the tax or fee increase?	
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**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?** Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation contain a State Government appropriation?	N/A
If yes, was this appropriated last year?	N/A

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?** Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?** Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

**TECHNOLOGY IMPACT**

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

Click or tap here to enter text.

**FEDERAL IMPACT**

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☒ N ☐

If yes, describe the anticipated impact including any fiscal impact.

Reassignment of the Florida Folklife Program to the Division of Arts and Culture brings the program in line with new federal funding requirements from the National Endowment for the Arts.

**ADDITIONAL COMMENTS****LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments:

**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.)

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

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BILL: CS/SB 1428

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Wright

SUBJECT: Procurement Procedures

DATE: March 10, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVane	GO	Fav/CS
2.			JU	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1428 requires the Department of Management Services (DMS) to develop procedures that require each current and prospective contractor, as a prerequisite to providing commodities or contractual services to the state pursuant to a contract executed, extended, renewed, or amended on or after July 1, 2021, to provide the DMS with a written declaration which discloses whether the contractor is owned or controlled by a foreign government.

The bill provides that the term “foreign government” has the same meaning as defined in s. 876.22, F.S. Section 876.22, F.S., defines “foreign government” to mean the government of any country, nation, or group of nations other than the Government of the United States or one of the states thereof.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**The Department of Management Services**

The Department of Management Services (DMS) is responsible for establishing a system of procurement policies, procedures, and practices for agencies to use while acquiring commodities and contractual services.<sup>1</sup> As a result, the DMS develops a list of interested vendors and

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<sup>1</sup> Section 287.042(3), F.S.

contractors by classes of commodities<sup>2</sup> or contractual services.<sup>3</sup> Section 287.012(7), F.S., defines a contractor as “a person who contracts to sell commodities or contractual services to an agency.” The DMS also develops procedures for advertising solicitations, the receipt and opening of bids, proposals and replies, an agency to decide to contract, an agency in maintaining a contract file for each contract, an agency to issue solicitations that promote competition, and agencies to use when procuring information technology commodities and contractual services that ensure compliance with public records requirements and archiving requirements.<sup>4</sup> The DMS prescribes the methods of securing competitive sealed bids, proposals, and replies. These methods include procedures for identifying vendors and contractors, setting qualifications, conducting question and answer periods, and ranking and selecting vendors and contractors.

### **Agency Process for Procurement of Contractual Services**

State agencies who wish to procure contractual services in excess of \$35,000<sup>5</sup> must go through a competitive solicitation process. All competitive solicitations are required to be made available simultaneously to all vendors, and must include the time and date for the receipt of bids, proposals or replies, along with the contractual terms and conditions applicable to the procurement.<sup>6</sup> An agency has three methods of procurement. These include an invitation to bid, a request for proposals, and an invitation to negotiate.<sup>7</sup>

#### ***Invitation to Bid***

Once an agency is capable of defining the scope of work for which is a contractual service is required, the agency may solicit an invitation to bid (ITB). Each ITB must include a detailed description of the commodities or contractual services sought and whether the agency contemplates renewal of the contract.<sup>8</sup> If the agency contemplates renewal of the contract, each bid submitted in response to an ITB must include the price for each year for which the contract may be renewed.

#### ***Request for Proposals***

An agency uses a request for proposals (RFP) when the purposes and uses for the contractual service or commodity being sought can be specifically defined and the agency can identify deliverables. A vendor may respond with various versions of services or commodities to meet

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<sup>2</sup> Section 287.012(5), F.S., defines “commodity” to mean the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

<sup>3</sup> Section 287.012(8), F.S., defines “contractual service” to mean the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services. The term does not include a contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of a facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to chapter 255 and rules adopted thereunder.

<sup>4</sup> Section 287.042(3)(a-h), F.S.

<sup>5</sup> Section 287.017, F.S.

<sup>6</sup> Section 287.057(1), F.S.

<sup>7</sup> Section 287.057(1)(a-c), F.S.

<sup>8</sup> Section 287.057(1)(a), F.S.



the specification of the solicitation document. Each RFP must include a statement describing the commodities or contractual services sought, the relative importance of price, and whether the agency contemplates renewal of contract.<sup>9</sup> The contract is awarded by written notice to the responsible and responsive vendor whose proposal is the most advantageous to the state.

### ***Invitation to Negotiate***

The invitation to negotiate (ITN) is a solicitation used by an agency intended to determine the best method for achieving a specific goal or solving a particular problem. The ITN process identifies one or more responsive vendors with which an agency may negotiate in order to receive the best value. In order to issue an ITN, the head of the agency must determine in writing the reasons that procurement by an ITB or an RFP is not practicable. The ITN must include questions being explored, the facts being sought, and the specific goals of the solicitation. The agency may select one or more vendors to begin negotiations, and then award the contract to the responsible and responsive vendor that the agency deems will provide the best value to the state.<sup>10</sup>

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 287.042, F.S., to require the DMS to develop procedures that require each current and prospective contractor, as a prerequisite to providing commodities or contractual services to the state pursuant to a contract executed, extended, renewed, or amended on or after July 1, 2021, to provide the DMS with a written declaration which discloses whether the contractor is owned or controlled by a foreign government.

The bill provides that the term “foreign government” has the same meaning as defined in s. 876.22, F.S. Section 876.22, F.S., defines “foreign government” to mean the government of any country, nation, or group of nations other than the Government of the United States or one of the states thereof.

**Section 2** provides that bill take effect upon becoming a law.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

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

### **B. Public Records/Open Meetings Issues:**

None.

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<sup>9</sup> Section 287.057(1)(b), F.S.

<sup>10</sup> Section 287.057(1)(c), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DMS may incur additional workload associated with overseeing that new and prospective contractors comply with the requirements of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 287.042 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 10, 2021:**

The CS limits the disclosure by a current or prospective contractor declaring whether they are owned or controlled by a foreign government to a contract executed, extended, renewed, or amended on or after July 1, 2021.

The CS provides that the term “foreign government” has the same meaning as s. 876.22, F.S., - the government of any country, nation, or group of nations other than the Government of the United States or one of the states thereof.

**B. Amendments:**

None.

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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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712862

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2021	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete lines 22 - 27  
and insert: (i) Development of procedures that require each  
current and prospective contractor, as a prerequisite to  
providing commodities or contractual services to the state  
pursuant to a contract executed, extended, renewed, or amended  
on or after July 1, 2021, to provide the department with a  
written declaration pursuant to s. 92.525(2) which discloses  
whether the contractor is owned or controlled by a foreign



712862

11 government, as defined in s. 876.22.

By Senator Wright

14-01202A-21

20211428\_\_

A bill to be entitled

An act relating to procurement procedures; amending s. 287.042, F.S.; requiring the Department of Management Services to develop procedures that require current and prospective contractors to disclose whether such contractor is owned or controlled by a foreign government before providing commodities or contractual services to the state; requiring any such disclosure to be in writing, under penalty of perjury; providing an effective date.

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

Section 1. Paragraph (i) is added to subsection (3) of section 287.042, Florida Statutes, to read:

287.042 Powers, duties, and functions.—The department shall have the following powers, duties, and functions:

(3) To establish a system of coordinated, uniform procurement policies, procedures, and practices to be used by agencies in acquiring commodities and contractual services, which shall include, but not be limited to:

(i) Development of procedures that require each current and prospective contractor, as a prerequisite to providing commodities or contractual services to the state, to provide the department with a written declaration pursuant to s. 92.525(2) which discloses whether the contractor is owned or controlled by a foreign government.

Section 2. This act shall take effect upon becoming a law.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/10/21

Meeting Date

1428

Bill Number (if applicable)

Topic Procurement Procedures

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol

Phone 850 413 2890

Tallahassee  
City

FL  
State

32399  
Zip

Email Meredith.Stanfield@MyFloridaCFO.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Department of Financial Services

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

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3/10/21

Meeting Date

1428

Bill Number (if applicable)

712862

Amendment Barcode (if applicable)

Topic Procurement Procedures

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol

Street

Phone 850 413 2890

Tallahassee

City

FL

State

32399

Zip

Email Meredith.Stanfield@MyFloridaCFO.com

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S-001 (10/14/14)



# CourtSmart Tag Report

**Room:** SB 37

**Case No.:**

**Type:**

**Caption:** Senate Governmental Oversight and Accountability Committee

**Judge:**

**Started:** 3/10/2021 10:30:35 AM

**Ends:** 3/10/2021 12:04:27 PM

**Length:** 01:33:53

10:30:38 AM Meeting called to order by Chair Rodrigues  
10:30:43 AM Roll call by Committee Administrative Assistant  
10:30:50 AM Quorum is present  
10:30:55 AM Chair comments  
10:31:46 AM Tab 1 - CS/SB 90, Vote-by-mail Ballots by Sen Baxley  
10:32:00 AM Comments made by Chair Rodrigues  
10:32:28 AM Without objection, the PCS is introduced  
10:32:41 AM Sen Baxley explains PCS Barcode 969560  
10:34:22 AM Amendment 588080 to PCS 969560 by Senator Torres  
10:34:39 AM Sen Torres explains amendment  
10:34:58 AM No questions on amendment  
10:35:06 AM No appearance forms on amendment  
10:35:20 AM No debate on amendment  
10:35:30 AM The amendment fails  
10:35:35 AM Amendment 924624 to PCS 969560 by Senator Torres  
10:35:45 AM Sen Torres explains amendment  
10:36:04 AM No questions on amendment  
10:36:12 AM No appearance cards on amendment  
10:36:22 AM No debate on amendment  
10:36:27 AM Sen Torres waives close on amendment  
10:36:35 AM The amendment fails  
10:36:41 AM Back on the PCS  
10:36:47 AM Questions from Sen Torres  
10:37:27 AM Sen Baxley responds  
10:38:26 AM Sen Torres in questions  
10:38:38 AM Sen Baxley responds  
10:39:19 AM Sen Torres in questions  
10:39:33 AM Sen Baxley responds  
10:39:38 AM Back and forth in questions  
10:47:09 AM Sen Stewart in questions  
10:47:42 AM Sen Baxley responds  
10:49:24 AM Sen Stewart in questions  
10:50:14 AM Sen Baxley responds  
10:51:15 AM Sen Stewart in questions  
10:51:41 AM Sen Baxley responds  
10:52:18 AM Speaker Alan Hays, Lake County Supervisor of Elections, in opposition to the the PCS  
10:56:49 AM Sen Stewart questions Mr. Hays  
10:57:21 AM Mr. Hays responds  
10:57:53 AM Back in forth in questions  
10:58:50 AM Sen Torres questions speaker  
10:59:11 AM Speaker responds  
11:00:14 AM Sen Torres questions speaker  
11:00:45 AM Speaker responds  
11:01:21 AM Sen Torres questions speaker  
11:01:40 AM Speaker responds  
11:02:13 AM Chair questions speaker  
11:02:24 AM Speaker responds  
11:02:43 AM Chair questions speaker  
11:02:55 AM Speaker responds  
11:03:10 AM Speaker Mark Earley, Leon County Supervisor of Elections, in opposition to the PCS  
11:06:39 AM Speaker Trish Neely, Director of the Florida League of Women Voters, in opposition to the PCS  
11:08:50 AM Speaker Jonathan Webber, Deputy Director of the FL Conservation Voters, in opposition to the PCS

**11:10:46 AM** Speaker Brad Ashwell, State Director for "All Voting is Local", in opposition to the PCS  
**11:13:36 AM** Speaker Ida Eskamani, Florida Rising  
**11:14:57 AM** Speaker Dr. Rich Templin, Florida AFL-CIO, in opposition to the PCS  
**11:16:51 AM** Barbara Devane waives in opposition to the PCS  
**11:17:01 AM** Sabrina Javellana waives in opposition to the PCS  
**11:17:14 AM** Susan Caplowe waives in opposition to the PCS  
**11:17:24 AM** Pamela Burch Fort waives in opposition to the PCS  
**11:17:42 AM** Speaker Theresa King, in opposition to the PSC  
**11:19:02 AM** Sen Stewart in debate  
**11:21:43 AM** Sen Torres in debate  
**11:23:53 AM** Sen Gruters in debate  
**11:26:47 AM** Sen Baxley closes on PCS  
**11:29:10 AM** Voice vote on PCS  
**11:29:23 AM** The PCS is adopted  
**11:29:31 AM** CS/CS/SB 90 is reported favorably  
**11:29:52 AM** Tab 4 - SB 1404, Cultural and Historical Programs by Sen Hooper  
**11:30:05 AM** Sen Hooper explains bill  
**11:31:06 AM** No questions on bill  
**11:31:11 AM** Speaker Brittany Dover, Legislative Affairs Director for the Florida Department of State, waives in support  
**11:31:17 AM** No more speakers  
**11:31:23 AM** No debate on bill  
**11:31:26 AM** Sen Hooper waives closing remarks bill  
**11:31:31 AM** SB 1404 reported favorably  
**11:31:47 AM** Tab 5 - SB 1428, Procurement Procedures by Senator Wright  
**11:32:01 AM** Sen Wright explains bill  
**11:33:11 AM** Amendment 712862  
**11:33:21 AM** Sen Wright explains amendment  
**11:34:21 AM** No questions on amendment  
**11:34:27 AM** Speaker Meredith Stanfield, Florida Department of Financial Services, waives in support of amendment  
**11:34:38 AM** No debate on amendment  
**11:34:42 AM** Sen Wright waives close on amendment  
**11:34:49 AM** Voice vote on amendment  
**11:34:52 AM** Amendment is adopted  
**11:35:02 AM** Back on bill as amended  
**11:35:03 AM** No questions on bill as amended  
**11:35:04 AM** Speaker Meredith Stanfield, Florida Department of Financial Services, waives in support of bill  
**11:35:05 AM** No debate on bill as amended  
**11:35:07 AM** CS/SB 1428 is reported favorably  
**11:35:34 AM** Tab 2 - SB 1040, Duties of the Attorney General by Sen Brodeur  
**11:35:48 AM** Sen Brodeur explains bill  
**11:36:03 AM** Amendment 491666  
**11:36:10 AM** Sen Brodeur explains amendment  
**11:36:28 AM** No questions on amendment  
**11:36:34 AM** No appearance forms on amendment  
**11:36:40 AM** No debate on amendment  
**11:36:42 AM** Senator Brodeur waives close  
**11:36:43 AM** Voice vote on amendment  
**11:36:47 AM** Amendment 491666 is adopted  
**11:37:12 AM** Amendment 706196  
**11:37:15 AM** Sen Brodeur explains amendment  
**11:37:25 AM** No questions  
**11:37:28 AM** No appearance forms  
**11:37:35 AM** No debate  
**11:37:37 AM** Sen Brodeur waives close  
**11:37:42 AM** Amendment 706196 is adopted  
**11:37:47 AM** Back on bill as amended  
**11:37:54 AM** No questions  
**11:37:57 AM** Speaker Daniel Olson, Director of Government Relations for the Office of the Attorney General, waives in support of bill  
**11:38:06 AM** No debate  
**11:38:09 AM** Senator Brodeur waives closing comments  
**11:38:13 AM** CS/SB 1040 reported favorably

11:38:27 AM Tab 3 - SB 1076, Public Works Projects by Sen Brodeur  
11:38:40 AM Sen Brodeur explains bill  
11:38:55 AM Amendment 635516  
11:39:01 AM Sen Brodeur explains amendment  
11:39:18 AM No questions  
11:39:23 AM Speaker Carol Bowen, Lobbyist for Associated Builders and Contractors  
11:39:31 AM Speaker Kari Hebrank, National Utility Contractors of Florida, in support of the amendment  
11:40:02 AM Speaker Dr. Rich Templin, Florida AFL-CIO, against the amendment  
11:42:48 AM No debate  
11:42:51 AM Sen Brodeur closes on amendment  
11:43:33 AM Amendment is adopted  
11:43:39 AM Back on bill as amended  
11:43:44 AM Sen Torres in questions  
11:43:57 AM Sen Brodeur responds  
11:44:14 AM Back and forth in questions  
11:46:44 AM Speaker J.B. Clark, Lobbyist for FL Electrical Workers of Assoc., waives in opposition to the bill  
11:46:53 AM Speaker Sabrina Javellana, Commissioner representing self, in opposition to the bill  
11:48:41 AM Speaker Warren Husband, Fla. Associated General Contractors Council, in support of the bill  
11:48:50 AM Speaker Jessie McCarty, Assistant County Attorney for Miami-Dade County, in opposition to the bill  
11:49:43 AM Speaker Carol Bowen in support of the bill  
11:52:41 AM Speaker Ken Williams, representing self, in opposition to the bill  
11:54:07 AM Speaker Marty Cassini, Manager for Broward County, in opposition to the bill  
11:55:22 AM Speaker Dr. Rich Templin in opposition  
11:56:23 AM Speaker Ida Eskamani in opposition  
11:57:36 AM Speaker Kari Hebrank, NUCA of Florida, in support of bill  
11:58:48 AM Speaker Theresa King, President of Florida Building and Construction Trades, in opposition to the bill  
12:00:04 PM Sen Torres in debate  
12:01:29 PM Sen Stewart in debate  
12:02:02 PM Sen Brodeur closes on bill  
12:03:42 PM CS/SB 1076 reported favorably  
12:04:04 PM Sen Rodrigues makes motion to be recorded favorably on SB's 1040, 1404, and 1428  
12:04:11 PM Seeing no objection, show the motion adopted  
12:04:17 PM The committee meeting is adjourned