

Tab 1	SB 590 by Rodriguez; (Similar to H 01523) Public Records and Meetings						
239228	A	S	RCS	GO, Rodriguez	Delete L.40 - 69:	01/13 01:12 PM	

Tab 2	SB 954 by Brodeur (CO-INTRODUCERS) Brandes; (Identical to H 01139) Energy						
405028	A	S	RCS	GO, Brandes	Delete L.42 - 53:	01/13 01:12 PM	

Tab 3	SPB 7022 by GO; State Group Health Insurance Program						
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Tab 4	SPB 7024 by GO; Public Records/Alleged Victim or Victim of Sexual Harassment						
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Tab 5	SPB 7026 by GO; OGSR/Dependent Eligibility Verification Services						
792464	A	S	FAV	GO, Brandes	Delete L.129 - 132:	01/14 11:56 AM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Brandes, Chair
Senator Gruters, Vice Chair

MEETING DATE: Thursday, January 13, 2022
TIME: 11:00 a.m.—1:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Brandes, Chair; Senator Gruters, Vice Chair; Senators Farmer, Mayfield, Stargel, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 590 Rodriguez (Similar H 1523, Compare H 1521, Linked CS/S 358)	Public Records and Meetings; Providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling pursuant to the Professional Counselors Licensure Compact; providing an exemption from public meetings requirements for certain meetings or portions of certain meetings of the Counseling Compact Commission or committees of the commission; providing for future legislative review and repeal of the exemptions; providing statements of public necessity, etc. HP 12/02/2021 Favorable GO 01/13/2022 Fav/CS RC	Fav/CS Yeas 6 Nays 0
2	SB 954 Brodeur (Identical H 1139)	Energy; Revising the selection criteria for purchasing or leasing vehicles for state agency, college, or university or certain local government fleets; removing a provision requiring the use and procurement of ethanol and biodiesel fuels; requiring the Department of Management Services, before a specified date, to make recommendations to state agencies and local governments relating to the procurement and integration of electric vehicles, etc. GO 01/13/2022 Fav/CS AEG AP	Fav/CS Yeas 6 Nays 0
Consideration of proposed bill:			
3	SPB 7022	State Group Health Insurance Program; Requiring the Department of Management Services to provide an online education component relating to all health insurance plans in the State Group Insurance Program; requiring the department to contract with the State Board of Administration to provide retirement and health insurance planning education to members of the state group insurance program; setting a minimum monthly employer contribution to health savings accounts for certain employees, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Thursday, January 13, 2022, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:			
4	SPB 7024	Public Records/Alleged Victim or Victim of Sexual Harassment; Revising an exemption from public records requirements for personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment if such information identifies that person as an alleged victim or as a victim of sexual harassment; authorizing the alleged victim or the victim to waive confidentiality in writing; extending the deadline for legislative review and repeal of the exemption; providing a statement of public necessity, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 0
Consideration of proposed bill:			
5	SPB 7026	OGSR/Dependent Eligibility Verification Services; Designating the Department of Management Services, rather than the Division of State Group Insurance, as the entity that contracts for dependent eligibility verification services for the state group insurance program; authorizing the department or the contractor providing dependent eligibility verification services to require certain information from subscribers; revising the types of information that the department or a contractor providing eligibility verification services may require from subscribers in order to establish dependent eligibility for the state group insurance program, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 590

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rodriguez

SUBJECT: Public Records and Meetings

DATE: January 14, 2022 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 590 exempts from public inspection and copying requirements the personal identifying information of a mental health counselor, other than the counselor's name, licensure status, or licensure number, obtained from the data system under the Professional Counselors Licensure Compact, as established in s. 491.017, F.S.,¹ and held by the Department of Health (DOH) or the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (Board). This information is not exempt from public records requirements under the bill if the state originally reporting the information to the data system authorizes disclosure of such information by law.

The bill exempts from open meeting requirements a closed meeting or a closed portion of a meeting of the Compact Commission or the executive committee of the commission, established under the Professional Counselors Licensure Compact. The exemption applies when the chair of the commission declares the specific reasons it is necessary to close the meeting or a portion thereof in a document that is a public record and held by the commission and announces at a public meeting that, in connection with the performance of the commission's duties, it is necessary that the commission discuss one of five enumerated issues. The bill provides that recordings, minutes, and records generated from those closed meetings are also exempt from requirements to disclose such public records.

¹ Section 491.017, F.S., is created in SB 358 (2022) and authorizes the state's participation in the Professional Counselors Licensure Compact and the coordinated information system.

The bill has no impact on state revenues or state expenditures.

The bill provides an effective date of the same date that SB 358 or similar legislation takes effect. SB 358, the substantive bill authorizing Florida's participation in the Professional Counselors Licensure Compact, has an effective date contingent upon the enactment of the compact into law by 10 states.

The bill provides for the repeal of the public records and open meeting exemptions on October 2, 2027, unless reviewed and reenacted by the Legislature. It also provides statements of public necessity for the public records and public meetings exemptions as required by the State Constitution.

The bill creates new public records exemptions and public meeting exemptions; therefore, a two-thirds vote of the members present and voting in each house of the Legislature is required for final passage.

II. Present Situation:

Access to Public Records - Generally

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.² The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.³

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s.11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.⁴ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁵ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁶

² FLA. CONST. art. I, s. 24(a).

³ *Id.*

⁴ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁵ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁶ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of

Section 119.011(12), F.S., defines “public records” to include:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁷

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

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹⁴ Records designated as

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

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

⁸ Section 119.07(1)(a), F.S.

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

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

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

“confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁵ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁶

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁷ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁸ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.¹⁹

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law,”²⁰ or the “Sunshine Law,”²¹ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²² The board or commission must provide the public reasonable notice of such meetings.²³ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²⁴ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁵ Failure to abide by open meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.²⁶ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁷

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of each house of the Legislature.²⁸ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than

¹⁵ *Id.*

¹⁶ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁷ FLA. CONST., art. I, s. 24(b).

¹⁸ *Id.*

¹⁹ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

²⁰ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

²¹ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

²² Section 286.011(1)-(2), F.S.

²³ *Id.*

²⁴ Section 286.011(6), F.S.

²⁵ Section 286.011(2), F.S.

²⁶ Section 286.011(1), F.S.

²⁷ Section 286.011(3), F.S.

²⁸ FLA. CONST., art. I, s. 24(c).

necessary to accomplish the stated purpose of the exemption.²⁹ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³⁰

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act³¹ (the Act), prescribe a legislative review process for newly created or substantially amended³² public records or open meetings exemptions, with specified exceptions.³³ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.³⁴

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³⁵ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;³⁶
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;³⁷ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.³⁸

The Act also requires specified questions to be considered during the review process.³⁹ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

²⁹ *Id.*

³⁰ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

³¹ Section 119.15, F.S.

³² An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

³³ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

³⁴ Section 119.15(3), F.S.

³⁵ Section 119.15(6)(b), F.S.

³⁶ Section 119.15(6)(b)1., F.S.

³⁷ Section 119.15(6)(b)2., F.S.

³⁸ Section 119.15(6)(b)3., F.S.

³⁹ Section 119.15(6)(a), F.S. The specified questions are:

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

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.⁴⁰ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.⁴¹

Professional Counselors Licensure Compact

The Professional Counselors Licensure Compact (compact) provides a pathway for a licensed professional counselor who is licensed in his or her primary state of residence (the licensee's "home state") the ability to apply and be granted a privilege to practice professional counseling (equivalent to a license to practice) in another member state, both in-person and through telehealth.

The compact will become effective after 10 states enact the legislation for the compact. The counseling compact has passed and been signed into law in two states. On May 10, 2021, Georgia Governor Brian Kemp signed HB 395 and subsequently on May 18, 2021, Maryland Gov. Larry Hogan signed SB 571/HB 736.⁴² The compact has also been introduced this year in Tennessee (SB 1027 HB 0959), Nebraska (LB 554), Ohio (SB 204), and North Carolina (HB 791).⁴³

Data System

Article X of the compact creates a shared interstate database and reporting system (the data system) containing licensure, adverse action, and investigative information on all licensed professional counselors in member states.

Pursuant to Section 2 of Article X of the compact, and notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all licensees to whom the compact is applicable, as required by the rules of the commission, including all of the following:

- Identifying information.
- Licensure data.
- Adverse actions against a license or privilege to practice.
- Nonconfidential information related to alternative program participation.
- Any denial of application for licensure and the reason for such denial.
- Current significant investigative information.

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

⁴⁰ See generally s. 119.15, F.S.

⁴¹ Section 119.15(7), F.S.

⁴² Counseling Compact, *News*, available at <https://counselingcompact.org/news/> (last visited January 5, 2022).

⁴³ Counseling Compact, *Maps*, available at <https://counselingcompact.org/map/> (last visited January 5, 2022).

- Other information that may facilitate the administration of the compact, as determined by the rules of the commission.

Investigative information pertaining to a licensee in any member state may be made available only to other member states. The commission must promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license.

Member states reporting information to the data system may designate information that may not be shared with the public without the express permission of the reporting state.

Counseling Compact Commission

The Counseling Compact Commission (commission) is created in Article IX of the compact and serves as the administrative arm of the Compact and the member states. Each member state is entitled to one delegate appointed by each member state's licensing board who must be either a licensed professional counselor, a public member, or an administrator of the board. Each delegate has one vote on commission affairs.

The commission meets at least once per calendar year in a publicly noticed meeting. The compact gives the commission the authority to establish and elect an Executive Committee that may act on behalf of the commission, with the exception of rulemaking. The commission may also establish additional committees as necessary.

Under Section 3 of Article IX of the compact, the commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss any of the following:

- Noncompliance of a member state with its obligations under the compact.
- The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.
- Accusing any person of a crime or formally censuring any person.
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Disclosure of investigative records compiled for law enforcement purposes.
- Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or member state law.

If a meeting, or portion of a meeting, is closed, the commission's legal counsel or designee must certify that the meeting may be closed and must reference each relevant exempting provision.

The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

III. Effect of Proposed Changes:

Section 1 creates s. 491.018, F.S., to exempt from public inspection and copying requirements a mental health counselor's personal identifying information, other than the counselor's name, licensure status, or licensure number, obtained from the data system under the Professional Counselors Licensure Compact, as established in s. 491.017, F.S., and held by the DOH or the Board. This information is not exempt from public records requirements under the bill if the state originally reporting the information to the data system authorizes disclosure of such information by law.

The bill also exempts from open meeting requirements a closed meeting or any closed portion of a meeting of the commission or the executive committee of the commission. The exemption applies when the chair of the commission declares the specific reasons it is necessary to close the meeting or a portion thereof in a document that is a public record and held by the commission and announces at a public meeting that, in connection with the performance of the commission's duties, it is necessary that the commission discuss:

- Pending litigation to which the commission is presently a party before a court or administrative agency in accordance with s. 286.011(8).
- Negotiation of contracts under competitive solicitation as provided in s. 286.0113(2).
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- Records made exempt under this section.
- Matters specifically exempted from disclosure by federal or member state law.

The bill further exempts from public inspection and copying requirements the recordings, minutes, and records generated from closed meetings.

These exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides, as required by the State Constitution, a statement of public necessity which provides that protection of the specified information is required under the compact which the state must adopt in order to become a member state and a party to the compact. Without the public records exemption, the state would be unable to effectively and efficiently function as a member of the compact.

Additionally, this section provides a statement of public necessity, as required by the State Constitution, for protecting any closed meeting or any closed portion of a meeting of the

commission or the executive committee or other committees of the commission when the commission's legal counsel or designee has certified that the meeting may be closed because the commission or executive committee or other committees of the commission must discuss specified issues listed in the compact. These meetings or portions of meetings would be exempted from s. 286.011, F.S., and s. 24(b), Art. I. of the State Constitution. Without the public meeting exemption, the state will be prohibited from becoming a party to the Compact.

This section includes a statement of public necessity that the recordings, minutes, and records generated during an exempt meeting of the commission are exempt pursuant to s. 464.0096, F.S., and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. Release of such information would negate the public meeting exemption.

Section 3 provides an effective date of the same date that SB 358 or similar legislation takes effect. SB 358, the substantive bill authorizing Florida's participation in the Professional Counselors Licensure Compact, has an effective date contingent upon the enactment of the compact into law by 10 states.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records or open meetings requirements. This bill creates public records exemptions and a public meeting exemption; therefore, it requires a two-thirds vote.

Public Necessity Statement

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records or open meetings requirements to state with specificity the public necessity justifying the exemption. Section 2 includes a public necessity statement for both exemptions.

The public necessity statement for the public records exemption of certain personal identifying information states that:

Protection of such information is required under the Professional Counselors Licensure compact, which the state must adopt in order to

become a member state of the compact. Without the public records exemption, this state will be unable to effectively and efficiently implement and administer the compact.

Thus, the specific justification for denying public access to a counselor's personal identifying information (as specified in this bill) is to become an effective member state of the compact. However, it is unclear from the statement what the public purpose or "public necessity" for such membership would be. Thus, the public necessity statement appears insufficiently specific to justify the exemption.⁴⁴

The public necessity statement language justifying the exemption from open meeting requirements conflicts with the language of the meeting exemption in Section 1, as shown by the italicized language:

The Professional Counselors Licensure Compact requires the closure of any meeting, or any portion of a meeting, of the Counseling Compact Commission or the executive committee or other committees of the commission if the commission's legal counsel or designee has certified that the meeting may be closed because the commission or executive committee or other committees of the commission must discuss certain sensitive and confidential subject matters. In the absence of a public meeting exemption, this state would be prohibited from becoming a member state of the compact.

Thus, the Legislature should consider an amendment to conform this language.

Additionally, the public necessity statement justifies the closure of a meeting or portion thereof for the discussion of "certain sensitive and confidential subject matters." The bill contains five distinct "sensitive and confidential" matters. The public necessity statement does not appear specific enough to support the five diverse subject matters covered by the exemption.

Breadth of Exemption

Article I, section 24(c), of the State Constitution requires exemptions to the public records and open meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public records exemption for personal identifying information, other than the counselor's name, licensure status, or licensure number, which does not appear – subject to the concerns raised above - to be broader than necessary to accomplish its purpose as outlined in the public necessity statement.

The bill provides that a meeting or a portion of a meeting of the commission or the executive committee of the commission is exempt if the chair of the commission declares

⁴⁴ Cf. *Bryan v. State*, 753 So.2d 1244, 1251 (Fla. 2000) (finding public necessity statement supporting exemption for records identifying individuals involved in death penalty executions was sufficiently specific where the Legislature detailed that disclosure of this information would jeopardize the individual's safety and welfare by exposing them to potential harassment, intimidation, and harm).

the specific reasons it is necessary to close the meeting or a portion thereof in a document that is a public record and held by the commission and announces at a public meeting that, in connection with the performance of the commission's duties, it is necessary that the commission discuss:

- Pending litigation to which the commission is presently a party before a court or administrative agency in accordance with s. 286.011(8).
- Negotiation of contracts under competitive solicitation as provided in s. 286.0113(2).
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- Records made exempt under this section.
- Matters specifically exempted from disclosure by federal or member state law.

As stated above, the public necessity statement provides only that a meeting may be closed for discussion of "certain sensitive and confidential subject matters." The five enumerated exemptions carve out more territory than the currently drafted public necessity statement can support. Thus, the public meetings exemption appears to be broader than necessary to achieve the current stated purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will be subject to the cost, to the extent imposed, associated with the DOH making redactions in response to a public records request.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under the bill, a meeting of the commission or the executive committee of the commission may be closed if the chair of the commission declares the specific reasons it is necessary to close the meeting or a portion thereof in a document that is a public record and held by the commission and announces at a public meeting that, in connection with the performance of the commission's duties, it is necessary that the commission discuss any of the five enumerated exempt provisions. However, SB 358, to which this bill is linked, contains (i) a different process for the closing of an otherwise public meeting; and (ii) different exempt provisions upon which a meeting may be closed. SB 358 authorizes the commission or executive committee or other committees of the commission to convene in a closed, nonpublic meeting *if the commission or executive committee or other committees of the commission must discuss* any of the ten enumerated exemption provisions. It then provides that *if a meeting, or a portion of a meeting, is closed*, that the commission's legal counsel or designee must certify that the meeting may be closed and reference each relevant exemption provision. The ten exempt provisions⁴⁵ in SB 358 are overbroad, appear contrary to state law, or conflict with the exempt provisions under this bill. An amendment may be considered to align the processes for closing a meeting and the exempt meeting provisions in these two linked bills.

VIII. Statutes Affected:

This bill creates section 491.018 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 January 13, 2022:

The CS:

- Revises the exemption to open meetings in SB 590 to conform to constitutional and statutory requirements.
- Permits the commission to close a meeting by call of the chair, rather than by certification of the commission's legal counsel or designee.
 - Specifically, the amendment permits the commission to close a meeting or portion thereof if the chair declares the specific reasons it is necessary to close the

⁴⁵ The ten exemptions include discussion of any of the following: (1) Noncompliance of a member state with its obligations under the compact; (2) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures; (3) Current, threatened, or reasonably anticipated litigation; (4) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate; (5) Accusing any person of a crime or formally censuring any person; (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential; (7) Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy; (8) Disclosure of investigative records compiled for law enforcement purposes; (9) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; and (10) Matters specifically exempted from disclosure by federal or member state law.

meeting in a document that is a public record and held by the commission and announces at a public meeting that, in connection with the performance of the commission's duties, it is necessary that the commission discuss certain enumerated topics.

- Removes the term “other committees” to permit only the Counseling Compact Commission and the executive committee of the commission – both defined entities within the Compact’s substantive bill - as having the authority to hold a closed meeting.
- Removes five of the ten enumerated bases that trigger a closed meeting that are overbroad or otherwise conflict with state law.
- Revises the remaining bases to permit closure of a meeting when the commission will discuss:
 - Pending litigation.
 - Negotiation of contracts under competitive solicitation.
 - Disclosure of trade secrets.
 - The personal identifying information made exempt under subsection (1) of this bill.
 - Matters specifically exempted from disclosure by federal or member state law.

B. Amendments:

None.

By Senator Rodriguez

39-00846-22

2022590__

A bill to be entitled

An act relating to public records and meetings; creating s. 491.018, F.S.; providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling pursuant to the Professional Counselors Licensure Compact; authorizing the disclosure of such information under certain circumstances; providing an exemption from public meetings requirements for certain meetings or portions of certain meetings of the Counseling Compact Commission or committees of the commission; providing an exemption from public records requirements for recordings, minutes, and records generated during the closed portions of such meetings; providing for future legislative review and repeal of the exemptions; providing statements of public necessity; providing a contingent effective date.

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

Section 1. Section 491.018, Florida Statutes, is created to read:

491.018 Professional Counselors Licensure Compact; public records and meetings exemptions.-

(1) A counselor's personal identifying information, other than the counselor's name, licensure status, or licensure number, obtained from the data system, as described in article X

Page 1 of 5

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

39-00846-22

2022590__

of s. 491.017, and held by the department or the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless the state that originally reported the information to the data system authorizes the disclosure of such information by law. If disclosure is so authorized, information may be disclosed only to the extent authorized by law by the reporting state.

(2) (a) A meeting or a portion of a meeting of the Counseling Compact Commission, established in article IX of s. 491.017, or the executive committee or other committees of the commission is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution if the commission's legal counsel or designee has certified that the meeting may be closed because the commission or executive committee or other committees of the commission must discuss any of the following:

1. Noncompliance of a member state with its obligations under the compact.

2. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures.

3. Current, threatened, or reasonably anticipated litigation.

4. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.

5. Accusing any person of a crime or formally censuring any person.

6. Disclosure of trade secrets or commercial or financial

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59 information that is privileged or confidential.

60 7. Disclosure of information of a personal nature if
61 disclosure would constitute a clearly unwarranted invasion of
62 personal privacy.

63 8. Disclosure of investigative records compiled for law
64 enforcement purposes.

65 9. Disclosure of information related to any investigative
66 reports prepared by or on behalf of or for use of the commission
67 or other committee charged with responsibility of investigation
68 or determination of compliance issues pursuant to the compact.

69 10. Matters specifically exempted from disclosure by
70 federal or member state law.

71 (b) In keeping with the intent of the Professional
72 Counselors Licensure Compact, recordings, minutes, and records
73 generated during an exempt meeting or portion of such a meeting
74 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
75 Constitution.

76 (3) This section is subject to the Open Government Sunset
77 Review Act in accordance with s. 119.15 and shall stand repealed
78 on October 2, 2027, unless reviewed and saved from repeal
79 through reenactment by the Legislature.

80 Section 2. (1) The Legislature finds that it is a public
81 necessity that a counselor's personal identifying information,
82 other than the counselor's name, licensure status, or licensure
83 number, obtained from the data system, as described in article X
84 of s. 491.017, Florida Statutes, and held by the Department of
85 Health or the Board of Clinical Social Work, Marriage and Family
86 Therapy, and Mental Health Counseling be made exempt from s.
87 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State

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39-00846-22

2022590__

88 Constitution. Protection of such information is required under
89 the Professional Counselors Licensure Compact, which the state
90 must adopt in order to become a member state of the compact.
91 Without the public records exemption, this state will be unable
92 to effectively and efficiently implement and administer the
93 compact.

94 (2) (a) The Legislature finds that it is a public necessity
95 that any meeting of the Counseling Compact Commission or the
96 executive committee or other committees of the commission held
97 as provided in article IX of s. 491.017, Florida Statutes, in
98 which matters specifically exempted from disclosure by federal
99 or state law are discussed be made exempt from s. 286.011,
100 Florida Statutes, and s. 24(b), Art. I of the State
101 Constitution.

102 (b) The Professional Counselors Licensure Compact requires
103 the closure of any meeting, or any portion of a meeting, of the
104 Counseling Compact Commission or the executive committee or
105 other committees of the commission if the commission's legal
106 counsel or designee has certified that the meeting may be closed
107 because the commission or executive committee or other
108 committees of the commission must discuss certain sensitive and
109 confidential subject matters. In the absence of a public meeting
110 exemption, this state would be prohibited from becoming a member
111 state of the compact.

112 (3) The Legislature also finds that it is a public
113 necessity that the recordings, minutes, and records generated
114 during a meeting that is exempt pursuant to article IX of s.
115 491.017, Florida Statutes, be made exempt from s. 119.07(1),
116 Florida Statutes, and s. 24(a), Art. I of the State

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2022590__

117 Constitution. Release of such information would negate the
118 public meetings exemption. As such, the Legislature finds that
119 the public records exemption is a public necessity.

120 Section 3. This act shall take effect on the same date that
121 SB 358 or similar legislation takes effect, if such legislation
122 is adopted in the same legislative session or an extension
123 thereof and becomes a law.

The Florida Senate
APPEARANCE RECORD

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590

Bill Number or Topic

Meeting Date

1/13/22

Gov Oversight

Committee

Amendment Barcode (if applicable)

Name

Corinne Nixon

Phone

Address

511 N. Adams

Email

corinnenixon@gmail.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

Florida Mental Health Counselors Ass.

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

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

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

S-001 (08/10/2021)



239228

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/13/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 40 - 69
and insert:
491.017, or the executive committee of the commission is exempt
from s. 286.011 and s. 24(b), Art. I of the State Constitution
if the chair of the commission declares the specific reasons it
is necessary to close the meeting or a portion thereof in a
document that is a public record and held by the commission and
announces at a public meeting that, in connection with the



239228

11 performance of the commission's duties, it is necessary that the
12 commission discuss:

13 1. Pending litigation to which the commission is presently
14 a party before a court or administrative agency in accordance
15 with s. 286.011(8).

16 2. Negotiation of contracts under competitive solicitation
17 as provided in s. 286.0113(2).

18 3. Disclosure of trade secrets or commercial or financial
19 information that is privileged or confidential.

20 4. Records made exempt under this section.

21 5. Matters specifically exempted from disclosure by

22

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

24 And the title is amended as follows:

25 Delete line 13

26 and insert:

27 Commission or its executive committee; providing

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 954

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Brodeur

SUBJECT: Energy

DATE: January 14, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

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

I. Summary:

CS/SB 954 revises the vehicle procurement requirements for the state purchasing plan. Specifically, the bill requires vehicles of a given use class be selected for procurement based on the lowest lifetime ownership costs over five years, rather than based on the greatest fuel efficiency available. The bill requires the Department of Management Services (DMS) to annually rank vehicles based on the lowest cost of ownership over five years and publish the rankings on its website. The bill requires a sedan or light truck be ranked in the top five of the DMS’s rankings, unless an exception is approved by the Secretary of Management Services. The bill exempts law enforcement vehicles from the top-five ranking requirements.

The bill also removes the current law requirements placed on state agencies to use ethanol and biodiesel fuel when available and on certain entities to procure biofuels for fleet when possible.

The bill requires the DMS, by July 1, 2023, to make recommendations regarding the procurement of electric vehicles and the best practices for integrating these vehicles into existing fleets.

The bill expands the definition of single-trade inspection for purposes of building code inspection services to include inspections of the installation of electric vehicle charging stations and solar energy and energy storage installations or alterations.

The impact on state revenues and expenditures is unknown at this time. The DMS will likely incur costs in ranking vehicles from the purchasing plan. The bill is not expected to impact local government revenues or expenditures.

The bill takes effect July 1, 2022.

II. Present Situation:

Procurement of Commodities or Contractual Services

Chapter 287, F.S., specifies the procedures for the procurement of commodities or contractual services. The Department of Management Services (DMS) oversees state purchasing activity, including professional and contractual services, as well as commodities needed to support agency activities.¹ The DMS establishes purchasing agreements and procures state term contracts for commodities and contractual services, and establishes uniform procurement policies, rules, and procedures.² The DMS negotiates contracts and purchasing agreements that are intended to leverage the state's buying power. The DMS is directed to consider the life-cycle cost of commodities when purchased by the state.³ Section 287.83, F.S., authorizes the DMS to establish energy-efficiency standards for major energy-consuming products.

State agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Single source contracts,⁴ used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,⁵ used when an agency determines that standard services or goods will meet needs, wide competition is available and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals,⁶ used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,⁷ used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

For procurement of commodities or contractual services in excess of \$35,000, agencies must use a competitive solicitation process.⁸ However, specified contractual services and commodities are not subject to competitive solicitation requirements.⁹

¹ Sections 287.032 and 287.042, F.S.

² *Id.*; see Fla. Admin. Code, ch. 60A-1002.

³ Section 287.083(1), F.S.

⁴ Section 287.057(3)(c), F.S.

⁵ Section 287.057(1)(a), F.S.

⁶ Section 287.057(1)(b), F.S.

⁷ Section 287.057(1)(c), F.S.

⁸ Section 287.057(1), F.S.

⁹ Section 287.057(3)(e), F.S.

Climate-friendly Public Business

Section 286.29, F.S., requires state agencies:

- To consult with the “Florida Climate-Friendly Preferred Products List,”¹⁰ in procuring products from state term contracts.¹¹ If the price is comparable, then they shall procure such products.¹²
- To contract only with hotels or conference facilities for meetings and conferences as recognized by the Green Lodging Program.^{13,14}
- To ensure vehicles meet minimum maintenance schedules shown to reduce fuel consumption and report such compliance to the DMS.¹⁵ When procuring new vehicles, to define the intended purpose for such vehicle which will then be chosen based on greatest fuel efficiency available for a given use class, when fuel economy data is available.¹⁶
- To use ethanol and biodiesel blended fuels when available.¹⁷
- That administer central fueling operations to procure biofuels for fleet, to the greatest extent practicable.¹⁸

Florida Building Codes

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act” (Building Code). The purpose and intent of the Building Code is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair or demolition of public or private buildings, structures, or facilities in Florida. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.¹⁹

Contractors and property owners are permitted to hire licensed Building Code administrators, engineers, and architects, referred to as private providers, to review building plans, perform

¹⁰ The DMS keeps a Florida Climate-Friendly Preferred Products List at https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/florida_climate_friendly_preferred_products_list, (last visited December 8, 2021).

¹¹ Section 286.29(1), F.S.

¹² *Id.*

¹³ The Florida Department of Environmental Protection designates and recognizes lodging facilities that make a commitment to conserve and protect Florida’s natural resources through the Florida Green Lodging Program. To become designated, facilities must conduct a thorough property assessment and implement a specified number of environmental practices in five areas of sustainable operations: (1) waste reduction, reuse and recycling; (2) water conservation; (3) energy efficiency; (4) indoor air quality; and (5) communication and education with customers, employees, and the public. See Green Lodging, <https://floridadep.gov/osi/green-lodging/content/about-florida-green-lodging-program> (Last visited December 10, 2021).

¹⁴ Section 286.29(2), F.S.

¹⁵ Section 286.29(3), F.S., requires state agencies to report compliance to the DMS through the Equipment Management Information System database. The DMS is implementing a new Statewide Fleet Management Information System that can be used to manage cost information and reports to ensure the effective and efficient use, operation, maintenance, repair, and replacement of motor vehicles, watercraft, and aircraft. See Fleet Management Information System, https://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance/fleet_management/fleet_management_information_system (Last visited December 7, 2021).

¹⁶ *Id.*

¹⁷ Section 286.29(5), F.S.

¹⁸ *Id.*

¹⁹ Section 553.72(1), F.S.

building inspections, and prepare certificates of completion.²⁰ A private provider and any duly authorized representative may only perform building code inspection services that are set forth in statute, including single-trade inspections. A “single-trade inspection” is defined:

any inspection focused on a single construction trade, such as plumbing, mechanical, or electrical. The term includes, but is not limited to, inspections of door or window replacements; fences and block walls more than 6 feet high from the top of the wall to the bottom of the footing; stucco or plastering; reroofing with no structural alteration; HVAC replacements; ductwork or fan replacements; alteration or installation of wiring, lighting, and service panels; water heater changeouts; sink replacements; and repiping.²¹

A private provider cannot provide building code inspection services to any building designed or constructed by the private provider or the private provider’s firm.²² A fee owner or the fee owner’s contractor using a private provider to provide building code inspection services must notify the local building official in writing that a private provider has been contracted to perform the required inspections of construction, including single-trade inspections.²³ If the fee owner or the fee owner’s contractor makes any changes to the listed private providers or the services to be provided by such private providers the fee owner’s contractors must update the notice to reflect such changes.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 286.29, F.S., to require vehicles of a given use class be selected for procurement based on the lowest lifetime ownership costs over five years, rather than based on the greatest fuel efficiency available when fuel economy data are available. The bill requires the Department of Management Services (DMS) to annually rank vehicles based on the lowest cost of ownership over five years and publish the rankings on its website. A sedan or light truck purchased under the state’s purchasing plan must be ranked in the top five of the DMS’s rankings. However, the Secretary of Management Services may approve an exception to this “top-five ranking” requirement. Law enforcement vehicles are exempt from the “top-five ranking” requirement.

The section deletes the current law requirements on state agencies to use ethanol and biodiesel fuel when available and on certain entities to procure biofuels for fleet when possible.

Section 2 requires the Department of Management Services (DMS) to make recommendations before July 1, 2023, to state agencies regarding the procurement of electric vehicles and the best practices for integrating those vehicles into existing fleets.

²⁰ Section 553.791, F.S.

²¹ *Id.*

²² *Id.*

²³ Section 553.791(4), F.S.

²⁴ *Id.*

Section 3 amends s. 553.791, F.S., to expand the definition of “single-trade inspection” to include the inspection of an installation of electric vehicle charging stations and solar energy and energy storage installations or alterations.

Section 4 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take 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:

None.

C. Government Sector Impact:

The impact on state revenues and expenditures is unknown at this time. The DMS will likely incur costs in ranking the vehicles in the purchasing plan. The bill is not expected to impact local government revenues or expenditures.

VI. Technical Deficiencies:

On lines 59-60, the Legislature should clarify that only the Secretary of Management Services is authorized to grant the exceptions to the top-five ranking requirements.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 286.29 and 553.791 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 January 13, 2022:

The amendment does the following:

- Specifies that the Department of Management Services (DMS) must procure vehicles based on the lowest lifetime ownership cost over five years.
- Requires the DMS to rank their vehicles annually based on the lowest lifetime ownership cost of five years, and then publish the rankings on its website.
- Requires that any vehicle purchased under the state's purchasing plan that is a sedan or light truck be ranked in the top five of the DMS's rankings.
 - Allows for exceptions to be made if approved by the secretary of the DMS and the secretary states the reason for the exemption.
- Exempts law enforcement from the top-five ranking requirement.

- B. **Amendments:**

None.

By Senator Brodeur

9-00904A-22

2022954__

1 A bill to be entitled
 2 An act relating to energy; amending s. 286.29, F.S.;
 3 revising the selection criteria for purchasing or
 4 leasing vehicles for state agency, college, or
 5 university or certain local government fleets;
 6 removing a provision requiring the use and procurement
 7 of ethanol and biodiesel fuels; requiring the
 8 Department of Management Services, before a specified
 9 date, to make recommendations to state agencies and
 10 local governments relating to the procurement and
 11 integration of electric vehicles; amending s. 553.791,
 12 F.S.; revising the definition of the term "single-
 13 trade inspection"; providing an effective date.

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

16
 17 Section 1. Subsections (4) and (5) of section 286.29,
 18 Florida Statutes, are amended to read:

19 286.29 Climate-friendly public business.—The Legislature
 20 recognizes the importance of leadership by state government in
 21 the area of energy efficiency and in reducing the greenhouse gas
 22 emissions of state government operations. The following shall
 23 pertain to all state agencies when conducting public business:

24 (4) When procuring new vehicles, all state agencies, state
 25 universities, community colleges, and local governments that
 26 purchase vehicles under a state purchasing plan shall first
 27 define the intended purpose for the vehicle and determine which
 28 of the following use classes for which the vehicle is being
 29 procured:

Page 1 of 3

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

9-00904A-22

2022954__

30 (a) State business travel, designated operator;
 31 (b) State business travel, pool operators;
 32 (c) Construction, agricultural, or maintenance work;
 33 (d) Conveyance of passengers;
 34 (e) Conveyance of building or maintenance materials and
 35 supplies;
 36 (f) Off-road vehicle, motorcycle, or all-terrain vehicle;
 37 (g) Emergency response; or
 38 (h) Other.

39
 40 Vehicles described in paragraphs (a) through (h), when being
 41 processed for purchase or leasing agreements, must be selected
 42 based on the lowest lifetime ownership costs, including costs
 43 for fuel, operations, and maintenance, for the greatest fuel
 44 efficiency available for a given use class when fuel economy
 45 data are available. Exceptions may be made for individual
 46 vehicles in paragraph (g) when accompanied, during the
 47 procurement process, by documentation indicating that the
 48 operator or operators will exclusively be emergency first
 49 responders or have special documented need for exceptional
 50 vehicle performance characteristics. Any request for an
 51 exception must be approved by the purchasing agency head and any
 52 exceptional performance characteristics denoted as a part of the
 53 procurement process prior to purchase.

54 ~~(5) All state agencies shall use ethanol and biodiesel~~
 55 ~~blended fuels when available. State agencies administering~~
 56 ~~central fueling operations for state-owned vehicles shall~~
 57 ~~procure biofuels for fleet needs to the greatest extent~~
 58 ~~practicable.~~

Page 2 of 3

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9-00904A-22

2022954__

59 Section 2. Before July 1, 2023, the Department of
60 Management Services shall make recommendations to state
61 agencies, including state colleges and universities, and local
62 governments regarding the procurement of electric vehicles and
63 best practices for integrating such vehicles into existing
64 fleets.

65 Section 3. Paragraph (p) of subsection (1) of section
66 553.791, Florida Statutes, is amended to read:

67 553.791 Alternative plans review and inspection.—

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

69 (p) "Single-trade inspection" means any inspection focused
70 on a single construction trade, such as plumbing, mechanical, or
71 electrical. The term includes, but is not limited to,
72 inspections of door or window replacements; fences and block
73 walls more than 6 feet high from the top of the wall to the
74 bottom of the footing; stucco or plastering; reroofing with no
75 structural alteration; HVAC replacements; installation of
76 electric vehicle charging stations; solar energy and energy
77 storage installations or alterations; ductwork or fan
78 replacements; alteration or installation of wiring, lighting,
79 and service panels; water heater changeouts; sink replacements;
80 and repiping.

81 Section 4. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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1/13/22 Meeting Date
Gov. O + A Committee

SB 954 Bill Number or Topic
Amendment Barcode (if applicable)

Name META CASER Phone 850-228-5900

Address 3740 RAVINE DR Street Email metaorleaus@gmail.com

TALL City FL State 32312 Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

FLORIDA LEAGUE OF WOMEN VOTERS

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 954

1/13/2022

Meeting Date

Bill Number or Topic

Gov Oversight & Accountability

Committee

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

Amendment Barcode (if applicable)

Name Crystal Stickle

Phone 850 445 4544

Address 1594 Marion Ave

Email crystal@magnoliaadvocacyllc.com

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TLH

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32303

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Solar Energy Industries Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB954

1/18/22

Meeting Date

Bill Number or Topic

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

2 ADVQUIGHT

Committee

4 accountability

Amendment Barcode (if applicable)

Name DIANE CARR

Phone 850.210.4024

Address w/ Johnson & BANTON

Email diane@teemjib.com

Street

representing

The Alliance for Automotive INNOVATION

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

THE ALLIANCE FOR AUTOMOTIVE INNOVATION

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

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

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

S-001 (08/10/2021)

1/13/22

Meeting Date

GOA 37 SOB

Committee

The Florida Senate

APPEARANCE RECORD

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

954

Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID CULLEN

Phone 941-323-2404

Address 9830 ELM ST

Email cullenasea@gmail.com

Street

OCEAN CITY

MD

21842

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SIERRA CLUB FLORIDA

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

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

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

S-001 (08/10/2021)

Redig, Tamra

From: McVaney, Joe
Sent: Thursday, January 13, 2022 11:38 AM
To: Redig, Tamra
Subject: FW: 954

Chair Brandes accepts this email as a request from Senator Brodeur to present SB 954 in Governmental Oversight and Accountability pursuant to Rule 2.11(1)..

-----Original Message-----

From: Vogan, Robbie <Vogan.Robbie@flsenate.gov>
Sent: Thursday, January 13, 2022 11:15 AM
To: McVaney, Joe <McVaney.Joe@flsenate.gov>; Brandes, Jeff <BRANDES.JEFF@flsenate.gov>
Subject: 954

Senator Brandes will be presenting sb 954 this morning.

Robbie Vogan



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Committee on Government Oversight and Accountability

Subject: Committee Agenda Request

Date: December 1, 2021

I respectfully request that **Senate Bill 954**, relating to **Energy**, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9



405028

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/13/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 42 - 53
and insert:
based on the lowest lifetime ownership costs over 5 years as
determined by the Department of Management Services. On an
annual basis, the department shall rank vehicles based on the
lowest cost of ownership over 5 years using available industry
data and publish the rankings on the department's website. Any
vehicle that is a sedan or a light truck and is purchased under



11 a state purchasing plan must be ranked in the top five of the
12 department's rankings unless an exception is approved by the
13 secretary of the department and the secretary states the reason
14 for the exception. Law enforcement vehicles are exempt from the
15 top-five ranking requirement for the greatest fuel efficiency
16 available for a given use class when fuel economy data are
17 available. Exceptions may be made for individual vehicles in
18 paragraph (g) when accompanied, during the procurement process,
19 by documentation indicating that the operator or operators will
20 exclusively be emergency first responders or have special
21 documented need for exceptional vehicle performance
22 characteristics. Any request for an exception must be approved
23 by the purchasing agency head and any exceptional performance
24 characteristics denoted as a part of the procurement process
25 prior to purchase.

26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Between lines 5 and 6

30 insert:

31 requiring the Department of Management Services, using
32 available industry data, to rank certain vehicles
33 based on the lowest lifetime ownership costs over a
34 specified number of years, rather than fuel
35 efficiency, and to publish the rankings to the
36 department's website; requiring that certain vehicles
37 purchased under a state purchasing plan be ranked at a
38 specified level unless an exception is approved by the
39 department secretary; exempting law enforcement



405028

40

vehicles from the ranking requirement;

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7022

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: State Group Health Insurance Program

DATE: January 14, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Limonés-Borja</u>	<u>McVaney</u>	_____	GO submitted as Comm. Bill/Fav

I. Summary:

SPB 7022 makes various changes to the State Group Insurance Program (SGI Program) administered by the Department of Management Services (DMS) to provide health insurance benefits to state employees. Specifically, the bill requires the DMS to provide an online education program relating to all health insurance plans offered under the SGI Program, and to contract with the State Board Administration to provide at least two hours of tax and financial education relating to retirement and health care planning to enrollees. The bill establishes a minimum monthly state contribution into a member's health savings account whose annual rate of pay is less than \$38,000. The bill expands the preventative care benefits for high deductible health plans offered in the SGI Program.

The impact on state revenues and expenditures is unknown at this time. The DMS will incur costs implementing the online education program and the tax and financial education programs. The State Employee Health Insurance Trust Fund will incur higher costs associated with higher contributions into the health savings accounts as well higher costs associated with the trust fund covering additional preventative care benefits for participants in the high deductible health plans. However, the purpose of the bill is to encourage higher participation in the high deductible health insurance plans which have historically experienced lower claims, potentially resulting in overall savings for the SGI Program.

The bill takes effect July 1, 2022.

II. Present Situation:

State Group Insurance Program

Overview

The State Group Insurance Program (SGI Program) is created by s. 110.123, F.S., and is administered by the Division of State Group Insurance (DSGI) within the Department of Management Services (DMS). The SGI Program is an optional benefit for all state employees

including all state agencies, state universities, the court system, and the Legislature. The SGI Program health, life, dental, vision, disability, and other supplemental insurance benefits.

State Health Insurance Plans

The SGI Program provides four options for employees and retirees to choose as their health plan:

- The standard Preferred Provider Organization (PPO) plan, administered by Florida Blue.
 - This plan allows enrollees to receive care from any doctor or health care provider, although when using the PPO the cost is lower.¹
 - In this plan enrollees have a deductible they must meet before the plan pays towards the cost of their healthcare services, except for most preventive care services.²
- The high deductible PPO plan, administered by Florida Blue.
 - This plan has a higher deductible, and once you meet the deductible enrollees pay coinsurance on the health care services they receive.³
 - This plan comes with a health savings account (HSA).
- The standard health maintenance organization (HMO) plans.⁴
 - This plan has no deductible, enrollees pay a copayment once they receive care from network providers.⁵
- The high deductible HMO plans.⁶
 - This plan has a higher deductible, and once you meet the deductible enrollees pay coinsurance on the health care services they receive.⁷

Pharmacy Benefit

The SGI Program also has a pharmacy benefit for members of the plan. The SGI Program covers all federal legend drugs (open formulary) for covered medical conditions, and employs very limited utilization review and clinical review for traditional or specialty prescription drugs. The DMS contracts with CVS/Caremark, a pharmacy benefits manager, to administer the Prescription Drug Plan.⁸

Health Savings Accounts

A health savings account (HSA) is an account associated with a high deductible health plan (HDHP) that allows the participant to use pretax dollars to pay a portion of the cost for eligible medical, prescription, dental or vision care services not covered by the insurance plan.⁹ To open

¹ myBenefits, Health Insurance Plans, https://www.mybenefits.myflorida.com/health/health_insurance_plans (last visited January 9, 2022).

² *Id.*

³ *Id.*

⁴ These are provided by Aetna, AvMed, Capital Health Plan, and UnitedHealthcare. One of these HMO plans is offered in each county in the State of Florida.

⁵ *See* Supra note 1.

⁶ *See* Supra note 4.

⁷ *Id.*

⁸ myBenefits, Prescription Drug Plan, https://www.mybenefits.myflorida.com/health/health_insurance_plans/prescription_drug_plan (last viewed January 6, 2022).

⁹ myBenefits, Health Savings Account, https://www.mybenefits.myflorida.com/health/savings_and_spending_accounts/health_savings_account (last viewed January 9, 2022).

up an HSA, an eligible employee must first enroll into a HDHP.¹⁰ Once enrolled online into a HDHP, People First will automatically open an HSA.¹¹ The state contributes pretax money into the employee's HSA each month to pay for eligible health expenses.¹² For fiscal year 2021-2022, the state contributes \$41.66 monthly for a member electing single coverage, and \$83.33 monthly for a member electing family coverage.¹³ Any unused funds in the HSA carry over each year. The funds in a member's HSA remain even after the member terminates employment with the state.¹⁴

Eligible Employees

The SGI Program is open to the following individuals:

- All state officers;
- All state employees paid from "salaries and benefits" appropriation categories, regardless of the number of hours worked;
- Retired state officers and state employees;
- Surviving spouses of deceased state officers and state employees;
- Certain terminated state officers and state employees; and
- Certain state employees paid from "other-personal-services" (OPS) appropriation categories.

For OPS employees hired after April 1, 2013, to be eligible to participate in the health insurance program, the employee must:¹⁵

- Be reasonably expected to work an average of at least 30 hours per week; and
- Have worked an average of at least 30 hours per week during the person's measurement period (which is 12 consecutive months¹⁶ of employment).

State Employee Health Insurance Program

Health Insurance Premiums and Revenues

The health insurance benefit for active employees has premium rates for single, spouse program,¹⁷ or family coverage regardless of plan selection. These premiums cover both medical and pharmacy claims. For Fiscal Year 2022-2023, the SGI Program revenue is estimated to be roughly \$2.9 billion.¹⁸ The state will contribute \$2.2 billion, active employees will contribute \$170 million, retirees and Consolidated Omnibus Budget Reconciliation Act (COBRA) participants will contribute \$240 million from premiums, and lastly there will be an additional \$260 million from other revenue.¹⁹

¹⁰ myBenefits, Savings and Spending Accounts, https://www.mybenefits.myflorida.com/health/savings_and_spending_accounts (last viewed January 9, 2022).

¹¹ *Id.*

¹² *Id.*

¹³ Section 110.123(12)(a)1., F.S.

¹⁴ *See Supra* note 9.

¹⁵ Section 110.123(2)(c)2., F.S.

¹⁶ Section 110.123(13)(d), F.S.

¹⁷ The Spouse Program provides discounted rates for family coverage when both spouses work for the state.

¹⁸ State Employee's Group Health Self-Insurance Trust Fund, Report on Financial Outlook, For the Fiscal Years Ending June 30, 2021 through June 30, 2026, <http://edr.state.fl.us/content/conferences/healthinsurance/HealthInsuranceOutlook.pdf> (last visited January 7, 2022).

¹⁹ *Id.*

State Employee Health Insurance (Medical Claims)

The DMS provides medical services to health plan members through a self-insured PPO, self-insured HMO plans, and a fully-insured HMO plan. Under current contracts, a single provider (Florida Blue) administers the statewide PPO plan.

Three providers (Aetna, AvMed, and United Health Care) administer the self-insured HMO plans providing services in 60 counties combined. Capital Health Plan is a fully-insured HMO plan providing services in 7 counties. The current HMO contracts were awarded on a county-by-county basis with service based on the county in which the member works or resides.

Based on information provided by the DSGI, the average costs per member for each plan are noted in the table below for Plan Year 2020.

Plan Year 2020	
Plan Type	Cost Per Member
Standard HMO (Self-Insured)	\$6,768.68
Standard HMO (Fully-Insured)*	\$6,618.85
Standard PPO (Self-Insured)	\$7,156.00
HDHP HMO (Self-Insured)	\$2,706.32
HDHP HMO (Fully-Insured)*	\$5,716.03
HDHP PPO (Self-Insured)	\$3,056.30

Enrollment

For FY 2020-21, the final enrollment reflected 175,046 subscribers and 187,244 dependents, totaling 362,290 covered lives.²⁰ Approximately 47.1% of subscribers were enrolled in PPO plans, 52.3% were enrolled in HMO plans, and 0.6% were enrolled in a Medicare Advantage Prescription Drug plan.²¹ Subscriber enrollment in individual coverage was 47.8%, and 52.2% were enrolled in family coverage, which had an average size of 3.05 members.²²

Expansion of Preventative Care Benefits

In 2019, President Trump issued Executive Order 13877, Improving Price & Quality Transparency in American Healthcare to Put Patients First.²³ The Executive Order requested the Treasury Department and the Internal Revenue Service (IRS) to issue guidance on how to expand the ability of patients to select HDHPs that can be used alongside HSAs, and that cover low-cost preventative care, before the deductible, that helps maintain the health status for individuals with chronic conditions. Following the Executive Order, the Treasury Department and the IRS issued Notice 2019-45.²⁴ Under section 223(c)(2)(A), a HDHP may not provide

²⁰ *Id.*

²¹ *Id.* at p. 1.

²² *Id.*

²³ See Executive Order 13877, <https://www.federalregister.gov/documents/2019/06/27/2019-13945/improving-price-and-quality-transparency-in-american-healthcare-to-put-patients-first>.

²⁴ See Internal Revenue Service Notice 2019-45, <https://www.irs.gov/pub/irs-drop/n-19-45.pdf>.

benefits for any year until the yearly minimum deductible is met, however section 223(c)(2)(C), allows HDHPs to provide preventative care benefits without the annual deductible being met.

The IRS and Treasury Department are aware of the cost barriers for care that have resulted in some individuals who are diagnosed with certain chronic conditions failing to see or utilize effective necessary care that would prevent the exacerbation of the chronic condition. In an effort to address this, the IRS and Treasury Department, in consultation with the Department of Health and Human Services, have determined that certain medical care services received and items purchased, including prescription drugs, for certain chronic conditions should be classified as preventative care for persons with those chronic conditions.

In determining that these particular medical services and items can be classified as preventative care with respect to an individual with the relevant chronic condition, the IRS and Treasury Department considered the following:

- The service or item is low cost;
- There is medical evidence supporting high cost efficiency of preventing exacerbation of the chronic condition or the development of a secondary condition; and
- There is clinical evidence proving a strong likelihood that preventing the exacerbation of the chronic condition or the development of a secondary condition avoids significantly higher cost treatments.

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., to require the DMS to provide an online education program with impartial and balanced information regarding the plan choices in the state group insurance program. Section 1 requires the department to contract with the State Board Administration and its financial advisors to provide at least two hours per plan year of tax and financial education relating to retirement and health care planning, as an elective benefit at no cost to the enrollee.

Section 1 sets a minimum monthly employer contribution into the HSAs for members whose annual rate of pay is \$38,000 or less, beginning plan year 2023 and thereafter. The state's minimum monthly contribution from the trust fund into a member's HSA is \$55 for an employee with individual coverage and \$110 for an employee with family coverage.

Section 1 establishes new preventative care benefits to be covered by HDHPs in the SGI Program prior to the member meeting the yearly deductible. The following services and items²⁵ when prescribed to treat an individual diagnosed with listed chronic conditions will be covered as preventative care:

²⁵ *Id.*

Preventive Care for Specified Conditions	For Individuals Diagnosed with
Angiotensin Converting Enzyme (ACE) inhibitors	Congestive heart failure, diabetes, and/or coronary artery disease
Anti-resorptive therapy	Osteoporosis and/or osteopenia
Beta-blockers	Congestive heart failure and/or coronary artery disease
Blood pressure monitor	Hypertension
Inhaled corticosteroids	Asthma
Insulin and other glucose lowering agents	Diabetes
Retinopathy screening	Diabetes
Peak flow meter	Asthma
Glucometer	Diabetes
Hemoglobin A1c testing	Diabetes
International Normalized Ratio (INR) testing	Liver disease and/or bleeding disorders
Low-density Lipoprotein (LDL) testing	Heart disease
Selective Serotonin Reuptake Inhibitors (SSRIs)	Depression
Statins	Heart disease and/or diabetes

Section 2 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take 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:

None.

C. Government Sector Impact:

The fiscal impact on the government sector is unknown at this time. However, the DMS will incur costs implementing the online education program and the tax and financial education programs. The State Employee Health Insurance Trust Fund will incur higher costs associated with higher contributions into the HSAs as well as covering additional preventative care benefits for participants in the HDHPs. However, the purpose of the bill is to encourage higher participation in the HDHPs which have historically experienced lower claims, potentially resulting in overall savings for the SGI Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 110.123 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-01869-22

20227022pb

A bill to be entitled

An act relating to the state group health insurance program; amending s. 110.123, F.S.; requiring the Department of Management Services to provide an online education component relating to all health insurance plans in the State Group Insurance Program; requiring the department to contract with the State Board of Administration to provide retirement and health insurance planning education to members of the state group insurance program; setting a minimum monthly employer contribution to health savings accounts for certain employees; establishing new preventive care benefits to be covered by high deductible health insurance plans in the state group insurance program without the member meeting the required deductible, beginning with a specified plan year; providing an effective date.

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

Section 1. Paragraph (a) of subsection (12) of section 110.123, Florida Statutes, is amended, and paragraphs (j) and (k) of subsection (5) and subsection (14) are added to that section, to read:

110.123 State group insurance program.—

(5) DEPARTMENT POWERS AND DUTIES.—The department is responsible for the administration of the state group insurance program. The department shall initiate and supervise the program as established by this section and shall adopt such rules as are

Page 1 of 4

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

585-01869-22

20227022pb

necessary to perform its responsibilities. To implement this program, the department shall, with prior approval by the Legislature:

(j) Provide to employees eligible to participate in the state group insurance program an online education component with impartial and balanced information about plan choices, including high deductible health plans and associated health savings accounts.

(k) Contract with the State Board of Administration and its financial advisors to provide, as an elective benefit at no cost to the enrollees, at least 2 hours per plan year of tax and financial education relating to retirement and health care planning.

Final decisions concerning enrollment, the existence of coverage, or covered benefits under the state group insurance program shall not be delegated or deemed to have been delegated by the department.

(12) HEALTH SAVINGS ACCOUNTS.—The department is authorized to establish health savings accounts for full-time and part-time state employees in association with a health insurance plan option authorized by the Legislature and conforming to the requirements and limitations of federal provisions relating to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(a) A member participating in this health insurance plan option is eligible to:

1. Receive an employer contribution into the employee's health savings account from the State Employees Health Insurance

Page 2 of 4

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585-01869-22

20227022pb

59 Trust Fund in an amount to be determined by the Legislature. A
 60 member is not eligible for an employer contribution upon
 61 termination of employment. For the 2013-2014 fiscal year, the
 62 state's monthly contribution for employees having individual
 63 coverage shall be \$41.66 and the monthly contribution for
 64 employees having family coverage shall be \$83.33. For the 2014-
 65 2015 fiscal year and thereafter, the state's contribution from
 66 the trust fund into the member's health savings account shall be
 67 set in the annual General Appropriations Act. However, in the
 68 2023 plan year and thereafter, for a member whose annual rate of
 69 pay is \$38,000 or less, the state's monthly contribution from
 70 the trust fund into a member's health savings account shall be
 71 no less than \$55 for an employee having individual coverage and
 72 \$110 for an employee having family coverage.

73 2. Deposit the member's own funds into a health savings
 74 account.

75 (14) Beginning with the 2023 plan year, a high deductible
 76 health plan offered under the state group insurance program must
 77 provide coverage for preventive care benefits relating to
 78 specific chronic conditions before the member fully meets the
 79 deductible otherwise required for coverage by the plan. For
 80 purposes of this subsection, the following services and items,
 81 when prescribed to treat diagnoses of specified chronic
 82 conditions, will be covered as preventive care:

83 (a) Angiotensin-converting enzyme inhibitors for a member
 84 diagnosed with congestive heart failure, diabetes, or coronary
 85 artery disease.

86 (b) Anti-resorptive therapy for a member diagnosed with
 87 osteoporosis or osteopenia.

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

585-01869-22

20227022pb

88 (c) Beta-blockers for a member diagnosed with congestive
 89 heart failure or coronary artery disease.

90 (d) Blood pressure monitors for a member diagnosed with
 91 hypertension.

92 (e) Inhaled corticosteroids and peak flow meters for a
 93 member diagnosed with asthma.

94 (f) Insulin, other glucose-lowering agents, retinopathy
 95 screening, glucometers, and hemoglobin A1C testing for a member
 96 diagnosed with diabetes.

97 (g) International normalized ratio testing for a member
 98 diagnosed with liver disease or a bleeding disorder.

99 (h) Low-density lipoprotein testing for a member diagnosed
 100 with heart disease.

101 (i) Selective serotonin reuptake inhibitors for a member
 102 diagnosed with depression.

103 (j) Statins for a member diagnosed with heart disease or
 104 diabetes.

105 Section 2. This act shall take effect July 1, 2022.

Page 4 of 4

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7024

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Alleged Victim or Victim of Sexual Harassment

DATE: January 14, 2022 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Limonés-Borja</u>	<u>McVaney</u>	_____	GO submitted as Comm. Bill/Fav

I. Summary:

SPB 7024 saves from repeal the current exemption codified in s. 119.071(2)(n), F.S., which makes the personal identifying information of the alleged victim in an allegation of sexual harassment confidential and exempt from public inspection and copying. The bill expands this exemption to include the personal identifying information of a victim of sexual harassment. The bill clarifies that the personal identifying information is only confidential and exempt if the information identifies that person as an alleged victim or a victim of sexual harassment. The bill allows the alleged victim or victim to waive confidentiality. The bill provides a public necessity statement.

The bill provides the exemption is subject to the Open Government Sunset Review Act and unless reviewed and saved from repeal through reenactment by the Legislature shall be repealed on October 2, 2027.

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

The bill takes effect October 1, 2022.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

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

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

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

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

Section 119.011(12), F.S., defines “public records” to include:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2 of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

¹² FLA. CONST., art. I, s. 24(c).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

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

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Regulation of Sexual Harassment

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.²⁶

Harassment does not have to be of a sexual nature, however, it can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general. Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.²⁷

Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.²⁸

Florida law states that sexual harassment is a form of discrimination.²⁹ The Department of Management Services, the state's personnel agency, has adopted rules on sexual harassment applicable to all executive agencies. Rule 60L-40.001, F.A.C., provides that,

²³ Section 119.15(6)(a), F.S. The specified questions are:

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

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ U.S. Equal Employment Opportunity Commission website https://www.eeoc.gov/laws/types/sexual_harassment.cfm. (Last visited October 4, 2021.)

²⁷ *Id.*

²⁸ *Id.*

²⁹ Section 110.1221, F.S.

Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature from any person directed towards or in the presence of an employee or applicant when:

- (a) Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment;
- (b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Open Government Sunset Review of the Public Records Exemption for Personal Identifying Information of the Alleged Victim of Sexual Harassment

In 2017, the Legislature created the public records exemption to make the personal identifying information of the alleged victim in an allegation of sexual harassment confidential and exempt from public record requirements indefinitely. The government agency who holds the personal identifying information of the alleged victim may only reveal such protected information to another governmental entity in the furtherance of their duties. The public necessity statement, as required by the State Constitution, specified that it is a public necessity to protect personal identifying information of alleged victims because disclosure of the information could place them at risk of further harassment and retaliation. In addition, the potential for disclosure of identifying information could discourage alleged victims from reporting instances of alleged harassment.

The Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple agencies to ascertain whether the public records exemption in s. 119.071(2)(n), F.S., remains necessary. Staff reviewed the agencies' responses and a majority of the agencies recommend that the Legislature reenact the public records exemption without any changes. A few responding agencies recommended clarification as to (1) the time period for which the exempt status applies and (2) whether the alleged victim's personal identifying information is confidential and exempt in all contexts across agency records, or only when used to identify that person as the alleged victim of sexual harassment.

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S., to make confidential and exempt from public inspection and copying personal identifying information of a victim of sexual harassment as well as the alleged victim in an allegation of sexual harassment. The section clarifies that such information is only confidential and exempt if it identifies that person as an alleged victim or victim of sexual harassment. The section permits the alleged victim or victim to waive confidentiality in writing. The government agency who holds the identity of the alleged victim can only reveal the personal identifying information to another governmental entities in the furtherance of their duties

Section 2 provides a public necessity statement, as required by the State Constitution, specifying that it is a public necessity to protect personal identifying information of alleged victims and

victims because disclosure of the information could place them at risk of further harassment and retaliation or deter people from reporting instances of alleged harassment.

The bill provides for repeal of the exemption on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect on October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

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

Public Necessity Statement

Article 1, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill expands a current public records exemption to include victims of sexual harassment thus a statement of public necessity was included.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of this law is to protect the personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071(2)(n) of the Florida Statutes:

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-01876A-22

20227024pb

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; revising an exemption from public
 4 records requirements for personal identifying
 5 information of the alleged victim in an allegation of
 6 sexual harassment or the victim of sexual harassment
 7 if such information identifies that person as an
 8 alleged victim or as a victim of sexual harassment;
 9 authorizing the alleged victim or the victim to waive
 10 confidentiality in writing; extending the deadline for
 11 legislative review and repeal of the exemption;
 12 providing a statement of public necessity; providing
 13 an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraph (n) of subsection (2) of section
 18 119.071, Florida Statutes, is amended to read:
 19 119.071 General exemptions from inspection or copying of
 20 public records.—
 21 (2) AGENCY INVESTIGATIONS.—
 22 (n) Personal identifying information of the alleged victim
 23 in an allegation of sexual harassment or the victim of sexual
 24 harassment is confidential and exempt from s. 119.07(1) and s.
 25 24(a), Art. I of the State Constitution if such information
 26 identifies that person as an alleged victim or as a victim of
 27 sexual harassment. Confidentiality may be waived in writing by
 28 the alleged victim or the victim. Such information may be
 29 disclosed to another governmental entity in the furtherance of

Page 1 of 2

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

585-01876A-22

20227024pb

30 its official duties and responsibilities. This paragraph is
 31 subject to the Open Government Sunset Review Act in accordance
 32 with s. 119.15 and shall stand repealed on October 2, 2027
 33 ~~October 2, 2022~~, unless reviewed and saved from repeal through
 34 reenactment by the Legislature.
 35 Section 2. The Legislature finds that it is a public
 36 necessity that personal identifying information of the alleged
 37 victim in an allegation of sexual harassment or the victim of
 38 sexual harassment be made confidential and exempt from s.
 39 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 40 State Constitution if such information identifies that person as
 41 an alleged victim or as a victim of sexual harassment. The
 42 disclosure of such information could harm alleged victims or
 43 victims of sexual harassment by placing them at risk of further
 44 harassment and retaliation. Additionally, the potential for
 45 disclosure of such information could create a disincentive for
 46 alleged victims to report instances of alleged harassment.
 47 Therefore, the Legislature finds that the potential harm that
 48 may result from the release of such information outweighs any
 49 public benefit that may be derived from the disclosure of such
 50 information.
 51 Section 3. This act shall take effect October 1, 2022.

Page 2 of 2

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

The Florida Senate

APPEARANCE RECORD

SPB 7024

1/13/22
Meeting Date

Bill Number or Topic

Gov. Oversight & Accountability
Committee

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

Amendment Barcode (if applicable)

Name Melissa Ashton / Florida Council Against
Sexual Violence

Phone 850-297-2000

Address 1820 E. Park Ave
Street

Email mashton@fcasv.org

City FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7026

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Dependent Eligibility Verification Services

DATE: January 14, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Ponder	McVaney		GO submitted as Comm. Bill/Fav

I. Summary:

SPB 7026 amends s. 110.12301, F.S., to save from repeal the current exemption from public records disclosure for certain information submitted to the Department of Management Services (DMS) for purposes of dependent eligibility verification for the State Group Insurance Program (SGI Program).

The bill also revises s. 110.12301, F.S., to provide with specificity the documents that may be collected by the DMS to verify dependent eligibility and removes a current provision that permits the collection of “any other information” for such purposes. The bill narrows the application of the exemption by removing the catch all provision and specifically enumerating the information that the DMS currently holds as exempt under the catch all provision. The original public necessity statement for the bill states that it is in the best interest of the public that records collected for purposes of dependent eligibility verification services conducted for the SGI Program be confidential and exempt. Employees enrolled in the SGI Program are required to produce sensitive and personal information to verify their eligibility and that of their dependent(s). Therefore, protecting such information helps protect state employees and their families from criminal or inappropriate use of their personal information.

Section 110.12301, F.S., is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2022, unless reviewed and saved from the repeal through reenactment by the Legislature. This bill removes the scheduled repeal of the exemption.

This bill does not appear to have a fiscal impact on state or local governments.

This bill takes effect on October 1, 2022.

II. Present Situation:

Public Records Law

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

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

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

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

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

Section 119.011(12), F.S., defines “public records” to include:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c)

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

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

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

State Group Insurance Program

Overview

The State Group Insurance Program (SGI Program) is created by s. 110.123, F.S., and is administered by the Division of State Group Insurance (DSGI) within the Department of Management Services (DMS). The SGI Program is an optional benefit for state employees employed by state agencies, state universities, the court system, and the Legislature. The SGI Program administers health, life, dental, vision, disability, and other supplemental insurance benefits.

State Health Insurance Plans

The SGI Program provides four options for employees and retirees to choose as their health plan:

- The standard Preferred Provider Organization (PPO) plan, administered by Florida Blue.
- The high deductible PPO plan, administered by Florida Blue.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specified questions are:

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

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

- The standard health maintenance organization (HMO) services.²⁶
- The high deductible HMO.

Pharmacy Benefit

The SGI Program also has a pharmacy benefit for members of the plan. The SGI Program covers all federal legend drugs (open formulary) for covered medical conditions and employs very limited utilization review and clinical review for traditional or specialty prescription drugs. The DMS contracts with CVS/Caremark, a pharmacy benefits manager, to administer the Prescription Drug Plan.²⁷

Eligible Employees

The SGI Program is open to the following individuals:

- All state officers;
- All state employees paid from “salaries and benefits” appropriation categories, regardless of the number of hours worked;
- Retired state officers and state employees;
- Surviving spouses of deceased state officers and state employees;
- Certain terminated state officers and state employees; and
- Certain state employees paid from “other-personal-services” (OPS) appropriation categories.

For OPS employees to be eligible to participate in the health insurance program, the employee must:

- Be reasonably expected to work an average of at least 30 hours per week; and
- Have worked an average of at least 30 hours per week during the person’s measurement period (which is 12 consecutive months²⁸ of employment).²⁹

Dependent Eligibility

The SGI Program covers employees and retirees of state agencies and their eligible dependents. An eligible dependent is defined as:

- A current spouse to whom the member is legally married.
- A biological child, child with a qualified medical support order, legally adopted child, or child placed in the home for the purpose of adoption in accordance with applicable state and federal laws, through the end of the calendar year in which he/she turns age 26.
- A stepchild, for as long as the member remains legally married to the child’s parent, through the end of the calendar year in which he/she turns age 26.
- A foster child placed in the member’s home by the Department of Children and Families Foster Care Program or the foster care program of a licensed private agency, through the end of the calendar year in which he/she turns age 26.

²⁶ These are provided by Aetna, AvMed, Capital Health Plan, and UnitedHealthcare. One of these HMO plans is offered in each county in the State of Florida.

²⁷ myBenefits, Prescription Drug Plan, https://www.mybenefits.myflorida.com/health/health_insurance_plans/prescription_drug_plan (last viewed January 6, 2022)

²⁸ Section 110.123(13)(d), F.S.

²⁹ Section 110.123(2)(c)2., F.S.

- A child for whom the member has legal guardianship through the end of the calendar year in which he/she turns age 26.
- An over-age dependent, after the end of the calendar year in which he/she turns 26, through the end of the calendar year in which he/she turns 30 – if he/she is unmarried, has no dependents of his/her own, is a resident of Florida or a full- or part-time student, and has no other health insurance.
- An over-age dependent with a disability.
- A newborn dependent of a member's covered child for up to 18 months of age as long as the newborn's parent remains covered.
- A child of law enforcement, probation, or correctional officers who were killed in the line of duty, who are attending a college or university beyond their 18th birthday.
- A surviving spouse and dependents.

Dependents may be added as covered dependents during the open enrollment period each year or in the event of a qualifying status change. Minimal information is collected by the DMS to determine eligibility.

Dependent Eligibility Verification

During the 2017 Legislative Session, the DSGI was directed to contract with a vendor to verify the eligibility of all dependents participating in the SGI Plan. The DSGI provided notice to all subscribers and on July 1, 2020, via the People First Service Center, began requesting subscribers to provide documents as part of the dependent eligibility verification process. The documents include tax transcripts from the Internal Revenue Service, marriage licenses, birth certificates, adoption documents, and other documents.³⁰

Enrollment

For FY 2020-21, the final enrollment reflected 175,046 subscribers and 187,244 dependents, totaling 362,290 covered lives.³¹ Approximately 47.1% of subscribers are enrolled in PPO plans, 52.3% are enrolled in HMO plans, and 0.6% are enrolled in a Medicare Advantage Prescription Drug plan.³² Subscriber enrollment in individual coverage was 47.8%, and 52.2% were enrolled in family coverage, which had an average size of 3.05 members.³³

Open Government Sunset Review of the Public Records Exemption for Dependent Eligibility Verification

In September 2021, the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee spoke with representatives of the DMS regarding the need to maintain the exemption for records collected for the purposes of dependent eligibility verification services conducted for the SGI Program. Additionally, an Open Government Sunset Review Questionnaire was provided to the DMS.

³⁰ See s. 110.12301(2)(b), F.S.

³¹ State Employee's Group Health Self-Insurance Trust Fund, Report on Financial Outlook, For the Fiscal Years Ending June 30, 2021 through June 30, 2026, <http://edr.state.fl.us/content/conferences/healthinsurance/HealthInsuranceOutlook.pdf> (last visited January 7, 2022).

³² *Id.* at p. 1.

³³ *Id.*

The DMS recommended that the exemption remain in effect with changes to remove obsolete language and to include specified documentation that is routinely collected under the “catch-all” provision³⁴- “any other information.”

III. Effect of Proposed Changes:

Section 1 amends s. 110.12301, F.S., to designate the Department of Management Services (DMS) rather than the Division of State Group Insurance, as the entity that contracts for dependent eligibility verification services for the State Group Insurance Program. This section is amended to permit the department, in addition to the contractor as provided for in current law, to require certain information from subscribers for dependent eligibility verification.

The bill permits subscribers to submit the following attestations by sworn affidavit consistent with s. 92.50, F.S., (attestation), if specified information cannot be produced:

- An attestation of marriage to prove a spouse’s eligibility, if a joint federal income tax return or government-issued marriage certificate cannot be produced.³⁵
- An attestation of the subscriber-dependent relationship to prove a biological child or a newborn grandchild’s eligibility, if a birth certificate cannot be produced.
- An attestation of the subscriber-dependent relationship to prove an adopted child’s eligibility, if an adoption certificate or an adoption placement agreement and petition for adoption cannot be produced.

The bill further amends s. 110.12301(2), F.S., as follows:

To Prove Eligibility of:	Documentation Required:
A child under a guardianship	A copy of the court order naming the subscriber or the subscriber’s spouse as the child’s legal guardian or custodian.
A foster child	Records showing the subscriber or the subscriber’s spouse as the dependent’s foster parent
An unmarried child age 26 to 30	<ul style="list-style-type: none"> • A copy of the child’s government-issued birth certificate or adoption certificate naming the subscriber or the subscriber’s spouse as the child’s parent, or a copy of the court order naming the subscriber or the subscriber’s spouse as the child’s legal guardian or custodian; • A copy of the Certification of Over-Age Dependent Eligibility Form; and

³⁴ Section 110.12301(2)(b)5., F.S.

³⁵ Section 110.12301(2)(a)1.a., F.S., requires for a marriage of less than 12 months, submission of government-issued marriage certificate, if a joint federal income tax return has not been filed. Section 110.12301(2)(a) and b., F.S., require submission of a

	<ul style="list-style-type: none"> • A document confirming the child’s current enrollment as a student, including the name of the child, the name of the school, and the school term; or a bill or statement in the child’s name which is dated within the past 60 days and is mailed to the child at a Florida address.
<p>A disabled child age 26 or older</p>	<ul style="list-style-type: none"> • A copy of the child’s government-issued birth certificate or adoption certificate naming the subscriber or the subscriber’s spouse as the child’s parent, or a copy of the court order naming the subscriber or the subscriber’s spouse as the child’s legal guardian or custodian; and • A copy of the subscriber’s most recent federal income tax return listing the child’s name and the last four digits of the child’s social security number and identifying the child as the subscriber’s dependent for tax purposes.

The section revises the provision regarding foreign-born subscribers, to require a sworn affidavit consistent with s. 92.50, F.S., attesting to eligibility requirements be produced if such subscribers are unable to obtain the necessary documentation with the specified time period of producing verification documentation.³⁶

The section amends the document retention provision in s. 110.12301(2)(f), F.S., to replace “contractor” with the DMS and requires the DMS to retain all documentation obtained to conduct the dependent eligibility verification services in accordance with the applicable records retention schedule.

The section deletes the scheduled repeal of the exemption relating to documentation held by the DMS (or its agent) for the purposes of dependent eligibility verification services.

Section 2 provides that the bill takes effect on October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities

³⁶ Current law permits foreign-born subscribers to execute a signed affidavit attesting to eligibility requirements if they are unable to obtain the necessary documentation within the specified time period of producing verification documentation.

have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. The bill revises the type of records that the DMS or a contractor providing dependent eligibility verification services may require from a subscriber. These “new” records covered by the exemption, however, are, as a matter of current and historical practice, routinely collected by the DMS for dependent eligibility verification under the authority of s. 110.12301(2)(b)(5), F.S., which allows the DMS to request “any other information.” The bill removes this catch all provision and specifically enumerates the records that subscribers are required to submit for dependent eligibility verification. Thus, the revisions narrow the application of the public records exemption to the documentation specified by law. Because this bill continues a current public records exemption with revisions that narrow its application, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

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

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect subscriber’s sensitive and personal information submitted to the DMS for purposes of dependent eligibility verification. This bill exempts only specified information related to documenting or proving a relationship with a dependent from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

Governmental agencies will continue to incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 110.12301 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-01816A-22

20227026pb

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 110.12301, F.S.;
 4 designating the Department of Management Services,
 5 rather than the Division of State Group Insurance, as
 6 the entity that contracts for dependent eligibility
 7 verification services for the state group insurance
 8 program; authorizing the department or the contractor
 9 providing dependent eligibility verification services
 10 to require certain information from subscribers;
 11 deleting obsolete language; revising the types of
 12 information that the department or a contractor
 13 providing eligibility verification services may
 14 require from subscribers in order to establish
 15 dependent eligibility for the state group insurance
 16 program; deleting a provision requiring the Division
 17 of State Group Insurance and the contractor to
 18 disclose to subscribers that dependent eligibility
 19 verification information may be subject to disclosure
 20 and inspection under public records laws under certain
 21 circumstances; revising the records retention schedule
 22 regarding documents obtained during the dependent
 23 eligibility verification process; abrogating the
 24 scheduled repeal of an exemption from public records
 25 requirements for records collected for dependent
 26 eligibility verification services for the state group
 27 insurance program and held by the Department of
 28 Management Services; providing an effective date.
 29

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

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

31
 32 Section 1. Subsection (2) of section 110.12301, Florida
 33 Statutes, is amended to read:

34 110.12301 Competitive procurement of postpayment claims
 35 review services and dependent eligibility verification services;
 36 public records exemption.—

37 (2) The department ~~Division of State Group Insurance~~ is
 38 directed to ~~competitively procure a~~ contract for dependent
 39 eligibility verification services for the state group insurance
 40 program; ~~however, compensation under the contract may not exceed~~
 41 ~~historical claim costs for the prior 12 months for the dependent~~
 42 ~~populations disenrolled as a result of the contractor's~~
 43 ~~services.~~

44 (a)1. ~~By September 1, 2017, the division shall notify all~~
 45 ~~subscribers regarding the eligibility rules for dependents.~~
 46 ~~Through November 30, 2017, the division must hold subscribers~~
 47 ~~harmless for past claims of ineligible dependents if such~~
 48 ~~dependents are removed from plan membership before December 1,~~
 49 ~~2017.~~

50 2. ~~Subparagraph 1. does not apply to any dependent~~
 51 ~~identified as ineligible before July 1, 2017, for which the~~
 52 ~~department has notified the state agency employing the~~
 53 ~~associated subscriber.~~

54 ~~(b)~~ The department or the contractor providing dependent
 55 eligibility verification services may require ~~request~~ the
 56 following information from subscribers:

- 57 1. To prove a spouse's eligibility:
 58 a. If married less than 12 months and the subscriber and

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59 his or her spouse have not filed a joint federal income tax
60 return, a government-issued marriage certificate; ~~or~~

61 b. If married for 12 or more months, a transcript of the
62 most recently filed federal income tax return; or

63 c. If the documentation specified in sub-subparagraph a. or
64 sub-subparagraph b. cannot be produced, an attestation of the
65 marriage by sworn affidavit consistent with s. 92.50.

66 2. To prove a biological child's or a newborn grandchild's
67 eligibility: ~~7~~

68 a. A government-issued birth certificate; or

69 b. If a birth certificate cannot be produced, an
70 attestation of the subscriber-dependent relationship by sworn
71 affidavit consistent with s. 92.50.

72 3. To prove an adopted child's eligibility:

73 a. An adoption certificate; ~~or~~

74 b. An adoption placement agreement and a petition for
75 adoption; ~~or~~

76 c. If the documentation specified in sub-subparagraph a. or
77 sub-subparagraph b. cannot be produced, an attestation of the
78 subscriber-dependent relationship by sworn affidavit consistent
79 with s. 92.50.

80 4. To prove a stepchild's eligibility:

81 a. A government-issued birth certificate for the stepchild;
82 and

83 b. The transcript of the subscriber's most recently filed
84 federal income tax return.

85 5. To prove a child's eligibility under a guardianship, a
86 copy of the court order naming the subscriber or the
87 subscriber's spouse as the child's legal guardian or custodian

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88 ~~Any other information necessary to verify the dependent's~~
89 ~~eligibility for enrollment in the state group insurance program.~~

90 6. To prove a foster child's eligibility, a copy of the
91 records showing the subscriber or the subscriber's spouse as the
92 dependent's foster parent.

93 7. To prove eligibility of an unmarried child age 26 to 30:

94 a. A copy of the child's government-issued birth
95 certificate or adoption certificate naming the subscriber or the
96 subscriber's spouse as the child's parent, or a copy of the
97 court order naming the subscriber or the subscriber's spouse as
98 the child's legal guardian or custodian;

99 b. A copy of the Certification of Over-Age Dependent
100 Eligibility Form; and

101 c. A document confirming the child's current enrollment as
102 a student, including the name of the child, the name of the
103 school, and the school term; or a bill or statement in the
104 child's name which is dated within the past 60 days and is
105 mailed to the child at a Florida address.

106 8. To prove eligibility for a disabled child age 26 or
107 older:

108 a. A copy of the child's government-issued birth
109 certificate or adoption certificate naming the subscriber or the
110 subscriber's spouse as the child's parent, or a copy of the
111 court order naming the subscriber or the subscriber's spouse as
112 the child's legal guardian or custodian; and

113 b. A copy of the subscriber's most recent federal income
114 tax return listing the child's name and the last four digits of
115 the child's social security number and identifying the child as
116 the subscriber's dependent for tax purposes

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117 ~~(e) If a document requested from a subscriber is not~~
 118 ~~confidential or exempt from public records requirements, the~~
 119 ~~division and the contractor shall disclose to all subscribers~~
 120 ~~that such information submitted to verify the eligibility of~~
 121 ~~dependents may be subject to disclosure and inspection under~~
 122 ~~chapter 119.~~

123 ~~(b) (d)~~ A government-issued marriage license or marriage
 124 certificate submitted for dependent eligibility verification
 125 must include the date of the marriage between the subscriber and
 126 the spouse.

127 ~~(c) (e)~~ A government-issued birth certificate submitted for
 128 dependent eligibility verification must list the parents' names.

129 ~~(d) (f)~~ Foreign-born subscribers unable to obtain the
 130 necessary documentation within the specified time period of
 131 producing verification documentation may execute a signed
 132 affidavit attesting to eligibility requirements.

133 ~~(e) (g)~~ Documentation submitted to verify eligibility may be
 134 an original or a photocopy of an original document. Before
 135 submitting a document, the subscriber may redact any information
 136 on a document which is not necessary to verify the eligibility
 137 of the dependent.

138 ~~(f) (h)~~ All documentation obtained by the department
 139 ~~contractor~~ to conduct the dependent eligibility verification
 140 services must be retained in accordance with the applicable
 141 records retention schedule until June 30, 2019. ~~The department~~
 142 ~~or the contractor is not required to retain such documentation~~
 143 ~~after June 30, 2019, and shall destroy such documentation as~~
 144 ~~soon as practicable after such date.~~

145 (3) Records collected for purposes of dependent eligibility

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146 verification services conducted for the state group insurance
 147 program, as authorized under subsection (2), and held by the
 148 department are confidential and exempt from s. 119.07(1) and s.
 149 24(a), Art. I of the State Constitution. This subsection does
 150 not apply to records that are otherwise open for inspection and
 151 copying which are held by the department for purposes other than
 152 for the performance of dependent eligibility verification
 153 services. ~~This subsection is subject to the Open Government~~
 154 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 155 ~~repealed on October 2, 2022, unless reviewed and saved from~~
 156 ~~repeal through reenactment by the Legislature.~~

157 Section 2. This act shall take effect July 1, 2022.



792464

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2022	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 129 - 132

and insert:

(d) ~~(f)~~ Foreign-born subscribers unable to obtain the
necessary documentation within the specified time period of
producing verification documentation may provide a sworn ~~execute~~
~~a signed~~ affidavit consistent with s. 92.50 attesting to
eligibility requirements.

CourtSmart Tag Report

Room: SB 37
Caption: Governmental Oversight and Accountability Committee

Case No.:

Type:
Judge:

Started: 1/13/2022 11:03:47 AM

Ends: 1/13/2022 11:21:17 AM

Length: 00:17:31

11:03:46 AM Meeting called to order by Chair Brandes
11:03:50 AM Roll Call
11:04:01 AM Comments from Chair Brandes
11:04:10 AM Tab 1 - SB 590, Public Records and Meetings by Senator Rodriguez
11:04:15 AM Sen Rodriguez explains the bill
11:04:40 AM Amendment 239228
11:04:49 AM Sen Rodriguez explains the amendment
11:05:02 AM Amendment is adopted
11:05:05 AM Back on Bill as Amended
11:05:14 AM Corinne Mixon waives in support
11:05:33 AM Roll call on CS/SB 590
11:05:36 AM CS/SB 590 is reported favorably
11:05:53 AM Chair is turned over to Vice-Chair Gruters
11:06:14 AM Tab 3 - SPB 7022, State Group Health Insurance Program
11:06:34 AM Sen Brandes explains the bill
11:07:37 AM Question from Sen Farmer
11:07:55 AM Response from Sen Brandes
11:08:20 AM Sen Brandes waives close on bill
11:08:27 AM Motion adopted to report proposed bill as a Committee Bill
11:08:37 AM SPB 7022 is reported favorably as a Committee Bill
11:08:50 AM Tab 4 - SPB 7024, Public Records/Alleged Victim or Victim of Sexual Harassment
11:09:02 AM Sen Brandes explains the bill
11:09:21 AM Melissa Ashton, Florida Council Against Sexual Violence, speaks in support of the bill
11:10:19 AM Motion made by Sen Brandes to submit proposed bill as a Committee Bill
11:10:30 AM Motion adopted
11:10:33 AM SPB 7022 is reported favorably as a Committee Bill
11:10:42 AM Tab 5 - SPB 7026, OGSR/Dependent Eligibility Verification Services
11:10:54 AM Sen Brandes explains the bill
11:11:12 AM Amendment 792464
11:11:18 AM Sen Brandes explains the amendment
11:11:44 AM Sen Brandes waives close on the amendment
11:11:48 AM Amendment is adopted
11:11:52 AM Back on the proposed bill as amended
11:12:01 AM Motion by Sen Brandes to submit the proposed bill as a Committee Bill
11:12:11 AM Motion is adopted
11:12:16 AM SPB 7026 is reported favorably as a Committee Bill
11:12:37 AM Chair is turned back over to Senator Brandes
11:12:52 AM Recording Paused
11:17:32 AM Recording Resumed
11:17:35 AM Committee meeting is called back to order
11:17:45 AM Chair transferred to Senator Gruters
11:17:56 AM Tab 2 - SB 954, Energy by Senator Brodeur
11:18:01 AM Senator Brodeur is unable to be present but gives permission to Senator Brandes to present bill
11:18:14 AM Senator Brandes explains SB 954
11:18:18 AM No questions on bill from members
11:18:18 AM Amendment 405028
11:18:20 AM Senator Brandes explains the amendment
11:18:28 AM No questions or appearance cards regarding amendment
11:18:51 AM Senator Brandes waives close on amendment
11:18:56 AM Amendment is adopted
11:18:59 AM Back on the proposed bill as amended
11:19:13 AM Meta Calder, Florida League of Women Voters, waives in support of the bill

11:19:30 AM Crystal Stickle, Florida Solar Energy Industries Assoc., waives in support of the bill
11:19:37 AM Diane Carr, The Alliance for Automobile Innovation, waives in support of the bill
11:19:43 AM David Cullen, Sierra Club of Florida, speaks in support of the bill
11:20:11 AM Sen Brandes waives close on bill
11:20:19 AM SB 954 is reported as favorable
11:20:30 AM Chair turned back over the Senator Brandes
11:20:38 AM Senator Torres moves to be shown as voting in the affirmative for SB 590, and SPB's 7022, 7024, 7026
11:21:04 AM Motion adopted
11:21:07 AM Committee meeting adjourned