

Tab 1	SB 170 by Polsky (CO-INTRODUCERS) Book ; (Identical to H 00159) Public Records/Lottery Winners
Tab 2	SB 264 by Hooper ; (Identical to H 00031) Firefighter Inquiries and Investigations
Tab 3	CS/SB 756 by CF, Diaz (CO-INTRODUCERS) Albritton ; (Compare to CS/H 01439) Public Records/Human Trafficking Victims
Tab 4	SB 1952 by Albritton ; (Similar to H 01057) Evidence of Vendor Financial Stability
511724	D S RCS GO, Albritton Delete everything after 01/26 12:00 PM
Tab 5	SB 934 by Gruters (CO-INTRODUCERS) Perry ; (Similar to H 00699) Public Records/Homelessness Counts and Information Systems
Tab 6	SB 1520 by Gruters ; (Identical to H 06091) Acquisition of Professional Services
Tab 7	SPB 7038 by GO ; Retirement

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Brandes, Chair
Senator Gruters, Vice Chair

MEETING DATE: Wednesday, January 26, 2022
TIME: 10:00 a.m.—12:00 noon
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 170 Polsky (Identical H 159)	Public Records/Lottery Winners; Creating a temporary exemption from public records for the names of lottery winners who win prizes of more than a specified value; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. RI 11/02/2021 Favorable GO 01/26/2022 Favorable RC	Favorable Yeas 6 Nays 0
2	SB 264 Hooper (Identical H 31)	Firefighter Inquiries and Investigations; Providing that firefighters have certain rights during an informal inquiry; providing that a firefighter may not be threatened with certain disciplinary action during an informal inquiry or interrogation, etc. CA 01/12/2022 Favorable GO 01/26/2022 Favorable RC	Favorable Yeas 6 Nays 0
3	CS/SB 756 Children, Families, and Elder Affairs / Diaz (Compare H 1441)	Public Records/Human Trafficking Victims; Expanding an existing public records exemption relating to human trafficking victims seeking expunction of certain records related to an offense listed in s. 775.084(1)(b)1., F.S.; providing for future review and repeal of the expanded exemption; providing for the reversion of specified provisions if the exemption is not saved from repeal; providing that a petition for human trafficking victim expunction and all pleadings and documents related to the petition are confidential and exempt from public records requirements; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CF 11/30/2021 Temporarily Postponed CF 01/11/2022 Fav/CS GO 01/26/2022 Favorable RC	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Wednesday, January 26, 2022, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1952 Albritton (Similar H 1057)	Evidence of Vendor Financial Stability; Providing that an agency that requires a vendor to demonstrate financial stability during a competitive solicitation process must accept certain evidence, etc. GO 01/26/2022 Fav/CS AEG AP	Fav/CS Yeas 6 Nays 0
5	SB 934 Gruters (Similar H 699)	Public Records/Homelessness Counts and Information Systems; Providing an exemption from public records requirements for individual identifying information contained in certain homelessness counts and information systems; providing for retroactive application of the exemption; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CF 01/11/2022 Favorable GO 01/26/2022 Favorable RC	Favorable Yeas 6 Nays 0
6	SB 1520 Gruters (Identical H 6091)	Acquisition of Professional Services; Removing language requiring that an agency, when determining whether a firm is qualified to perform certain services, operate with the object of effecting an equitable distribution of contracts among qualified firms, etc. GO 01/26/2022 Favorable CA RC	Favorable Yeas 6 Nays 0
Consideration of proposed bill:			
7	SPB 7038	Retirement; Revising the employer contribution rates for the retiree health insurance subsidy as of a specified date; revising required employer retirement contribution rates for each membership class of the Florida Retirement System, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 170

INTRODUCER: Senators Polsky and Book

SUBJECT: Public Records/Lottery Winners

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 170 makes confidential and exempt from public record inspection and copying requirements the following information held by the Department of Lottery: the name of a winner of a lottery prize valued at \$250,000 or more, for 90 days from the date a prize is claimed, unless the winner consents to the release of his or her name. However, the information must be made available to other governmental entities for specified purposes.

The exemption is subject to the Open Government Sunset Review Act (act) and will stand repealed on October 2, 2027, unless reviewed and reenacted by the Legislature.

The bill creates a new public records exemption and, therefore, requires a two-thirds vote of the members present and voting for final passage.

The bill may have a minimal fiscal impact on the governmental sector as the Department of Lottery will continue to incur costs related to the redaction of records in responding to public records requests.

The bill takes effect upon becoming a law.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three

¹ FLA. CONST. art. I, s. 24(a).

branches of state government, local governmental entities, and any person acting on behalf of the government.²

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 the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., 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.⁵

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.”⁶

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.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, (2020-2022).

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

⁵ 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 Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

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.

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.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 Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ 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.¹⁹

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.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *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).

¹¹ *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).

¹² *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).

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.

¹⁷ 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.

¹⁸ 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.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

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;²¹
- 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;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ 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.²⁶

Department of the Lottery

Operations

Section 15 of Article X of the State Constitution authorizes state-operated lotteries. Pursuant to this provision, the Florida Public Education Lottery Act²⁷ establishes a state lottery system intended primarily to generate revenue for public education of the state.²⁸ The Department of the Lottery (department) is charged with supervising and operating the lottery in accordance with the provisions of the Florida Public Education Lottery act and rules adopted pursuant thereto.²⁹ In accordance with s. 24.102(2), F.S., the department operates the state lottery in accordance with the intent of the Legislature, which provides:

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Sections 24.101 to 24.124, F.S.

²⁸ Section 24.102, F.S.

²⁹ Section 24.105(2), F.S.

- The net proceeds of lottery games must be used to support improvements in public education;
- Lottery operations must be undertaken as an entrepreneurial business enterprise; and
- The department must be accountable through audits, financial disclosure, open meetings, and public records laws.

The department operates the Florida Lottery to maximize revenues “consonant with the dignity of the state and the welfare of its citizens”³⁰ for the benefit of public education.³¹ The department contracts with retailers (e.g., supermarkets, convenience stores, gas stations, and newsstands) to provide adequate and convenient availability of lottery tickets.³² Retailers receive commissions of five percent of the ticket price, one percent of the prize value for redeeming winning tickets, and bonus and performance incentive payments.³³ Retailers are eligible to receive bonuses for selling select winning tickets and performance incentive payments.³⁴

The department selects retailers based on financial responsibility, integrity, reputation, accessibility, convenience, security of the location, and estimated sales volume, with special consideration for small businesses.³⁵ Retailers must be at least 18 years old, and the sale of lottery tickets must occur as part of an ongoing retail business. Contracting with a retailer with a felony conviction or plea within the last 10 years is prohibited,³⁶ and the authority to act as a retailer may not be transferred.³⁷

Retailers may not extend credit or lend money to a person to purchase a lottery ticket. The use of a credit or charge card or other instrument issued by a bank, savings association, credit union, charge card company, or by a retailer (for installment sales of goods) is allowed, if the lottery ticket purchase is part of a purchase transaction for other goods and services that cost \$20 or more.³⁸

³⁰ See s. 24.104, F.S.

³¹ See s. 24.121(2), F.S.

³² See s. 24.105(16), F.S.

³³ See Office of Program Policy Analysis and Gov’t Accountability, Florida Legislature, *Review of the Florida Lottery, 2020*, Report No. 21-02, (Jan. 2021), available at <https://oppaga.fl.gov/Documents/Reports/21-02.pdf>, at page 1, (footnote 4) (last visited Oct. 19, 2021).

³⁴ *Id.*

³⁵ See s. 24.112(2), F.S., which also includes a statement of legislative intent that retailer selections be based on business considerations and public convenience, without regard to political affiliation.

³⁶ See s. 24.112(3)(c), F.S. There is an exception to this prohibition, when the department determines that the person has been pardoned or has had his or her civil rights restored, he or she has engaged in lawful commerce and maintained good integrity and citizenship within the community, or the person in question has terminated his or her relationship with the retailer.

³⁷ See s. 24.112(4), F.S.

³⁸ See s. 24.118(1), F.S.

The department may establish by rule, a system to verify and pay winning lottery tickets:³⁹

- Any lottery retailer, as well as any department office, may redeem a winning ticket valued at less than \$600.⁴⁰ Payments less than \$50 are generally paid by a retailer in cash, depending on store policy or local ordinance. Higher amounts may be paid by cash, check, or money order at no cost to the winner.
- Only a department office may redeem a winning ticket valued at \$600 or more.⁴¹ Winning tickets are paid at the claimant's option in a combination of cash, check, or lottery tickets (with a limitation of \$200 payable in cash).

Prizes must be claimed within certain time limits, depending on the type of game played. Instant lottery tickets (e.g., scratch-off tickets), must be redeemed within 60 days after the end of that lottery game.⁴² Other lottery tickets (e.g., tickets for drawings) must be redeemed within 180 days after the winning drawing.

The department may adopt rules governing the types of lottery games to be conducted,⁴³ including lottery terminals or devices that “may be operated solely by the player without the assistance of the retailer.”⁴⁴

The department promotes responsible lottery ticket play and directs persons struggling with a gambling problem to contact the 1-888-ADMIT-IT telephone line for assistance.⁴⁵

Confidential and Exempt Information Held by the Department of Lottery

Section 24.1051, F.S., makes two separate classes of information held by the department confidential and exempt from public record inspection and copying requirements.

Information Relating to the Security Or Integrity of the Department

Subsection (1) makes confidential and exempt:

- Information that, if released, could harm the security or integrity of the department, including:

³⁹ See s. 24.115, F.S., and Fla. Admin. Code R. 53ER 21-3.

⁴⁰ *Id.* The winner has the option of presenting a winning ticket in person to any lottery retailer, any of the nine lottery district offices, or to lottery headquarters in Tallahassee.

⁴¹ *Id.* Mega Millions® and Powerball® prizes up to \$1 million may be claimed at any lottery district office. All other prizes greater than \$250,000 must be claimed at lottery headquarters.

⁴² See s. 24.115(1)(f), F.S.

⁴³ See s. 24.105(9)(a), F.S.

⁴⁴ Prior to 1996, there was no provision for player-activated lottery terminals or devices. Section 4 of ch. 96-341, Laws of Fla., authorized such machines, subject to restrictions that they be: (1) designed solely for dispensing of instant lottery tickets; (2) activated by coin or currency; (3) in the direct line of sight of on-duty retail employees; (4) capable of being electronically deactivated for 5 minutes or more; and (5) incapable of redeeming winning tickets, though they may dispense change. Chapter 2012-130, Laws of Fla., moved the restrictions on player-activated machines from s. 24.105(9)(a)4., F.S., to s. 24.112(15), F.S. As amended, the law (1) authorizes lottery vending machines to dispense “online lottery tickets, instant lottery tickets, or both,” and (2) prohibits use of mechanical reels or video depictions of slot machine or casino game themes or titles (but does not prohibit use of casino game themes or titles on lottery tickets, signage, or advertising displays on the vending machines).

⁴⁵ See <http://www.flalottery.com/playResponsibly> (last visited Oct. 19, 2021).

- Information relating to the security of the department's technologies, processes, and practices designed to protect networks, computers, data processing software, data, and data systems from attack, damage, or unauthorized access.
- Security information or information that would reveal security measures of the department, whether physical or virtual.
- Information about lottery games, promotions, tickets, and ticket stock, including information concerning the description, design, production, printing, packaging, shipping, delivery, storage, and validation of such games, promotions, tickets, and stock.
- Information concerning terminals, machines, and devices that issue tickets.
- Information that must be maintained as confidential in order for the department to participate in a multistate lottery association or game.
- Personal identifying information obtained by the department when processing background investigations of current or potential retailers or vendors.
- Financial information about an entity which is not publicly available and is provided to the department in connection with its review of the financial responsibility of the entity pursuant to ss. 24.111 or s. 24.112, F.S., provided that the entity marks such information as confidential. However, financial information related to any contract or agreement, or an addendum thereto, with the department, including the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, and penalties, shall be public record.

This information may be released to other governmental entities as needed in connection with the performance of their duties. The receiving governmental entity must maintain the confidential and exempt status of such information.

The exemption in subsection (1) is subject to the Open Government Sunset Review Act pursuant to s. 119.15, F.S., and is repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.⁴⁶

Information Related to Lottery Prize Winners

Subsection (2) makes confidential and exempt the street address and the telephone number of a winner, unless the winner consents to the release of such information, or if required by:

- Section 24.115(4), F.S., relating to debts owed to a state agency or child support collected through a court, including spousal support or alimony if the child support obligation is being enforced by the Florida Department of Revenue; or
- Section 409.2577, F.S., relating to locating parents who have deserted their children.⁴⁷

Any information made confidential and exempt under subsections (1) and (2) of s. 24.1051, F.S., must be disclosed to the Auditor General, to the Office of Program Policy Analysis and Government Accountability, or to the independent auditor selected under s. 24.123, F.S., upon request. If the President of the Senate or the Speaker of the House of Representatives certifies that information made confidential and exempt under this section is necessary for effecting legislative changes, the requested information shall be disclosed to him or her, and he or she may

⁴⁶ Section 24.1051(1)(d), F.S.

⁴⁷ Section 24.1051(2), F.S.

disclose such information to members of the Legislature and legislative staff as necessary to effect such purpose.⁴⁸

Any person who, with intent to defraud or with intent to provide a financial or other advantage to himself, herself, or another, knowingly and willfully discloses any information relating to the lottery designated as confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution pursuant to s. 24.1051, F.S., is guilty of a felony of the first degree, punishable by a term of imprisonment not to exceed thirty years, and a fine not to exceed \$10,000.⁴⁹

III. Effect of Proposed Changes:

Section 1 amends s. 24.1051, F.S., to make confidential and exempt from public inspection and copying requirements, for 90 days from the date a lottery prize is claimed, the name of a winner of a lottery prize valued at \$250,000 or more, unless the winner consents to the release of the information or if required by law.

This section provides for the repeal of the exemption pursuant to the Open Government Sunset Review Act on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 includes the following legislative statement of public necessity:

The Legislature finds that it is a public necessity that the name of a winner of a lottery prize valued at \$250,000 or more be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for 90 days from the date the prize is claimed, unless such exemption is waived by the winner. Persons who win valuable lottery prizes have been the targets of violent and nonviolent criminal acts based upon publicly available identifying information. For this reason, the Legislature finds that it is a public necessity to temporarily maintain the confidential and exempt status of such information. The Legislature finds that the harm that may result from the release of the name of a winner of a lottery prize valued at \$250,000 or more outweighs the public benefit that may be derived from the disclosure of the information.

The bill takes effect upon becoming a law.

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

⁴⁸ Section 24.01051(3), F.S.

⁴⁹ Section 24.1051(4), F.S.

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 creates a new public records exemption. Thus, the bill requires a two-thirds 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 creates a new public records exemption. Thus, the bill includes a public necessity statement.

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 name of a winner of a prize valued at \$250,000 for a period of 90 days from the date the prize is claimed, unless the winner consents to the release of his or her name. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the department, the impacts to lottery game ticket sales and transfers to the Educational Enhancement Trust Fund are indeterminate.⁵⁰ The department will continue to incur costs related to the redaction of records in responding to public records requests during the specified period.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 24.1051 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

⁵⁰ See Department of the Lottery, *Agency Bill Analysis for SB 170* at 2 (Oct. 6, 2021) (on file with the Senate Committee on Regulated Industries).

By Senator Polsky

29-00040-22

2022170__

A bill to be entitled

An act relating to public records; amending s. 24.1051, F.S.; creating a temporary exemption from public records for the names of lottery winners who win prizes of more than a specified value; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Present subsections (3) and (4) of section 24.1051, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and a new subsection (3) is added to that section, to read:

24.1051 Exemptions from inspection or copying of public records.—

(3) (a) The name of a winner of a prize valued at \$250,000 or more is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 90 days from the date the prize is claimed, unless the winner consents to the release of his or her name or as provided for in s. 24.115(4) or s. 409.2577. After 90 days, the winner's name is no longer confidential and exempt.

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

Section 2. The Legislature finds that it is a public

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29-00040-22

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necessity that the name of a winner of a lottery prize valued at \$250,000 or more be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for 90 days from the date the prize is claimed, unless such exemption is waived by the winner. Persons who win valuable lottery prizes have been the targets of violent and nonviolent criminal acts based upon publicly available identifying information. For this reason, the Legislature finds that it is a public necessity to temporarily maintain the confidential and exempt status of such information. The Legislature finds that the harm that may result from the release of the name of a winner of a lottery prize valued at \$250,000 or more outweighs the public benefit that may be derived from the disclosure of the information.

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

Page 2 of 2

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: SB 264

INTRODUCER: Senator Hooper

SUBJECT: Firefighter Inquiries and Investigations

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 264 amends the Firefighters’ Bill of Rights, which provides specific rights to a firefighter under investigation and when subject to interrogation for alleged misconduct that could lead to disciplinary action. The bill expands the rights given to a firefighter during questioning conducted under an informal inquiry. Currently, questioning pursuant to an informal inquiry is not subject to the Firefighters’ Bill of Rights.

The bill requires that an informal inquiry be conducted at a reasonable time and for a reasonable duration, allowing reasonable periods of rest for the firefighter. Additionally, during an informal inquiry or interrogation a firefighter may not be threatened with transfer, suspension, dismissal, or disciplinary action as inducement to answer any questions.

The bill revises the definition of the term “informal inquiry” to exclude certain routine work-related discussions such as safety sessions or normal operational fire debriefings.

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

The bill takes effect on July 1, 2022.

II. Present Situation:

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

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

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

Firefighters' Bill of Rights

The Firefighters' Bill of Rights provides specific rights when a firefighter¹¹ is under investigation and subject to interrogation for a reason which could lead to disciplinary action, including reprimand, suspension, or dismissal.¹² There is a similar law for law enforcement and correctional officers known as the Law Enforcement Officers' Bill of Rights.¹³

Currently, when an employing agency¹⁴ receives an allegation of misconduct regarding a firefighter, management may conduct an informal inquiry¹⁵ to determine whether a formal

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

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

³ Section 633.104(2)(e), F.S.

⁴ *Id.*

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

⁶ Section 633.218, F.S.

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

⁸ Section 633.432, F.S.

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

¹⁰ Section 633.202(1), F.S.

¹¹ “Firefighter” means a person who is certified in compliance with s. 633.408, F.S., and who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires. Section 112.81(1), F.S.

¹² Part VIII, ch. 112, F.S.

¹³ Part VI, ch. 112, F.S.

¹⁴ “Employing agency” means any municipality or the state or any political subdivision thereof, including authorities and special districts, which employs firefighters. Section 112.81(2), F.S.

¹⁵ “Informal inquiry” means a meeting by supervisory or management personnel with a firefighter about whom an allegation of misconduct has come to the attention of such supervisory or management personnel, the purpose of which meeting is to mediate a complaint or discuss the facts to determine whether a formal investigation should be commenced. Section 112.81(3), F.S.

investigation¹⁶ is appropriate. Informal inquiries are not subject to the requirements of the Firefighters' Bill of Rights. Only after a formal investigation has begun do the requirements have effect.¹⁷

Under the Firefighters' Bill of Rights, an interrogation of a firefighter must be conducted according to the following terms:¹⁸

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

III. Effect of Proposed Changes:

Section 1 amends s. 112.81, F.S., to revise the definitions of “informal inquiry” and “formal investigation.” “Informal inquiry” is revised to exclude certain discussions between supervisory

¹⁶ “Formal investigation” means the process of an investigation ordered by supervisory personnel, after the supervisory personnel has previously determined that the firefighter shall be reprimanded, suspended, or removed, during which the questioning of a firefighter is conducted to gather evidence of misconduct. 112.81(4), F.S.

¹⁷ “Interrogation” means the questioning of a firefighter by an employing agency in connection with a formal investigation or an administrative proceeding but shall not include arbitration or civil service proceedings. Questioning during an informal inquiry shall not be deemed an interrogation. 112.81(6), F.S.

¹⁸ Section 112.82, F.S.

and management personnel and firefighters, such as safety sessions, normal operational fire debriefings, and routine work-related discussions.

The term “formal investigation” is revised to mean an investigation undertaken to determine if a firefighter should be disciplined, reprimanded, suspended, or removed. Management personnel as well as supervisory personnel may initiate a formal investigation.

Section 2 amends s. 112.82, F.S., to expand the rights given to a firefighter during questioning conducted under an informal inquiry. Namely, the following requirements are applied to an informal inquiry:

- It must be conducted at a reasonable time of day, preferably when the firefighter is on duty; and
- It must be conducted for a reasonable duration and the firefighter must be permitted reasonable periods for rest.

The bill further provides that during an informal inquiry or interrogation a firefighter may not be threatened with transfer, suspension, dismissal, or disciplinary action as inducement to answer any questions.

Section 3 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 an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.81 and 112.82 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Hooper

16-00081A-22

2022264__

1 A bill to be entitled
 2 An act relating to firefighter inquiries and
 3 investigations; amending s. 112.81, F.S.; reordering
 4 and revising definitions; amending s. 112.82, F.S.;
 5 providing that firefighters have certain rights during
 6 an informal inquiry; providing that a firefighter may
 7 not be threatened with certain disciplinary action
 8 during an informal inquiry or interrogation; providing
 9 an effective date.

10 Be It Enacted by the Legislature of the State of Florida:
 11
 12

13 Section 1. Section 112.81, Florida Statutes, is amended to
 14 read:

15 112.81 Definitions.—As used in this part:

16 (3)~~(1)~~ "Firefighter" means a person who is certified in
 17 compliance with s. 633.408 and who is employed solely within the
 18 fire department or public safety department of an employing
 19 agency as a full-time firefighter whose primary responsibility
 20 is the prevention and extinguishment of fires; the protection of
 21 life and property; and the enforcement of municipal, county, and
 22 state fire prevention codes and laws pertaining to the
 23 prevention and control of fires.

24 (2) "Employing agency" means any municipality or the state
 25 or any political subdivision thereof, including authorities and
 26 special districts, which employs firefighters.

27 (5)~~(3)~~ "Informal inquiry" means a meeting by supervisory or
 28 management personnel with a firefighter about whom an allegation
 29 of misconduct has come to the attention of such supervisory or

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

16-00081A-22

2022264__

30 management personnel, the purpose of which meeting is to mediate
 31 a complaint or discuss the facts to determine whether a formal
 32 investigation should be commenced. The term does not include
 33 routine work-related discussions, such as safety sessions or
 34 normal operational fire debriefings.

35 (4) "Formal investigation" means the process of
 36 investigation ordered by supervisory or management personnel to
 37 determine if, ~~after the supervisory personnel have previously~~
 38 ~~determined that~~ the firefighter should ~~shall~~ be disciplined,
 39 reprimanded, suspended, or removed, during which the questioning
 40 of a firefighter is conducted for the purpose of gathering
 41 evidence of misconduct.

42 (1)~~(5)~~ "Administrative proceeding" means any nonjudicial
 43 hearing which may result in the recommendation, approval, or
 44 order of disciplinary action against, or suspension or discharge
 45 of, a firefighter.

46 (6) "Interrogation" means the questioning of a firefighter
 47 by an employing agency in connection with a formal investigation
 48 or an administrative proceeding but does ~~shall~~ not include
 49 arbitration or civil service proceedings. The term does not
 50 include questioning during pursuant to an informal inquiry ~~shall~~
 51 ~~not be deemed to be an interrogation.~~

52 Section 2. Section 112.82, Florida Statutes, is amended to
 53 read:

54 112.82 Rights of firefighters.—Whenever a firefighter is
 55 subjected to an informal inquiry or interrogation, the inquiry
 56 or such interrogation must ~~shall~~ be conducted in accordance with
 57 ~~pursuant to the terms of~~ this section.

58 (1) An ~~The~~ interrogation must ~~shall~~ take place at the

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2022264__

59 facility where the investigating officer is assigned, or at the
60 facility ~~that which~~ has jurisdiction over the place where the
61 incident under investigation allegedly occurred, as designated
62 by the investigating officer.

63 (2) ~~A No~~ firefighter ~~may not shall~~ be subjected to
64 interrogation without first receiving written notice ~~in of~~
65 sufficient detail of the formal investigation in order to
66 reasonably apprise the firefighter of the nature of the
67 investigation. The firefighter must shall be informed beforehand
68 of the names of all complainants.

69 (3) All interrogations must shall be conducted at a
70 reasonable time of day, preferably when the firefighter is on
71 duty, unless the importance of the interrogation ~~or~~
72 ~~investigation~~ is of such a nature that immediate action is
73 required.

74 (4) The firefighter under formal investigation must shall
75 be informed of the name, rank, and unit or command of the
76 officer in charge of the investigation, the interrogators, and
77 all persons present during any interrogation.

78 (5) Informal inquiries and interrogation sessions must
79 ~~shall~~ be of reasonable duration, and the firefighter must shall
80 be permitted reasonable periods for rest and personal
81 necessities.

82 (6) During an informal inquiry or interrogation, the
83 firefighter ~~may being interrogated shall~~ not be subjected to
84 offensive language; threatened with a transfer, suspension,
85 dismissal, or other disciplinary action; or offered any
86 incentive as an inducement to answer any questions.

87 (7) A complete record of any interrogation must shall be

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2022264__

88 made, and if a transcript of such interrogation is made, the
89 firefighter under formal investigation is shall be entitled to a
90 copy of the transcript without charge. Such record may be
91 electronically recorded.

92 (8) An employee or officer of an employing agency may
93 represent the agency, and an employee organization may represent
94 any member of a bargaining unit desiring such representation in
95 any proceeding to which this part applies. If a collective
96 bargaining agreement provides for the presence of a
97 representative of the collective bargaining unit during
98 investigations or interrogations, such representative shall be
99 allowed to be present.

100 (9) ~~A No~~ firefighter ~~may not shall~~ be discharged,
101 disciplined, demoted, denied promotion or seniority,
102 transferred, reassigned, or otherwise disciplined or
103 discriminated against in regard to his or her employment, or be
104 threatened with any such treatment, as retaliation for or by
105 reason solely of his or her exercise of any of the rights
106 granted or protected by this part.

107 Section 3. This act shall take effect July 1, 2022.

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The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill # 264**, relating to Firefighter Inquiries and Investigations, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

The Florida Senate

APPEARANCE RECORD

264

Bill Number or Topic

1/26/22

Meeting Date

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

Amendment Barcode (if applicable)

Governmental Oversight & Accountability Committee

Name Austin Stowers

Phone 850 413 5939

Address 200 E Gaines St.

Email austin.stowers@myfloridacfo.com

Street

Tallahassee

FL

32399

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

CFO & State Fire Marshal Jimmy Patronis

[] 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)

The Florida Senate

APPEARANCE RECORD

SB 264
Bill Number or Topic

JAN 26, 2022
Meeting Date

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

Governmental Oversight
Committee

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Phone 407-468-6622

Address 221 Pinewood Dr.
Street

Email ray@ffca.org

Tallahassee FL 32363
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:

FLORIDA FIRE chiefs' ASSOC.

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 \(flsenate.gov\)](#)

1/26/22

Meeting Date

The Florida Senate APPEARANCE RECORD

264

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Robert Suarez

Phone 305 9843299

Address 2980 NW JOY RIVER Dr

Email RSUAREZ@AFF587.org

Street

Miami

FL

33125

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. §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)

The Florida Senate

APPEARANCE RECORD

1-26-22

Meeting Date

264

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Wayne "Bernie" Bernoska

Phone 850.224.7333

Address 343 N. Madison St.

Email Bernie@fftp.org

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] 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 Professional Firefighters

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)

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 756

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

SUBJECT: Public Records/Human Trafficking Victims

DATE: January 25, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	Fav/CS
2.	<u>Limonas-Borja</u>	<u>McVane</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE – Substantial Changes

I. Summary:

CS/SB 756 amends s. 943.0583, F.S., to expand the public records exemption regarding the expunction of a criminal history record of a human trafficking victim relating to offenses listed under the habitual violent felony offender designation *if* the defendant was not found guilty of, or did not pled guilty or nolo contendere to, such an offense. Current law prohibits – without qualification - the expunction of a criminal history record related to offenses listed under the habitual violent felony offender designation.

The bill also makes confidential and exempt from public records copying and inspection requirements any petition filed by a human trafficking victim to expunge a criminal history record and all pleadings and documents related to the petition.

The bill makes legislative findings, to meet requirements of the State Constitution, that the expansion of the current exemption and the creation of new exemption from public records disclosure are each a public necessity. The bill requires a two-thirds vote of the members present and voting for final passage.

The exemption is subject to the Open Government Sunset Review Act (act) and will stand repealed on October 2, 2027, unless reviewed and reenacted by the Legislature.

The bill expressly provides that if the expansion of the exemption related to the human trafficking victim expunction is not saved from repeal, the provision will revert to the version as it exists on June 30, 2022, except that any amendments to the subsection must be preserved and

continue to operate to the extent that such amendments are not dependent upon the portions of the expanded exemption which expire.

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

The bill is effective July 1, 2022.

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.¹ 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.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 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.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 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.⁵

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.

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ 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)

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

⁵ 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 Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public 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.”⁶

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.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.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

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. 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).

¹¹ *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).

¹² *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).

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).

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ 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.¹⁹

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.²⁰ 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;²¹
- 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;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ 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

¹⁶ Section 119.15, F.S.

¹⁷ 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.

¹⁸ 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.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See *generally* Section 119.15, F.S.

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.²⁶

Human Trafficking

Human trafficking is a form of modern-day slavery.²⁷ Human trafficking victims can be young children, teenagers, and adults. Some of which may be citizens that are trafficked domestically within the borders of the United States, while others are smuggled across international borders worldwide.²⁸ Many human trafficking victims are induced with false promises of financial or emotional security, but are forced or coerced into commercial sex, domestic servitude, or other types of forced labor.²⁹ Any minor who is younger than 18 years old and who is induced to perform a commercial sex act is a human trafficking victim, even if there is no force, fraud, or coercion.³⁰ Increasingly, criminal organizations, such as gangs, are enticing local school children into commercial sexual exploitation or trafficking.³¹

Human Trafficking in Florida

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,³² purchasing, patronizing, procuring, or obtaining³³ another person for the purpose of exploitation of that person.³⁴ In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for labor or services, or commercial sexual activity, commits a crime.³⁵ Florida law sets out several circumstances that give rise to specified penalties including, in part:

- Labor or services of any child under the age of 18 commits a first degree felony;³⁶
- Labor or services of any child under the age of 18 who is an unauthorized alien³⁷ commits a first degree felony;³⁸

²⁶ Section 119.15(7), F.S.

²⁷ Section 787.06(1)(a), F.S.

²⁸ *Id.*

²⁹ The Department of Education (the DOE), *Healthy Schools – Human Trafficking*, available at <http://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited January 20, 2022).

³⁰ *Id.*

³¹ *Id.*

³² Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

³³ Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

³⁴ Section 787.06(2)(d), F.S.

³⁵ Section 787.06(3), F.S.

³⁶ Section 787.06(3)(a)1., F.S. A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

³⁷ Section 787.06(2)(j), F.S., defines “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3).

³⁸ Section 787.06(3)(c)1., F.S.

- Labor or services who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;³⁹
- Commercial sexual activity⁴⁰ who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;⁴¹ or
- Commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective⁴² or mentally incapacitated⁴³ is involved commits a life felony.⁴⁴

The above-mentioned first-degree felonies are reclassified as a life felony if a person causes great bodily harm, permanent disability, or permanent disfigurement to another person during the commission of the offense.⁴⁵ Ignorance of the human trafficking victim's age, the victim's misrepresentation of his or her age, or a bona fide belief of the victim's age cannot be raised as a defense by a defendant.⁴⁶

Florida is ranked the third highest state of reported human trafficking cases in the United States.⁴⁷ In 2020, the Florida Abuse Hotline received an increase in reports of commercially exploited children from 3,088 reports in 2019 to 3,181 reports in 2020.⁴⁸

Public Records Exemption relating to Human Trafficking

In part, current law provides a public record exemption for criminal intelligence⁴⁹ and criminal investigative information⁵⁰ including:

³⁹ Section 787.06(3)(e)1., F.S.

⁴⁰ Section 787.06(2)(b), F.S., defines "commercial sexual activity" as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines "sexual explicit performance" as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

⁴¹ Section 787.06(3)(f)1., F.S., provides that an offense committed under these circumstances is punishable by a term of imprisonment not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.

⁴² Section 794.011(1)(b), F.S., defines "mentally defective" as a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

⁴³ Section 794.011(1)(c), F.S., defines "mental incapacitated" as temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

⁴⁴ A life felony is punishable by a term of life imprisonment, \$15,000 fine, or both as provided in ss. 775.082(3)(a)6., 775.083, or 775.084, F.S.

⁴⁵ Section 787.06(8)(b), F.S.

⁴⁶ Section 787.06(9), F.S.

⁴⁷ Florida Alliance to End Human Trafficking, *We need to End Human Trafficking in the State of Florida*, available at <https://floridaallianceendht.com/> (last visited January 20, 2022).

⁴⁸ The Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2021, p. 2, July 2021, available at Annual Report on CSE of Children, 2021 (fl.gov) (last visited January 20, 2022).

⁴⁹ Section 119.011(3)(a), F.S., defines "criminal intelligence information" as information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

⁵⁰ Section 119.011(3)(b), F.S., defines "criminal investigative information" as information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

- Any information that reveals the identity of a person under the age of 18 who is the victim of human trafficking for labor or services;
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity; and
- A photograph, videotape, or image of any part of the body of a victim of human trafficking involving commercial sexual activity.⁵¹

Expunction

A person may have his or her criminal history record expunged under certain circumstances.⁵² When a record is expunged, the criminal justice agencies possessing such record must physically destroy or obliterate it. The Florida Department of Law Enforcement (FDLE) maintains a copy of the record to evaluate subsequent requests for sealing or expunction, and to recreate the record in the event a court vacates the order to expunge.⁵³ The criminal history record retained by the FDLE is confidential and exempt.⁵⁴ Once the record is expunged, a person may lawfully deny or fail to acknowledge the arrests covered by the expunged record, subject to exceptions.⁵⁵

Court Ordered Expunction

Section 943.0585, F.S., provides the courts discretion in dealing with the expunction of criminal history records if certain requirements are met. A court, in its discretion, may order the expunction of a person's criminal history record if the FDLE issues the person a certificate of eligibility for expunction.⁵⁶ The FDLE must issue a certificate of eligibility for court-ordered expunction to a person meeting all criteria.⁵⁷ Generally, a person is eligible for expunction if:

- An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record.
- An indictment, information, or other charging document was filed or issued in the case giving rise to the criminal history record, but was dismissed or nolle prosequi by the State, was dismissed by the court, a judgment of acquittal was rendered, or a verdict of not guilty was rendered.
- The person is not seeking to seal a criminal history record relating to a violation of certain enumerated offenses.
- The person has never, prior to filing the application for a certificate of eligibility, been either:
 - Adjudicated guilty of any criminal offense or comparable ordinance violation; or
 - Adjudicated delinquent of any felony or certain enumerated misdemeanors as a juvenile.
- The person has not been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.
- The person has never secured a prior sealing or expunction, unless:

⁵¹ Section 119.071(2)(h)1., F.S.

⁵² Sections 943.0581, 943.0582, 943.0583, and 943.0585, F.S.

⁵³ Section 943.045(16), F.S.

⁵⁴ Section 943.0585(6)(a), F.S.

⁵⁵ Section 943.0585(6), F.S.

⁵⁶ Section 943.0585(4), F.S.

⁵⁷ Section 943.0585(2), F.S.

- Expunction is sought of a criminal history record previously sealed for at least 10 years; and
- The record was sealed because adjudication was withheld, or because a judgment of acquittal or verdict of not guilty was rendered.⁵⁸

Human Trafficking Victim Expunction

In 2013, the Legislature created a process authorizing a victim of human trafficking to petition a court for the expunction⁵⁹ of a criminal history record resulting from his or her arrest or filing of charges for an offense committed or reported to have been committed while he or she was a victim of human trafficking.⁶⁰

For purposes of record expunction, “victim of human trafficking” means a person subjected to coercion⁶¹ for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.⁶²

To be eligible for expunction, the criminal offense must be related to a human trafficking scheme of which the person was a victim or the offense must have been committed at the direction of an operator of the scheme and must not be one of the offenses under s. 775.084(1)(b)1., F.S., including:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;

⁵⁸ Section 943.0585(1), F.S.

⁵⁹ When a criminal history record is ordered to be expunged, the record must be physically destroyed by any criminal justice agency possessing such record, except that any criminal history record in the custody of the Florida Department of Law Enforcement (FDLE) must be retained. *See* s. 943.045(16), F.S.

⁶⁰ Section 943.0583(3), F.S.

⁶¹ Section 787.06, F.S., defines “coercion” as “1. Using or threatening to use physical force against any person; 2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority against his or her will; 3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; 4. Destroying, concealing removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; 5. Causing or threatening to cause financial harm to any person; 6. Enticing or luring any person by fraud or deceit; or 7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03, F.S., to any person for the purpose of exploitation of that person.”

⁶² Section 943.0583(1)(c), F.S.

- Armed burglary; or
- Aggravated stalking.⁶³

The human trafficking victim is eligible to receive the expunction regardless of the disposition of the arrest or of any charges unless the criminal history record is related to one of the above-listed offenses.

The court with original jurisdiction over the crime that the human trafficking victim seeks to expunge is the court designated to hear the victim's petition.⁶⁴ A petition must be initiated by the petitioner with due diligence after he or she is no longer a victim of human trafficking or has sought human trafficking services.⁶⁵ The petition must be accompanied by the following:

- A sworn statement attesting that the petitioner is eligible for an expunction to the best of his or her knowledge and does not have other petitions to expunge or seal pending before any court; and
- Official documentation of the petitioner's status as a human trafficking victim, if any exists.⁶⁶

In contrast to other expunctions made under s. 943.0585, F.S., a court is required to treat a petition seeking to expunge more than one eligible case as a single petition.⁶⁷ Florida's clerks of court are prohibited from charging a filing fee, service charge, or copy fee or any other charge for a petition for a human trafficking victim expunction.⁶⁸

When a criminal history record is ordered to be expunged, the record must be physically destroyed by any criminal justice agency possessing such record, except if it is retained by the FDLE. A human trafficking victim may lawfully deny or fail to acknowledge any expunged record unless he or she is applying for a job within a criminal justice agency or is a defendant in a subsequent criminal prosecution.⁶⁹ The criminal history record that has been expunged is considered confidential and exempt⁷⁰ from public records requirements.⁷¹

⁶³ Section 943.0583(3), F.S. This subsection provides that expunction is not permitted if the offense is related to an offense enumerated in s. 775.084(1)(b)1., F.S., related to habitual violent felony offenders.

⁶⁴ Section 943.0583(2), F.S.

⁶⁵ Section 943.0583(4), F.S.

⁶⁶ Section 943.0583(6), F.S.

⁶⁷ Section 943.0583(2), F.S.

⁶⁸ *Id.*

⁶⁹ Section 943.0583(8)(b), F.S.

⁷⁰ 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. *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004). Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

⁷¹ Section 119.071(2)(h), F.S.

Current law also provides that criminal intelligence⁷² and criminal investigative information⁷³ is confidential and exempt from public records requirements. Such information includes:⁷⁴

- Any information that reveals the identity of a person under the age of 18 who is the victim of human trafficking for labor or services;⁷⁵
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity;⁷⁶ and
- A photograph, videotape, or image of any part of the body of a victim of human trafficking involving commercial sexual activity.⁷⁷

Florida law does not currently provide a public records exemption for a human trafficking victim's petition and any accompanying documents for expunction of his or her criminal history record resulting from an offense committed while he or she was a victim of human trafficking.

III. Effect of Proposed Changes:

Section 1 amends s. 943.0583, F.S., to expand the public records exemption authorizing human trafficking victims to expunge a criminal history record related to any offense listed in s. 775.084(1)(b)1., F.S. - the habitual violent felony offender designation - *if* the defendant was not found guilty of, or pled guilty or nolo contendere to, any such an offense. This section provides that the expansion of the public records exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2027, unless the Legislature reviews and renews the expansion of the exemption before that date. This section also specifies that if the expansion is not saved, the subsection will revert to the version in existence at June 30, 2022, except that any amendments to this subsection other than by this act shall be preserved and continued to operate to the extent that they are not dependent upon the portions of this subsection that expire.

This section also makes confidential and exempt from public inspection and copying requirements a petition filed by a human trafficking victim to expunge a criminal history record and all pleadings and all related documents to the petition. This section specifies that this new public records exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2027, unless the Legislature reviews and renews the exemption before that date.

Section 2 provides statements of public necessity to meet the requirements of the State Constitution, which note:

⁷² Section 119.011(3)(a), F.S., defines "criminal intelligence information" as information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

⁷³ Section 119.011(3)(b), F.S., defines "criminal investigative information" as information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

⁷⁴ Ch. 2015-146 Laws of Fla.

⁷⁵ See s. 787.06(3)(a), F.S.

⁷⁶ See s. 787.06(3)(b), (d), (f), and (g), F.S.

⁷⁷ *Id.*

[t]he Legislature finds it a public necessity that criminal history records of human trafficking victims related to any offense listed in s. 775.084(1)(b)1. that was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction or a judgment of acquittal was rendered by a judge, or a verdict of not guilty was rendered by a judge or jury, and that are ordered to be expunged under s. 943.0583, F.S., be made confidential and exempt from 119.07(1), F.S., and s. 24(a), Article I of the State Constitution. Further, the Legislature finds that it is a public necessity that a petition filed under s. 943.0583, F.S., and all pleadings and documents related to the petition be made confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. Persons who are victims of human trafficking and who have been arrested, charged, or convicted of crimes committed at the behest of their traffickers are themselves victims of crimes. These victims face barriers to employment and loss of other life opportunities, and the fact that they are seeking expungement, as well as the information contained in related pleadings and documents, would expose these petitioners to possible discrimination due to details of their past lives becoming public knowledge. Therefore, it is necessary that these specified criminal history records, even though such record is related to certain serious offenses, and these petitions, pleadings, and related documents be made confidential in order for human trafficking victims to have the chance to rebuild their lives and reenter society.

Section 3 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 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 exemption to make certain criminal history records subject to expunction and creates a new exemption for a petition for expunction filed by a human trafficking victim and all pleadings and documents related to the petition. Thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains statements of public necessity for the exemptions.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The stated purpose of the bill is to protect human trafficking victims from exposure to possible discrimination due to details of their past lives becoming public knowledge. This bill expands a public records exemption for certain criminal history records related to offenses listed in s. 775.084(1)(b)1., and creates a new public records exemption for a petition for expunction filed by a human trafficking victim and all pleadings and documents related to the petition. The exemptions do not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local governments. Costs incurred by an agency in responding to public records requests regarding these exemptions should be offset by authorized fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.0583 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 Children, Families, and Elder Affairs on January 11, 2022:

The Committee Substitute:

- Expands the provision that authorizes human trafficking victims to expunge a criminal history record related to offenses listed under s. 775.084(1)(b)1. (the habitual violent felony offender designation), provided the victim was not found guilty of, or did not pled guilty or nolo contendere to, such an offense;
- Provides for an Open Government Sunset Review Act repeal date of October 2, 2027, and provides that if the expansion is not saved, the subsection will revert to the version in existence at June 30, 2022 with special exceptions;
- Makes any petition filed by a human trafficking victim to expunge a criminal history record and all pleadings and related documents confidential and exempt, instead of making confidential and exempt the victim's personal identifying information contained in such documents;
- Provides for an Open Government Sunset Review Act repeal date of October 2, 2027; and
- Modifies the public necessity statements to include the provision expanding the human trafficking victim expunction and to conform the statement to relate to making the petition and other documents confidential and exempt.

- B. **Amendments:**

None.

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

586-01944-22

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0583, F.S.; expanding an existing public records
4 exemption relating to human trafficking victims
5 seeking expunction of certain records related to an
6 offense listed in s. 775.084(1)(b)1., F.S.; providing
7 for future review and repeal of the expanded
8 exemption; providing for the reversion of specified
9 provisions if the exemption is not saved from repeal;
10 providing that a petition for human trafficking victim
11 expunction and all pleadings and documents related to
12 the petition are confidential and exempt from public
13 records requirements; providing for future legislative
14 review and repeal of the exemption; providing a
15 statement of public necessity; providing an effective
16 date.
17
18 Be It Enacted by the Legislature of the State of Florida:
19
20 Section 1. Subsection (3) of section 943.0583, Florida
21 Statutes, is amended, subsection (12) is added to that section,
22 and subsections (10) and (11) of that section are republished,
23 to read:
24 943.0583 Human trafficking victim expunction.—
25 (3) (a) A person who is a victim of human trafficking may
26 petition for the expunction of a criminal history record
27 resulting from the arrest or filing of charges for one or more
28 offenses committed or reported to have been committed while the
29 person was a victim of human trafficking, which offense was

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30 committed or reported to have been committed as a part of the
31 human trafficking scheme of which the person was a victim or at
32 the direction of an operator of the scheme, including, but not
33 limited to, violations under chapters 796 and 847, without
34 regard to the disposition of the arrest or of any charges.
35 ~~(b) However,~~ This section does not apply to any offense
36 listed in s. 775.084(1)(b)1. if the defendant was found guilty
37 of, or pled guilty or nolo contendere to, any such offense.
38 (c) Determination of the petition under this section should
39 be by a preponderance of the evidence. A conviction expunged
40 under this section is deemed to have been vacated due to a
41 substantive defect in the underlying criminal proceedings. If a
42 person is adjudicated not guilty by reason of insanity or is
43 found to be incompetent to stand trial for any such charge, the
44 expunction of the criminal history record may not prevent the
45 entry of the judgment or finding in state and national databases
46 for use in determining eligibility to purchase or possess a
47 firearm or to carry a concealed firearm, as authorized in s.
48 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it prevent
49 any governmental agency that is authorized by state or federal
50 law to determine eligibility to purchase or possess a firearm or
51 to carry a concealed firearm from accessing or using the record
52 of the judgment or finding in the course of such agency's
53 official duties.
54 (d) The expansion of the public records exemption in
55 paragraph (b) to allow for the expunction of certain criminal
56 history records related to an offense listed in s.
57 775.084(1)(b)1. is subject to the Open Government Sunset Review
58 Act in accordance with s. 119.15 and shall stand repealed on

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59 October 2, 2027, unless reviewed and saved from repeal through
 60 reenactment by the Legislature. If the expansion of the
 61 exemption is not saved from repeal, this subsection shall revert
 62 to that in existence on June 30, 2022, except that any
 63 amendments to this subsection other than by this act shall be
 64 preserved and continue to operate to the extent that such
 65 amendments are not dependent upon the portions of this
 66 subsection which expire pursuant to this paragraph.

67 (10) (a) A criminal history record ordered expunged under
 68 this section that is retained by the department is confidential
 69 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 70 Constitution, except that the record shall be made available:

71 1. To criminal justice agencies for their respective
 72 criminal justice purposes.

73 2. To any governmental agency that is authorized by state
 74 or federal law to determine eligibility to purchase or possess a
 75 firearm or to carry a concealed firearm for use in the course of
 76 such agency's official duties.

77 3. Upon order of a court of competent jurisdiction.

78 (b) A criminal justice agency may retain a notation
 79 indicating compliance with an order to expunge.

80 (11) (a) The following criminal intelligence information or
 81 criminal investigative information is confidential and exempt
 82 from s. 119.07(1) and s. 24(a), Art. I of the State
 83 Constitution:

84 1. Any information that reveals the identity of a person
 85 who is a victim of human trafficking whose criminal history
 86 record has been expunged under this section.

87 2. Any information that may reveal the identity of a person

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88 who is a victim of human trafficking whose criminal history
 89 record has been ordered expunged under this section.

90 (b) Criminal investigative information and criminal
 91 intelligence information made confidential and exempt under this
 92 subsection may be disclosed by a law enforcement agency:

93 1. In the furtherance of its official duties and
 94 responsibilities.

95 2. For print, publication, or broadcast if the law
 96 enforcement agency determines that such release would assist in
 97 locating or identifying a person that the agency believes to be
 98 missing or endangered. The information provided should be
 99 limited to that needed to identify or locate the victim.

100 3. To another governmental agency in the furtherance of its
 101 official duties and responsibilities.

102 (c) This exemption applies to such confidential and exempt
 103 criminal intelligence information or criminal investigative
 104 information held by a law enforcement agency before, on, or
 105 after the effective date of the exemption.

106 (12) (a) A petition filed pursuant to this section and all
 107 pleadings and documents related to the petition are confidential
 108 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 109 Constitution.

110 (b) This subsection is subject to the Open Government
 111 Sunset Review Act in accordance with s. 119.15 and shall stand
 112 repealed on October 2, 2027, unless reviewed and saved from
 113 repeal through reenactment by the Legislature.

114 Section 2. The Legislature finds it is a public necessity
 115 that criminal history records of human trafficking victims
 116 related to any offense listed in s. 775.084(1)(b)1., Florida

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117 Statutes, that was dismissed or nolle prosequi by the state
118 attorney or statewide prosecutor or dismissed by a court of
119 competent jurisdiction, or for which a judgment of acquittal was
120 rendered by a judge or a verdict of not guilty was rendered by a
121 judge or jury, which records are ordered to be expunged under s.
122 943.0583, Florida Statutes, be made confidential and exempt from
123 119.07(1), Florida Statutes, and s. 24(a), Article I of the
124 State Constitution. Further, the Legislature finds that it is a
125 public necessity that a petition filed under s. 943.0583,
126 Florida Statutes, and all pleadings and documents related to the
127 petition be made confidential and exempt from s. 119.07(1),
128 Florida Statutes, and s. 24(a), Article I of the State
129 Constitution. Persons who are victims of human trafficking and
130 who have been arrested, charged, or convicted of crimes
131 committed at the behest of their traffickers are themselves
132 victims of crimes. These victims face barriers to employment and
133 loss of other life opportunities, and the fact that they are
134 seeking expungement, as well as the information contained in
135 related pleadings and documents, would expose these petitioners
136 to possible discrimination due to details of their past lives
137 becoming public knowledge. Therefore, it is necessary that such
138 specified criminal history records, even though such records are
139 related to certain serious offenses, and such petitions,
140 pleadings, and related documents be made confidential in order
141 for human trafficking victims to have the chance to rebuild
142 their lives and reenter society.

143 Section 3. This act shall take effect July 1, 2022.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

SENATOR MANNY DIAZ, JR.
36th District

January 12, 2022

Honorable Senator Jeff Brandes
Chair
Committee on Governmental Oversight and Accountability

Honorable Chair Brandes,

I respectfully request that SB 756 Human Trafficking Public Records be placed in the next committee agenda.

Public Records/Human Trafficking Victims; Expanding an existing public records exemption relating to human trafficking victims seeking expunction of certain records related to an offense listed in s. 775.084(1)(b)1., F.S.; providing for future review and repeal of the expanded exemption; providing for the reversion of specified provisions if the exemption is not saved from repeal; providing that a petition for human trafficking victim expunction and all pleadings and documents related to the petition are confidential and exempt from public records requirements; providing for future legislative review and repeal of the exemption; providing a statement of public necessity

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Diaz", written over a light blue circular stamp.

Senator Manny Diaz, Jr.
Florida Senate, District 36

CC: Joe McVaney, Staff Director
Tamra Redig, Committee Administrative Assistant
Vanessa Thompson, Legislative Assistant

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1952

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Albritton

SUBJECT: Evidence of Vendor Financial Stability

DATE: January 26, 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 1952 permits an agency to establish financial stability criteria when determining whether a vendor is responsible and to require a vendor to demonstrate its financial stability during the competitive solicitation process. The bill specifies three forms of evidence an agency must accept if it requires a vendor to show financial stability during the competitive solicitation process for the procurement of commodities and contractual services. Such evidence includes:

- Audited financial statements that demonstrate the vendor’s satisfaction of financial stability criteria.
- Documentation of an investment-grade rating from a credit rating agency designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission.
- For a vendor with annual revenues exceeding \$1 billion, a letter issued by the chief financial officer or controller verifying such vendor’s satisfaction of financial stability criteria.

The bill defines the term “financial stability” to mean the capacity to, at a minimum, efficiently allocate resources, assess and manage financial risks, and fully perform the contract requirements, for the term of the contract.

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

The bill takes effect July 1, 2022.

II. Present Situation:

Procurement of Commodities and Services

Chapter 287, F.S., regulates state agency procurement of personal property and services. The term “agency” is defined broadly to mean any unit of the executive branch of state government.¹ The Department of Management Services (DMS) is responsible for overseeing state purchasing activity, including professional and contractual services, as well as commodities needed to support agency activities.²

The DMS is authorized to evaluate contracts let by the federal government, another state, or a political subdivision for the provision of commodities and contract services and, when it is determined to be cost effective and in the best interest of the state, to enter into written agreement authorizing a state agency to make purchases under such contract.³ The DMS negotiates contracts and purchasing agreements that are intended to leverage the state’s buying power.

Section 287.017, F.S., establishes the purchasing categories, which are threshold amounts linked to other requirements in Chapter 287, as follows:

- Category One: \$20,000;
- Category Two: \$35,000;
- Category Three: \$65,000;
- Category Four: \$195,000; and
- Category Five: \$325,000.

State Term Contracts & Request for Quotes

Section 287.056, F.S., requires agencies and permits eligible users⁴ to purchase commodities and contractual services from purchasing agreements and state term contracts⁵ procured by the DMS.

Agencies and eligible users may use a request for quote, to obtain written pricing or services information from a state term contract vendor to determine whether a more favorable price, term or condition that that provided in the state term contract is available.⁶ The use of a request for quote does not constitute a decision subject to protest.⁷ Rule 60A-1.043, F.A.C., requires agencies to request at least two quotes from state term contracts with multiple vendors, unless (i) the purchase is less than Category One (\$20,000), or (ii) the state term contract requires

¹ Section 287.012(1), F.S., defines the term “agency” to mean any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. “Agency” does not include the university and college boards of trustees or the state universities and colleges.

² See ss. 287.032 and 287.042, F.S.

³ Section 287.042(16), F.S.

⁴ Section 287.012(11), F.S., defines “eligible user” to mean any person or entity authorized by the DMS pursuant to rule to purchase from state term contracts or to use the online procurement system.

⁵ Section 287.012(28), F.S., defines “state term contract” to mean a term contract that is competitively procured by the DMS pursuant to s. 287.057, F.S., and that is used by agencies and eligible users pursuant to s. 287/056, F.S.

⁶ Section 287.056(2), F.S.

⁷ Section 287.056(2), F.S.

otherwise. Agencies must document the justification for a selection based on receipt of less than two quotes.⁸

Competitive Solicitation

With certain exceptions,⁹ the procurement of commodities or contractual services in excess of Category Two, \$35,000, requires agencies to use a competitive solicitation process.¹⁰ Any form of competitive solicitation must be made available simultaneously to all vendors, must include the time and date for the receipt of bids, proposals, or replies, and must include all contractual terms and conditions applicable to the procurement.¹¹ Depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors, agencies may use a variety of methods, including:

- Single source contracts,¹² 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 (ITB),¹³ 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. The agency specifically defines the scope of work for the contractual service and establishes precise specifications for the commodity or group of commodities;
- Requests for proposals (RFP),¹⁴ which are 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 (ITN),¹⁵ which are 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. Agencies must specify the criteria in determining the acceptability and selection of the vendors in which the agency will invite to negotiate.

Chapter 287, F.S., grants an agency discretion in setting criteria for the award of a contract via competitive solicitation. For example, s. 287.057(1)(b)4., F.S., which governs the award of a contract via a RFP, provides that the "contract shall be awarded in writing to the *responsible*¹⁶ and *responsive*¹⁷ vendor whose proposal is determined ... to be the most advantageous to the state, taking into consideration the price and other criteria set forth in the request for proposals." Similarly, for an ITN, s. 287.057(1)(c)4., F.S., provides that the "agency shall award the contract to the responsible and responsive vendor that the agency determines will provide the best value

⁸ Rule 60A-1.043, F.A.C.

⁹ Section 287.057(3)(e), F.S.

¹⁰ Section 287.057(1), F.S.

¹¹ *Id.*

¹² Section 287.057(3)(c), F.S.

¹³ Section 287.057(1)(a), F.S.

¹⁴ Section 287.057(1)(b), F.S.

¹⁵ Section 287.057(1)(c), F.S.

¹⁶ Section 287.012(25), F.S. defines "responsible vendor" to mean a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. This definition includes the financial capacity of the vendor.

¹⁷ Section 287.012(27), F.S. defines "responsive vendor" to mean a vendor that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation.

to the state.” Additional criteria or information requested for determining whether such vendor is responsible include:

- References of the vendor;
- Documents evidencing a vendor’s technical expertise; and
- A showing of financial capacity (also referred to as financial ability,¹⁸ financial viability,¹⁹ or financial stability²⁰) by submitting financial data, including audited financial statements.

Contract Evaluations and Negotiations

For a contract in excess of \$195,000, the agency head must appoint at least three people to evaluate proposals and replies who collectively have experience and knowledge in the program areas and service requirements for which commodities or contractual services are sought.²¹ In addition, the agency head must appoint three people²² to conduct negotiations during an invitation to negotiate procurement who collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for which commodities or contractual services are sought.²³

If the value of a contract is in excess of \$1 million in any fiscal year, at least one of the persons conducting negotiations must be certified as a Florida certified contract negotiator (FCCN)²⁴ in order to ensure that certified contract negotiators are knowledgeable about effective negotiation strategies, capable of successfully implementing those strategies, and involved appropriately in the procurement process.²⁵ If the value of a contract is in excess of \$10 million in any fiscal year,

¹⁸ See, for example, *The Escambia County School District Request for Proposal #161301*, p. 18, file:///C:/Users/borja.gabriela/Downloads/Bid_161301.pdf.

¹⁹ See, for example, *Department of Juvenile Justice Solicitation #10706 – Statewide Clinical Laboratory Testing Services*, p. 23, file:///C:/Users/borja.gabriela/Downloads/F1236158504_RFP_10706_SolicitationDocument.pdf.

²⁰ Rule 25-17.0832, F.A.C.

²¹ Section 287.057(16)(a), F.S.

²² Section 287.057(16)(b), F.S., provides that if the value of the contract is in excess of \$1 million in any fiscal year, then at least one person conducting negotiations must be certified as a contract negotiator. If the value of the contract is in excess of \$10 million in any fiscal year, then at least one person conducting negotiations must be a Project Management Professional certified by the Project Management Institute.

²³ Section 287.057(16)(a)2., F.S.

²⁴ Rule 60A-1.041(3), F.A.C., provides that a person must meet the following requirements for FCCN Certification, which is valid for five years or until the expiration date stated on the person’s FCCN certificate, whichever is later:

- Successful completion of the FCCN certification course;
- At least 12 months’ experience as a purchasing agent, contract manager, or contract administrator for an agency or local government entity, where the job description for the position required that at least half of the employee’s designated duties included procuring commodities or contractual services, participating in contract negotiation, contract management, or contract administration, or working as an agency attorney whose duties included providing legal counsel to the agency’s purchasing or contracting staff; and
- Experience during the preceding five years in leading at least one federal, state, or local government negotiation team through a negotiated procurement, or participation in at least two federal, state, or local government negotiated procurements. Negotiated procurements include those from a single source; those negotiated when fewer than two responsive bids, proposals, or replies are received; and contract renewals. Employees must provide documentation to show compliance with the experience and participation requirements when submitting the application.

²⁵ Section 287.057(16)(b), F.S.

at least one of the persons conducting negotiations must be a Project Management Professional certified by the Project Management Institute.²⁶

Vendor Registration and the Vendor Bid System

Any vendor that wishes to provide goods or services to the state must register in the Vendor Registration System.²⁷ Once registered, vendors are able to do business with the State of Florida executive branch agencies through the Vendor Information Portal.²⁸

The Vendor Bid System (VBS), allows for agencies to post competitive solicitations of \$35,000 or more. These solicitations include ITBs, RFPs, and ITNs for all vendors to review. Vendors can then bid, submit proposals, or submit a request to negotiate with the state agency through the VBS. A vendor will be notified through the VBS if its bid has been chosen and proceed by following bid specifications, timelines, and budgets.²⁹

Chief Financial Officer and Department of Financial Services

The chief financial officer (CFO) of Florida is responsible for settling and approving accounts against the state and maintaining all state funds and securities.³⁰ The CFO, using generally accepted auditing procedures for testing or sampling, must examine, audit, and settle all accounts, claims, and demands, whatsoever, against the State, arising under any law or resolution of the Legislature, and issue a warrant directing the payment out of the State Treasury of such amount as he or she allows thereon.³¹ The CFO may adopt and disseminate to the agencies procedural and documentation standards for payment requests and may provide training and technical assistance to the agencies for these standards.³² In addition, the CFO has the legal duty of delivering all state warrants and will be charged with the official responsibility of the protection and security of the state warrants while in his or her custody. The CFO may delegate this authority to other state agencies or officers.³³

III. Effect of Proposed Changes:

Section 1 amends s. 287.057, F.S., to permit an agency to establish financial stability criteria when determining whether a vendor is responsible and to require a vendor to demonstrate its financial stability during the competitive solicitation process. Any agency that requires a vendor to show financial stability³⁴ during a competitive solicitation process must accept the following as evidence of financial stability:

²⁶ *Id.*

²⁷ In order to register, a vendor must provide the following information: (1) Company Name; (2) Federal Tax ID; (3) Tax Filing Name; (4) Business Location; (5) Commodities and Services Offered; and (5) Certified Business and Enterprise Status. See The Department of Management Services, *Vendor Resources*, available at

https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources (last visited, January 19, 2022).

²⁸ See The Department of Management Services, *Vendor Resources*, available at

https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources (last visited, January 19, 2022).

²⁹ *Id.*

³⁰ Section 17.001, F.S.

³¹ Section 17.03(1), F.S.

³² Section 17.03(3), F.S.

³³ Section 17.03(4), F.S.

³⁴ This is not a defined term in chapter 287, F.S.

- Audited financial statements that demonstrate the vendor’s satisfaction of financial stability criteria;
- Documentation of an investment-grade rating from a credit rating agency designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission; or
- For a vendor with annual revenues exceeding \$1 billion, a letter issued by the chief financial officer or controller verifying such vendor’s satisfaction of financial stability criteria.

The section defines the term “financial stability” to mean the capacity to, at a minimum, efficiently allocate resources, assess and manage financial risks, and fully perform the contract requirements, for the term of the contract.

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, or 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:

Some vendors may experience an increase in costs associated with acquiring the required evidence to prove financial stability.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.057 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 26, 2022:

The CS does the following:

- Permits an agency to establish financial stability criteria when determining whether a vendor is responsible and to require a vendor to demonstrate its financial stability during the competitive solicitation process;
- Clarifies language regarding evidence of financial stability; and
- Defines the term “financial stability” to mean the capacity to, at a minimum, efficiently allocate resources, assess and manage financial risks, and fully perform the contract requirements, for the term of the contract.

- B. Amendments:

None.

By Senator Albritton

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A bill to be entitled

An act relating to evidence of vendor financial stability; amending s. 287.057, F.S.; providing that an agency that requires a vendor to demonstrate financial stability during a competitive solicitation process must accept certain evidence; providing an effective date.

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

Section 1. Subsection (27) is added to section 287.057, Florida Statutes, to read:

287.057 Procurement of commodities or contractual services.—

(27) An agency that requires a vendor to demonstrate financial stability during the competitive solicitation process must accept any of the following as evidence of such stability:

(a) Audited financial statements that demonstrate the vendor's satisfaction of generally accepted financial stability criteria.

(b) Documentation of an investment-grade rating from a credit rating agency designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission.

(c) For a vendor with annual revenues exceeding \$1 billion, a letter issued by the chief financial officer or controller verifying such vendor's satisfaction of generally accepted financial stability criteria.

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



The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: January 13, 2022

I respectfully request that **Senate Bill #1952**, relating to Evidence of Vendor Financial Stability, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

The Florida Senate

APPEARANCE RECORD

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

1/26/2022

Meeting Date

1952

Bill Number or Topic

Gov Ops

Committee

Amendment Barcode (if applicable)

Name

Abby Vail

Phone

850-577-0444

Address

201 E. Park Ave, 5th Floor

Email

abby@ballardpartners.com

Street

Tallahassee

State

FL 32315

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:

KPMG

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)



511724

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (27) is added to section 287.057,
Florida Statutes, to read:

287.057 Procurement of commodities or contractual
services.—

(27) (a) In determining whether a vendor is a responsible
vendor as defined in s. 287.012, an agency may establish



511724

11 financial stability criteria and require a vendor to demonstrate
12 its financial stability. If an agency requires a vendor to
13 demonstrate financial stability during the competitive
14 solicitation process, the agency must accept any of the
15 following as evidence of a vendor's financial stability:

16 1. Audited financial statements that demonstrate the
17 vendor's satisfaction of financial stability criteria.

18 2. Documentation of an investment-grade rating from a
19 credit rating agency designated as a nationally recognized
20 statistical rating organization by the Securities and Exchange
21 Commission.

22 3. For a vendor with annual revenues exceeding \$1 billion,
23 a letter issued by the chief financial officer or controller
24 verifying such vendor's satisfaction of financial stability
25 criteria.

26 (b) For purpose of this section, the term "financial
27 stability" means the capacity to, at a minimum, efficiently
28 allocate resources, assess and manage financial risks, and fully
29 perform the contract requirements, for the term of the contract.

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

31

32

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

34 And the title is amended as follows:

35 Delete everything before the enacting clause
36 and insert:

37 A bill to be entitled
38 An act relating to evidence of vendor financial
39 stability; amending s. 287.057, F.S.; providing that



511724

40 an agency that requires a vendor to demonstrate
41 financial stability during a competitive solicitation
42 process must accept certain evidence; defining
43 financial stability; providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 934

INTRODUCER: Senator Gruters

SUBJECT: Public Records/Homelessness Counts and Information Systems

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Limonas-Borja</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 934 makes confidential and exempt from public inspection and copying requirements individual identifying information of a person contained in a Point-In-Time Count and Survey or data in a Homeless Management Information System collected pursuant to federal law and regulations. "Individual identifying information" is defined as information that directly or indirectly identifies a specific person, or can be linked with other available information to identify a specific person. The bill provides for retroactive application of the exemption to protect similar information collected prior to the bill becoming a law.

The bill does not prohibit the release of aggregate information from a Point-In-Time Count and Survey or data in a Homeless Management Information System that does not disclose individual identifying information of a person.

The exemption is subject to the Open Government Sunset Review Act (act) and will stand repealed on October 2, 2027, unless reviewed and reenacted by the Legislature.

The bill creates a new public records exemption and, therefore, requires a two-thirds vote of the members present and voting for final passage.

The bill is anticipated to have limited fiscal impact on state and local governments. See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

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.¹ 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.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 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.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 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.⁵

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.”⁶

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ 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)

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

⁵ 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 Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

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

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.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.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 Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of

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. 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).

¹¹ *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).

¹² *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).

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.

¹⁷ 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.

¹⁸ 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.

such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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.²⁰ 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;²¹
- 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;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ 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.²⁶

Federal Homelessness Grants

Homeless Assistance Grants, administered by the federal Department of Housing and Urban Development (HUD), were first authorized by Congress in 1987 as part of the Stewart B.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

McKinney Homeless Assistance Act²⁷ to address the needs of the homeless, including food, shelter, health care, and education.²⁸ In 2000, the Act was renamed the McKinney-Vento Homeless Assistance Act.²⁹ At that time, the McKinney-Vento Act's definition of "homeless"³⁰ was sometimes described as requiring an individual to be literally homeless in order to receive assistance.³¹ In 2009, Congress enacted the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act. The HEARTH Act broadened the definition of "homeless" to include people at imminent risk of homelessness, previously homeless people temporarily in institutional settings, unaccompanied youth and families with persistent housing instability, and people fleeing or attempting to flee domestic violence.³² This is in addition to the original definition used by the U.S. Department of Housing and Urban Development (HUD): "An individual or family who lacks a fixed, regular, and adequate nighttime residence."

There are two main federal programs which distribute federal homelessness grant funding (1) the Emergency Solutions Grants (ESG) program and (2) the Continuum of Care (CoC) program. The ESG program distributes grant funds primarily for emergency sheltering of the homeless. The CoC program distributes grant funds to assist with the longer-term housing and service needs of the homeless. To be a recipient or subrecipient of the CoC program and ESG program funds, participation and administration of the Homeless Management Information System (HMIS) is required. The purpose of the HMIS is to collect data in order to better inform homeless policy and decision making at the federal, state and local levels.

ESG Program

HUD distributes funds from the ESG program to grantee states and local communities to assist those experiencing homelessness. ESG funds may be used for five program components:

- Street outreach;³³
- Emergency shelter;³⁴
- Homelessness prevention;³⁵
- Rapid rehousing assistance;³⁶ and

²⁷ The Stewart B. McKinney Homeless Assistance Act of 1987, Pub. L. 100-77, July 22, 1987, 101 Stat. 482, 42 U.S.C. § 11301.

²⁸ *Id.*

²⁹ The McKinney-Vento Homeless Assistance Act Pub. L. 106-400, October 30, 2000, 114 Stat. 1675, 42 U.S.C. § 11301.

³⁰ 42 U.S.C. § 11302 (1) an individual who lacks a fixed, regular, and adequate nighttime residence; and (2) an individual who has a primary nighttime residence that is—(A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or (C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

³¹ See, for example, the Department of Housing and Urban Development, *The Third Annual Homeless Assessment Report to Congress*, July 2008, p. 2, footnote 5, <http://www.hudhre.info/documents/3rdHomelessAssessmentReport.pdf> (last visited January 24, 2022).

³² 42 U.S.C. § 11302(a).

³³ 24 C.F.R. § 576.101(a) authorizes ESG funds to be used for costs of providing essential services necessary to reach out to unsheltered homeless people; connect them with emergency shelter, housing, or critical services; and provide urgent, nonfacility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility.

³⁴ 24 C.F.R. § 576.102 authorizes ESG funds to be used for costs of providing essential services to homeless families and individuals in emergency shelters, renovating buildings to be used as emergency shelter for homeless families and individuals, and operating emergency shelters.

³⁵ 24 C.F.R. § 576.103 authorizes ESG funds to be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance necessary to prevent an individual or family from moving into an emergency shelter.

³⁶ 24 C.F.R. § 576.104 authorizes ESG funds to be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing.

- HMIS and administrative activities.³⁷

CoC Program - Point-In-time Count and Survey

HUD's data collection efforts are built into its CoC program. A CoC is a regional or local planning body that coordinates homeless response funding, provides homelessness services, and applies for CoC program grants in a geographical area. The HUD requires that state homeless CoCs³⁸ conduct an annual census of persons who are experiencing homelessness, including those who are sheltered in emergency shelters, transitional housing units, and safe havens on a single night during the last week of January.³⁹ This annual count is titled a point-in-time (PIT) count.

Point-In Time Count

The PIT count is an unduplicated count on a single night of the people in a community who are experiencing homelessness that includes both sheltered and unsheltered populations.⁴⁰ Further, HUD requires that the CoCs conduct a count of the unsheltered homeless population in odd-numbered years.⁴¹ Although HUD requires CoCs gather survey data, federal privacy laws do not necessarily extend to non-federal agencies that receive federal funds.⁴²

While CoCs typically perform annual counts of both sheltered and unsheltered individuals, in 2021 only six of the 27 CoCs conducted such counts due to COVID-19 related safety concerns.⁴³ All 27 CoCs conducted a sheltered PIT count.⁴⁴ Ten CoCs did not conduct an unsheltered count, while others conducted a modified form of the unsheltered count.⁴⁵ For those that did not conduct an unsheltered count, the CoCs reported zero unsheltered persons, resulting in an undercount of homelessness.⁴⁶

The 2021 PIT Survey reports indicate that 21,218 persons met the HUD definition of homeless in Florida on a given day in January 2021.⁴⁷ The Florida Department of Education reports that 79,949 public school students were homeless in Florida during the 2019-2020 school year.⁴⁸

³⁷ 24 C.F.R. § 576.107 authorizes ESG funds to be used to pay the costs of contributing data to the HMIS designated by the Continuum of Care for the area; and 24 C.F.R. § 576.108 authorizes recipients to use of to 7.5 percent of its ESG grant for the payment of administrative costs related to the planning and execution of ESG activities.

³⁸ The U.S. Department of Housing and Urban Development (the HUD) designed the Homeless Continuums of Care to promote communitywide commitment and planning toward the goal of preventing and ending homelessness. In Florida there are 27 Continuum of Care lead agencies serving 64 of 67 counties, according to the Department of Children and Families (the DCF) Council on Homelessness. The DCF, *2021 Annual Report*, p. 6, June 2021, available at <https://www.myflfamilies.com/service-programs/homelessness/docs/2021CouncilReport.pdf> (last visited January 12, 2022) (hereinafter cited as "The Council Report").

³⁹ *Id.*

⁴⁰ The National Alliance to End Homelessness, *What is a Point-in-Time Count?*, available at <https://endhomelessness.org/resource/what-is-a-point-in-time-count/> (last visited January 12, 2022).

⁴¹ *Id.*

⁴² *Housing Authority of City of Daytona Beach v. Gomillion*, 639 So.2d 117 (Fla. 5th DCA 1994).

⁴³ The Council Report at p. 6 and 50.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at p. 14.

⁴⁸ The Council Report at p. 15 and 60-61.

The intent of the PIT Survey is to identify those individuals who meet HUD's definition of a homeless person. This is limited to individuals in the following four categories:

- **Literally Homeless:** Individuals and families who live in a place not meant for human habitation (including outdoors or in their car), emergency shelter, transitional housing, and motels paid for by a government or charitable organization.
- **Imminent Risk of Homelessness:** Individuals and families who will lose their primary nighttime residence within 14 days and have no other resources or support networks to obtain other permanent housing.
- **Homeless Under other Federal Statutes:** Unaccompanied youth under 25 years of age, or families with children and youth, who do not meet any of the other categories are homeless under other federal statutes, have had a lease, and have moved two or more times in the past 60 days, and are likely to remain unstable because of their special needs or barriers.
- **Fleeing or Attempting to Flee Domestic Violence:** Individuals or families who are fleeing or attempting to flee domestic violence, dating violence, sexual assault, or stalking, and who lack resources and support networks to obtain other permanent housing.⁴⁹

The homeless needs assessment requirements for local governments, including the requirement to use PIT count data, are stated in 24 CFR 91.205(c)(1).⁵⁰

Homeless Management Information Systems

PIT Surveys request personal information, such as a person's name, date of birth, social security number, race, ethnicity, disability (including personal health information), veteran status, and prior living situation.⁵¹ Data collected through PIT Surveys⁵² and during other counts is managed through the HMIS, a software application designed to record and store client-level information on the characteristics and service needs of homeless persons.⁵³ Each CoC is responsible for selecting an HMIS software solution that complies with the HUD's data collection, management, and reporting standards.⁵⁴ An HMIS is typically a web-based software application that homeless

⁴⁹ *Id.* at p. 13.

⁵⁰ 24 CFR 91.205(c)(1) states, in pertinent part: "The plan must describe, in a form prescribed by HUD, the nature and extent of unsheltered and sheltered homelessness, including rural homelessness, within the jurisdiction. At a minimum, the recipient must use data from the Homeless Management Information System (HMIS) and data from the Point-In-Time (PIT) count conducted in accordance with HUD standards; (i) The description must include, for each category of homeless persons specified by HUD (including chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth), the number of persons experiencing homelessness on a given night, the number of persons who experience homelessness each year, the number of persons who lose their housing and become homeless each year, the number of persons who exit homelessness each year, the number of days that persons experience homelessness, and other measures specified by HUD.; (ii) The plan also must contain a brief narrative description of the nature and extent of homelessness by racial and ethnic group, to the extent information is available."

⁵¹ The HUD, Sheltered PIT Count and HMIS Data Crosswalk, p. 2, available at <https://files.hudexchange.info/resources/documents/Sheltered-PIT-Count-and-HMIS-Data-Element-Crosswalk.pdf> (last visited January 5, 2022).

⁵² Sample surveys are available at <https://www.pointintime.info/simtechsolutions/assets/File/PIT%202018%20Unsheltered%20Survey.pdf> and <https://files.hudexchange.info/resources/documents/PIT-Count-Youth-Survey-Comprehensive.pdf> (all sites last visited January 24, 2022).

⁵³ The HUD, *Homeless Management Information System*, available at <https://www.hudexchange.info/programs/hmis/> (last visited January 24, 2022).

⁵⁴ *Id.*

assistance providers use to coordinate care, manage their operations, and better serve their clients.⁵⁵

III. Effect of Proposed Changes:

Section 1 creates s. 420.6231, F.S., to make confidential and exempt from public inspection and copying requirements individual identifying information of a person contained in a PIT Count and Survey or data in an HMIS collected pursuant to federal law and regulations. The exemption applies retroactively to information that is currently held related to such PIT counts. The section provides that the exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2027, unless the Legislature reviews and renews the exemption before that date.

Section 1 does not preclude aggregate information from being released so long as an individual cannot be identified.

Section 1 provides the following definitions:

- “Individual identifying information” means “information that directly or indirectly identifies a specific person, can be manipulated to identify a specific person, or can be linked with other available information to identify a specific person.”
- “Point-in-Time Count” means “an unduplicated count of both the sheltered and unsheltered people in a community who are experiencing homelessness.” The bill specifies that the term includes all survey information received from persons experiencing homelessness.

Section 2 provides a statement of public necessity. The bill states that it is a public necessity to keep confidential and exempt from public disclosure identifying information of a person contained in a PIT Count and Survey or data in a HMIS collected pursuant to federal law and regulations. Further, the public necessity statement provides that public knowledge of such sensitive information:

- Could lead to discrimination against or ridicule of such individuals and could make them reluctant to seek assistance for themselves or their family members;
- May put affected individuals at greater risk of injury as a significant proportion of such individuals are survivors of domestic violence or suffer from mental illness or substance abuse; and
- May put affected individuals at a heightened risk for fraud and identity theft.

The section further provides that the harm from disclosing the identity of individuals included outweighs potential benefits to be derived widespread and unfettered access to such information and that federal law requires victim service providers to protect the personal identifying information of clients and prohibits the disclosure of such information for HMIS purposes.⁵⁶

⁵⁵ The HUD Exchange Homeless Management Information System, available at <https://www.hudexchange.info/hmis> (last visited January 24, 2022).

⁵⁶ In the course of awarding grants or implementing programs, the HUD Secretary is required to instruct any victim service provider that is a recipient or subgrantee not to disclose, for purposes of the HMIS, any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose, for purposes of the HMIS, non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. *See* 42 U.S.C. s. 11363.

Section 3 directs the Division of Law Revision to replace the phrase “the effective date of this act” wherever it occurs with the date the bill becomes a law.

Section 4 provides that the bill is effective upon becoming law.

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, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for individual identifying information obtained during annual counts of persons who are homeless. Thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

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

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 personal identifying information of individuals whose information is recorded as part of a PIT Count and Survey. This bill exempts only such personal identifying information 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 be subject to the cost, to the extent imposed, associated with making the redactions in response to a public records request.

C. Government Sector Impact:

The Department of Children and Families (DCF) and local service providers which collect PIT Surveys and HMIS information may have to expend resources to train their staff and perform redactions when a public records request is made. The cost of such tasks to the DCF and local service providers is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 420.6231 of the Florida Statutes:

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Gruters

23-00963-22

2022934__

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 420.6231, F.S.; defining terms; providing an exemption
 4 from public records requirements for individual
 5 identifying information contained in certain
 6 homelessness counts and information systems; providing
 7 for retroactive application of the exemption;
 8 providing construction; providing for future
 9 legislative review and repeal of the exemption;
 10 providing a statement of public necessity; providing a
 11 directive to the Division of Law Revision; providing
 12 an effective date.

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

15 Section 1. Section 420.6231, Florida Statutes, is created
 16 to read:

17 420.6231 Individual identifying information in homelessness
 18 counts and databases; public records exemption.-

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

20 (a) "Individual identifying information" means information
 21 that directly or indirectly identifies a specific person, can be
 22 manipulated to identify a specific person, or can be linked with
 23 other available information to identify a specific person.

24 (b) "Point-in-Time Count" means an unduplicated count of
 25 both the sheltered and unsheltered people in a community who are
 26 experiencing homelessness. For purposes of this section, the
 27 term includes all survey information received from such persons.

28 (2) Individual identifying information of a person
 29

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

23-00963-22

2022934__

30 contained in a Point-in-Time Count or a homeless management
 31 information system which is collected pursuant to 42 U.S.C.
 32 chapter 119, subchapter IV and 24 C.F.R. part 91 is confidential
 33 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 34 Constitution. This exemption applies to individual identifying
 35 information collected before, on, or after the effective date of
 36 this act.

37 (3) This section does not preclude the release of aggregate
 38 information in a Point-in-Time Count or data in a homeless
 39 management information system which does not disclose the
 40 individual identifying information of a person.

41 (4) This section is subject to the Open Government Sunset
 42 Review Act in accordance with s. 119.15 and shall stand repealed
 43 on October 2, 2027, unless reviewed and saved from repeal
 44 through reenactment by the Legislature.

45 Section 2. (1) The Legislature finds that it is a public
 46 necessity that the individual identifying information of a
 47 person contained in a Point-in-Time Count or in a homeless
 48 management information system collected pursuant to 42 U.S.C.
 49 chapter 119, subchapter IV and 24 C.F.R. part 91 be made
 50 confidential and exempt from s. 119.07(1), Florida Statutes, and
 51 s. 24(a), Article I of the State Constitution.

52 (2) Public knowledge of such information could lead to
 53 discrimination against or ridicule of an individual, which could
 54 make such individual reluctant to seek assistance. Public
 55 knowledge of such information may also create a greater risk of
 56 injury to affected individuals who are survivors of domestic
 57 violence or suffer from mental illness or substance abuse.
 58 Additionally, public knowledge of such information may create a

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

23-00963-22

2022934__

59 heightened risk for fraud and identity theft to affected
60 individuals.

61 (3) The harm from disclosing the individual identifying
62 information of a person contained in a Point-in-Time Count or in
63 a homeless management information system outweighs any public
64 benefit that can be derived from widespread and unfettered
65 access to such information. The exemption is narrowly written so
66 that certain aggregate information may still be disclosed.

67 (4) Further, pursuant to 42 U.S.C. s. 11363, victim service
68 providers must protect the personally identifying information
69 about a client and may not disclose any personally identifying
70 information about a client for purposes of a homeless management
71 information system.

72 (5) For the foregoing reasons, the Legislature finds that
73 such information must be made confidential and exempt from s.
74 119.07(1), Florida Statutes, and s. 24(a), Article I of the
75 State Constitution.

76 Section 3. The Division of Law Revision is directed to
77 replace the phrase "the effective date of this act" wherever it
78 occurs in this act with the date this act becomes a law.

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

APPEARANCE RECORD

1/26/22

Meeting Date

934

Bill Number or Topic

Govt Oversight + Acct.³¹

Committee

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

Amendment Barcode (if applicable)

Name Ed Chase

Phone 561 355 6266

Address 301 N. Olive Ave

Email echase@pbccgov.org

Street

W.P. Beach

FL

33401

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:

Palm Beach County

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 \(flsenate.gov\)](#)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1520

INTRODUCER: Senator Gruters

SUBJECT: Acquisition of Professional Services

DATE: January 25, 2022

REVISED: _____

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

I. Summary:

SB 1520 amends s. 287.055(4)(b), F.S., related to an agency’s determination of whether a firm is qualified under the Consultants’ Competitive Negotiation Act (CCNA)¹ to perform the required services by removing the following language:

with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

Under current law, this language qualifies one of the seven statutory considerations an agency must use in determining whether a firm is qualified – “the volume of work previously awarded to each firm.” Currently, an agency is required, when making this consideration, to do so with the objective of effectuating an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. Thus, under the bill, when an agency considers the volume of work previously awarded to a firm, it may do so without balancing the equitable distribution of contracts with the selection of the most highly qualified firms.

The bill may have an indeterminate positive fiscal impact on the government sector. The private sector may experience both an indeterminate positive and negative fiscal impact.

The bill takes effect July 1, 2022.

¹ Section 287.055, F.S.

II. Present Situation:

State Agency Construction and DMS

Section 255.29, F.S., authorizes DMS to adopt rules pursuant to Chapter 120, F.S., for bidding on building construction contracts. Specifically, DMS is required to establish procedures:

- Determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts, including procedures for the rejection of bidders who are reasonably determined from prior experience to be unqualified or irresponsible to perform the work required by a proposed contract.
- Awarding each state agency construction project to the lowest qualified bidder as well as procedures for waiver of the rules in an emergency.
- Negotiating and modifying construction contracts.
- Entering into performance-based contracts for the development of public facilities when determined to be in the best interest of the state.²

Competitive Procurement Generally

Chapter 255, F.S., provides the procurement process for public construction works.³ Section 255.103, F.S., authorizes a “governmental entity”⁴ to select a construction management entity or program management entity pursuant to s. 287.055, F.S., and at the option of the governmental entity, to require a guaranteed maximum price or a guaranteed completion date.⁵ If a project includes a grouping of substantially similar construction, rehabilitation, or renovation activities, the public subdivision may require a separate guaranteed maximum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities.⁶

Section 255.103(4), F.S., authorizes a governmental entity to enter into a continuing contract for construction projects, in accordance with s. 287.055, F.S., in which the estimated contract does not exceed \$2 million. The term “continuing contract” is defined in s. 255.103(4), F.S., to mean “a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be identified at the time of entering into the contract.”

Part I of Chapter 287, F.S., provides “a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services” to protect the public by promoting “fair and open competition,” thereby reducing the appearance and opportunity for favoritism and misconduct.⁷ The term “agency” is defined to mean “any of the various state officers, departments, board commissions, divisions, bureaus, and councils and any other unit of

² Section 255.29, F.S.

³ Section 255.065(2), F.S.

⁴ Section 255.103(1), F.S. defines the term “governmental entity” to mean “a county, municipality, school district, special district, special district as defined in chapter 189, or political subdivision of the state.”

⁵ Section 255.103(2), F.S.

⁶ *Id.*

⁷ Section 287.001, F.S.

organization, however designated, of the executive boards of state government.⁸ University and college boards of trustees, and the state universities and colleges are excluded from this definition.⁹ Agencies, pursuant to s. 287.057, F.S., may procure commodities and contractual services via competitive solicitation processes that include: (i) the invitation to bid; (ii) the request for proposals; and (iii) the invitation to negotiate.

The Consultants' Competitive Negotiation Act

The CCNA, s. 287.055, F.S., deviates from the remainder of part I chapter 287, F.S., in two ways. First, unlike the competitive solicitation process outlined in s. 287.057, F.S., the CCNA creates a qualifications based process - for the procurement of professional architectural, engineering, landscape architectural, or registered surveyor and mapper services.¹⁰ Additionally, the CCNA applies to local governments as well as state agencies and defines providing its own definition of agency.¹¹ "Agency" is defined by the CCNA to mean the "state, a state agency, a municipality, a political subdivision, a school district or a school board."¹²

The CCNA permits the use of continuing contracts for professional services defining the term "continuing contract" as:

"A contract for professional services entered into in accordance with all procedures of this act between and agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2 million, for study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another."¹³

The qualifications based selection process of the CCNA contemplates a three-step process: public announcement of the project, qualifications-based selection of the professional firm, and arms-length competitive negotiations with the most qualified firm.¹⁴

The public announcement is to be conducted by agencies in a consistent and uniform manner and is to occur on each occasion when professional services are required to be purchased for:

⁸ Section 287.012(1), F.S.

⁹ *Id.*

¹⁰ *See* Section 287.055, F.S.

¹¹ *See* Section 287.055(1)(b), F.S.

¹² Section 287.055(2)(b), F.S. *See* Section 1.01(8), F.S., defining "political subdivision" to include "counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state."

¹³ Section 287.055(2)(g), F.S.

¹⁴ *See* Section 287.055, F.S.

- A project when the basic construction cost of which is estimated by the agency to exceed \$325,000;¹⁵ or
- A planning or study activity for professional services that exceeds \$35,000.¹⁶

The public notice must provide a general description of the project and describe how the interested consultants are to apply for consideration.

A consultant who wishes to provide professional services to an agency must first be certified by the agency as qualified to provide the needed services pursuant to law and the agency's regulations.¹⁷ In determining a firm or individual to be qualified, the agency must consider the capabilities, adequacy of personnel, past record, experience as well as whether the firm or individual is a certified minority business enterprise.¹⁸

During the competitive selection phase, the agency must evaluate current statements of qualifications and performance data of the bidders.¹⁹ The agency must select no fewer than three firms deemed to be the most highly qualified to perform the required services.²⁰

Section 287.055(4)(b), F.S., directs agencies to consider the following seven factors when determining whether a firm is qualified:

- The ability of professional personnel;
- Whether a firm is a certified minority business enterprise;
- Past performance;
- Willingness to meet time and budget requirements;
- Location;
- Recent, current, and projected workloads of the firms; and
- The volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

The agency is prohibited from requesting, accepting and considering proposals for the compensation²¹ to be paid during the competitive selection process.²²

Next, the agency negotiates compensation to be paid under the contract with the most qualified of the three selected firms.²³ Should the agency be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the agency determines to be fair, competitive, and reasonable, negotiations may be made with the second most qualified firm.²⁴

¹⁵ The amount provided in Category Five from the purchasing categories in s. 287.017, F.S.

¹⁶ The amount provide in Category Two from the purchasing categories in s. 287.017, F.S.

¹⁷ Section 287.055(3)(c) F.S.

¹⁸ Section 287.055(3)(d), F.S.

¹⁹ Section 287.055(4)(a), F.S.

²⁰ Section 287.055(4)(b), F.S.

²¹ Section 287.055(d), F.S., defines "compensation" to mean "the amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated."

²² *Id.*

²³ Section 287.055(5)(a), F.S.

²⁴ Section 287.055(5)(b), F.S.

The agency may negotiate with the third most qualified firm if the negotiation with the second fails to produce a satisfactory contract.²⁵ If a satisfactory contract cannot be negotiated with any of the three firms selected, the agency must begin the qualifications-based selection process again.²⁶

Thus, the CCNA is a statutory procurement system that contemplates a four step process: public announcement of the work, qualifications-based selection of the professional firm, arms-length negotiations with the most qualified firm and, ultimately, execution of the contract. The CCNA tries to effectuate an equitable distribution of contracts among the most qualified firms to ensure that the professional service fees are fair, competitive and reasonable.²⁷

III. Effect of Proposed Changes:

Section 1 amends s. 287.055(4)(b), F.S., related to an agency's determination of whether a firm is qualified under the CCNA to remove the following language:

with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

Under current law, this language qualifies one of the seven statutory considerations an agency must use in determining whether a firm is qualified – the volume of work previously awarded to each firm. Current law requires when an agency makes this consideration it do so with the objective of effectuating an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. Thus, under the bill, an agency considering the volume of work previously awarded to a firm will no longer have to weigh in the balance of the equitable distribution of contracts against selection of the most highly qualified firms.

Section 2 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

²⁵ *Id.*

²⁶ Section 287.055(5)(c), F.S.

²⁷ *City of Lynn Haven v. Bay County Council of Registered Architects, Inc.*, 528 So. 2d 1244, 1246 (Fla. 1st DCA 1988).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill removes the balance of the equitable distribution of contracts against the principle of selection of the most highly qualified firms when an agency is considering the volume of work previously awarded. This may have a positive fiscal impact on the private sector to the extent a firm was previously excluded due to the balancing of such interests. On the other hand, it may also have negative fiscal impact for firms who will now be excluded as a result of its removal.

C. Government Sector Impact:

The bill removes the balance of the equitable distribution of contracts against the principle of selection of the most highly qualified firms when an agency is considering the volume of work previously awarded. This may have a positive fiscal impact on the governmental sector if it results in its ability to contract with a qualified firm - that would have previously been excluded due to the balancing of such interests - at a lower cost.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 287.055.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Gruters

23-01607-22

20221520__

1 A bill to be entitled
 2 An act relating to acquisition of professional
 3 services; amending s. 287.055, F.S.; removing language
 4 requiring that an agency, when determining whether a
 5 firm is qualified to perform certain services, operate
 6 with the object of effecting an equitable distribution
 7 of contracts among qualified firms; providing an
 8 effective date.

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

12 Section 1. Paragraph (b) of subsection (4) of section
 13 287.055, Florida Statutes, is amended to read:

14 287.055 Acquisition of professional architectural,
 15 engineering, landscape architectural, or surveying and mapping
 16 services; definitions; procedures; contingent fees prohibited;
 17 penalties.—

18 (4) COMPETITIVE SELECTION.—

19 (b) The agency shall select in order of preference no fewer
 20 than three firms deemed to be the most highly qualified to
 21 perform the required services. In determining whether a firm is
 22 qualified, the agency shall consider such factors as the ability
 23 of professional personnel; whether a firm is a certified
 24 minority business enterprise; past performance; willingness to
 25 meet time and budget requirements; location; recent, current,
 26 and projected workloads of the firms; and the volume of work
 27 previously awarded to each firm by the agency, ~~with the object~~
 28 ~~of effecting an equitable distribution of contracts among~~
 29 ~~qualified firms, provided such distribution does not violate the~~

Page 1 of 2

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

23-01607-22

20221520__

30 ~~principle of selection of the most highly qualified firms.~~ The
 31 agency may request, accept, and consider proposals for the
 32 compensation to be paid under the contract only during
 33 competitive negotiations under subsection (5).

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

Page 2 of 2

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

1/26/2022

Meeting Date

Gov't Oversight & Account.

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1520

Bill Number or Topic

Amendment Barcode (if applicable)

Name George T. Levesque

Phone 850-577-9090

Address 301 S. Bronough Street

Email glevesque@gray-robinson.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:

Fla. Chapter of American institute of Architects

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 \(flisenate.gov\)](#)

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

S-001 (08/10/2021)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/26/22

Meeting Date

1520

Bill Number (if applicable)

Topic Acquisition of Professional Services

Amendment Barcode (if applicable)

Name Tara Taggart

Job Title Legislative Advocate

Address PO Box 1757
Street

Phone 850-222-9684

Tallahassee FL 32302
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7038

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Retirement

DATE: January 26, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McVaney</u>	<u>McVaney</u>	_____	GO submit as a Comm. Bill/Fav

I. Summary:

SPB 7038 establishes the contribution rates paid by employers participating in the Florida Retirement System (FRS) beginning July 1, 2022. These rates are intended to fund the full, normal cost and the amortization of the unfunded actuarial liability of the FRS. With these modifications to employer contribution rates, the FRS Trust Fund will receive roughly \$176 million more in revenue on an annual basis beginning July 1, 2022. The public employers that will incur these additional costs are state agencies, state universities and colleges, school districts, counties, municipalities, and other governmental entities that participate in the FRS.

The bill also reduces the contributions paid by employers participating in the retiree health insurance subsidy program. With the reduced contribution rates, the revenues deposited into the Retiree Health Insurance Subsidy Trust Fund will be reduced roughly \$57.9 million on an annual basis beginning July 1, 2022.

The bill will have a fiscal impact on state funds appropriated by the Legislature for employee benefits. The bill will increase the amounts, in the aggregate, employers participating in the FRS and the retiree health insurance subsidy program must pay for retiree benefits. See Section V.

The bill takes effect July 1, 2022.

II. Present Situation:

The Florida Retirement System (FRS)

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a

closed group.¹ The FRS is a contributory system, with active members contributing three percent of their salaries.²

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S. As of June 30, 2021, the FRS had 635,266 active members, 440,307 annuitants, 15,138 disabled retirees, and 31,655 active participants of the Deferred Retirement Option Program (DROP).³ As of June 30, 2021, the FRS consisted of 985 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and includes the 179 cities and 151 special districts that have elected to join the system.⁴

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

- The Regular Class⁵ consists of 541,698 active members and 7,645 in renewed membership;
- The Special Risk Class⁶ includes 74,355 active members and 1,163 in renewed membership;
- The Special Risk Administrative Support Class⁷ has 98 active members and 1 in renewed membership;
- The Elected Officers' Class⁸ has 2,095 active members and 110 in renewed membership; and
- The Senior Management Service Class⁹ has 7,875 active members and 220 in renewed membership.¹⁰

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

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

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

¹ Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2020-21 Annual Comprehensive Financial Report, at p. 35. Available online at: https://employer.frs.fl.gov/forms/2020-21_ACFR.pdf. (last visited January 5, 2022).

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

³ Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2020-21 Annual Comprehensive Financial Report, at p. 164.

⁴ *Id.* at 200.

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

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

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

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

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

¹⁰ All figures are from Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2020-21 Annual Comprehensive Financial Report, at p. 167.

Investment Plan

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

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

A member vests immediately in all employee contributions paid to the investment plan.¹¹ With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.¹² Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹³ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.¹⁴ An FRS member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁵

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

Pension Plan

The pension plan is administered by the Secretary of Management Services (DMS) through the Division of Retirement.¹⁸ The State Board of Administration is responsible for the management of the pension fund assets.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁹ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable

¹¹ Section 121.4501(6)(a), F.S.

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

¹³ Section 121.591, F.S.

¹⁴ See s. 121.4501(16), F.S.

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

Section 121.091(4)(f), F.S.

¹⁶ Section 121.4501(8), F.S.

¹⁷ FLA CONST. art. IV, s. 4.

¹⁸ Section 121.025, F.S.

¹⁹ Section 121.021(45)(a), F.S.

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

Optional Retirement Programs

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

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

Contribution Rates

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

²⁰ Section 121.021(45)(b), F.S.

²¹ Section 121.091, F.S.

²² Section 121.021(29)(a)1., F.S.

²³ Section 121.021(29)(b)1., F.S.

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

²⁵ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Effective July 1, 2017, the SMSOAP is closed to new members. Section 121.055(6), F.S.

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

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

²⁸ Section 121.70(1), F.S.

In the annual actuarial valuation of the Florida Retirement System based on July 1, 2021, plan assets and liabilities, Milliman, Inc., the state actuary, determined the following key data relating to the FRS pension plan:²⁹

	Valuation Results (in \$ billions)			
	July 1, 2018	July 1, 2019	July 1, 2020	July 1, 2021
Actuarial Liability	\$186.0	\$191.3	\$200.3	\$209.6
Actuarial Value of Assets	\$156.1	\$161.0	\$164.3	\$174.9
Unfunded Actuarial Liability	\$29.9	\$30.3	\$36.0	\$34.7
Funded Percentage (Actuarial Value of Assets/Actuarial Liability)	83.9%	84.2%	82.0%	83.4%

The state actuary determines a rate associated with the normal cost of the pension plan (funding the prospective benefits) and a rate necessary to amortize prior unfunded actuarial liabilities (UAL) over a thirty-year period and new tranches of unfunded actuarial liabilities over a twenty-year period. The following are the current employer contribution rates³⁰ for each class and the blended rates recommended by the state actuary beginning in July 2022:³¹

Membership Class	Current Rates Effective July 1, 2021		Recommended Rates to be effective July 1, 2022	
	Normal Cost	UAL Rate	Normal Cost	UAL Rate
Regular Class	4.91%	4.19%	5.16%	4.23%
Special Risk Class	15.27%	8.90%	15.91%	9.53%
Special Risk Administrative Support Class	9.73%	26.31%	9.91%	26.16%
Elected Officer’s Class				
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	8.49%	53.52%	8.34%	56.76%
• Justices and Judges	13.38%	25.81%	13.90%	27.64%
• County Officers	10.28%	39.42%	10.31%	43.98%
Senior Management Service Class	6.49%	20.80%	6.83%	22.15%
Deferred Retirement Option Program	7.23%	9.45%	7.77%	9.15%

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

²⁹ Florida Retirement System Pension Plan Actuarial Valuation as of July 1, 2021, at p. 3.

³⁰ Section 121.71(4) and (5), F.S.

³¹ Letter to Ms. Andrea Simpson, *Re: Blended Proposed Statutory Rates for the 2022-2023 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP*, dated December 1, 2021 (on file with the Senate Committee on Governmental Oversight and Accountability).

³² Section 121.71(3), F.S.

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

Retiree Health Insurance Subsidy

Section 112.363, F.S., provides for a retiree health insurance subsidy. This subsidy is paid from the Retiree Health Insurance Subsidy Trust Fund to eligible retirees of the FRS. The amount of the monthly subsidy is \$5 for each year of service in the FRS, but not less than \$30 nor more than \$150.

The subsidy is funded through a contribution by employers participating in the FRS. The current contribution is 1.66 percent of the employer's monthly payroll. The contribution is paid to the DMS for deposit in the Retiree Health Insurance Subsidy Trust Fund. This program is funded on a "pay-as-you-go" basis rather than on an actuarial basis. This means that the revenues and expenditures of the trust fund are designed to match each other on an annual basis, with minimal reserves accumulated.

Participants of the university, community college, and senior management service defined contribution retirement programs receive contributions directly into their retirement accounts during the years of employment; these participants will not receive the health insurance subsidy during retirement. Participants of the FRS investment plan will not receive the health insurance subsidy contributions directly, but will be eligible to receive the health insurance subsidy upon retirement.

Sections 121.052, 121.055, and 121.071, F.S., also set forth the employer-paid contributions for the retiree health insurance trust fund for the various FRS membership classes.

A recent cash flow analysis of the Retiree Health Insurance Subsidy Trust Fund indicates the following key cash flow data for Fiscal Year 2020-2021 through Fiscal Year 2023-2024. Under current law and current administration and assuming only two percent payroll growth for Fiscal Year 2022-2023 and Fiscal Year 2023-2024, the trust fund reserves are expected to continue to grow to exceed more than 13 months' expenditures by the end of Fiscal Year 2023-24. The following table illustrates changes in fund balance of the Retiree Health Insurance Subsidy Trust Fund.

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

Retiree Health Insurance Subsidy Trust Fund				
Changes in Fund Balance (in \$ millions)				
	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Fund Balance – beginning of year	\$324.94	\$393.94	\$467.67	\$539.66
Revenues (employer contributions and investment earnings)	\$583.47	\$596.66	\$603.13	\$615.32
Expenditures	\$514.54	\$522.95	\$531.14	\$540.66
Excess of Revenues over Expenditures	\$68.93	\$73.71	\$71.99	\$74.66
Fund Balance – end of year	\$393.94	\$467.67	\$539.66	\$614.33
Reserves (balance / monthly expenses) – end of year	9.1 months	10.7 months	12.1 months	13.5 months

III. Effect of Proposed Changes:

Section 1 amends s. 112.363, F.S., to reduce the employer-paid contribution to the Retiree Health Insurance Trust Fund from 1.66 percent of gross compensation to 1.50 percent of gross compensation for each member of the FRS.

Section 2 amends s. 121.052, F.S., to reduce the employer-paid contribution to the Retiree Health Insurance Trust Fund from 1.66 percent of gross compensation to 1.50 percent of gross compensation for each member of the Elected Officers’ Class of the FRS.

Section 3 amends s. 121.055, F.S., to reduce the employer-paid contribution to the Retiree Health Insurance Trust Fund from 1.66 percent of gross compensation to 1.50 percent of gross compensation for each member of the Senior Management Service Class of the FRS.

Section 4 amends s. 121.071, F.S., to reduce the employer-paid contribution to the Retiree Health Insurance Trust Fund from 1.66 percent of gross compensation to 1.50 percent of gross compensation for each member of the Regular, Special Risk, and Special Risk Administrative Support classes of the FRS.

Section 5 amends s. 121.71, F.S., to set the employer-paid contribution rates to the Florida Retirement System Trust Fund for each membership class and subclass of the FRS. The bill also updates the employer-paid contribution rates for each membership class to address the unfunded actuarial liabilities of the FRS.

Section 6 provides findings that the bill fulfills an important state interest.

Section 7 provides an effective date of July 1, 2022.

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

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

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not impose, authorize to impose, or raise a state tax or fee. Thus, the requirements of Art. III, s. 19 of the State Constitution are not applicable.

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 aggregate employer contributions anticipated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2022-2023 will increase by approximately \$176.0 million when compared to the employer contributions paid in Fiscal Year 2021-2022. The impacts by employer group for Fiscal Year 2022-2023 are noted below.

Employer Group	Additional Contributions
State Agencies	\$32.3 m
Universities	\$6.9 m
Colleges	\$3.9 m
School Boards	\$47.0 m
Counties	\$74.6 m
Other	\$11.2 m
Total	\$176.0 m

With the enactment of this legislation, the revenues deposited into the Retiree Health Insurance Subsidy Trust Fund will be reduced by approximately \$57.9 million annually. The reduction in contributions by employer group for Fiscal Year 2022-2023 are noted below. With the implementation of the reduced contributions, the trust fund reserves are expected to be in excess of 10.8 months' expenditures by the end of Fiscal Year 2022-2023. While the contributions are reduced, the reserves are expected to continue growing during the forecasted period.

Employer Group	Reduced Contributions
State Agencies	(\$8.0 m)
Universities	(\$2.9 m)
Colleges	(\$1.9 m)
School Boards	(\$25.2 m)
Counties	(\$16.6 m)
Other	(\$3.3 m)
Total	(\$57.9 m)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.363, 121.052, 121.055, 121.071, and 121.71.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-01820-22 20227038pb

1 A bill to be entitled
 2 An act relating to retirement; amending ss. 112.363,
 3 121.052, 121.055, and 121.071, F.S.; revising the
 4 employer contribution rates for the retiree health
 5 insurance subsidy as of a specified date; amending s.
 6 121.71, F.S.; revising required employer retirement
 7 contribution rates for each membership class of the
 8 Florida Retirement System; providing a declaration of
 9 important state interest; providing an effective date.

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

12
 13 Section 1. Paragraph (j) is added to subsection (8) of
 14 section 112.363, Florida Statutes, to read:
 15 112.363 Retiree health insurance subsidy.—
 16 (8) CONTRIBUTIONS.—For purposes of funding the insurance
 17 subsidy provided by this section:
 18 (j) Beginning July 1, 2022, the employer of each member of
 19 a state-administered plan shall contribute 1.50 percent of gross
 20 compensation each pay period.

21
 22 Such contributions shall be submitted to the Department of
 23 Management Services and deposited in the Retiree Health
 24 Insurance Subsidy Trust Fund.

25 Section 2. Paragraph (d) of subsection (7) of section
 26 121.052, Florida Statutes, is amended to read:
 27 121.052 Membership class of elected officers.—
 28 (7) CONTRIBUTIONS.—
 29 (d) The following table states the required employer

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30 contribution on behalf of each member of the Elected Officers'
 31 Class in terms of a percentage of the member's gross
 32 compensation. Such contribution constitutes the entire health
 33 insurance subsidy contribution with respect to each such member.
 34 A change in the contribution rate is effective with the first
 35 salary paid on or after the beginning date of the change. The
 36 retiree health insurance subsidy contribution rate is as
 37 follows:

38

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1993	0.48%
January 1, 1994, through December 31, 1994	0.56%
January 1, 1995, through June 30, 1998	0.66%
July 1, 1998, through June 30, 2001	0.94%

45

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46	July 1, 2001, through June 30, 2013	1.11%
47	July 1, 2013, through June 30, 2014	1.20%
48	July 1, 2014, through June 30, 2015	1.26%
49	Effective July 1, 2015, <u>through June 30, 2022</u>	1.66%
50	<u>Effective July 1, 2022</u>	<u>1.50%</u>

51 Such contributions and accompanying payroll data are due and
 52 payable no later than the 5th working day of the month
 53 immediately following the month during which the payroll period
 54 ended and shall be deposited by the administrator in the Retiree
 55 Health Insurance Subsidy Trust Fund.

56 Section 3. Paragraph (d) of subsection (3) of section
 57 121.055, Florida Statutes, is amended to read:

58 121.055 Senior Management Service Class.—There is hereby
 59 established a separate class of membership within the Florida
 60 Retirement System to be known as the "Senior Management Service
 61 Class," which shall become effective February 1, 1987.

62 (3)

63 (d) The following table states the required employer
 64 contribution on behalf of each member of the Senior Management
 65 Service Class in terms of a percentage of the member's gross

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66	compensation. Such contribution constitutes the entire health	
67	insurance subsidy contribution with respect to each such member.	
68	A change in the contribution rate is effective with the first	
69	salary paid on or after the beginning date of the change. The	
70	retiree health insurance subsidy contribution rate is as	
71	follows:	
72	Dates of Contribution	Contribution
	Rate Changes	Rate
73		
74		
75	October 1, 1987, through December 31, 1988	0.24%
76	January 1, 1989, through December 31, 1993	0.48%
77	January 1, 1994, through December 31, 1994	0.56%
78	January 1, 1995, through June 30, 1998	0.66%
79	July 1, 1998, through June 30, 2001	0.94%
	July 1, 2001, through June 30, 2013	1.11%

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80	July 1, 2013, through June 30, 2014	1.20%
81	July 1, 2014, through June 30, 2015	1.26%
82	Effective July 1, 2015, <u>through June 30, 2022</u>	1.66%
83	<u>Effective July 1, 2022</u>	<u>1.50%</u>
84	Such contributions and accompanying payroll data are due and	
85	payable no later than the 5th working day of the month	
86	immediately following the month during which the payroll period	
87	ended and shall be deposited by the administrator in the Retiree	
88	Health Insurance Subsidy Trust Fund.	
89	Section 4. Subsection (4) of section 121.071, Florida	
90	Statutes, is amended to read:	
91	121.071 Contributions.—Contributions to the system shall be	
92	made as follows:	
93	(4) The following table states the required employer	
94	contribution on behalf of each member of the Regular Class,	
95	Special Risk Class, or Special Risk Administrative Support Class	
96	in terms of a percentage of the member's gross compensation.	
97	Such contribution constitutes the entire health insurance	
98	subsidy contribution with respect to each such member. A change	
99	in the contribution rate is effective with the first salary paid	
100	on or after the beginning date of the change. The retiree health	
101		

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102	insurance subsidy contribution rate is as follows:	
103	Dates of Contribution	Contribution
104	Rate Changes	Rate
105	October 1, 1987, through	
106	December 31, 1988	0.24%
107	January 1, 1989, through	
108	December 31, 1993	0.48%
109	January 1, 1994, through	
110	December 31, 1994	0.56%
111	January 1, 1995, through June	
112	30, 1998	0.66%
113	July 1, 1998, through June 30,	
114	2001	0.94%
115	July 1, 2001, through June 30,	
116	2013	1.11%
117	July 1, 2013, through June 30,	
118	2014	1.20%
119	July 1, 2014, through June 30,	
120		1.26%

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2015

113

~~Effective July 1, 2015,~~
~~through June 30, 2022~~

1.66%

114

Effective July 1, 2022

1.50%

115

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

118

Section 5. Subsections (4) and (5) of section 121.71, Florida Statutes, are amended to read:

120

121.71 Uniform rates; process; calculations; levy.-

121

(4) Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

124

Percentage of
Gross
Compensation,
Effective
July 1, ~~2021~~ 2022

Membership Class

125

126

Regular Class

5.16% ~~4.91%~~

127

Special Risk Class

15.91% ~~15.27%~~

128

Special Risk

9.91% ~~9.73%~~

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Administrative
Support Class

129

Elected Officers' Class-
Legislators, Governor,
Lt. Governor,
Cabinet Officers,
State Attorneys,
Public Defenders

8.34% ~~8.49%~~

130

Elected Officers' Class-
Justices, Judges

13.90% ~~13.38%~~

131

Elected Officers' Class-
County Elected Officers

10.31% ~~10.28%~~

132

Senior Management Class

6.83% ~~6.49%~~

133

DROP

7.77% ~~7.23%~~

134

135

(5) In order to address unfunded actuarial liabilities of the system, the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

139

Percentage of
Gross
Compensation,
Effective

Membership Class

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		July 1, <u>2022</u>	2021
140			
141	Regular Class	<u>4.23%</u>	4.19%
142	Special Risk Class	<u>9.53%</u>	8.90%
143	Special Risk		
	Administrative		
144	Support Class	<u>26.16%</u>	26.31%
	Elected Officers' Class-		
	Legislators, Governor,		
	Lt. Governor,		
	Cabinet Officers,		
	State Attorneys,		
145	Public Defenders	<u>56.76%</u>	53.52%
	Elected Officers' Class-		
146	Justices, Judges	<u>27.64%</u>	25.81%
	Elected Officers' Class-		
147	County Elected Officers	<u>43.98%</u>	39.42%
	Senior Management Service		
	Class	<u>22.15%</u>	20.80%
148	DROP	<u>9.15%</u>	9.45%

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149			
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Section 6. The Legislature finds that a proper and legitimate state purpose is served when employees, officers, and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees, officers, and retirees, are extended the basic protections afforded by governmental retirement systems. These persons must be provided benefits that are fair and adequate and that are managed, administered, and funded in an actuarially sound manner as required by s. 14, Article X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 7. This act shall take effect July 1, 2022.



1455 SW Broadway Street, Suite 1600
Portland, OR 97201
Tel 503 227 0634

1301 Fifth Avenue, Suite 3800
Seattle, WA 98101
Tel 206 624 7940

milliman.com

December 1, 2021

Andrea Simpson
Interim State Retirement Director
Florida Department of Management Services, Division of Retirement

Re: **Blended Proposed Statutory Rates for the 2022-2023 Plan Year
Reflecting a Uniform UAL Rate for All Membership Classes and DROP**

Dear Director Simpson:

As requested, we have calculated the uniform or “blended” proposed statutory employer rates for the 2022-2023 plan year based on the statutory contributions for the FRS Investment Plan and the actuarially calculated 2022-2023 rates for the defined benefit FRS Pension Plan, as specified in the FRS 2021 Actuarial Valuation Report. The blended rates reflect a uniform Unfunded Actuarial Liability (UAL) Contribution Rate for all payroll bases on which the Blended UAL Contribution Rate is assessed.

Analysis

We determined the uniform blended 2022-2023 employer rate for each membership class and subclass of the Florida Retirement System by projecting contributions for both the FRS Pension Plan and the FRS Investment Plan. We did this by dividing the projected combined amount that would be contributed for both the FRS Pension Plan and the FRS Investment Plan by the total projected combined payroll for both plans. The uniform blended rate calculation assumes plan year 2022-2023 contributions for the FRS Pension Plan will be made at the actuarially calculated rate levels. The actuarially calculated rate levels are based on the July 1, 2021 actuarial valuation of the FRS Pension Plan, as presented in Table 4-11 of the FRS 2021 Actuarial Valuation Report. The FRS Investment Plan rates are the sum of the rates in Sections 121.72, 121.73, and 121.735 of Florida Statutes and assume those rates continue in effect during plan year 2022-2023. The employer contribution rates shown in the attached table are net of the 3% of payroll employee contribution rate.

The payroll for some employee groups is subject to only the UAL Cost component of the FRS Pension Plan’s contribution rate (e.g. participants in SUSORP, SMSOAP, and SCCORP, and reemployed retirees not eligible for renewed membership in a state-sponsored retirement program). The payroll for those employee groups is included in the calculation of the Blended UAL Contribution Rate, but is excluded from the calculation of the Blended Normal Cost Contribution Rate.

Based on the data provided to us for this study, as of July 1, 2021 FRS Investment Plan payroll comprised 23% of total payroll. On a headcount basis, FRS Investment Plan members constitute between 27% and 28% of active FRS membership. Please note, Senate Bill 7022 enacted by the 2017 Florida legislature changed the default plan for initial enrollments on and after January 1, 2018

from the FRS Pension Plan to the FRS Investment Plan for all membership classes other than Special Risk. As a result of the enactment, new entrants who would have defaulted into the FRS Pension Plan under prior statute will now default into the FRS Investment Plan in the absence of an active election. The actual levels of participation in the FRS Pension Plan and the FRS Investment Plan as of July 1, 2021 reflect that Investment Plan payroll comprises an increased percentage of total payroll than it did one year ago.

Results

Table I shows the results of our study based on actual levels of participation in the FRS Pension Plan and the FRS Investment Plan as of July 1, 2021, projected to plan year 2022-2023 using the long-term payroll growth assumption of 3.25%.

Section A of the table includes the Normal Cost Rates developed in the July 1, 2021 funding actuarial valuation of the FRS Pension Plan. Section A does not include the UAL Cost. UAL Cost Rates are applied to a larger total payroll than the Normal Cost Rates and are developed in a later section. Section A, line 3 shows the total employer Normal Cost of the FRS Pension Plan as the product of Normal Cost Rates and projected Normal Cost payroll.

Similarly, Section B calculates the total employer cost of the FRS Investment Plan as the product of applicable employer contribution rates in effect since July 1, 2019 and the projected FRS Investment Plan payroll.

Section C of the table shows the sum of the FRS Pension Plan employer Normal Cost and FRS Investment Plan employer cost as dollars and as a percentage of total projected combined payroll (FRS Pension Plan projected Normal Cost payroll plus FRS Investment Plan projected payroll).

Section D of the table shows the UAL Cost as of July 1, 2021 of the FRS Pension Plan, as shown in Table 4-11 of the FRS 2021 Actuarial Valuation Report.

Section E shows the projected payroll of the FRS Investment Plan. There is no UAL Cost attributable to the FRS Investment Plan.

Section F calculates the “Blended” UAL Cost as dollars and as a percentage of total payroll (FRS Pension Plan projected UAL payroll plus FRS Investment Plan projected payroll).

Section G shows the Total “Blended” Contribution Rates as the sum of the “Blended” Normal Cost Contribution Rates from Line (C3) and the “Blended” UAL Contribution Rates from Line (F3). The employers of employee groups subject to only the UAL Contribution Rate would contribute the “Blended” UAL Contribution Rates shown in Line (G2) of the table on applicable payroll. The Total “Blended” Contribution Rates shown in Line (G3) of the table will be applied to all other payroll subject to employer contributions.

The contribution rates shown in Table I exclude the 0.06% contribution rate for FRS Investment Plan administration and education (applied to all classes except DROP) and the 1.66% contribution rate for the Florida Retiree Health Insurance Subsidy (HIS) program, which apply across the board to the FRS Pension Plan and the FRS Investment Plan.

The calculations are based on census and payroll data provided to us by the Florida Department of Management Services, Division of Retirement for the July 1, 2021 actuarial valuation. We have not audited or verified this data and other information. If the underlying data or information is inaccurate or incomplete, the results of our analysis may likewise be inaccurate or incomplete. These calculations are based on the Individual Entry Age actuarial cost allocation method, as described in the FRS 2021 Actuarial Valuation Report for use in developing 2022-2023 actuarially calculated contribution rates for the FRS Pension Plan.

Certification

We performed a limited review of the data used directly in our analysis for reasonableness and consistency and have not found material defects in the data. If there are material defects in the data, it is possible that they would be uncovered by a detailed, systematic review and comparison of the data to search for data values that are questionable or for relationships that are materially inconsistent. Such a review was beyond the scope of our assignment.

Except where otherwise noted in this letter, this analysis is based on the FRS Pension Plan provisions, actuarial methods and actuarial assumptions as summarized in the FRS 2021 Actuarial Valuation Report published on December 1, 2021. Further, the data used in these calculations were based on FRS Pension Plan data as summarized in the FRS 2021 Actuarial Valuation Report and FRS Investment Plan census data as of July 1, 2021 as provided to us by the Florida Department of Management Services, Division of Retirement. The results of our study depend on future experience conforming to those actuarial assumptions discussed earlier in this letter. Future actuarial measurements may differ significantly from the current measurements presented in this analysis due to many factors, including: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period) and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements.

Milliman's work product was prepared exclusively for the internal business use of Florida Department of Management Services, Division of Retirement. It is a complex technical analysis that assumes a high level of knowledge concerning the Florida Retirement System's operations, and uses Division data, which Milliman has not audited. To the extent that Milliman's work is not subject to disclosure under applicable public record laws, Milliman's work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product. Milliman's consent to release its work product to any third party may be conditioned on the third party signing a Release, subject to the following exceptions:

- (a) The Florida Department of Management Services, Division of Retirement may provide a copy of Milliman's work, in its entirety, to the System's professional service advisors who are subject to a duty

of confidentiality and who agree to not use Milliman's work for any purpose other than to benefit the System.

- (b) The Florida Department of Management Services, Division of Retirement may provide a copy of Milliman's work, in its entirety, to other governmental entities, as required by law.

No third party recipient of Milliman's work product should rely upon Milliman's work product. Such recipients should engage qualified professionals for advice appropriate to their own specific needs.

The valuation results relied upon for this work were developed using models intended for valuations that use standard actuarial techniques.

The consultants who worked on this assignment are retirement actuaries. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

The signing actuaries are independent of the plan sponsor. We are not aware of any relationship that would impair the objectivity of our work.

On the basis of the foregoing, we hereby certify that, to the best of our knowledge and belief, this report is complete and accurate and has been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the principles prescribed by the Actuarial Standards Board and the *Code of Professional Conduct and Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States* published by the American Academy of Actuaries.

We are consulting actuaries for Milliman, Inc. We are also members of the American Academy of Actuaries and meet their Qualification Standards to render the actuarial opinion contained herein. Please call if you would like to further discuss this project.

Respectfully submitted,



Matt Larrabee, FSA, EA, MAAA
Principal and Consulting Actuary



Daniel Wade, FSA, EA, MAAA
Principal and Consulting Actuary



Kathryn Hunter, FSA, EA, MAAA
Consulting Actuary

Enclosures

FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Blended Proposed Statutory Normal Cost Plus UAL Rates for 2022-2023 Plan Year
Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used
(Dollars in Thousands)

Blended Proposed Statutory Normal Cost Contribution Rates	Regular	Special Risk	Special Risk Administrative	Judicial	-----Elected Officers' Class----- Leg-Atty-Cab	Local	Senior Management	Composite (excluding DROP)	DROP	Composite (including DROP)
A. Defined Benefit FRS Pension Plan Normal Cost										
1. Employer Cost										
a. Normal Cost Rate ¹	5.73%	16.32%	11.70%	14.48%	9.00%	10.98%	7.59%	7.77%	7.77%	7.77%
b. Rate Reduction Techniques	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
c. Total Adjusted Contribution Rate ² -PYE 2023	5.73%	16.32%	11.70%	14.48%	9.00%	10.98%	7.59%	7.77%	7.77%	7.77%
2. Projected Payroll	\$19,861,536	\$4,654,614	\$3,485	\$114,681	\$5,619	\$44,147	\$573,600	\$25,257,682	\$2,419,435	\$27,677,117
3. Total Employer Normal Cost [(1c) x (2)] -PYE 2023	\$1,138,066	\$759,633	\$408	\$16,606	\$506	\$4,847	\$43,536	\$1,963,602	\$187,990	\$2,151,592
B. Defined Contribution FRS Investment Plan (IP) Employer Cost										
1. Employer Rates effective July 1, 2019 (Sec 121.72, Sec 121.73 and Sec 121.735)										
	3.60%	13.54%	5.43%	11.05%	6.94%	8.95%	4.98%	4.64%	0.00%	4.64%
2. Projected Payroll	\$7,199,162	\$800,533	\$1,400	\$23,417	\$2,703	\$21,701	\$236,389	\$8,285,305	\$0	\$8,285,305
3. Total Employer Cost [(1) x (2)] -PYE 2023	\$259,170	\$108,392	\$76	\$2,588	\$188	\$1,942	\$11,772	\$384,128	\$0	\$384,128
C. Total System Normal Cost (FRS Pension Plan + FRS Investment Plan)										
1. Total Normal Cost Contribution [(A3) + (B3)]	\$1,397,236	\$868,025	\$484	\$19,194	\$694	\$6,789	\$55,308	\$2,347,730	\$187,990	\$2,535,720
2. Total System Projected Payroll [(A2) + (B2)]	\$27,060,698	\$5,455,147	\$4,885	\$138,098	\$8,322	\$65,848	\$809,989	\$33,542,987	\$2,419,435	\$35,962,422
3. "Blended" Normal Cost Contribution Rate As a Percentage of Total Payroll [(C1) / (C2)] ²	5.16%	15.91%	9.91%	13.90%	8.34%	10.31%	6.83%	7.00%	7.77%	7.05%

¹ As reported in the July 1, 2021 actuarial valuation report Table 4-11.

² Rates shown do not include the Health Insurance Subsidy contribution rate or FRS Investment Plan education and administration assessment.

This work product was prepared solely for the Florida Department of Management Services for the purposes stated herein, and may not be appropriate to use for other purposes. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends that third parties be aided by their own actuary or other qualified professional when reviewing the Milliman work product.

FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Blended Proposed Statutory Normal Cost Plus UAL Rates for 2022-2023 Plan Year
Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used
(Dollars in Thousands)

	Regular	Special Risk	Special Risk Administrative	Judicial	-----Elected Officers' Class----- Leg-Atty-Cab	Local	Senior Management	Composite (excluding DROP)	DROP	Composite (including DROP)
Blended Proposed Statutory UAL Contribution Rates										
D. Defined Benefit FRS Pension Plan UAL Contribution										
1. Employer UAL Contribution Rate ^{1 & 2}	5.52%	11.16%	36.66%	33.24%	80.39%	63.41%	31.03%	7.17%	9.15%	7.33%
2. Projected Payroll	\$23,632,063	\$4,683,880	\$3,485	\$115,595	\$6,489	\$49,133	\$589,858	\$29,080,503	\$2,419,435	\$31,499,938
3. Total Employer UAL Contribution [(1) x (2)] -PYE 2023	\$1,304,490	\$522,721	\$1,278	\$38,424	\$5,217	\$31,155	\$183,033	\$2,086,318	\$221,378	\$2,307,696
E. Defined Contribution FRS Investment Plan Projected Payroll	\$7,199,162	\$800,533	\$1,400	\$23,417	\$2,703	\$21,701	\$236,389	\$8,285,305	\$0	\$8,285,305
F. Total System UAL Contribution (FRS Pension Plan + FRS Investment Plan)										
1. Total UAL Contribution [(D3)]	\$1,304,490	\$522,721	\$1,278	\$38,424	\$5,217	\$31,155	\$183,033	\$2,086,318	\$221,378	\$2,307,696
2. Total System Projected Payroll [(D2) + (E)]	\$30,831,225	\$5,484,413	\$4,885	\$139,012	\$9,192	\$70,834	\$826,247	\$37,365,808	\$2,419,435	\$39,785,243
3. "Blended" UAL Contribution Rate As a Percentage of Total Payroll [(F1) / (F2)] ²	4.23%	9.53%	26.16%	27.64%	56.76%	43.98%	22.15%	5.58%	9.15%	5.80%
Blended Proposed Statutory Uniform Contribution Rates ³										
G: Total Employer Contribution Rate (FRS Pension Plan + FRS Investment Plan)										
1. "Blended" Normal Cost Contribution Rate [(C3)]	5.16%	15.91%	9.91%	13.90%	8.34%	10.31%	6.83%	7.00%	7.77%	7.05%
2. "Blended" UAL Contribution Rates [(F3)]	<u>4.23%</u>	<u>9.53%</u>	<u>26.16%</u>	<u>27.64%</u>	<u>56.76%</u>	<u>43.98%</u>	<u>22.15%</u>	<u>5.58%</u>	<u>9.15%</u>	<u>5.80%</u>
3. Total Blended Contribution Rate ² -PYE 2023 [(G1) + (G2)]	9.39%	25.44%	36.07%	41.54%	65.10%	54.29%	28.98%	12.58%	16.92%	12.85%

¹ As reported in the July 1, 2021 actuarial valuation report Table 4-11.

² Rates shown do not include the Health Insurance Subsidy contribution rate or FRS Investment Plan education and administration assessment.

³ Employers of employee groups subject to only the UAL contribution rate will pay the rates shown in line (G2).

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CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 1/26/2022 10:04:07 AM

Ends: 1/26/2022 10:46:35 AM

Length: 00:42:29

10:04:07 AM Meeting called to order by Chair Brandes
10:04:12 AM Roll Call
10:04:22 AM Comments from Chair
10:04:28 AM Tab 1 - SB 170, Public Records/Lottery Winners by Senator Polsky
10:04:39 AM Senator Polsky explains the bill
10:05:42 AM No questions
10:05:44 AM No appearance forms
10:05:49 AM No debate
10:05:51 AM Senator Polsky waives close on the bill
10:05:55 AM SB 170 is reported favorably
10:06:04 AM Tab 2 - 264, Firefighter Inquiries and Investigations by Senator Hooper
10:06:17 AM Sponsor explains bill
10:06:53 AM No questions
10:07:08 AM Austin Stowers, CFO & State Fire Marshall Jimmy Patronis, waives in support
10:07:12 AM Chief Ray Colburn, Florida Fire Chiefs' Association, waives in support
10:07:18 AM Robert Suarez, waives in support
10:07:25 AM Wayne "Bernie" Bernoska, Florida Professional Firefighters, speaking in support of the bill
10:08:04 AM Senator Farmer in debate
10:08:38 AM Senator Hooper closes on the bill
10:08:49 AM SB 264 is reported favorably
10:09:07 AM Comments from Sen Hooper
10:09:21 AM Tab 5 - SB 934, Public Records/Homelessness Counts and Information Systems by Senator Gruters
10:09:28 AM Senator Gruters explains the bill
10:10:06 AM No questions
10:10:10 AM Ed Chase, Palm Beach County, waives in support
10:10:13 AM No debate
10:10:15 AM Senator Gruters waives close on bill
10:10:18 AM SB 934 is reported favorably
10:10:37 AM Tab 6 - SB 1520, Acquisition of Professional Services by Senator Gruters
10:10:47 AM Senator Gruters explains the bill
10:11:44 AM No questions
10:11:48 AM George Levesque, FL Chapter of American Institute of Architects, Speaking Information
10:12:53 AM Tara Taggart, Florida League of Cities, waives in support of the bill
10:12:58 AM No debate
10:13:00 AM Senator Gruters closes on the bill
10:13:09 AM SB 1520 is reported favorably
10:13:23 AM Senator Brandes turns chair over to Senator Gruters
10:13:28 AM Tab 7 - SPB 7038, Retirement by Senator Brandes
10:13:39 AM Senator Brandes explains the proposed bill
10:14:11 AM No questions
10:14:14 AM No appearance
10:14:21 AM No debate
10:14:22 AM Motion to submit as a committee bill
10:14:36 AM SPB 7038 is reported favorably
10:14:48 AM Senator Gruters turns chair back over to Senator Brandes
10:15:23 AM Recording Paused
10:40:26 AM Recording Resumed
10:40:29 AM Meeting is called back to order by Chair Brandes
10:40:33 AM Comments from Chair
10:40:37 AM Tab 4 - SB 1952, Evidence of Vendor Financial Stability by Senator Albritton
10:40:46 AM Senator Albritton explains the bill
10:41:05 AM Amendment 511724

10:41:13 AM No questions
10:41:17 AM No appearance forms
10:41:23 AM No debate
10:41:26 AM Senator Albritton waives close on the amendment
10:41:27 AM Amendment is adopted
10:41:32 AM Back on the bill as amended
10:41:37 AM Senator Farmer in questions
10:42:14 AM Response of Sponsor
10:43:34 AM Comments from Chair
10:44:02 AM Abby Vail, KPMG, waives in support of the bill
10:44:12 AM No debate
10:44:15 AM Senator Albritton waives close on bill
10:44:25 AM CS/SB 1952 is reported favorably
10:44:40 AM Tab 3 - CS/SB 756, Public Records/Human Trafficking Victims by Senator Diaz
10:44:58 AM Sen Albritton explains the bill on behalf of Senator Diaz
10:45:27 AM No questions
10:45:30 AM No appearance forms
10:45:34 AM No debate
10:45:36 AM Senator Albritton waives close on the bill
10:45:37 AM CS/SB 756 is reported favorably
10:45:47 AM Motion by Senator Torres to Vote After "Yea" on SB's 170 and 264
10:46:08 AM Motion by Senator Stargel to Vote After "Yea" on SB's 170, 264, ad 954
10:46:17 AM Motions adopted
10:46:24 AM Meeting adjourned