

Tab 1	SB 170 by Polsky (CO-INTRODUCERS) Book ; (Identical to H 00159) Public Records/Lottery Winners
Tab 2	SB 222 by Gruters ; (Identical to H 00267) Swimming Pool Specialty Contracting Services
Tab 3	SB 350 by Bean ; (Identical to H 00269) Procedures for Petitions for Utility Rate Relief

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Book, Vice Chair

MEETING DATE: Tuesday, November 2, 2021
TIME: 3:30—6:00 p.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Hutson, Chair; Senator Book, Vice Chair; Senators Albritton, Gruters, Hooper, Passidomo, Rodrigues, Rouson, and Stewart

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 RC	Favorable Yeas 9 Nays 0
2	SB 222 Gruters (Identical H 267)	Swimming Pool Specialty Contracting Services; Authorizing certain persons under the supervision of specified licensed contractors to perform certain specialty contracting services for commercial or residential swimming pools, interactive water features, hot tubs, and spas; providing that such supervision does not require a direct contract between those persons, etc. RI 11/02/2021 Favorable CA RC	Favorable Yeas 9 Nays 0
3	SB 350 Bean (Identical H 269)	Procedures for Petitions for Utility Rate Relief; Increasing the maximum annual sales, expressed in gigawatt hours, which natural gas or public electric utilities may have to be eligible to request that the Public Service Commission use certain procedures for the utility's petition for rate relief, etc. RI 11/02/2021 Favorable AEG AP	Favorable Yeas 9 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Florida Public Service Commission

4	Passidomo, Gabriella (Tallahassee)	01/01/2023	Recommend Confirm Yeas 9 Nays 0
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COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, November 2, 2021, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	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 Regulated Industries

BILL: SB 170

INTRODUCER: Senator Polsky

SUBJECT: Public Records/Lottery Winners

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 170 amends s. 24.1051(3), F.S., to provide a public records exemption for 90 days from the date a prize is claimed, for the name of a winner of a lottery prize valued at \$250,000 or more, unless the winner consents to the release of his or her name, or if disclosure is required by other provisions of current law.

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

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 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.,

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

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

Chapter 119, F.S., known as 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

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

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

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

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 Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

⁸ Section 119.07(1)(a), F.S.

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

¹⁰ FLA. CONST. art. I, s. 24(c).

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

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

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.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

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

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

¹⁴ See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

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., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

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.

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

In examining an exemption, the act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. The act requires the Legislature to consider the following specific questions in such a review:²⁴

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

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.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 sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Department of the Lottery

Operations

Section 15 of Article X of the State Constitution allows lotteries to be operated by the state. The Department of the Lottery (department) operates the state lottery in accordance with the intent of the Legislature, stated in s. 24.102(2), F.S., which provides:

- 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”²⁷ for the benefit of public education.²⁸ The department contracts with retailers (e.g., supermarkets, convenience stores, gas stations, and newsstands) to provide adequate and convenient availability of lottery tickets.²⁹ Retailers receive commissions of five percent of the ticket price, one percent of the prize value for redeeming winning tickets,

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S.

²⁵ *See generally* s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ *See* s. 24.104, F.S.

²⁸ *See* s. 24.121(2), F.S.

²⁹ *See* s. 24.105(16), F.S.

and bonus and performance incentive payments.³⁰ Retailers are eligible to receive bonuses for selling select winning tickets and performance incentive payments.³¹

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.³² 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,³³ and the authority to act as a retailer may not be transferred.³⁴

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.³⁵

The department may establish by rule a system to verify and pay winning lottery tickets:³⁶

- Any lottery retailer, as well as any department office, may redeem a winning ticket valued at less than \$600.³⁷ 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.³⁸ 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.³⁹ Other lottery tickets (e.g., tickets for drawings) must be redeemed within 180 days after the winning drawing.

³⁰ 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).

³¹ *Id.*

³² 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.

³³ 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 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.

³⁴ See s. 24.112(4), F.S.

³⁵ See s. 24.118(1), F.S.

³⁶ See s. 24.115, F.S., and Fla. Admin. Code R. 53ER 21-3.

³⁷ *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.

³⁸ *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.

³⁹ See s. 24.115(1)(f), F.S.

The department may adopt rules governing the types of lottery games to be conducted,⁴⁰ including lottery terminals or devices that “may be operated solely by the player without the assistance of the retailer.”⁴¹

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.⁴²

Confidential and Exempt Information Held by the Department of Lottery

Section 24.051, F.S., provides the following information held by the department is confidential and exempt from inspection and copying requirements under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution:

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

Information made confidential and exempt under s. 24.1051, F.S., may be released to other governmental entities as needed in connection with the performance of their duties. The

⁴⁰ See s. 24.105(9)(a), F.S.

⁴¹ 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).

⁴² See <http://www.flalottery.com/playResponsibly> (last visited Oct. 19, 2021).

receiving governmental entity must maintain the confidential and exempt status of such information.

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

Section 24.1051(2), F.S., provides the street address and the telephone number of a winner are confidential and exempt from inspection and copying requirements pursuant to s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, 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.

Any information made confidential and exempt under this section 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 disclose such information to members of the Legislature and legislative staff as necessary to effect such purpose.⁴³

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 \$10,000.⁴⁴

III. Effect of Proposed Changes:

The bill amends s. 24.1051(3), F.S., to provide a public records exemption for 90 days from the date a lottery prize is claimed, for the name of a winner of a lottery prize valued at \$250,000 or more, unless the winner waives the exemption, thereby consenting to the release of his or her name, or if required by law.

The bill 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.

⁴³ Section 24.0151(3), F.S.

⁴⁴ Section 24.1051(4), F.S.

The bill 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:

None.

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.

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.

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 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.

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.⁴⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under the bill, a winner of a lottery prize valued at \$250,000 or more will be able to decline to have their name disclosed publicly for a period of 90 days after the prize is claimed. The department indicates a change to its rule on payment of prizes and its winner claim form will be required, and that “real winner stories are an important component to promoting transparency and building trust with the public.”⁴⁶

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.

⁴⁵ 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).

⁴⁶ *Id.*

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 Polsky

29-00040-22

2022170__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 24.1051, F.S.; creating a temporary exemption from
 4 public records for the names of lottery winners who
 5 win prizes of more than a specified value; providing
 6 for future legislative review and repeal of the
 7 exemption; providing a statement of public necessity;
 8 providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Present subsections (3) and (4) of section
 13 24.1051, Florida Statutes, are redesignated as subsections (4)
 14 and (5), respectively, and a new subsection (3) is added to that
 15 section, to read:
 16 24.1051 Exemptions from inspection or copying of public
 17 records.—
 18 (3) (a) The name of a winner of a prize valued at \$250,000
 19 or more is confidential and exempt from s. 119.07(1) and s.
 20 24(a), Art. I of the State Constitution for 90 days from the
 21 date the prize is claimed, unless the winner consents to the
 22 release of his or her name or as provided for in s. 24.115(4) or
 23 s. 409.2577. After 90 days, the winner's name is no longer
 24 confidential and exempt.
 25 (b) This subsection is subject to the Open Government
 26 Sunset Review Act in accordance with s. 119.15 and shall stand
 27 repealed on October 2, 2027, unless reviewed and saved from
 28 repeal through reenactment by the Legislature.
 29 Section 2. The Legislature finds that it is a public

Page 1 of 2

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29-00040-22

2022170__

30 necessity that the name of a winner of a lottery prize valued at
 31 \$250,000 or more be made confidential and exempt from s.
 32 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 33 State Constitution for 90 days from the date the prize is
 34 claimed, unless such exemption is waived by the winner. Persons
 35 who win valuable lottery prizes have been the targets of violent
 36 and nonviolent criminal acts based upon publicly available
 37 identifying information. For this reason, the Legislature finds
 38 that it is a public necessity to temporarily maintain the
 39 confidential and exempt status of such information. The
 40 Legislature finds that the harm that may result from the release
 41 of the name of a winner of a lottery prize valued at \$250,000 or
 42 more outweighs the public benefit that may be derived from the
 43 disclosure of the information.
 44 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

Tallahassee, Florida 32399-1100

COMMITTEES:
Agriculture
Appropriations Subcommittee on Education
Community Affairs
Education
Ethics and Elections
Judiciary

SENATOR TINA SCOTT POLSKY
29th District

September 21, 2021

Chairman Travis Hutson
Committee on Regulated Industries
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Hutson,

I respectfully request that you place SB 170, relating to Public Records/Lottery Winners, on the agenda of the Committee on Regulated Industries, at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Kindest Regards,

A handwritten signature in black ink, appearing to read "Tina S. Polsky".

Senator Tina S. Polsky
Florida Senate, District 29

cc: Booter Imhof, Staff Director
Susan Datres, Administrative Assistant

REPLY TO:

- 5301 North Federal Highway, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- 222 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture
Appropriations Subcommittee on Education
Community Affairs
Education
Ethics and Elections
Judiciary

SENATOR TINA SCOTT POLSKY

29th District

October 27, 2021

Chairman Travis Hutson
Committee on Regulated Industries
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Hutson,

Thank you for placing SB 170, relating to Public Records/Lottery Winners, on the agenda of the Committee on Regulated Industries, November 2 at 3:30pm.

Unfortunately, due to a matter that needs my attention, I will not be able to present the bill at the committee meeting. Vice Chair Book, my prime co-sponsor, has graciously accepted my request to present my legislation.

I sincerely apologize for any inconvenience this may cause and thank you for your consideration.

Please feel free to contact me at 850-487-5029 if you have any questions.

Kindest Regards,

A handwritten signature in black ink, appearing to read "Tina S. Polsky".

Senator Tina S. Polsky
Florida Senate, District 29

cc: Booter Imhof, Staff Director
Susan Datres, Administrative Assistant

REPLY TO:

- 5301 North Federal Highway, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- 222 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



2022 AGENCY LEGISLATIVE BILL ANALYSIS

Department of the Lottery

BILL INFORMATION

BILL NUMBER:	SB 170
BILL TITLE:	Public Records/Lottery Winners
BILL SPONSOR:	Sen. Polsky
EFFECTIVE DATE:	Upon becoming a law

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Governmental Oversight and Accountability
3) Rules
4)
5)

CURRENT COMMITTEE

Regulated Industries

SIMILAR BILLS

BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION

BILL NUMBER:	SB 1836
SPONSOR:	Sen. Polsky
YEAR:	2021
LAST ACTION:	Died in Governmental Oversight and Accountability

IDENTICAL BILLS

BILL NUMBER:	HB 159
SPONSOR:	Rep. Davis

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	October 6, 2021
LEAD AGENCY ANALYST:	Jeff Ivey, Legislative Affairs Director
ADDITIONAL ANALYST(S):	Zenani Johnson, Gubernatorial Fellow
LEGAL ANALYST:	Dane Dunson, General Counsel
FISCAL ANALYST:	Brea Gelin, Budget Director

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends section (s.) 24.1051, Florida Statutes (F.S.), to make the name of a winner of a prize valued at \$250,000 or more confidential and exempt for 90 days from the date the prize is claimed, unless the winner consents to its release.

The exemption is subject to the Open Government Sunset Review Act.¹

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Lottery Public Record Exemptions

Pursuant to s. 24.1051(2), F.S., the street address and telephone number of a winner are confidential and exempt from public records law, unless the winner consents to the release of the information, or as provided for in s. 24.115(4), F.S. or s. 409.2577, F.S. The name of Lottery winners is not currently confidential or exempt from public records.

Lottery Prize Winners

The Florida Lottery (Lottery) features major prize winners in various venues – press releases, social media posts, and the Lottery’s website.² When winners come to claim their prize in-person, Lottery staff have the opportunity to meet with the winner(s) to hear about their winning experience. An additional venue, as a part of the Lottery’s marketing strategy, is highlighting real winner stories through recorded and user-generated videos. These individuals, no matter the prize amounts won, have agreed to have their name and likeness utilized.

Real winner stories are an important component to promoting transparency and building trust with the public.

Resources for Lottery Prize Winners

Major Prize Winners

When players win prizes of \$250,000 or more, the Lottery’s Division of Claims Processing sends a Top Prize Winner Packet (Packet)³ to the winner, which includes instructions for claiming their prize and an explanation of what information is subject to disclosure. The individual’s full name is included in the list of information subject to disclosure.

The Packet also provides the Customer Service Hotline contact information if the winner has any questions.

All Prize Winners

The Lottery also provides information for all winners in *The Player’s Guide*. *The Player’s Guide* has an entire section titled “Win Responsibly,” which provides information to players interested in information on managing and protecting winnings and public disclosure information.⁴

2. EFFECT OF THE BILL:

For prize winners over \$250,000, the Lottery would be required to receive consent from the winner to have their name be public record during the 90-day exemption period. This could be achieved with the player providing written permission to the Lottery, or the Lottery amending the Winner Claim form to allow for players to provide their consent for their name to be released. Amending the Winner Claim form would require a rule change.

The Lottery would also need to create a process for tracking the 90-day exemption period for players in the event of a public records request and/or ensure that sharing a winner story does not violate this exemption.

¹ s. 119.15, F.S.

² <https://www.flalottery.com/winnerNews>

³ Top Prize Winner Packet

⁴ <https://playersguide.flalottery.com/a11y/win-responsibly>

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? NO

If yes, explain:	N/A
What is the expected impact to the agency's core mission?	Unknown
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

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

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	Unknown

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

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

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

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

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT? UNKNOWN**

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation increase local taxes or fees?	No.
If yes, does the legislation provide for a local	N/A

referendum or local governing body public vote prior to implementation of the tax or fee increase?	
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2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT? INDETERMINATE

Revenues:	Indeterminate
Expenditures:	Indeterminate
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR? INDETERMINATE

Revenues:	Indeterminate
Expenditures:	Indeterminate
Other:	N/A

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

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

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	N/A
If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A

FEDERAL IMPACT

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

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 222

INTRODUCER: Senator Gruters

SUBJECT: Swimming Pool Specialty Contracting Services

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 222 creates an exemption from local and state licensing requirements for persons under the supervision of a certified or registered pool contractor for the construction, remodeling, or repair of swimming pools, interactive water features, hot tubs, and spas. The supervising contractor need not employ or have a direct contract with the unlicensed person performing the specialty contracting services. The exemption is not available for persons required to be certified or registered as contractors for specified trade categories described in current law.¹

The bill is effective July 1, 2022.

II. Present Situation:

The Legislature regulates the construction industry “in the interest of the public health, safety, and welfare,”² and has enacted ch. 489, F.S., to address requirements for construction contracting, electrical and alarm system contracting, and septic tank contracting, and requirements for qualified persons to be licensed if they have sufficient technical expertise in the applicable trade.³

More than 20 categories of persons are exempt from the contractor licensing requirements of ch. 489, F.S., including but not limited to:

- Contractors in work on bridges, roads, streets, highways, or railroads, and other services defined by the board and the Florida Department of Transportation;

¹ See ss. 489.105(3)(a) through (i) and (m) through (o), F.S. The specified scopes of work are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, plumbing contractor, underground utility and excavation contractor, and solar contractor. See also s. 489.505, F.S., for the certification and registration requirements for electrical and alarm system contracting.

² See s. 489.101, F.S.

³ See parts I, II, and III, respectively, of ch. 489, F.S.

- Employees of licensed contractors, if acting within the scope of the contractor’s license, with that licensee’s knowledge;
- Certain employees of federal, state, or local governments or districts (excluding school and university boards), under limited circumstances;
- Certain public utilities, on construction, maintenance, and development work by employees;
- Property owners, when acting as their own contractor and providing “direct, onsite supervision” of all work not performed by licensed contractors on one-family or two-family residences, farm outbuildings, or commercial buildings at a cost not exceeding \$75,000;
- Work undertaken on federal property or when federal law supersedes part I of ch. 489, F.S.;
- Work falling under the so-called handyman exemption, meaning it is of a “casual, minor, or inconsequential nature,” and the total contract price for all labor, materials, and all other items is less than \$2,500, subject to certain exceptions;
- Registered architects and engineers acting within their licensed practice, including those exempt from such licensing, but not acting as a contractor unless licensed under ch. 489, F.S.;
- Work on one-, two-, or three-family residences constructed or rehabilitated by Habitat for Humanity, International, Inc., or a local affiliate, subject to certain requirements;
- Certain disaster recovery mitigation or other organizations repairing or replacing a one-family, two-family or three-family residence impacted by a disaster, subject to certain requirements;
- Employees of an apartment community or apartment community management company who make minor repairs to existing electric water heaters, electric heating, ventilating, and air-conditioning systems, subject to certain requirements; and
- Members of the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida when constructing chickees as described in s. 553.73(10)(i), F.S.⁴

Construction Contracting

The Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.⁵ The CILB is divided into two divisions with separate jurisdictions:

- Division I comprises the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II comprises the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.⁶

⁴ See s. 489.103, F.S., for additional exemptions.

⁵ See s. 489.107, F.S.

⁶ Section 489.105(3), F.S.

The Electrical Contractors' Licensing Board (ECLB) within the DBPR is responsible for licensing and regulating electrical and alarm system contractors in Florida under part II of ch. 489, F.S.⁷

Master septic tank contractors and septic tank contractors are regulated by the Department of Environmental Protection under part III of ch. 489, F.S.⁸

Construction contractors regulated under part I of ch. 489, F.S., and electrical and alarm contractors regulated under part II of ch. 489, F.S., must satisfactorily complete a licensure examination before being licensed.⁹ The CILB and ECLB may deny a license application for any person found guilty of any of the grounds for discipline set forth in s. 455.227(1), F.S., or set forth in the profession's practice act.¹⁰

A "specialty contractor" is a contractor whose scope of practice is limited to:

- A particular construction category adopted by board rule; and
- A subset of the trade categories for contractors listed in s. 489.105(3)(a) through (p), F.S., such as roofing, air-conditioning, plumbing, etc.¹¹

Swimming Pool/Spa Contractors

Sections 489.105(3)(j), (k), and (l), F.S., provide three categories of pool/spa contractors in the construction industry. These contractor categories include commercial pool/spa, residential pool/spa, and swimming pool/spa servicing. If an individual's scope of work involves, but is not limited to, the construction, repair, and servicing of these types of swimming pools and spas, one must obtain a state license from the DBPR which is valid in any county or municipality throughout the state. In addition to the state licenses described in s. 489.105(3)(j), (k), and (l), F.S., the DBPR also provides, by rule, the opportunity to obtain a voluntary specialty contractor license in specific areas of pool/spa construction.¹² However, these specialty contractors must work under the supervision of a state-licensed contractor.¹³

The voluntary certification rules adopted by the CILB apply to the following swimming pool specialty contractors and residential pool/spa servicing contractors, including contractor licenses for:¹⁴

- Swimming Pool Layout;
- Swimming Pool Structural;
- Swimming Pool Excavation;
- Swimming Pool Trim;
- Swimming Pool Decking;

⁷ Section 489.507, F.S.

⁸ See ss. 489.551-489.558, F.S. Prior to July 1, 2021, the Department of Health regulated septic tank contracting. See s. 50, ch. 2020-150, L.O.F.

⁹ See ss. 489.113 and 489.516, F.S., respectively.

¹⁰ Section 455.227(2), F.S.

¹¹ Section 489.105(3)(q), F.S.

¹² See Fla. Admin. Code R. 61G4-15.032 and 61G4-15.040.

¹³ *Id.*

¹⁴ *Id.*

- Swimming Pool Piping; and
- Swimming Pool Finishes.

Certification and Registration of Contractors

Under current law, a “certified contractor” has met competency requirements for a particular trade category and holds a geographically unlimited certificate of competency from the DBPR which allows the contractor to contract in any jurisdiction in the state without being required to fulfill the competency requirements in those jurisdictions.¹⁵

The term “registered contractor” means a contractor who has registered with the DBPR as part of meeting competency requirements for a trade category in a particular jurisdiction, which limits the contractor to contracting only in the jurisdiction for which the registration is issued.¹⁶

Fees for Certification and Registration

As provided in s. 489.109, F.S., an applicant for certification as a contractor is required to pay an initial application fee not to exceed \$150, and, if an examination cost is included in the application fee, the combined amount may not exceed \$350. For an applicant for registration as a contractor, the initial application fee may not exceed \$100, and the initial registration fee and the renewal fee may not exceed \$200.¹⁷ The initial application fee and the renewal fee is \$50 for an application to certify or register a business.¹⁸

Fees must be adequate to ensure the continued operation of the CILB, and must be based on the DBPR’s estimates of revenue required to implement part I of ch. 489, F.S., and statutory provisions regulating the construction industry.¹⁹

Subcontractors

In most circumstances, a contractor must subcontract all electrical, mechanical, plumbing, roofing, sheet metal, swimming pool, and air-conditioning work unless the contractor holds a state certificate or registration in the appropriate trade category.²⁰

A subcontractor who does not have a state certificate or registration may work under the supervision of a licensed or certified contractor, if:

- The work of the subcontractor falls within the scope of the contractor’s license; and

¹⁵ Sections 489.105(8) and 489.113(1), F.S.

¹⁶ Sections 489.105(10) and 489.117(1)(b), F.S.

¹⁷ Section 489.109, F.S. Any applicant who seeks certification as a contractor under part I of ch. 489, F.S., by taking a practical examination must pay as an examination fee the actual cost incurred by the DBPR in developing, preparing, administering, scoring, score reporting, and evaluating the examination, if the examination is conducted by the DBPR.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 489.113(3), F.S. Various exceptions for general, building, residential, and solar contractors are set forth in s. 489.113(3)(a) through (g), F.S.

- The subcontractor is not engaged in construction work that would require specified contractor licensing, i.e., licensure as an electrical contractor,²¹ septic tank contractor,²² sheet metal contractor, roofing contractor, Class A, B, or C air-conditioning contractor, mechanical contractor, commercial pool/spa contractor, residential pool/spa contractor, swimming pool servicing contractor, plumbing contractor, underground utility and excavation contractor, or solar contractor.²³

Licensure Exemption in s. 489.117(4)(d), F.S.

Section 489.117(4)(d), F.S., commonly referred to as the “Jim Walter” exemption, was enacted in 1993²⁴ and allows unlicensed persons to perform contracting services for the construction, remodeling, repair, or improvement of single-family residences and townhouses²⁵ without obtaining a local license. The person must be under the supervision of a certified or registered general, building, or residential contractor, and the work may not be work that requires licensure in the areas of roofing, sheet metal, air-conditioning, mechanical, pool/spa, plumbing, solar, or underground utility and excavation.²⁶ The supervising contractor need not have a direct contract with the unlicensed person performing the contracting services.

Florida’s Fifth District Court of Appeal addressed the applicability of this exemption to a local building contractor licensing requirement in a St. Johns County ordinance.²⁷ The court found the county’s ordinance requiring all non-certified contractors to obtain a local license conflicted with state law (s. 489.117(4)(d), F.S.).²⁸

Another example of this exemption’s applicability is contained in a 2001 Attorney General Opinion. In this opinion, Florida’s Attorney General, Robert A. Butterworth, explained that a county may not enact an ordinance that requires local certification of drywall installers. Mr. Butterworth reasoned that, under the exemption in s. 489.117(4)(d), F.S., “the county may not require certification of persons performing drywall installation on single-family residences when such persons are working under the supervision of a certified or registered general, building, or residential contractor.”²⁹ Drywall installation fits the local licensing exemption because one does not have to obtain registration or certification under s. 489.105(3)(d)-(o), F.S., to perform this aspect of construction.

The Florida Building Code

The Florida Building Code (building code) is the unified building code applicable to the design, construction, erection, alteration, modification, repair, or demolition of public or private

²¹ See Part II, of ch. 489, F.S., relating to Electrical and Alarm System Contracting.

²² See Part III of ch. 489, F.S., relating to Septic Tank Contracting.

²³ Section 489.113(2), F.S.

²⁴ See ch. 93-154, s. 3, and ch. 93-166, s. 12, Laws of Fla. These provisions have been subsequently amended.

²⁵ The term “townhouses” was added to the exemption in 2003. See ch. 2003-257, s. 5, Laws of Fla.

²⁶ Section 489.117(4)(d), F.S.

²⁷ See *Florida Home Builders Ass’n v. St. Johns County*, 914 So.2d 1035 (Fla. 5th DCA 2005).

²⁸ *Id.* at 1037.

²⁹ See Op. Att’y. Gen. Fla. 2001-25 (2001), available at

<http://www.myfloridalegal.com/ago.nsf/opinions/4c31d4cae5f162bf85256a1e00532dac> (last visited Oct. 27, 2021).

buildings, structures, and facilities in the state.³⁰ The building code must be applied, administered, and enforced uniformly and consistently throughout the state.³¹ The building code is adopted, updated, interpreted, and maintained by the commission, and is enforced by authorized state and local government agencies.³² The Florida Building Commission (commission), housed within the DBPR, adopts an updated building code every three years through review of codes published by the International Code Council and the National Fire Protection Association.³³

III. Effect of Proposed Changes:

SB 222 amends s. 487.117(4), F.S., to expand the circumstances under which unlicensed persons may perform certain specialty contracting services.

Under the bill, an exemption from local and state licensing is created for all persons performing certain specialty contracting services under the supervision of a certified or registered commercial pool/spa contractor, a residential pool/spa contractor, or a swimming pool/spa servicing contractor (a licensed pool contractor). The bill provides the supervising contractor is responsible for the work, however an employment or contractual relationship between the supervising contractor and those performing the specialty contracting services is not required (i.e., the performance of such contracting services is outside the business of contracting and need not be undertaken through an employer/employee or contractor/subcontractor relationship).

The services that may be performed by unlicensed persons under the supervision of a licensed pool contractor include the construction, remodeling, repair, or improvement of swimming pools, interactive water features, as defined in the Florida Building Code (code),³⁴ hot tubs, and spas. The current code does not appear to define “interactive water features.” However, the described scope of work for “swimming pool piping specialty contractor” includes “decorative or interactive water displays or areas.”³⁵

Under the bill, the work to be performed using exempted personnel may not include work that requires certification or registration in a specified trade category, including services required to be performed by certified or registered:

- Sheet metal contractors, as defined in s. 489.105(3)(d), F.S;

³⁰ See s. 553.72, F.S. Part IV of ch. 553, F.S., is cited as the “Florida Building Codes Act.” See s. 552.70, F.S. The Florida Building Code, 7th Edition, available at https://www.floridabuilding.org/bc/bc_default.aspx (last visited Oct. 27, 2021).

³¹ See s. 553.72(1), F.S.

³² See s. 553.72(3), F.S.

³³ See s. 553.73(7), F.S., which requires review of the International Building Code, the International Fuel Gas Code, the International Existing Building Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are copyrighted and published by the International Code Council, and the National Electrical Code, which is copyrighted and published by the National Fire Protection Association.

³⁴ The term “swimming pool” is defined as “[a]ny structure intended for swimming, recreational bathing or wading that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.” See ch. 2 of the 2017 Florida Building Code (Sixth Edition), available at <https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions> (last visited Oct. 27, 2021).

³⁵ See Fla. Admin. Code R. 61G4-15.032(2)(f), relating to certification of swimming pool piping specialty contractors, whose scope of work “is limited to the installation of piping or the installation of circulating, filtering, disinfecting, controlling, or monitoring equipment and devices used in the construction of pools, spas, hot tubs, and decorative or interactive water displays or areas.” *Id.*

- Roofing contractors, as defined in s. 489.105(3)(e), F.S.;
- Class A, Class B, or Class C air conditioning contractors, as defined in ss. 489.105(3)(f)(g), and (h), F.S.;
- Mechanical contractors, as defined in s. 489.105(3)(i), F.S.;
- Plumbing contractors, as defined in s. 489.105(3)(m), F.S.;
- Underground utility and excavation contractors, as defined in s. 489.105(3)(n), F.S.;
- Solar contractors, as defined in s. 489.105(3)(o), F.S.; or
- Electrical and alarm system contractors, as defined in s. 489.505, F.S.

The exemption created by the bill does not limit any of the exemptions in existing law that are provided in s. 489.103, F.S.³⁶

The bill further provides the exemption may not be construed to expand the scope of a contractor required to be certified or registered as contractors for the trade categories described in s. 489.105(3)(j), (k), or (l), F.S, i.e., the servicing of commercial pools/spas, residential pools/spas, and swimming pools/spas) to provide plumbing or electrical services for which certification or registration is required by part I (Construction Contracting) or part II (Electrical and Alarm System Contracting) of ch. 489, F.S., relating to Contracting.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

³⁶ *Supra* n. 4, and *see* the accompanying text regarding exemptions under current law.

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

None.

B. Private Sector Impact:

Persons who are not licensed as contractors in a trade and have not been eligible to engage in such work may now, under the supervision of certified or registered contractors whose licenses cover such work, construct, remodel, repair, or improve swimming pools, interactive water features, hot tubs, or spas.

An unlimited number of unlicensed persons may be supervised by a contractor licensed to construct, remodel, repair, or improve swimming pools, interactive water features, hot tubs, or spas, although the contractor is responsible for the work that is performed. This may increase the availability of work for those who are not licensed, or in the process of becoming licensed.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 489.117 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

23-00126A-22

2022222__

A bill to be entitled

An act relating to swimming pool specialty contracting services; amending s. 489.117, F.S.; authorizing certain persons under the supervision of specified licensed contractors to perform certain specialty contracting services for commercial or residential swimming pools, interactive water features, hot tubs, and spas; providing that such supervision does not require a direct contract between those persons; providing construction; providing an effective date.

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

Section 1. Paragraph (e) is added to subsection (4) of section 489.117, Florida Statutes, to read:

489.117 Registration; specialty contractors.—

(4)

(e) Any person who is not certified or registered may perform the work of a specialty contractor whose scope of practice is limited to the type of work specified under s. 489.105(3)(j), (k), or (l) for the construction, remodeling, repair, or improvement of commercial or residential swimming pools, interactive water features as defined in the Florida Building Code, hot tubs, and spas without obtaining a local license or certification as a specialty contractor if he or she is supervised by a contractor who is certified or registered under s. 489.105(3)(j), (k), or (l); the work is within the scope of the supervising contractor's license; the supervising contractor is responsible for the work; and the work does not

Page 1 of 2

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

23-00126A-22

2022222__

require certification or registration under s. 489.105(3)(d)-(i), (m)-(o), or s. 489.505. Such supervision does not require a direct contract between the contractor certified or registered under s. 489.105(3)(j), (k), or (l) and the person performing the work, or for the person performing the work to be an employee of the contractor certified or registered under s. 489.105(3)(j), (k), or (l). This paragraph does not limit the exemptions provided in s. 489.103 and may not be construed to expand the scope of a contractor certified or registered under s. 489.105(3)(j), (k), or (l) to provide plumbing or electrical services for which certification or registration is required by this part or part II.

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: October 4, 2021

I respectfully request that **Senate Bill #222**, relating to Swimming Pool Specialty Contracting Services, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

Cc: Booter Imhof, Staff Director
Susan Datres, Committee Administrative Assistant

THE FLORIDA SENATE APPEARANCE RECORD

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

11/2/21

Meeting Date

222

Bill Number (if applicable)

Topic Swimming Pool Speciality Contracting Services

Amendment Barcode (if applicable)

Name Phillip Sudtman

Job Title Policy Director

Address _____

Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

Nov. 2, 2021

APPEARANCE RECORD

SB 222

Meeting Date

Bill Number or Topic

Regulated Industries

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

Committee

Amendment Barcode (if applicable)

Name Dallas Thiesen

Phone 941-952-9293

Address 2555 Porter Lake Drive Suite 106

Email Dallas@FloridaPoolPro.com

Street

Sarasota

FL

34240

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Swimming Pool Association

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

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

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

S-001 (08/10/2021)

Nov. 2, 2021

APPEARANCE RECORD

SB 222

Meeting Date

Bill Number or Topic

Regulated Industries

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

Committee

Amendment Barcode (if applicable)

Name **Mike Canto**

Phone **352-332-7665**

Address **3601 NW 97th Blvd.**

Email **mike@funstatepoolsinc.com**

Street

Gainsville

FL

32606

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 222

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Regulated Industires

Committee

Deliver both copies of this form to
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Bill Number or Topic

Amendment Barcode (if applicable)

Name **Tony Arredondo**

Phone **813-494-2417**

Address **915 S. Dale Mabry Hwy ste. 302**

Email **tony@tampapoolpro.com**

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Tampa

FL

33609

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State

Zip

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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 Regulated Industries

BILL: SB 350

INTRODUCER: Senator Bean

SUBJECT: Procedures for Petitions for Utility Rate Relief

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon _____	Imhof _____	RI _____	Favorable
2.	_____	_____	AEG _____	_____
3.	_____	_____	AP _____	_____

I. Summary:

SB 350, increases the maximum annual sales threshold for public electric utilities to qualify for rate relief under the Florida Public Service Commission’s (PSC) proposed agency action (PAA) procedure to 1,000 gigawatt hours from 500 gigawatt hours.

The bill is effective July 1, 2022.

II. Present Situation:

Florida Public Service Commission

The Florida PSC is an arm of the legislative branch of government.¹ The PSC ensures that Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.² To do so, the PSC exercises authority over public utilities in one or more of these areas: (1) rate or economic regulation; (2) market competition oversight; and (3) monitoring of safety, reliability, and service issues.³

A public utility includes any person or legal entity supplying electricity or gas, including natural, manufactured, or similar gaseous substance, to or for the public within the state.⁴ Notably, courts have ruled that the sale of electricity to even a single customer makes the provider a “public utility” subjecting them to the PSC’s regulatory jurisdiction, under s. 366.02(1), F.S.⁵ The PSC’s

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *The PSC’s Role*, <http://www.psc.state.fl.us> (last visited November 2, 2021).

³ *Id.*

⁴ Section 366.02(1), F.S.

⁵ *Florida Public Service Com’n v. Bryson*, 569 So. 2d 1253, 1255 (Fla. 1990) (finding that even a property management company is a public utility within the PSC’s regulatory jurisdiction); *PW Ventures, Inc. v. Nichols*, 533 So. 2d 281, 284 (Fla. 1988) (finding that “to the public,” as used in ch. 366, F.S., means “to any member of the public,” rather than “to the general public”).

jurisdiction over public utilities is exclusive and superior to all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and in cases of conflict the PSC prevails.⁶

Office of the Public Counsel

The Office of Public Counsel (OPC) was established by the Florida Legislature, under the legislative branch.⁷ The OPC is tasked with providing legal representation for the general public of Florida in proceedings before the PSC and in other utility related matters.⁸ The Public Counsel (PC) is appointed by Joint Committee on Public Counsel Oversight, which is a standing joint legislative committee, established by the Joint Rules of the Florida Legislature.⁹ The PC is appointed to a four year term, and may be reappointed, but may not serve more than 12 consecutive years in the position.¹⁰ The PC must be an attorney admitted to practice before the Florida Supreme Court.¹¹

Fixing and Charging Rates

The PSC is charged with determining and fixing fair, just, and reasonable rates that are requested, demanded, charged, or collected by any public utility for its service.¹² The process for fixing and charging rates is established in s. 366.06, F.S., and its implementing rules.¹³ In addition to a traditional rate case,¹⁴ natural gas and public electric utilities whose annual sales to end users are less than 500 gigawatt hours,¹⁵ may utilize the PAA process under s. 366.06(4) F.S.¹⁶

⁶ Section 366.04 (1), F.S.

⁷ Section 350.0614 (2), F.S.; Florida Office of Public Counsel, *About the Office of Public Counsel*, <http://www.floridaopc.gov/Pages/About.aspx> (last visited November 2, 2021).

⁸ Sections 350.0611, F.S.

⁹ Section 350.061(1), F.S.; Joint Rule 4.1(1)(b), Joint Rules of the Florida Legislature.

¹⁰ Section 350.061(1), F.S.

¹¹ *Id.*

¹² Section 366.06 (1), F.S.

¹³ Fla. Admin. Code R. 25-6.043 (Investor-Owned Electric Utility Petition for Rate Increase) and 25-6.140 (Electric Public Utilities Proposed Agency Action Notification); Fla. Admin. Code R. 25-7.039 (Natural Gas Utility Petition for Rate Increase) and 25-7.140 (Gas Public Utilities Proposed Agency Action Notification).

¹⁴ In a “rate case,” the utility and affected parties present information and propose future prices and targets. This is a formal process much like a court case. Body of Knowledge on Infrastructure Regulation, *Rate Case*, <https://regulationbodyofknowledge.org/glossary/r/rate-case/> (last visited November 2, 2021).

¹⁵ A megawatt is one million watts and a kilowatt is one thousand watts. A 100 watt light bulb is rated to consume 100 watts of electricity. The average South Atlantic home has a monthly consumption of 1,088 kilowatt hours. United States Nuclear Regulatory Commission, *What is a Megawatt?*, <https://www.nrc.gov/docs/ML1209/ML120960701.pdf> (last visited November 2, 2021). A gigawatt is equal to one thousand megawatts. Body of Knowledge on Infrastructure Regulation, *Gigawatt-hours (gWh)*, <https://regulationbodyofknowledge.org/glossary/g/gigawatt-hours-gwh/> (last visited November 2, 2021).

¹⁶ See Fla. Admin. Code R. 25-22.029 (Proposed Agency Action Proceedings); 25-6.140 (Electric Public Utilities Proposed Agency Action Notification); and 25-7.140 (Gas Public Utilities Proposed Agency Action Notification).

Standard Rate Case

The PSC must take final action in a standard rate case within 12 months from the commencement date for final agency action.¹⁷ The “commencement date for final agency action” is determined by the PSC clerk as the date when the utility has met the minimum filing requirements.¹⁸ Minimum filing requirements are established by rule.¹⁹

During the pre-hearing phase, one of the PSC’s commissioners is assigned to preside as the prehearing officer for the docket.²⁰ They will enter an order establishing procedure and set the matter for a final hearing.²¹ During this time, substantially affected persons have the opportunity to intervene and submit discovery and request information from the utility.²² Toward the end of discovery, the utility and parties have a prehearing conference to finalize the issues.²³

The hearing is evidentiary and conducted with the full panel of PSC Commissioners, pursuant to ss. 120.569 and 120.57, F.S.²⁴ In addition, customer service hearings are scheduled where customers provide testimony regarding rates and quality of service.²⁵ Finally, the parties may file post-hearing briefs.²⁶ If the parties waive the filing of briefs and consent to a vote at the hearing, the PSC will vote on the merits at another meeting after reviewing the record and any post-hearing filings.²⁷ At the conclusion of the rate case the PSC issues a written final order, which the parties may appeal.²⁸

Proposed Agency Action Procedure

Under s. 366.06(4), F.S., natural gas utilities and public electric utilities with less than 500 gigawatt hours in annual sales have the option to petition the PSC for rate relief utilizing the PAA procedure.²⁹

A PAA docket will not be immediately set for hearing, but will be scheduled for commission consideration at a regular agenda conference. The PSC’s staff recommendation is prepared for

¹⁷ Section 366.06(3), F.S. A utility seeking to change the rates it charges must first give the Commission notice of its selected test year. *See* Fla. Admin. Code R. 25-6.043 and 25-7.039. The concept of a “test year” is used to calculate future rates. This allows for comparison of a defined period’s rate base costs including operating expenses with its total revenues. *See* Utility Dive, *As the power sector transforms, can utilities and customers find common ground on ratemaking?* (July 2, 2018), <https://www.utilitydive.com/news/as-the-power-sector-transforms-can-utilities-and-customers-find-common-gro/526399/> (last visited November 2, 2021).

¹⁸ *See* s. 366.06(3), F.S.

¹⁹ *See* Fla. Admin. Code R. 25-6.043, (Investor-Owned Electric Utility Petition for Rate Increase); Fla. Admin. Code R. 25- 7.039, (Natural Gas Utility Petition for Rate Increase).

²⁰ Public Service Commission, *Bill Analysis for SB 350* (Oct. 11, 2021) (on file with the Senate Committee on Regulated Industries).

²¹ *Id.*

²² *See* s. 120.569 F.S.; PSC, *Bill Analysis, supra* at n. 20.

²³ PSC, *Bill Analysis, supra* at n. 20.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ PSC, *Bill Analysis, supra* at n. 20.

²⁹ Fla. Admin. Code R. 25-22.029 (Proposed Agency Action Notification). The utility must request to use this procedure when it submits its minimum filing requirements. Fla. Admin. Code R. 25-6.140(1)(d) and 25-7.140(1)(d).

the PSC’s consideration at a regular agenda conference.³⁰ The OPC may appear as a party and conduct limited discovery and staff may request information from the utility.³¹ Customer hearings are scheduled to allow customers to comment on the rates and service offered by the utility.³² Discovery from third parties is not permitted during this initial process, where the Administrative Procedure Act only provides for intervention by substantially affected persons after issuance of a written PAA.³³

At the agenda conference, the Commission will consider the staff recommendation, receive input from the utility and any interested persons and the utility’s customers, and will vote on the request made by the utility.³⁴ The Commission’s decision is memorialized as a PAA order.³⁵ A party whose substantial interest may be affected by the PAA order must timely file a petition for administrative hearing; otherwise, an order will be entered making the PAA order a final agency action subject only to appeal.³⁶

In a PAA docket, the statutory deadline for the PSC to enter a PAA order is five months from the commencement date.³⁷ If a petition protesting the PAA order is filed, the commission must render a final decision no later than eight months from the petition’s filing.³⁸ A hearing on a PAA objection may only address the issues disputed in the petition. All other issues are deemed stipulated.³⁹

Subsection 366.06(4), F.S., was last amended by the Florida Legislature in 1993.⁴⁰ Currently, none of the public electric utilities regulated by the PSC are eligible to utilize the PAA procedure for rate relief. The following table lists their annual sales in gigawatt hours.⁴¹

ELECTRIC UTILITIES	
2020	GWh
Florida Power & Light	113,531
Duke Energy Florida	39,230
Tampa Electric	19,954
Gulf Power	10,635
FPUC	650

³⁰ The Commission generally conducts one regular agenda conference in every calendar month. PSC, *Bill Analysis, supra* at n. 20.

³¹ Section 350.0611, F.S.; PSC, *Bill Analysis, supra* at n. 20.

³² PSC, *Bill Analysis, supra* at n. 20.

³³ See ss. 120.569 and 120.57, F.S.

³⁴ PSC, *Bill Analysis, supra* at n. 20.

³⁵ *Id.*

³⁶ *Id.*

³⁷ See s. 366.06(4), F.S.; PSC, *Bill Analysis, supra* at n. 20.

³⁸ See s. 366.06(4), F.S.

³⁹ Section 120.80(13)(b), F.S.

⁴⁰ See Ch. 35, s. 5, Laws of Fla. (1993).

⁴¹ PSC, *Bill Analysis, supra* at n. 20.

III. Effect of Proposed Changes:

The bill increases the maximum annual sales threshold public electric utilities to qualify for rate relief under the PSC's proposed agency action procedure from 500 gigawatt hours to 1,000 gigawatt hours. This would allow the Florida Public Utilities Company – Electric Division to be eligible to utilize the PAA procedure for its petition for rate relief.⁴²

The bill is effective July 1, 2022.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on public electric utilities that become eligible to utilize the PAA procedure for rate relief in lieu of a standard rate case. This may minimize litigation and regulatory costs. These cost savings may trickle down and result in savings to the ratepayers.

It appears the Florida Public Utilities Company's Electric Division will be eligible to utilize the PAA procedure for rate relief due to its annual sale level.

⁴² *Id.*

The bill does not affect natural gas utilities regulated by the PSC as they do not have a statutory annual sales threshold to qualify for the PAA procedure.

C. Government Sector Impact:

The bill may have a positive fiscal impact on the PSC and the OPC by saving time, human, and financial resources for rate relief by utilities eligible for the PAA procedure instead of a standard rate case.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 366.06 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 Bean

4-00491-22

2022350__

1 A bill to be entitled
 2 An act relating to procedures for petitions for
 3 utility rate relief; amending s. 366.06, F.S.;
 4 increasing the maximum annual sales, expressed in
 5 gigawatt hours, which natural gas or public electric
 6 utilities may have to be eligible to request that the
 7 Public Service Commission use certain procedures for
 8 the utility's petition for rate relief; making a
 9 technical change; providing an effective date.

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

12
 13 Section 1. Subsection (4) of section 366.06, Florida
 14 Statutes, is amended to read:

15 366.06 Rates; procedure for fixing and changing.—

16 (4) A natural gas utility or a public electric utility
 17 whose annual sales to end-use customers amount to less than
 18 1,000 ~~500~~ gigawatt hours may specifically request the commission
 19 to process its petition for rate relief using the agency's
 20 proposed agency action procedure, as prescribed by commission
 21 rule. The commission shall enter its vote on the proposed agency
 22 action within 5 months of the commencement date for final agency
 23 action. If the commission's proposed action is protested, the
 24 final decision must be rendered by the commission within 8
 25 months after ~~of~~ the date the protest is filed. At the expiration
 26 of 5 months following the commencement date for final agency
 27 action, if the commission has not taken action or if the
 28 commission's action is protested by a party other than the
 29 utility, the utility may place its requested rates into effect

Page 1 of 2

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

4-00491-22

2022350__

30 under bond, escrow, or corporate undertaking subject to refund,
 31 upon notice to the commission and upon filing the appropriate
 32 tariffs. The utility must keep accurate records of amounts
 33 received as provided by subsection (3).

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: October 13, 2021

I respectfully request that **Senate Bill #350**, relating to Procedures for Petitions for Utility Rate Relief, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

Date: October 11, 2021

Agency Affected:	Public Service Commission	Telephone: (850)413-6524
Program Manager:	Kaley Slattery	Telephone: (850)413-6125
Agency Contact:	Kaley Slattery	Telephone: (850)413-6125
Respondent:	Katherine Pennington	Telephone: (850)413-6596

RE: SB 350

I. SUMMARY

SB 350, sponsored by Senator Bean, would amend the threshold used to determine whether a public electric utility is eligible to have a petition for rate relief considered by the Florida Public Service Commission (FPSC or Commission) under its proposed agency action (PAA) procedure. Under current law, only natural gas utilities and public electric utilities with less than 500 gigawatt hours in annual sales are eligible to request PAA treatment of a petition for rate relief. The bill would raise this threshold for public electric utilities to 1,000 gigawatt hours. The bill would take effect July 1, 2022.

II. PRESENT SITUATION

Section 366.06, Florida Statutes (F.S.), establishes the process for fixing and charging rates. Under this Section and its implementing rules, a utility seeking to change the rates it charges must first give the Commission notice of its selected test year and filing date, and then submit its minimum filing requirements (MFRs).¹ The Commissioner who has been assigned as the Prehearing Officer (PHO) for the docket will enter an Order Establishing Procedure and set the matter for a final hearing. Substantially affected persons will have the opportunity to intervene and propound discovery to the utility. After or near the close of discovery, the PHO will conduct a Prehearing Conference with the utility and parties to finalize the issues. The full Commission will subsequently conduct an evidentiary hearing on these issues pursuant to Sections 120.569 & 120.57, F.S. Customer service hearings are scheduled so the Commission can take testimony from customers regarding the utility's rates and service. The parties will be allowed the opportunity to file post-hearing briefs. Unless the parties waive briefs and consent to a bench vote, the Commission will vote on the merits of the rate request at a later meeting after having the opportunity to review the record and any post-hearing filings. A written final order in accordance with the Commission's vote will be entered and the parties will be afforded the right to file an appeal. The statutory deadline for the Commission to take final agency action by entering a written final order is 12 months from the date on which the MFRs are deemed sufficient.² The full rate case process is lengthy and can be resource intensive.

Subsection 366.06(4), F.S., provides the opportunity for a more expedited disposition of a petition for rate relief. Under this subsection, a natural gas utility or public electric utility with less than 500 gigawatt hours in annual sales has the option to request that the Commission process a petition for rate relief under its PAA procedure as set forth in Rule 25-22.029, F.A.C. The utility must request to use this procedure when it submits its MFRs.³

A docket being processed as PAA will not immediately be set for hearing. Instead, the matter will be scheduled for Commission consideration at a regular agenda conference.⁴ Commission staff will prepare a recommendation for Commission consideration at the agenda conference. Staff may propound data requests to the utility on the request made in the petition as it prepares this recommendation. The Office of Public Counsel may exercise its statutory right to appear as a party in the docket and conduct limited

¹ See Rules 25-6.043 & 25-6.140 (investor-owned electric utilities); 25-7.039 & 25-7.140 (natural gas utilities), Florida Administrative Code (F.A.C.).

² See § 366.06(3), F.S.

³ Rules 25-6.140(1)(d) & 25-7.140(1)(d), F.A.C.

⁴ The Commission generally conducts one regular agenda conference in every calendar month.

discovery. Customer meetings are scheduled to allow customers to comment on the rates and service offered by the utility. However, because the provisions of Sections 120.569 and 120.57, F.S., allowing for intervention by substantially affected persons apply only after issuance of the written PAA, there is no discovery from third parties during this initial process.

At the agenda conference, the Commission will consider the staff recommendation, may receive input from the utility and any interested persons, including customers of the utility, and will vote on the request made by the utility. The Commission’s vote will be memorialized and its decision issued as a PAA order. Unless a party whose substantial interest(s) will or may be affected by the proposed agency action timely files a petition for administrative hearing on the PAA order, a consummating order will be entered and the PAA order will become final agency action, subject only to appeal.⁵

In a docket utilizing this process, the statutory deadline for the Commission to enter a PAA order is 5 months from the date on which the MFRs are deemed sufficient. If a petition for hearing regarding the PAA order is filed, the Commission must render a final decision 8 months from the date the petition is filed.⁶ Pursuant to Section 120.80(13)(b), F.S., a hearing on an objection to a PAA order may only address the issues disputed in the petition; any issues not in dispute are deemed stipulated. This may minimize the scope, and thus the time and expense, associated with such a hearing.

Because there is no third party intervention and active participation in the docket prior to the written PAA order, except by OPC, this procedure provides the potential for the Commission to enter a final order on a request for a rate increase in a manner that minimizes litigation impacts on the utility’s human and financial resources.

III. EFFECT OF PROPOSED CHANGES

The bill amends Subsection 366.06(4), F.S., to raise the annual sales threshold from 500 to 1,000 gigawatt hours for public electric utilities to utilize the PAA process. The table below lists annual sales in gigawatt hours for public electric utilities regulated by the Commission.

ELECTRIC UTILITIES	
2020	GWh
Florida Power & Light	113,531
Duke Energy Florida	39,230
Tampa Electric	19,954
Gulf Power	10,635
FPUC	650

SB 350 would not affect which Commission-regulated gas utilities are currently eligible to request PAA treatment of a petition for rate relief. The only electric utility not currently eligible to request PAA treatment of a petition for rate relief that would be made eligible for such treatment under SB 350 is Florida Public Utilities Company – Electric Division. As a result of the bill, it would be eligible to make use of the PAA procedure when seeking rate relief in the future. Use of this process by a utility might lower its regulatory costs as compared to a rate case set directly for hearing, and thereby reduce the costs that may be ultimately borne by ratepayers. Other than the Office of Public Counsel appearing under its specific statutory authority,⁷ no third parties have intervened or requested to be listed as interested persons in the

⁵ See Order Nos. PSC-08-0436-PAA-GU (PAA Order) and PSC-08-0849-CO-GU (Consummating Order), issued July 8 and August 1, 2008, in Docket No. 20070592-GU, *In re: Petition for rate increase by St. Joe Natural Gas Company, Inc.*

⁶ See § 366.06(4), F.S.

⁷ See § 366.0611(1), F.S.

last three base rate cases filed by Florida Public Utilities Company.⁸

The bill takes effect July 1, 2022.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

SB 350 could result in potential savings to the Commission and its staff, utilities, and utility customers resulting from utilizing a PAA instead of direct-to-hearing rate case.

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

SB 350 could offer potential benefit to newly-qualifying utilities resulting from a PAA instead of a direct-to-hearing rate case.

VII. LEGAL ISSUES

A. *Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?*

No.

B. *Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, and impairment of contracts)?*

No.

C. *Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?*

No.

VIII. COMMENTS

No additional comments at this time.

⁸ See Docket Nos. 20140025-EI, 20080366-GU & 20030438-EI.

The Florida Senate

APPEARANCE RECORD

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11/2/2021

Meeting Date

350

Bill Number or Topic

Regulation & Industries

Committee

Amendment Barcode (if applicable)

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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)

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The Florida Senate
APPEARANCE RECORD

SB350

Meeting Date

Regulated Industries

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Victoria Price Phone 8503824153

Address 310 W. College Avenue Email vprice@chpk.com

Street

Tallahassee FL 32303
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Chesapeake Utilities and Florida Public Utilites Company

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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11.2.21

Meeting Date

Regulated Industries

Committee

350

Bill Number or Topic

Amendment Barcode (if applicable)

Name J. Larry Williams

Phone 850.510.5306

Address 215 S. Monroe Street, Suite 601

Email lwilliams@gunster.com

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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:

Chesapeake Utilities Corporation

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 \(flsenate.gov\)](#)

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APPEARANCE RECORD

350

Meeting Date
Regulated Industries

Deliver both copies of this form to
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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Ronald Brise**

Phone **850.521.1980**

Address **215 S. Monroe Street Suite 601**
Street

Email **rbrise@gunster.com**

Tallahassee **FL** **32301**
City *State* *Zip*

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

PLEASE CHECK ONE OF THE FOLLOWING:

<input type="checkbox"/> I am appearing without compensation or sponsorship.	<input checked="" type="checkbox"/> I am a registered lobbyist, representing: Chesapeake Utilities	<input type="checkbox"/> 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.

2020

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Gabriella Passidomo

is duly appointed a member of the
Florida Public Service Commission

for a term beginning on the Tenth day of May, A.D., 2021, until
the First day of January, A.D., 2023 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Sixth day of July, A.D., 2021.*



Secretary of State



State of Florida appears in small letters across the face of this 8 1/2 x 11 document

If photocopied or chemically altered, the word "VOID" will appear.



RON DESANTIS
GOVERNOR

RECEIVED
2021 MAY 12 AM 9:40

May 10, 2021

Secretary Laurel M. Lee
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 350.01, Florida Statutes:

Ms. Gabriella Passidomo
308 South Franklin Boulevard
Tallahassee, Florida 32301

as a member of the Florida Public Service Commission, succeeding Julie Brown, subject to confirmation by the Senate. This appointment is effective May 10, 2021, for a term ending January 1, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/kk

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

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STATE OF FLORIDA

2021 JUL 26 AM 9:09

County of Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

PUBLIC SERVICE COMMISSIONER
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]

Signature

Sworn to and subscribed before me by means of physical presence or
 online notarization, this 23rd day of July, 2021.

Jacqueline Crumbe Moore
Signature of Officer Administering Oath or of Notary Public

Jacqueline Crumbe Moore
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____



ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

2540 STUMARD OAK BLVD
Street or Post Office Box

TALLAHASSEE, FL 32399
City, State, Zip Code

GABRIELLA PASIDOMO
Print Name

[Signature]
Signature

126227

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

Date Completed _____

1. Name: Ms. PASSIDOMO GABRIELLA ANNE
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 2540 SHUMARD OAK BLVD. TALLAHASSEE
Street Office # City
FL 32399-0850 (850) 413-6042
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 308 S. FRANKLIN BLVD. TALLAHASSEE LEON
Street City County
FL 32301
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
308 S. FRANKLIN BLVD.	TALLAHASSEE, FL	10/20	PRESENT
340 S. FRANKLIN BLVD.	TALLAHASSEE, FL	09/19	09/20
1 HILL CIRCLE	LEXINGTON, VA	01/19	08/19
19 POYNTZ PL	LEXINGTON, VA	09/16	12/18

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>
N/A		

RECEIVED
 DEPARTMENT OF STATE
 DIVISION OF ELECTIONS
 2021 JUL 12 AM 11:17

5. Date of Birth: _____ Place of Birth: NAPLES, FL, USA

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: FLORIDA

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1991

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: COLLIER B. Current Party Affiliation: REPUBLICAN

12. Education

A. High School: NAPLES HIGH SCHOOL, NAPLES, FL Year Graduated: 2010
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>FURMAN UNIVERSITY, GREENVILLE, SC</u>	<u>09/10-01/11</u>	
<u>FLORIDA GULF COAST UNIVERSITY, ESTERO, FL</u>	<u>05/11-08/12</u>	
<u>UNIVERSITY OF FLORIDA, GAINESVILLE, FL</u>	<u>08/12-05/14</u>	<u>B.A. POLITICAL SCIENCE</u>
<u>WASHINGTON & LEE UNIV. SCHOOL OF LAW</u>	<u>08/16-05/19</u>	<u>J.D.</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>FL PUBLIC SERVICE COMMISSION, 2540 SHUMARD OAK BLVD., STATE AGENCY, ATTORNEY,</u>			<u>09/19-05/21</u>
<u>U.S. DEPT. OF ENERGY, 1000 INDEPENDENCE AVE SW, WASHINGTON, DC., FEDERAL AGENCY, LEGAL INTERN</u>			<u>08/18-12/18</u>
<u>PRIMEXX ENERGY PARTNERS, LTD., 4849 GREENVILLE, AVE #1600, DALLAS, TX, OIL AND GAS E&P COMPANY, LEGAL INTERN</u>			<u>06/18-08/18</u>
<u>FL PUBLIC SERVICE COMMISSION, 2540 SHUMARD OAK BLVD., STATE AGENCY, LAW CLERK</u>			<u>05/18-06/18</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>COMMISSIONER</u>	<u>PUBLIC SERVICE COMMISSION</u>	<u>05/21 - PRESENT</u>
<u>ATTORNEY</u>	<u>PUBLIC SERVICE COMMISSION</u>	<u>09/19- 05/21</u>
<u>LAW CLERK</u>	<u>PUBLIC SERVICE COMMISSION</u>	<u>05/18 - 06/18</u>

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I served as an attorney in the General Counsel's office at the Public Service Commission for two years prior to my appointment.

While in law school, I worked with the General Counsel for Electricity and Fossil Energy at the U.S. Department of Energy in Washington, DC.

I worked as a legal intern for an exploration and production oil and gas company based in Dallas, Texas, overseeing the company's federal and state regulatory compliance.

I served as law clerk in the PSC's legal department between my second and third years of law school.

I am currently pursuing my Masters in Business Administration from Florida State University to better understand accounting and finance principles.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

J.D., WASHINGTON & LEE UNIVERSITY SCHOOL OF LAW

MEMBER OF THE FLORIDA BAR SINCE 11/4/2019

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No
If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

MEMBER OF THE FLORIDA BAR

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, COMMITTEE ON GAS, MEMBER

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, SUBCOMMITTEE ON PIPELINE SAFETY, MEMBER

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
<u>COMMISSIONER</u>	<u>MAY 10, 2021</u>	<u>APPOINTED THROUGH 01/01/2023</u>	<u>STATE</u>

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
B. Term of Appointment: _____
C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
MEMBER OF THE FLORIDA BAR, #1020021	11/4/2019	THE FLORIDA BAR	N/A
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
LEE ENG TAN			
JULIE BROWN			
BRIAN CARUFE			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
THE FLORIDA BAR	651 E. JEFFERSON ST. TALLAHASSEE, FL		11/4/19- PRESENT
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, 1101 VERMONT AVE., NW, SUITE 200, WASHINGTON, DC. 20005			COMMITTEE ON GAS 7/6/21- PRESENT
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, SUBCOMMITTEE ON PIPELINE SAFETY			7/6/21- PRESENT

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

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DEPARTMENT OF STATE

CERTIFICATION

2021 JUL 12 AM 10:43

STATE OF FLORIDA
COUNTY OF _____

Leon

DEPARTMENT OF STATE
DIVISION OF ELECTIONS

Before me, the undersigned Notary Public of Florida, personally appeared

GABRIELLA PASSIDOMO

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

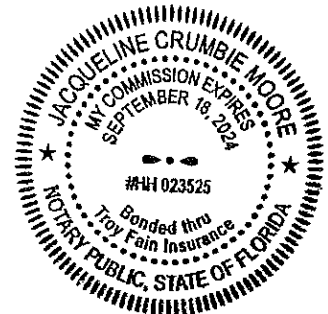
[Handwritten Signature]

Signature of Applicant-Affiant

Sworn to and subscribed before me this 6th day of July, 2021.

Jacqueline Crumbie Moore
Signature of Notary Public-State of Florida

Jacqueline Crumbie Moore
(Print, Type, or Stamp Commissioned Name of Notary Public)



My commission expires: _____

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

Senate Confirmation Questionnaire

Please mail to: Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

The information from this page has been requested and will be used exclusively for Minority Statistics.
Please type or use blue ink.

1. Board of Interest: PUBLIC SERVICE COMMISSION
2. Current Employer and Occupation: PUBLIC SERVICE COMMISSION, COMMISSIONER
3. Are you applying for reappointment: Yes No
4. *Do you have a disability? Yes No If "Yes", please describe your disability that would qualify you for this appointment, if applicable.

5. *Sex: Male Female

6. *Race: White African-American
Hispanic-American Asian/Pacific Islander
Native-American/Alaskan Native

7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor.

No.

8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor.

Yes. Sports/Fitness
Academic tutoring

GABRIELLA PASSIDOMO

Applicant's Name, including name commonly used
(Please print)

* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

**The Florida Senate
Committee Notice Of Hearing**

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Gabriella Passidomo
Florida Public Service Commission

NOTICE OF HEARING

TO: Commissioner Gabriella Passidomo

YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, November 2, 2021, in the Pat Thomas Committee Room, 412 Knott Building, commencing at 3:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 25th day of October, 2021

Committee on Regulated Industries



Senator Travis Hutson
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries
Office of the Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Gabriella Passidomo

ANSWER:

yes

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Senate Committee on Regulated Industries

DATE: November 2, 2021

APPEARANCE RECORD

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

11/2/2021

Meeting Date

Regulated Industries

Committee

Bill Number or Topic

Amendment Barcode (if applicable)

Name GABRIELLA PASSIDOMO

Phone 850-413-6042

Address 2540 SHUMARD OAK BLVD
Street

Email COMMISSIONER.PASSIDOMO@PSC.STATE.FL.US

TALLAHASSEE
City

FL
State

32399
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.