

Tab 1	SB 448 by Brodeur; (Similar to CS/H 00723) Veterinary Telehealth						
233706	A	S	TP	RI, Brodeur	Delete L.65 - 152:	01/18 03:29 PM	

Tab 2	SB 920 by Perry; (Identical to H 00737) Electric Vehicle Transportation Electrification Plan						
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Tab 3	SB 1140 by Perry; (Similar to CS/H 00669) Alarm Systems						
498414	A	S	RS	RI, Perry	Delete L.63 - 80:	01/18 02:46 PM	
721546	SA	S	RCS	RI, Perry	Delete L.63 - 80:	01/18 02:46 PM	

Tab 4	SB 1302 by Burgess; (Similar to H 01259) Criminal History Information						
568010	A	S	RCS	RI, Burgess	Delete L.46 - 162:	01/18 02:46 PM	

Tab 5	SPB 7036 by RI; Lifeline Telecommunications Service						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Book, Vice Chair

MEETING DATE: Tuesday, January 18, 2022

TIME: 1:30—3:00 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 448 Brodeur (Similar CS/H 723)	Veterinary Telehealth; Citing this act as the "Providing Equity in Telemedicine Services (PETS) Act"; defining the term "telemedicine"; authorizing veterinarians to practice telemedicine; requiring veterinarians using telemedicine to establish a veterinarian/client/patient relationship and meet certain professional standards; authorizing employees, agents, or contractors of animal control authorities to administer rabies vaccinations under certain circumstances; providing that a supervising veterinarian assumes responsibility for any person vaccinating animals at the supervising veterinarian's discretion or under his or her supervision, etc. RI 01/18/2022 Temporarily Postponed AG RC	Temporarily Postponed
2	SB 920 Perry (Identical H 737)	Electric Vehicle Transportation Electrification Plan; Requiring the Public Service Commission to adopt rules for an electric vehicle transportation electrification plan that meet certain requirements; providing timeframes for the commission to propose the plan's rules and for final rule adoption; authorizing entities that provide electric vehicle charging stations to the public to intervene and participate in certain commission proceedings involving rates, terms, or conditions for offering electric vehicle charging to the public, etc. RI 01/18/2022 Favorable TR RC	Favorable Yeas 7 Nays 1
3	SB 1140 Perry (Similar CS/H 669)	Alarm Systems; Authorizing individuals with certain fire alarm certifications to complete a reduced number of training and continuing education hours for the prevention of false alarms; revising the definition of the term "low-voltage alarm system project" to include certain closed-circuit television systems; requiring that electrical or fire permits for certain fire alarm system alterations be issued over the counter or online, etc. RI 01/18/2022 Fav/CS BI RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, January 18, 2022, 1:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1302 Burgess (Similar H 1259, Compare H 87, H 1261, S 1118, S 1548)	Criminal History Information; Prohibiting an applicable board from inquiring into, or considering the conviction history of, an applicant for licensure until it is determined that the applicant is otherwise qualified; prohibiting the applicable board from denying an application for license of a person based solely or in part on a prior felony conviction; providing requirements for determining if such felony conviction directly relates to the practice of the applicable profession; providing requirements for court-ordered sealing of certain records that were automatically sealed by the Department of Law Enforcement under specified provisions, etc. RI 01/18/2022 Fav/CS CJ RC	Fav/CS Yeas 8 Nays 0

Consideration of proposed bill:

5	SPB 7036	Lifeline Telecommunications Service; Requiring a Lifeline service subscriber to present proof of continued eligibility to certain entities upon request; deleting provisions authorizing certain local exchange telecommunications companies and commercial mobile radio service providers to provide Lifeline service to customers who meet certain income requirements; revising the entities required to cooperate in the development of procedures for promoting the Lifeline service; authorizing certain participant information to be exchanged with the Federal Communications Commission or its designee, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0
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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 448

INTRODUCER: Senator Brodeur

SUBJECT: Veterinary Telehealth

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AG</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 448 revises the veterinarian practice act to authorize a veterinarian, consistent with prevailing professional standards of care, to establish a patient/client relationship with an animal and its owner remotely by a two-way, real-time interactive communication, and to treat and prescribe prescription drugs in limited circumstances to an animal. The bill prohibits a veterinarian from prescribing controlled substances if the veterinarian has not previously performed an in-person physical examination or medically appropriate and timely visits to the premises where the animal is kept.

The bill allows employees, agents, or contractors of an animal control authority to administer rabies vaccinations to impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. Such persons may administer rabies vaccinations under the indirect supervision of a veterinarian, who must be available for consultation, but need not be at the premises where the vaccinations are administered. Under the bill, the supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under the veterinarian's direction and supervision.

According to the Department of Business and Professional Regulation, the bill has no fiscal impact on local or state government.¹

The bill is effective July 1, 2022.

¹ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 448* at 4 (Oct. 21, 2021) (on file with the Senate Committee on Regulated Industries).

II. Present Situation:

Veterinary Medicine, the Practice of Veterinary Medicine, and Exempted Persons

In 1979, the Legislature determined the practice of veterinary medicine to be potentially dangerous to public health and safety if conducted by incompetent and unlicensed practitioners and that minimum requirements for the safe practice of veterinary medicine are necessary.² The Board of Veterinary Medicine (board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., on Veterinary Medical Practice.³ A veterinarian is a health care practitioner licensed to engage in the practice of veterinary medicine in Florida under ch. 474, F.S.⁴

Veterinary medicine includes, with respect to animals:⁵

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);⁶ and
- Other branches or specialties of veterinary medicine.

The practice of veterinary medicine is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.⁷ Veterinarians who are incompetent or present a danger to the public are subject to discipline and may be prohibited from practicing in the state.⁸

Nine categories of persons are exempt from complying with ch. 474, F.S.:⁹

- Faculty veterinarians with assigned teaching duties at accredited¹⁰ institutions;

² See s. 474.201, F.S.

³ See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

⁴ See s. 474.202(11), F.S.

⁵ See s. 474.202(13), F.S. Section 474.202(1), F.S., defines “animal” as “any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead.”

⁶ The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. See <https://www.therio.org/> (last visited Jan. 10, 2022).

⁷ See s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy, fertility, or infertility of animals.

⁸ See s. 474.213, F.S., on prohibited acts, and s. 474.214, F.S., on disciplinary proceedings.

⁹ See s. 474.203, F.S.

¹⁰ Sections 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates. The AVMA Council on Education is recognized by the Council for Higher Education Accreditation (CHEA) as the accrediting body for schools and programs that offer the professional Doctor of Veterinary Medicine degree (or its equivalent) in the United States and Canada, and may also approve foreign veterinary colleges. See <https://www.avma.org/professionaldevelopment/education/accreditation/colleges/pages/coe-pp-overview-of-the-coe.aspx> (last visited Jan. 10, 2022). The AVMA Commission for Foreign Veterinary Graduates assists graduates of foreign, non-accredited schools to meet the requirement of most states that such foreign graduates successfully complete an educational

- Intern/resident veterinarians at accredited institutions who are graduates of an accredited institution, but only until they complete or terminate their training;
- Students in a school or college of veterinary medicine who perform assigned duties by an instructor (no accreditation of the institution is required), or work as preceptors¹¹ (if the preceptorship is required for graduation from an accredited institution);
- Doctors of veterinary medicine employed by a state agency or the United States Government while actually engaged in the performance of official duties at the installations for which the services were engaged;
- Persons or their employees caring for the persons' own animals, as well as part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks (excluding immunization or treatment of diseases that are communicable to humans and significant to public health) for herd/flock animals, with certain limitations; however, the exemption is not available to a person licensed as a veterinarian in another state and temporarily practicing in Florida, or convicted of violating ch. 828, F.S., on animal cruelty, or of any similar offense in another jurisdiction, and employment may not be provided for the purpose of circumventing ch. 474, F.S.;
- Certain entities or persons¹² that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of treatment or techniques to diagnose or treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine;
- Veterinary aides, nurses, laboratory technicians, preceptors, or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision¹³ of a licensed veterinarian;
- Certain non-Florida veterinarians who are licensed and actively practicing veterinary medicine in another state, are board certified in a specialty recognized by the Florida Board of Veterinary Medicine, and are assisting upon request of a Florida-licensed veterinarian to consult on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner; and
- Employees, agents, or contractors of public or private animal shelters, humane organizations, or animal control agencies operated by a humane organization, county, municipality, or incorporated political subdivision, whose work is confined solely to implanting radio frequency identification device microchips in dogs and cats in accordance with s. 823.15, F.S.¹⁴

equivalency assessment certification program. *See*

<https://www.avma.org/professionaldevelopment/education/foreign/pages/ecfvg-about-us.aspx> (last visited Jan. 10, 2022). In turn, the Council for Higher Education Accreditation, a national advocate for regulation of academic quality through accreditation, is an association of degree-granting colleges and universities. *See* <http://chea.org/about> (last visited Jan. 10, 2022).

¹¹ A preceptor is a skilled practitioner or faculty member, who directs, teaches, supervises, and evaluates student in a clinical setting to allow practical experience with patients. *See* <https://www.merriam-Webster.com/dictionary/preceptor#medicalDictionary> (last visited Jan. 10, 2022).

¹² *See* s. 474.203(6), F.S., which states that the exemption applies to “[state agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof”

¹³ The term “responsible supervision” is defined in s. 474.202(10), F.S., as the “control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services” delegated to unlicensed personnel.

¹⁴ *See* s. 823.15(5), F.S., which authorizes such persons to perform microchipping of dogs and cats.

Veterinarian/Client/Patient Relationship

Section 474.202(12), F.S., defines a “veterinarian/client/patient relationship” as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment. The term “patient” means any animal “for which a veterinarian practices veterinary medicine.”¹⁵

The term “valid veterinarian-client-patient relationship” used in federal regulations issued by the federal Food and Drug Administration (FDA), an agency within the United State Department of Health and Human Services, is similar to the term defined in s. 474.202(12), F.S.¹⁶

The FDA temporarily suspended the enforcement of portions of the federal veterinarian-client-patient relationship (VCPR) requirements under the FDA regulations. The FDA noted that “[t]he VCPR is the professional relationship between the veterinarian, client (e.g., animal owner or caretaker), and the animal patient(s).”¹⁷ The federal VCPR definition requires that veterinarians physically examine animal patients and make medically appropriate and timely visits to the location where the animals are kept.¹⁸ The FDA indicated that it would not be enforcing the animal examination and premises visit VCPR requirements involving the FDA regulations governing Extralabel Drug Use in Animals and Veterinary Feed Directive drugs (VFD).¹⁹ This change would allow veterinarians to prescribe drugs in an extralabel manner or authorize the use of VFD drugs without direct emanation or visiting the patients.²⁰

The FDA warned that even though the federal requirements were suspended, veterinarians still needed to consider state VCPR requirements.²¹

Requirements for Prescribing Medicinal Drugs and Controlled Substances

Section 474.214(1)(y), F.S., sets forth the acts that may subject a veterinarian to disciplinary proceedings, related to the prescribing of drugs. A veterinarian may not order, prescribe, or make available medicinal drugs or drugs commonly known as “prescription” or “legend” drugs which are required by federal or state law to be dispensed only by a prescription, or controlled substances as defined in ch. 893, F.S.,²² for use other than for the specific treatment of animal patients for which there is a documented veterinarian/client/patient relationship. The veterinarian must:

¹⁵ See s. 474.202(8), F.S.

¹⁶ See 21 C.F.R. s. 530.3.

¹⁷ See *Coronavirus (COVID-19) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic*, FDA News Release, March 24, 2020 available at [Coronavirus \(COVID-19\) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic | FDA](#) (last visited Jan. 10, 2022).

¹⁸ *Id.*

¹⁹ *Id.* See 21 C.F.R. s. 530 and 21 C.F.R. part 558. A VFD drug is intended for use in animal feeds, and use is permitted only under the professional supervision of a licensed veterinarian. See U.S. Food and Drug Administration, *Veterinary Feed Directive (VFD)* <https://www.fda.gov/animal-veterinary/development-approval-process/veterinary-feed-directive-vfd> (last visited Jan. 10, 2022).

²⁰ *Id.*

²¹ *Id.*

²² See s. 893.03, F.S., for the listing of controlled substances regulated under Florida law.

- Have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the animal's medical condition, meaning the veterinarian is personally acquainted with the keeping and caring of the animal and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept;
- Be available or provide for follow up care and treatment if there are adverse reactions or the regimen of therapy fails; and
- Maintain documentation of patient visits, diagnosis, treatment, and other relevant information required under the veterinary practice act, ch. 474, F.S.²³

Rabies Vaccinations

In Florida, all dogs, cats, and ferrets²⁴ four months of age or older must be vaccinated against rabies at the expense of their owners by a licensed veterinarian.²⁵ Rabies is a fatal but preventable viral disease that can spread to people and pets bitten or scratched by a rabid animal.²⁶ According to the Centers for Disease Control and Prevention (CDC), a component of the United States Department of Health and Human Services, most rabies deaths in people around the world are caused by dog bites.²⁷ Because of laws in the United States requiring dogs to be vaccinated for rabies, dogs make up only about one percent of rabid animals reported nationally each year.²⁸

Rabies vaccines are licensed by the United States Department of Agriculture, and revaccinations are required 12 months after the initial vaccine.²⁹ Thereafter, the interval between vaccinations is set by the vaccine manufacturer.³⁰

A dog, cat, or ferret is exempt from vaccination against rabies if a licensed veterinarian has examined the animal and certified that vaccination at that time would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations; however, an exempt animal must be vaccinated against rabies as soon as its health permits.³¹

After administering a rabies vaccination, the licensed veterinarian must provide a certificate to the animal's owner and the animal control authority, using the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV), or an equivalent form approved by the local government that contains the same information as the NASPHV certificate.³² A signature stamp may be used in lieu of the veterinarian's actual signature.

²³ See s. 474.214(1)(y), F.S.

²⁴ Ferrets that are vaccinated as required must be quarantined when necessary, in accordance with administrative rules of the Florida Department of Health. See s. 828.30(4), F.S., and Fla. Admin. Code R. 64D-3.040.

²⁵ See s. 828.30, F.S.

²⁶ See <https://www.cdc.gov/rabies/index.html> (last visited Jan. 10, 2022). In the United States, rabies is mostly found in wild animals like bats, raccoons, skunks, and foxes. *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ See s. 828.30(1), F.S.

³⁰ *Id.* Evidence of rabies antibodies may not be substituted for a current vaccination in managing rabies exposure or determining the need for booster vaccinations.

³¹ See s. 828.30(2), F.S.

³² See s. 828.30(3), F.S.

An animal owner's name, street address, phone number, and animal tag number in a rabies vaccination certificate provided to an animal control authority is a public record exempt from the inspection and copying requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.³³ However, all information in a rabies vaccination certificate for a particular animal biting, scratching, or otherwise causing exposure, may be provided to a:

- Person who has been bitten, scratched, or otherwise exposed to a disease such as rabies that spreads between animals and people (zoonotic disease),³⁴ or that person's physician;
- Veterinarian treating an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease; or
- The owner of an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease.³⁵

In addition, any person with an animal tag number may receive vaccination certificate information with regard to that animal. The following entities must be provided the information in rabies vaccination certificates for the purpose of controlling the transmission of rabies, but may not release the exempt information to third parties:

- Law enforcement and prosecutorial agencies;
- Other animal control authorities;
- Emergency and medical response and disease control agencies; or
- Other governmental health agencies.³⁶

Release of exempt information contained in a rabies vaccine certificate is a civil infraction that could subject those cited for a violation to a civil penalty of up to \$500.³⁷

Municipalities and counties are not prohibited from establishing similar or more stringent requirements than those described above for rabies control ordinances; however, local governments may not mandate revaccination of currently vaccinated animals except in instances involving treatment for rabies after an exposure.³⁸

III. Effect of Proposed Changes:

Section 1 provides the act may be cited as the "Providing Equity in Telemedicine Services (PETS) Act."

Section 2 amends s. 474.202, F.S., to define "telemedicine" as the practice of veterinary medicine, including "diagnosis, consultation, evaluation, treatment, or transfer of medical data," with a "two-way, real-time interactive communication" between a client and patient and a

³³ See s. 828.30(5), F.S.

³⁴ See information from the CDC about zoonotic diseases that are caused by germs that spread between animals and people at <https://www.cdc.gov/onehealth/basics/zoonotic-diseases.html#:~:text=Zoonotic%20means%20infectious%20diseases%20that%20are%20spread%20between,lives,%20both%20at%20home%20and%20away%20from%20home> (last visited Jan. 10, 2022).

³⁵ See s. 828.30(5), F.S.

³⁶ *Id.*

³⁷ See s. 828.30(6), F.S., and s. 828.27(2), F.S., authorizing the governing body of a county or municipality to enact ordinances relating to animal control or cruelty, and setting forth requirements for penalties, citations, and related procedures, respectively.

³⁸ See s. 828.30(7), F.S.

veterinarian who has access to and the ability to review the patient's relevant information before the visit.

Section 3 creates s. 474.2021, F.S., to:

- Authorize veterinarians with a current Florida license to practice veterinary telemedicine;
- Provide the practice of medicine occurs at the location site where the veterinarian, the patient, or both are located at the time the veterinarian practices telemedicine;
- Authorize a veterinarian to practice telemedicine, if the veterinarian:
 - Takes appropriate steps to establish a veterinarian/client/patient relationship; and
 - Conducts all appropriate evaluations and collects appropriate histories of the patient, consistent with prevailing professional standards of care.
- Specify that a veterinarian may not prescribe controlled substances if the veterinarian has not performed an in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept; however, a consulting veterinarian using telemedicine may prescribe controlled substances for a terminal patient transferred to hospice care from a veterinarian who performed an in-person physical examination and provided the patient's medical records to the consulting veterinarian;
- Grant the board jurisdiction over a veterinarian practicing telemedicine in Florida, regardless of where the veterinarian's physical offices are located;
- Specify the practice of telemedicine in accordance with the above requirements is not a standard of care violation, and a veterinarian may not be disciplined solely for practicing telemedicine.

Section 4 amends s. 828.30, F.S., relating to rabies vaccinations of dogs, cats, and ferrets, to allow employees, agents, or contractors of an animal control authority to administer rabies vaccinations to impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner.

However, persons eligible to administer rabies vaccinations in this limited circumstance must be acting under a veterinarian's indirect supervision. The bill defines the term "indirect supervision," to mean the supervising veterinarian is available for consultation through telecommunications,³⁹ but is not required to be on the premises during the consultation. In addition, the supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under the direction and supervision of the veterinarian.

Section 5 amends s. 474.203(5)(a), F.S., to create an exception to the requirement that only a veterinarian may immunize or treat an animal for diseases that are communicable to people and that are significant to public health. The exception, limited to the administration of rabies vaccinations under specific conditions, is discussed in **Section 4** above.

Section 6 amends s. 474.214, F.S., relating to the grounds for disciplinary action against a veterinarian, to require that a veterinarian ordering, prescribing, or making available medicinal

³⁹ The term "telecommunications" is not defined in the bill, but Florida's Information Technology Management Act, part I of ch. 282, F.S., related to Communications and Data Processing (ss. 282.003 to 283.318, F.S.), defines that term to mean "the science and technology of communication at a distance, including electronic systems used in the transmission or reception of information." See s. 282.0041(35), F.S.

drugs or controlled substances for an animal patient, must have recently performed a physical examination of the animal or group of animals, either in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically.

Section 7 provides the bill is effective July 1, 2022.

The bill includes technical drafting changes and conforming changes.

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:

Animal owners may be able to obtain care for an animal from a veterinarian through the telemedicine procedure outlined in the bill. These new practices may improve availability, timeliness, and expense associated with veterinary care.

C. Government Sector Impact:

Certain rabies vaccinations may be administered by employees, agents, or contractors of an animal control authority to impounded dogs, cat, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. This vaccination method may

allow vaccination of impounded animals to occur more quickly and reduce costs to animal control authorities.

According to the DBPR, there is no impact to state government by the bill, although costs incurred by animal control authorities for rabies vaccinations provided by veterinarians may be reduced by an indeterminate amount.⁴⁰

VI. Technical Deficiencies:

A technical amendment is recommended to insert “veterinary” into the phrase “the practice of medicine occurs” to properly refer to the practice of veterinary medicine. *See* line 65 of the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 474.202, 474.203, 474.214, and 828.30.

This bill creates section 474.2021 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

⁴⁰ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 448* at 5 (Oct. 21, 2021) (on file with the Senate Committee on Regulated Industries).



233706

LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
01/18/2022	.	
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The Committee on Regulated Industries (Brodeur) recommended the following:

Senate Amendment

Delete lines 65 - 152
and insert:
medicine in this state. The practice of veterinary medicine occurs where the veterinarian or the patient, or both, are located at the time the veterinarian practices telemedicine.

(3) The board has jurisdiction over a veterinarian practicing telemedicine in this state, regardless of where the veterinarian's physical offices are located. The practice of



233706

11 telemedicine in accordance with this section is not a standard
12 of care violation, and a veterinarian may not be disciplined
13 solely for practicing telemedicine.

14 Section 4. Subsections (1) and (3) of section 828.30,
15 Florida Statutes, are amended to read:

16 828.30 Rabies vaccination of dogs, cats, and ferrets.—

17 (1) (a) All dogs, cats, and ferrets 4 months of age or older
18 must be vaccinated by a licensed veterinarian or, in the case of
19 impounded animals, a person authorized under paragraph (b),
20 against rabies with a vaccine that is licensed by the United
21 States Department of Agriculture for use in those species.

22 (b) An employee, an agent, or a contractor of an animal
23 control authority acting under the indirect supervision of a
24 veterinarian may vaccinate impounded dogs, cats, and ferrets
25 that will be transferred, rescued, fostered, adopted, or
26 reclaimed by the owner. The supervising veterinarian assumes
27 responsibility for any person vaccinating animals at his or her
28 direction or under his or her supervision. As used in this
29 paragraph, the term "indirect supervision" means that the
30 supervising veterinarian is required to be available for
31 consultation through telecommunications but is not required to
32 be physically present during such consultation.

33 (c) The owner of every dog, cat, and ferret shall have the
34 animal revaccinated 12 months after the initial vaccination.
35 Thereafter, the interval between vaccinations shall conform to
36 the vaccine manufacturer's directions. The cost of vaccination
37 must be borne by the animal's owner. Evidence of circulating
38 rabies virus neutralizing antibodies ~~may~~ shall not be used as a
39 substitute for current vaccination in managing rabies exposure



233706

40 or determining the need for booster vaccinations.

41 (3) Upon vaccination against rabies, the licensed
42 veterinarian shall provide the animal's owner and the animal
43 control authority with a rabies vaccination certificate. Each
44 animal control authority and veterinarian shall use the "Rabies
45 Vaccination Certificate" of the National Association of State
46 Public Health Veterinarians (NASPHV) or an equivalent form
47 approved by the local government which ~~that~~ contains ~~all~~ the
48 information required by the NASPHV Rabies Vaccination
49 Certificate. The veterinarian who administers the rabies
50 vaccination, or who supervises the administration of the rabies
51 vaccination as provided in paragraph (1) (b), vaccine to an
52 animal as authorized ~~required~~ under this section may affix his
53 or her signature stamp in lieu of an actual signature.

54 Section 5. Paragraph (a) of subsection (5) of section
55 474.203, Florida Statutes, is amended to read:

56 474.203 Exemptions.—This chapter does not apply to:

57 (5) (a) Any person, or the person's regular employee,
58 administering to the ills or injuries of her or his own animals,
59 including, but not limited to, castration, spaying, and
60 dehorning of herd animals, unless title is transferred or
61 employment provided for the purpose of circumventing this law.
62 This exemption does not apply to any person licensed as a
63 veterinarian in another state or foreign jurisdiction and
64 practicing temporarily in this state. However, except as
65 provided in s. 828.30, only a veterinarian may immunize or treat
66 an animal for diseases that are communicable to humans and that
67 are of public health significance.

68



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69 For the purposes of chapters 465 and 893, persons exempt
70 pursuant to subsection (1), subsection (2), or subsection (4)
71 are deemed to be duly licensed practitioners authorized by the
72 laws of this state to prescribe drugs or medicinal supplies.

73 Section 6. Paragraph (y) of subsection (1) of section
74 474.214, Florida Statutes, is amended to read:

75 474.214 Disciplinary proceedings.—

76 (1) The following acts shall constitute grounds for which
77 the disciplinary actions in subsection (2) may be taken:

78 (y) Using the privilege of ordering, prescribing, or making
79 available medicinal drugs or drugs as defined in chapter 465, or
80 controlled substances as defined in chapter 893, for use other
81 than for the specific treatment of animal patients for which
82 there is a documented veterinarian/client/patient relationship.

83 ~~Pursuant thereto,~~ The veterinarian shall:

84 1. Have sufficient knowledge of the animal to initiate at
85 least a general or preliminary diagnosis of the medical
86 condition of the animal, which means that the veterinarian is
87 personally acquainted with the keeping and caring of the animal,
88 is in compliance with s. 474.2021(2)(b), and has recently seen
89 the animal or has made medically appropriate and timely visits
90 to

By Senator Brodeur

9-00429C-22

2022448__

A bill to be entitled

An act relating to veterinary telehealth; providing a short title; amending s. 474.202, F.S.; defining the term "telemedicine"; creating s. 474.2021, F.S.; authorizing veterinarians to practice telemedicine; requiring veterinarians using telemedicine to establish a veterinarian/client/patient relationship and meet certain professional standards; prohibiting such veterinarians from prescribing controlled substances under certain circumstances; providing an exception; providing licensure requirements to practice telemedicine; providing jurisdiction of the Florida Board of Veterinary Medicine; providing construction; amending s. 828.30, F.S.; authorizing employees, agents, or contractors of animal control authorities to administer rabies vaccinations under certain circumstances; providing that a supervising veterinarian assumes responsibility for any person vaccinating animals at the supervising veterinarian's discretion or under his or her supervision; defining the term "indirect supervision"; authorizing a veterinarian who indirectly supervises the administration of the rabies vaccination to affix his or her signature stamp on a rabies vaccination certificate; amending ss. 474.203 and 474.214, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Page 1 of 6

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

9-00429C-22

2022448__

Section 1. This act may be cited as the "Providing Equity in Telemedicine Services (PETS) Act."

Section 2. Present subsections (11), (12), and (13) of section 474.202, Florida Statutes, are redesignated as subsections (12), (13), and (14), respectively, and a new subsection (11) is added to that section, to read:

474.202 Definitions.—As used in this chapter:

(11) "Telemedicine" means the practice of veterinary medicine, including diagnosis, consultation, evaluation, treatment, or transfer of medical data, by means of a two-way, real-time interactive communication between a client and patient and a veterinarian who has access to and the ability to review the patient's relevant information before the telemedicine visit.

Section 3. Section 474.2021, Florida Statutes, is created to read:

474.2021 Veterinary telemedicine.—

(1) A veterinarian may practice telemedicine.

(2) A veterinarian who uses telemedicine:

(a) Shall take appropriate steps to establish a veterinarian/client/patient relationship and conduct all appropriate evaluations and collect appropriate histories of the patient, consistent with prevailing professional standards of care for the specific patient presentation.

(b) May not prescribe controlled substances if he or she has not previously performed an in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept. However, a consulting veterinarian

Page 2 of 6

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9-00429C-22 2022448__

59 using telemedicine may prescribe controlled substances for a
 60 terminal patient transferred to the consulting veterinarian for
 61 hospice care from a veterinarian who performed an in-person
 62 physical examination of the patient and provided medical records
 63 to the consulting veterinarian.

64 (c) Must hold a current license to practice veterinary
 65 medicine in this state. The practice of medicine occurs where
 66 the veterinarian or the patient, or both, are located at the
 67 time the veterinarian practices telemedicine.

68 (3) The board has jurisdiction over a veterinarian
 69 practicing telemedicine in this state, regardless of where the
 70 veterinarian's physical offices are located. The practice of
 71 telemedicine in accordance with this section is not a standard
 72 of care violation, and a veterinarian may not be disciplined
 73 solely for practicing telemedicine.

74 Section 4. Subsections (1) and (3) of section 828.30,
 75 Florida Statutes, are amended to read:

76 828.30 Rabies vaccination of dogs, cats, and ferrets.—

77 (1) (a) All dogs, cats, and ferrets 4 months of age or older
 78 must be vaccinated by a licensed veterinarian or, in the case of
 79 impounded animals, a person authorized under paragraph (b),
 80 against rabies with a vaccine ~~that is~~ licensed by the United
 81 States Department of Agriculture for use in those species.

82 (b) An employee, an agent, or a contractor of an animal
 83 control authority acting under the indirect supervision of a
 84 veterinarian may vaccinate impounded dogs, cats, and ferrets
 85 that will be transferred, rescued, fostered, adopted, or
 86 reclaimed by the owner. The supervising veterinarian assumes
 87 responsibility for any person vaccinating animals at his or her

9-00429C-22 2022448__

88 direction or under his or her supervision. As used in this
 89 paragraph, the term "indirect supervision" means that the
 90 supervising veterinarian is required to be available for
 91 consultation through telecommunications but is not required to
 92 be physically present during such consultation.

93 (c) The owner of every dog, cat, and ferret shall have the
 94 animal revaccinated 12 months after the initial vaccination.
 95 Thereafter, the interval between vaccinations shall conform to
 96 the vaccine manufacturer's directions. The cost of vaccination
 97 must be borne by the animal's owner. Evidence of circulating
 98 rabies virus neutralizing antibodies may ~~shall~~ not be used as a
 99 substitute for current vaccination in managing rabies exposure
 100 or determining the need for booster vaccinations.

101 (3) Upon vaccination against rabies, the licensed
 102 veterinarian shall provide the animal's owner and the animal
 103 control authority with a rabies vaccination certificate. Each
 104 animal control authority and veterinarian shall use the "Rabies
 105 Vaccination Certificate" of the National Association of State
 106 Public Health Veterinarians (NASPHV) or an equivalent form
 107 approved by the local government which ~~that~~ contains all the
 108 information required by the NASPHV Rabies Vaccination
 109 Certificate. The veterinarian who administers the rabies
 110 vaccination, or who supervises the administration of the rabies
 111 vaccination as provided in paragraph (1) (b), ~~vaccine~~ to an
 112 animal as authorized ~~required~~ under this section may affix his
 113 or her signature stamp in lieu of an actual signature.

114 Section 5. Paragraph (a) of subsection (5) of section
 115 474.203, Florida Statutes, is amended to read:

116 474.203 Exemptions.—This chapter does not apply to:

9-00429C-22

2022448__

117 (5) (a) Any person, or the person's regular employee,
 118 administering to the ills or injuries of her or his own animals,
 119 including, but not limited to, castration, spaying, and
 120 dehorning of herd animals, unless title is transferred or
 121 employment provided for the purpose of circumventing this law.
 122 This exemption does not apply to any person licensed as a
 123 veterinarian in another state or foreign jurisdiction and
 124 practicing temporarily in this state. However, except as
 125 provided in s. 828.30, only a veterinarian may immunize or treat
 126 an animal for diseases that are communicable to humans and that
 127 are of public health significance.

128
 129 For the purposes of chapters 465 and 893, persons exempt
 130 pursuant to subsection (1), subsection (2), or subsection (4)
 131 are deemed to be duly licensed practitioners authorized by the
 132 laws of this state to prescribe drugs or medicinal supplies.

133 Section 6. Paragraph (y) of subsection (1) of section
 134 474.214, Florida Statutes, is amended to read:

135 474.214 Disciplinary proceedings.—

136 (1) The following acts shall constitute grounds for which
 137 the disciplinary actions in subsection (2) may be taken:

138 (y) Using the privilege of ordering, prescribing, or making
 139 available medicinal drugs or drugs as defined in chapter 465, or
 140 controlled substances as defined in chapter 893, for use other
 141 than for the specific treatment of animal patients for which
 142 there is a documented veterinarian/client/patient relationship.

143 ~~Pursuant thereto~~, The veterinarian shall:

144 1. Have sufficient knowledge of the animal to initiate at
 145 least a general or preliminary diagnosis of the medical

Page 5 of 6

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9-00429C-22

2022448__

146 condition of the animal, which means that the veterinarian is
 147 personally acquainted with the keeping and caring of the animal
 148 and has recently performed an examination of the animal or group
 149 of animals either physically in person or by the use of
 150 instrumentation and diagnostic equipment through which images
 151 and medical records may be transmitted electronically ~~seen the~~
 152 ~~animal~~ or has made medically appropriate and timely visits to
 153 the premises where the animal is kept.

154 2. Be available or provide for follow-up ~~followup~~ care and
 155 treatment in case of adverse reactions or failure of the regimen
 156 of therapy.

157 3. Maintain records which document patient visits,
 158 diagnosis, treatment, and other relevant information required
 159 under this chapter.

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

Page 6 of 6

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2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 448</u>
BILL TITLE:	<u>Veterinary Telehealth</u>
BILL SPONSOR:	<u>Sen. Brodeur</u>
EFFECTIVE DATE:	<u>07/01/2022</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Agriculture
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

1) Regulated Industries

SIMILAR BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	HB 911CS2
SPONSOR:	Buchanan; Arrington; Barnaby; Bartleman; Chaney; Gottlieb; Morales
YEAR:	2021
LAST ACTION:	April 30, 2021 died in rules

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	October 21, 2021
LEAD AGENCY ANALYST:	Renee Alsobrook, Deputy Director, Division of Professions
ADDITIONAL ANALYST(S):	Tracy Dixon, Service Operations Robin Jordan, Technology Jerry Wilson, Regulation

	Jake Whealdon, Acting OGC Rules
LEGAL ANALYST:	Click or tap here to enter text.
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill authorizes veterinarians to practice “telemedicine”; regulates prescribing of controlled substances; authorizes employees, agents, or contractors of animal control authorities to administer rabies vaccinations under veterinarian’s “indirect supervision;” provides jurisdiction to the Florida Board of Veterinary Medicine; provides conforming provisions to changes made by the bill; and provides and effective date.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently “telemedicine” in the practice of veterinary medicine is not defined and is not specifically authorized in chapter 474, Florida Statutes. Employees, agents, or contractors of animal control authorities are not authorized to vaccinate impounded dogs, cats, and ferrets for rabies.

2. EFFECT OF THE BILL:

Division of Professions

Section 1

The bill creates the title to the act and cites the act as the “Providing Equity in Telemedicine Services (PETS) Act.”

Section 2

The bill re-designates subsections (11), (12), and (13) of section 474.202, Florida Statutes to (12), (13), and (14) respectively and creates a new subsection (11) that provides a definition of “telemedicine.”

The new subsection 474.202(11), Florida Statutes defines “Telemedicine” as the practice of veterinary medicine, including diagnosis, consultation, evaluation, treatment, or transfer of medical data, by means of a two-way, real-time interactive communication between a client and patient and a veterinarian who has access to and ability to review the patient’s relevant information before the telemedicine visit.

Section 3

The bill creates a new section 474.2021 providing for Veterinary telemedicine. The new section provides in subsections below:

- (1) A veterinarian may practice telemedicine.
- (2) A veterinarian who uses telemedicine:
 - (a) Shall take appropriate steps to establish a veterinarian/client/patient relationship and conduct all appropriate evaluations and collect appropriate histories of the patient, consistent with prevailing professional standards of care for the specific patient presentation.
 - (b) May not prescribe controlled substances if he or she has not previously performed an in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept. However, a consulting veterinarian using telemedicine may prescribe controlled substances for a terminal patient transferred to the consulting veterinarian for hospice care from a veterinarian who performed an in-person physical examination of the patient and provided medical records to the consulting veterinarian.
 - (c) Must hold a current license to practice veterinary medicine in the state. The practice of medicine occurs where the veterinarian or the patient, or both, are located at the time the veterinarian practices telemedicine.
- (3) The board has jurisdiction over a veterinarian practicing telemedicine in this state, regardless of where the veterinarian’s physical offices are located. The practice of telemedicine in accordance with this section is not a *standard of care violation*, and a veterinarian may not be disciplined solely for practicing telemedicine.

Section 4

The bill provides amendments to section 828.30, Florida Statutes, related to rabies vaccination of dogs, cats, and ferrets.

Specifically, the bill amends subsection (1) and (3) of section 828.30, Florida Statutes.

Subsection 828.30(1)(a) is amended by the bill to read: All dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian or, in the case of impounded animals, a person authorized under paragraph (b), against rabies with a vaccine licensed by the United States Department of Agriculture for use in those species.

The bill creates subsection 828.30(1)(b) which reads: An employee, an agent, or contractor of an animal control authority acting under the indirect supervision of a veterinarian may vaccinate impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. The supervising veterinarian assumes responsibility for any person vaccinating animals at his or her direction or under his or her supervision. As used in this paragraph, the term “indirect supervision” means that the supervising veterinarian is required to be available for consultation through telecommunications but is not required to be physically present during such consultation.

Subsection 828.30(3), Florida Statutes is amended by the bill to allow for the veterinarian who supervises the administration of the rabies vaccination as well as the veterinarian who administers the rabies vaccination to use a signature stamp in lieu of an actual signature.

Section 5

The bill amends paragraph (a) of subsection (5) of 474.203, Florida Statutes to incorporate the exception authorized by section 828.30, Florida Statutes. The amendment provides that an employee, an agent, or contractor of an animal control authority acting under the indirect supervision of a veterinarian and in compliance with the provisions of section 828.30, Florida Statutes may immunize or treat an animal for disease that are communicable to humans and that are of public health significance.

Section 6

474.214, Florida Statutes, Disciplinary Proceedings.

The bill amends subsection 474.214(1)(y)1., Florida Statutes, pertaining to medicinal drugs, drugs as defined in chapter 465 or controlled substance as defined in chapter 893, for use other than for the specific treatment of an animal for which there is a documented veterinarian/client/patient relationship. The amendment defines sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal to mean personally acquainted with the keeping and caring of the animal and has recently performed an examination of the animal or group of animals either physically in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has made medically appropriate and timely visits to the premises where the animal is kept.

Section 7

The bill provides an effective date of July 1, 2022.

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

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	If the bill becomes law, an amendment to existing Rule 61G18-17.006, Florida Administrative Code will be required as the rule currently states that you must be a licensed veterinarian to provide rabies vaccinations.

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

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

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

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

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

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

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y N

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

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y N

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y N

Revenues:	Click or tap here to enter text.
Expenditures:	The bill would reduce the costs of animal control authorities hiring veterinarians to provide rabies vaccinations to dogs, cats, and ferrets 4 months of age or older. The cost reduction is indeterminate.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

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

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

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

Lines 50-54 of the bill are somewhat unclear. It states that a veterinarian “shall take appropriate steps to establish a veterinarian/client/patient relationship and conduct all appropriate evaluations and collect appropriate histories of the patient, consistent with prevailing professional standards of care for the specific patient presentation.” The terms “appropriate” and “prevailing professional standards” are not defined.

Lines 55-63, regarding prescribing controlled substances:

The bill authorizes the prescribing of controlled substances by a consulting veterinarian using telemedicine for a terminal patient from a veterinarian who performed an in-person physical examination. There is nothing in the bill addressing how long/the amount of time that may have passed since the treating veterinarian performed the in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept.

Line 65 reads: “The practice of medicine occurs where...” It should read “The practice of veterinary medicine occurs where...”

Lines 82-83, the term “animal control authority” is not defined.

Line 84, the term “impounded” is not defined.

Lines 124-125 states “except as provided in s. 828.30, only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.” It is unclear whether employees, agents and contractors of animal control authorities are also authorized to “treat animals for diseases that are communicable to humans and that are of public health significance.”

If the bill becomes law, an amendment to existing Rule 61G18-17.006, Florida Administrative Code will be required as the rule currently states that you must be a licensed veterinarian to provide rabies vaccinations.

DSO: No impact.

Regulation: The Division handles the intake of complaints, investigation of those complaints and inspections of veterinarians and their establishment. The Division does not see an increase in these activities that would impact the Division.

OGC Rules: No additional comments.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Click or tap here to enter text.
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The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 2, 2021

I respectfully request that **Senate Bill 448**, relating to **Veterinary Telehealth**, be placed on the:

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

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

Senator Jason Brodeur
Florida Senate, District 9

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 920

INTRODUCER: Senator Perry

SUBJECT: Electric Vehicle Transportation Electrification Plan

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon	Imhof	RI	Favorable
2.			TR	
3.			RC	

I. Summary:

SB 920 creates s. 366.945, F.S., relating to an electric vehicle (EV) transportation electrification plan. The bill directs the Public Service Commission (PSC) to adopt rules for the plan, to facilitate the deployment of EV charging infrastructure in a competitively neutral manner, including reasonable and affordable electric rates for investor-owned electric utilities that offer EV charging to the public. The rules must address:

- Investment in publicly available Level 2 and direct-current fast-charging (DCFC) chargers that are competitively neutral, prioritizing and encouraging private investment and private ownership and operation of EV charging infrastructure;
- Policies that stimulate innovation, competition, private investment, and customer choice in EV infrastructure charging equipment and networks;
- Mechanisms, including incentives, supporting efficient and cost-effective use of the electric grid, in a manner that supports EV charging infrastructure;
- Incentives supporting private investment in charging equipment;
- Policies prohibiting IOUs from using rate base investment in the ownership and operation of EV charging stations and limit public utility cost recovery to distribution-level system infrastructure on the utility side of the meter; and
- Stimulation of fair and reasonable electricity pricing through IOU tariff provisions to promote widespread offering of EV charging.

The bill requires the PSC to propose rules by January 1, 2023, with final rule adoption by January 1, 2024.

The bill allows any entity providing EV charging stations to the public to intervene in any PSC proceeding involving IOU rates, terms, or conditions.

Under the bill, IOUs may provide EV charging stations directly to the public through a separate, unregulated entity on the same terms and conditions as other EV charging station providers. The bill provides for the removal of EV charging assets from an IOU's rate base, if the IOU directly provides EV charging stations to the public in a manner that violates the bill or violates PSC rules adopted under the bill within one year of rule adoption. Any EV charging station infrastructure provided as a rate base asset must be removed from the rate base or provided through a separate unregulated corporate affiliate.

The bill is effective July 1, 2022.

II. Present Situation:

Electric vehicles¹ offer a readily available and cleaner fuel source, with higher fuel efficiency and improved air quality compared to vehicles with internal combustion engines.² Increased interest in EVs is driven by higher gas prices and greenhouse gas emission concerns.³ However, limited EV range, limited charging infrastructure, and range anxiety⁴ have deterred many drivers considering electrification.⁵ As advancements in EV technology continue, EV manufacturing increases, and EV prices become more accessible, representatives in both government and the private sector suggest that successful adoption of EV use is heavily dependent on the accessibility of charging stations.⁶ Many see chargers as the proverbial chicken to the EV egg.⁷

Types of EVs

The U.S. Department of Energy's Alternative Fuels Data Center (AFDC) uses the term, "electric-drive vehicles," to collectively refer to hybrid electric vehicles (HEV), plug-in hybrid electric vehicles (PHEV), and all-electric vehicles (EV).⁸ According to the AFDC:

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor using energy stored in a battery. The battery is charged through regenerative braking and the internal combustion engine, not by plugging in to charge.
- PHEVs are powered by an internal combustion engine and an electric motor using energy stored in a battery. They can operate in all-electric mode through a larger battery, which can

¹ Section 320.01(36), F.S., defines an "electric vehicle" as "a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current."

² Federal Highway Administration, *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, p. 1, available at <http://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf> (last visited Jan. 13, 2022).

³ *Id.*

⁴ Range anxiety is the feeling an EV driver has when the battery charge is low, and the usual sources of electricity are unavailable, striking a fear of being stranded. J.D. Power, *What is Range Anxiety with Electric Vehicles?*, <https://www.jdpower.com/cars/shopping-guides/what-is-range-anxiety-with-electric-vehicles> (last visited Jan. 13, 2022).

⁵ FHWA, *Electric Vehicle Feasibility Brief*, *supra* n. 2, pp. 1-2.

⁶ *Id.*

⁷ See Charged Electric Vehicle Magazine, *European Union official says chargers are the chicken for the EV egg*, Feb. 6, 2013, <https://chargedevs.com/newswire/european-union-official-says-chargers-are-chicken-ev-egg/> (last visited Jan. 13, 2022); Environmental Defense Fund, *The chicken and the egg of electric vehicle charging*, Apr. 11, 2019, <https://medium.com/the-fourth-wave/the-chicken-and-the-egg-of-electric-vehicle-charging-6a3fd27cfa2d> (last visited Jan. 13, 2022).

⁸ U.S. Dept. Energy, AFDC, *Hybrid and Plug-In Electric Vehicles*, <https://afdc.energy.gov/vehicles/electric.html> (last visited Jan. 13, 2022).

be plugged in to an electric power source to charge. Most can travel between 20 and 40 miles on electricity alone, and then will operate solely on gasoline, similar to a conventional hybrid.

- EVs use a battery to store the electric energy that is charged by plugging the vehicle into charging equipment. EVs always operate in all-electric mode and have typical driving ranges from 150 to 300 miles.⁹

EV Charging Equipment

EVs are becoming increasingly popular in the United States, prompting a focus on the installation of electric vehicle charging infrastructure. Electric vehicle charging stations have EV supply equipment (EVSE) capable of charging an electric vehicle's battery.¹⁰ Charging stations site hosts may provide such stations free of charge or collect revenue for electric vehicle charging through subscription, pay-per-charge, or pay-for-parking systems.¹¹

EV charging equipment is classified based on the rate of charge.¹² Charging times vary, depending on the depletion level of the battery, how much energy the battery holds, the type of battery, and the type of supply equipment.¹³ Charging times can range from less than 20 minutes to more than 20 hours.¹⁴ Potential driving distance ranges from:

- Two to five miles of range per one hour of charging for Level 1 supply equipment;
- Ten to twenty miles per one hour of charging for Level 2 supply equipment; and
- Sixty to eighty miles per twenty minutes of charging for DCFC supply equipment.¹⁵

According to the AFDC, for most drivers, charging occurs overnight at home, using Level 1 or AC Level 2 charging equipment.¹⁶

Level 1 Charging

Level 1, typically at-home charging, through a power cord which comes as standard equipment on new EVs, only requires a standard 120-volt outlet, so no additional equipment is required.¹⁷ This can add about 40 miles of range in an eight hour overnight charge for a mid-size EV.¹⁸ Typically, Level 1 charging is used when only a 120 volt-outlet is available, but can easily be enough to supply a typical driver's needs.¹⁹ As of 2020, fewer than 5% of public EV charging ports in the United States were Level 1.²⁰

⁹ *Id.*

¹⁰ See U.S. Dept. Energy, *Plug-In Electric Vehicle Handbook for Public Charging Station Hosts* (April 2012), available at <https://www.afdc.energy.gov/pdfs/51227.pdf> (last visited Jan. 13, 2022).

¹¹ *Id.* at p. 9.

¹² U.S. Dept. Energy, AFDC, *Developing Infrastructure to Charge Plug-In Electric Vehicles*, https://afdc.energy.gov/fuels/electricity_infrastructure.html (last visited Jan. 13, 2022).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ U.S. Dept. Energy, AFDC, *Charging Plug-In Electric Vehicles at Home*, https://afdc.energy.gov/fuels/electricity_charging_home.html (last visited Jan 13, 2022).

¹⁷ AFDC, *Developing Infrastructure to Charge Plug-In Electric Vehicles*, *supra* n. 12.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

Level 2 Charging

Level 2, typically home and public charging, commonly requires a charging unit on a 240-volt circuit, such as one used for home appliances like a clothes dryer.²¹ The charging rate depends on the rate at which a vehicle can accept a charge and the maximum current available.²² This method may require purchasing an at-home charging unit and modifications to a home electric system, but charges from two to eight times faster than a Level 1.²³ These chargers are most common at public charging places like offices, grocery stores, and parking garages.²⁴ As of January 2022, nearly 80% of all public EVSE ports in the United States were Level 2.²⁵

Direct Charge Fast Chargers

DCFC, typically public charging, allows for rapid charging along heavy traffic corridors.²⁶ DCFCs are best used for longer travel distances; vehicles heavily used throughout the day like taxis, and for drivers with limited access to at-home charging, such as multi-unit renters.²⁷ As of January 2020, over 18% of all public EVSE ports in the United States were DCFC.²⁸ There are three types of DCFC systems, depending on the type of charge port on the vehicle:

- SAE Combined Charging System, allowing a driver to use the same charge port when charging with Level 1, Level 2, or DCFC.
- The CHAdeMO connector, which is the most common.
- Tesla, which is a unique, proprietary connector that works for all Tesla charging levels, including their fast charging option, called Supercharge. Tesla does not have a CHAdeMO port, but Tesla sells an adapter.²⁹

EV Charging in Florida

Since the current regulatory structure of electric utilities in Florida includes exclusive service territories, the sale of electricity to retail, or end-use customers by a third party is not permitted.³⁰ In 2012 the Florida Legislature created an exemption for electric vehicle charging, under s. 366.94(4), F.S., declaring that the provision of electric vehicle charging to the public by a non-utility is not considered a retail sale of electricity under ch. 366, F.S. The rates, terms, and conditions of EV charging by a non-utility are not subject to PSC regulation.³¹ As a result, the installation and provision of electric vehicle charging by a non-utility is not subject to regulation by the PSC.

²¹ *Id.*

²² Union of Concerned Scientists, *Electric Vehicle Charging, Types, Time, Cost and Savings*, (March 2018) available at <https://www.ucsusa.org/resources/electric-vehicle-charging-types-time-cost-and-savings> (last visited Jan. 14, 2022).

²³ *Id.*

²⁴ *Id.*

²⁵ See U.S. Dept. of Energy, *Alternative Fueling Station Counts by State*, https://www.afdc.energy.gov/fuels/stations_counts.html (last visited Jan. 13, 2022).

²⁶ AFDC, *Developing Infrastructure to Charge Plug-In Electric Vehicles*, *supra* n. 12.

²⁷ Union of Concerned Scientists, *Electric Vehicle Charging, Types, Time, Cost and Savings*, <https://www.ucsusa.org/resources/electric-vehicle-charging-types-time-cost-and-savings> (last visited Jan. 14, 2022).

²⁸ See U.S. Dept. Energy, *Alternative Fueling Station Counts by State*, *supra* n.25.

²⁹ AFDC, *Developing Infrastructure to Charge Plug-In Electric Vehicles*, *supra* n. 12.

³⁰ FDOT, *EV Infrastructure Master Plan* (July 2021), p. 16, <https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/fto/fdotevmp.pdf> (last visited Jan. 13, 2022).

³¹ Section 366.94(1), F.S.

Section 377.815, F.S., authorizes, but does not require, the Florida Department of Agriculture and Consumer Services (DACCS) to post information on its website relating to alternative fueling stations, including EV charging, available for public use in this state. The DACCS's website contains addresses by city and county on EV charging station locations in Florida, reflecting 933 charging station locations by specific address.³²

The U.S. Department of Energy reflects that Florida has the third largest EV charging infrastructure in the country, behind California and New York, respectively.³³ As of January 14, 2022, Florida has the following numbers of charging infrastructure:

- Station locations – 2,633
- EV supply equipment ports – 6,752
- Level 1 chargers - 370
- Level 2 chargers – 5,217
- DCF chargers – 1,165

Electric Vehicle Infrastructure Master Plan

In 2020, the Legislature created s. 339.287, F.S., relating to the EV charging station infrastructure plan, requiring the Florida Department of Transportation (FDOT) to coordinate, develop, and recommend a Master Plan for the development of electric vehicle charging station infrastructure along the State Highway System.³⁴ The FDOT, in consultation with the Florida Department of Environmental Protection, the PSC, and other state agencies, developed the EV Master Plan (EVMP) with extensive public engagement.³⁵ The stated goals of the EVMP were to:

- Support both short-range and long-range electric vehicle travel;
- Encourage the expansion of electric vehicle use in the state; and
- Adequately serve evacuation routes in the state.

In July 2021, the EVMP was delivered, providing a comprehensive course of action to efficiently and effectively provide for EV charging infrastructure.³⁶ The EVMP discusses:

- Benefits of electrified mobility;
- Barriers to adoption and industry trends;
- Installation considerations;
- Fleet considerations and future advancements;
- Utility regulatory considerations;³⁷
- Strategies to develop charging supply;
- EV market adoption;
- Impacts to transportation funding;

³² DACCS, select *Electricity*, available at <https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Transportation> (last visited Jan.13, 2022).

³³ U.S. Dept, Energy, *Alternative Fueling Station Counts by State*, *supra* n. 25.

³⁴ Chapter 2020-21, s. 3, Laws of Fla.

³⁵ FDOT, *Electric Vehicle Infrastructure Master Plan*, <https://www.fdot.gov/planning/fto/ev/default> (last visited Jan. 13, 2022).

³⁶ FDOT, *EVMP*, *supra* n. 30.

³⁷ Pages 15-22 of the EVMP discuss utility regulatory considerations.

- Resiliency and emergency evacuations;
- Identification of potential new EVSE locations;
- EV infrastructure on the state highway system; and
- Recommendations.

Florida Public Service Commission

The PSC is an arm of the legislative branch of government.³⁸ The role of the PSC is to ensure that Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, reasonable, and reliable manner.³⁹ In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: (1) Rate or economic regulation; (2) Market competition oversight; and/or (3) Monitoring of safety, reliability, and service issues.⁴⁰ Chapter 366, F.S., grants the PSC broad authority over the retail sales of electricity by IOUs, under which the PSC has approved EV charging pilot programs.

Public Utilities

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.⁴¹ The term does not include municipal electric utilities and rural electric cooperatives.⁴² Therefore, the PSC does not regulate the rates of publicly owned municipal or cooperative electric utilities.⁴³

There are five investor-owned electric utility companies (IOU) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), Gulf Power Company (Gulf), and Florida Public Utilities Corporation.⁴⁴ IOU rates and revenues are regulated by the PSC.⁴⁵ These utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.⁴⁶ Section 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.⁴⁷

³⁸ Section 350.001, F.S.

³⁹ See Florida Public Service Commission, *The PSC’s Role*, <http://www.psc.state.fl.us> (last visited Jan. 14, 2022).

⁴⁰ *Id.*

⁴¹ Section 366.02(1), F.S.

⁴² *Id.*

⁴³ See PSC, *Florida PSC 2020 Annual Report*, p. 13, available at <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Annualreports/2020.pdf> (last visited Jan. 9, 2022).

⁴⁴ *Id.* FPL acquired Gulf in 2019 and merged as of January 3, 2022.

⁴⁵ Florida Dept. Agriculture and Consumer Services, *Electric Utilities*, <https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Electric-Utilities> (last visited Jan. 10, 2022).

⁴⁶ PSC, *2020 Annual Report*, *supra* n. 43, p. 6.

⁴⁷ *Id.*

Florida Investor-Owned Utility Electric Vehicle Programs

Tampa Electric Company

On April 1, 2021, the PSC approved TECO's request for an EV charging pilot program.⁴⁸ This allowed TECO to spend up to \$2 million dollars to purchase, install, own, and maintain 200 EV charging stations.⁴⁹ TECO will pay up to \$5,000 per Level 2 port, toward the cost of installation for workplaces, public or retail, and multi-unit dwellings, and the full cost of installation for income-qualified sites and government locations.⁵⁰

Under the program, TECO is required to file annual reports, providing comprehensive data for each market segment, including the number of charging sessions, time of use, charger utilization by geographic location, costs to EV drivers, installation costs, load profiles, ongoing operation and maintenance expenses, and site host or driver feedback.⁵¹

The PSC authorized TECO to begin recovery of the charging port investments as well as pilot program administration and operation expenses through its base rates.⁵² Under the pilot program, TECO is not requesting any new rate tariffs, rather electricity will be sold to site hosts at tariff rates under either their existing electric service or through a separate service meter.⁵³ The site host may charge EV drivers or provide charging free of cost. If the site host charges for power then the charge is limited to TECO's current GS tariff rate, plus any fees assessed by the billing vendor.⁵⁴

Duke Energy Florida, LLC

In 2017, the PSC approved, Duke's "Park & Plug" pilot program, as part of Duke's negotiated rate case settlement agreement.⁵⁵ The five-year pilot program allowed Duke to purchase, install, own, and support EV charging stations at customer locations. Duke could incur up to \$8 million, plus reasonable operating expenses, with a minimum deployment of 530 charging ports.⁵⁶ Duke estimated that it would have installed 182 public Level 2 chargers at local businesses, 220 Level 2 chargers in multi-unit dwellings, 169 Level 2 chargers in workplaces, and 51 DCFCs in public locations by the end of its program which ran through 2021.⁵⁷

On January 14, 2021, Duke filed a new settlement agreement, requesting approval of a permanent EV charging station offering.⁵⁸ The parties agreed that pilot program should not

⁴⁸ PSC, *Bill Analysis for SB 920* (Dec. 15, 2021) p. 1 (on file with the Senate Committee on Regulated Industries); EVMP, *supra* n. 30, p. 22.

⁴⁹ *Id.*

⁵⁰ EVMP, *supra* n. 30, p. 22.

⁵¹ PSC, *Summary of Investor-Owned Utility EV Pilot Programs*, p. 1 (on file with the Senate Committee on Regulated Industries);

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ PSC, *SB 920 Bill Analysis*, *supra* n. 48, p. 2.

⁵⁶ EVMP, *supra* n. 30, p. 19.

⁵⁷ PSC, *Summary of IOU EV Programs*, *supra* n. 51, p. 2.

⁵⁸ *Id.*

continue in its original form.⁵⁹ Duke was permitted to continue operation and recovery of costs for its existing charging stations, but the program was replaced with a permanent EV program. The permanent program will cost \$62.9 million over, from 2022-2025.⁶⁰ The permanent program was approved by the PSC as a component of Duke's rate case settlement and will be implemented through three new EV programs:

- Residential EV Non-Time of Use Credit Program;
- Rebate Program for Commercial and Industrial Customer Charging Stations; and
- Duke Florida-Owned DC Fast Charge Station Program.⁶¹

Florida Power and Light Company

In 2019, FPL began EVolution, a three-year pilot program, with a target of 1,000 charging ports of various technologies, within all market segments.⁶² The pilot program focuses on:

- Gathering information such as EV use, adoption, and power quality data;
- Providing insights into potential new rate structures;
- Increasing public charging stations for EVs in Florida by 50 percent;
- Partnerships with interested host customers; and
- Installations encompassing workplace, destination, public fast charging, and residential.⁶³

The total forecasted investment in the program is \$30 million through 2022.⁶⁴

In 2020, the PSC approved FPL's petition requesting approval of a tariff with specific EV charging rates for both utility-owned and non-utility charging stations.⁶⁵ The Utility-Owned Public Charging for EV establishes a charging rate for utility-owned DCFC stations of \$0.30 per kilowatt hour, a rate based on a comparison of automotive fuel alternatives and the average charge at non-utility DCFC stations.⁶⁶

The Electric Vehicle Charging Infrastructure Riders establish rates for non-utility charging stations operating in FPL's service area.⁶⁷ These riders are designed to help mitigate the impact of demand charges for charging stations that have low use.⁶⁸ These rate tariffs were approved by the PSC in December 2020 and require FPL to file annual reports of its utility-owned fast charging stations.⁶⁹ FPL must file a petition to extend, modify these rate tariffs by September 2025.⁷⁰

⁵⁹ EVMP, *supra* n. 30, p. 19.

⁶⁰ *Id.*

⁶¹ PSC, *Summary of IOU EV Programs*, *supra* n. 51, p. 2.

⁶² EVMP, *supra* n. 30, p. 21.

⁶³ *Id.*

⁶⁴ PSC, *Summary of IOU EV Programs*, *supra* n. 51, p. 3.

⁶⁵ *Id.*; Southern Alliance for Clean Energy, *New Florida Power & Light EV Pilot Tariff Passed to Support DC Fast-Charging*, <https://cleanenergy.org/blog/new-florida-power-light-ev-pilot-tariff-passed-to-support-dc-fast-charging/> (last visited Jan. 13, 2022).

⁶⁶ PSC, *Summary of IOU EV Programs*, *supra* n. 51, p. 3.

⁶⁷ *Id.*; EVMP, *supra* n. 30, p. 21.

⁶⁸ PSC, *Summary of IOU EV Programs*, *supra* n. 51, p. 3.

⁶⁹ *Id.*

⁷⁰ *Id.*

On October 26, 2021, the PSC approved FPL's Joint Motion for Approval of Settlement in its latest rate case.⁷¹ Under the settlement, FPL expanded its EV pilot programs to include:

- Public Fast Charging Program;
- Residential EV Charging Services Pilot;
- Commercial EV Charging Services Pilot;
- New Technologies and Software; and
- Education and Awareness.⁷²

III. Effect of Proposed Changes:

The bill creates s. 366.945, F.S., relating to an EV transportation electrification plan. It provides for legislative findings, which state that:

- It is in the public interest to promote and develop EV infrastructure through competitively neutral policies for IOU rates, terms, and conditions for EV charging stations;
- Widespread deployment of EV charging stations is consistent with Florida's public policy;
- The expansion of EV use provides Florida with increased energy security and health and environmental benefits by reducing fossil fuel consumption and street-level air pollutants, carbon dioxide, and nitrogen oxides; and
- EV charging station infrastructure can lessen climate impacts, expand infrastructure investment, improve environmental and economic conditions, and help make Florida a leader in new and innovative technologies.

The bill directs the PSC to adopt rules for the plan, to facilitate the deployment of EV charging infrastructure in a competitively neutral manner, including reasonable and affordable electric rates for investor-owned electric utilities that offer EV charging to the public. The rules must address:

- Investment in publicly available Level 2 and DCFC chargers that are competitively neutral, prioritizing and encouraging private investment and private ownership and operation of EV charging infrastructure;
- Policies that stimulate innovation, competition, private investment, and customer choice in EV infrastructure charging equipment and networks;
- Mechanisms, including incentives, supporting efficient and cost-effective use of the electric grid, in a manner that supports EV charging infrastructure;
- Incentives supporting private investment in charging equipment;
- Policies prohibiting IOUs from using rate base investment in the ownership and operation of EV charging stations and limit public utility cost recovery to distribution-level system infrastructure on the utility side of the meter; and
- Stimulation of fair and reasonable electricity pricing through IOU tariff provisions to promote widespread offering of EV charging.

The bill requires the PSC to propose rules by January 1, 2023, with final rule adoption by January 1, 2024.

⁷¹ See PSC Docket No. 20210015, available at: <http://www.psc.state.fl.us/ClerkOffice/DocketFiling?docket=20210015> (last visited Jan. 13, 2021).

⁷² PSC, *SB 920 Bill Analysis*, *supra* n. 48, p. 1.

The bill allows any entity providing EV charging stations to the public to intervene in any PSC proceeding involving IOU rates, terms, or conditions.

Under the bill, IOUs may provide EV charging stations directly to the public through a separate, unregulated entity on the same terms and conditions as other EV charging station providers. The bill provides for the removal of EV charging assets from an IOU's rate base, if the IOU directly provides EV charging stations to the public in a manner that violates the bill or violates PSC rules adopted under the bill within one year of rule adoption. Any EV charging station infrastructure provided as a rate base asset must be removed from the rate base or provided through a separate unregulated corporate affiliate.

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:

According to the PSC, a prohibition on the IOUs receiving cost recovery for EV investments may result in an unconstitutional takings.⁷³

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a fiscal impact on IOUs with existing EV infrastructure that will have to be removed from the rate base, or otherwise provided through a separate, unregulated corporate affiliate.

⁷³ PSC, *SB 920 Bill Analysis*, *supra* n. 48, p. 4.

According to the PSC, requiring IOU investment in activities to stimulate private investment, such as rebates or discounts to owners of charging stations, would have to allow IOUs to recover the reasonable costs of such activities. This could result in a negative fiscal impact on the general body of ratepayers who do not own EVs and result in a subsidization of private companies by the ratepayers in their deployment of EV charging stations.⁷⁴

C. Government Sector Impact:

The PSC anticipates that it can conduct rulemaking and implementation with existing staff.⁷⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not grant the PSC authority over non-utility entities providing EV. According to the PSC, it is unclear how it can prioritize and encourage private investment, or stimulate competition and customer choice in a market that is outside of its jurisdiction.⁷⁶

VIII. Statutes Affected:

This bill creates section 366.945 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

⁷⁴ PSC, *SB 920 Bill Analysis*, *supra* n. 48, p. 2.

⁷⁵ *Id.* at p. 3.

⁷⁶ *Id.* at p. 2.

By Senator Perry

8-00869-22

2022920__

A bill to be entitled

An act relating to an electric vehicle transportation electrification plan; creating s. 366.945, F.S.; requiring the Public Service Commission to adopt rules for an electric vehicle transportation electrification plan that meet certain requirements; providing timeframes for the commission to propose the plan's rules and for final rule adoption; authorizing entities that provide electric vehicle charging stations to the public to intervene and participate in certain commission proceedings involving rates, terms, or conditions for offering electric vehicle charging to the public; providing construction; requiring investor-owned electric utilities in violation of certain provisions to take certain actions to come into compliance; providing an effective date.

WHEREAS, the Legislature finds that the promotion and development of electric vehicle infrastructure in this state through competitively neutral policies for investor-owned electric utility rates, terms, and conditions for electric vehicle charging stations is in the public interest, and

WHEREAS, widespread deployment of electric vehicle charging stations is consistent with the public policy of this state, and

WHEREAS, the expanded use of electric vehicles provides this state with increased energy security and health and environmental benefits by reducing the consumption of fossil fuels and street-level air pollutants, carbon dioxide, and nitrogen oxides, and

Page 1 of 4

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WHEREAS, electric vehicle charging station infrastructure has the potential to lessen climate impacts, expand infrastructure investment, improve environmental and economic conditions, and help make this state a leader in new and innovative technologies, NOW, THEREFORE,

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

Section 1. Section 366.945, Florida Statutes, is created to read:

366.945 Electric vehicle transportation electrification plan.-

(1) The commission shall adopt rules for an electric vehicle transportation electrification plan that facilitates the deployment of electric vehicle charging infrastructure in a competitively neutral manner and that includes reasonable and affordable electric rates for investor-owned electric utilities that offer electric vehicle charging to the public.

(a) The rules must include all of the following:

1. Investment in publicly available Level 2 and direct-current, fast-charging stations in a competitively neutral manner that prioritizes and encourages private investment in and private ownership and operation of electric vehicle charging infrastructure.

2. Policies that stimulate innovation, competition, private investment, and customer choice in electric vehicle infrastructure charging equipment and networks.

3. Mechanisms, including incentives, which support the efficient and cost-effective use of the electric grid in a

Page 2 of 4

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59 manner that supports electric vehicle charging infrastructure.
 60 4. Investment incentives that support private investment in
 61 charging equipment.
 62 5. Policies that prohibit investor-owned electric utilities
 63 from using rate base investment in the ownership and operation
 64 of electric vehicle charging stations and limit public utility
 65 cost recovery to distribution-level system infrastructure on the
 66 utility side of the meter.
 67 6. Stimulation of fair and reasonable electricity pricing
 68 through investor-owned electric utilities' tariff provisions
 69 which will promote the widespread offering of electric vehicle
 70 charging.
 71 (b) The commission shall propose such rules by January 1,
 72 2023, with final rule adoption by January 1, 2024.
 73 (2) An entity that provides electric vehicle charging
 74 stations to the public may intervene and participate in any
 75 investor-owned electric utility's ratemaking or other commission
 76 proceeding involving rates, terms, or conditions, including the
 77 rate structure paid by or proposed to be paid by customers for
 78 electric vehicle charging offered to the public.
 79 (3) This subsection does not prohibit an investor-owned
 80 electric utility from providing electric vehicle charging
 81 stations directly to the public through a separate, unregulated
 82 entity on the same terms and conditions as any other provider of
 83 electric vehicle charging stations.
 84 (4) If an investor-owned electric utility provides electric
 85 vehicle charging stations directly to the public in a manner
 86 that violates this section and rules adopted by the commission,
 87 within 1 year after the commission adopts rules to implement

Page 3 of 4

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88 this section, any electric vehicle charging station
 89 infrastructure provided as a rate base asset must be removed
 90 from the rate base and, if the vehicle charging is continued,
 91 must be provided through a separate, unregulated corporate
 92 affiliate.
 93 Section 2. This act shall take effect July 1, 2022.

Page 4 of 4

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Summary of Investor-owned Utility EV Pilot Programs

Tampa Electric Company

On April 1, 2021, the Florida Public Service Commission (PSC) approved Tampa Electric Company's (TECO) request for an electric vehicle (EV) charging pilot program. This allowed TECO to spend up to \$2 million dollars to purchase, install, own, and maintain 200 EV charging stations.

Under the pilot TECO will pay up to \$5,000 per Level 2 port, towards the cost of installation for workplaces, public/retail, and multi-unit dwellings, and the full cost of installation for income-qualified sites and government locations. TECO also plans to install four Level 3 Direct Current Fast Chargers (DCFC).

TECO identified five goals of the pilot:

- 1) Support utility system planning
- 2) Ensure grid reliability
- 3) Develop TECO's competencies to serve the EV market
- 4) Meet customer needs in identified key markets
- 5) Inform/develop TECO's long-term strategy

Additionally, TECO stated the pilot will support state and local initiatives to prepare for an electrified transportation sector.

As detailed in the pilot program, TECO is required to file annual reports that provide comprehensive data for each market segment. Specific data points include but are not limited to the number of charging sessions, time of use, charger utilization by geographic location, costs to EV drivers, installation costs, load profiles, ongoing operation and maintenance (O&M) expense, and site host or driver feedback.

TECO anticipates it will take approximately twelve months to complete deployment of the charging ports, after which the pilot program will run for four years. Upon approval of the petition, TECO was authorized to begin recovery of the charging port investments as well as pilot program administration and O&M expenses through base rates.

Under this pilot, Tampa Electric is not requesting any new rate tariffs. Power will be sold to site hosts at tariff rates under either their existing electric service or via a separate service meter. The site host may choose to charge EV drivers for charging or may provide charging at no cost to EV drivers as an amenity. If the site host chooses to charge EV drivers, the charge will be limited to Tampa Electric's then-current GS tariff rate, plus any telecom or administrative fees assessed by the billing vendor. Tampa Electric will work with the site host to evaluate the most cost-effective way to provide service to the EV charging equipment.

Duke Energy Florida, LLC

In 2017, as part of DEF's negotiated rate case settlement agreement, the PSC approved a five-year EV charging pilot program, titled "Park & Plug." Under the pilot DEF would purchase, install, own, and support EV charging stations at DEF customer locations. DEF was authorized to incur up to \$8 million, plus reasonable operating expenses, with a minimum deployment of 530 charging ports.

DEF reported in November 2020 that total capital and O&M costs for the installation of 504 Level 2 chargers and 37 Level 3 DCFCs was \$5,451,905. Pilot program activities will continue through the end of 2021, at which time DEF expects to have installed a total of 182 public level 2 chargers at local businesses, 220 level 2 chargers in multi-unit dwellings, 169 level 2 chargers in workplaces, and 51 DCFCs in public locations.

On January 14, 2021, DEF filed a new Settlement Agreement, which requested the approval of a permanent EV charging station offering. The parties of the 2021 settlement agreed that DEF's 2017 pilot should not be continued in its current form, although DEF was permitted to continue operation and recovery of costs of the charging stations that were installed pursuant to the 2017 pilot. In its place, the 2021 settlement proposed a permanent EV program forecasted to cost \$62.9 million over the four-year period 2022-2025. On May 4, 2021, the PSC approved DEF's EV program as a component of their rate case settlement. The investments will be implemented through three new EV programs.

(i) Residential EV Non-Time of Use Credit Program - Residential customers that are not on a whole house time-of-use (TOU) rate will be eligible for a \$10 per month credit if they observe off-peak charging. Customers are limited to two charging sessions per month during on-peak hours. The credit will only apply to the months where those limits are met.

(ii) Rebate Program for Commercial and Industrial (C&I) Customer Charging Stations - The rebate amount will vary depending on the type of segment where the EV charging station is being installed. The rebates range from \$304 for Level 2 multi-use dwelling (MUD) chargers to \$35,600 for fleet-based DCFC. The charging station must be behind a separate meter and take service on a non-demand TOU rate schedule. The cost target for this component of the program is \$29 million (and \$1 million for O&M) for up to 4,830 chargers at C&I customer locations.

(iii) Duke Florida-Owned DC Fast Charge Station Program - This provision will allow Duke to install an additional 100 utility-owned DCFC stations. The program includes a new tariff for a Fast Charge Fee ("FCF-1") that will be collected from EV drivers using utility-owned DCFC stations. The fee is based on the average cost for charging provided by other DCFC operators across Florida. The cost of this segment of the program is \$25 million, with \$5.5 million in estimated O&M expenses.

Florida Power and Light Company

In 2019, Florida Power & Light Company (FPL) began a three-year pilot program, known as EVolution, which targeted the installation of 1,000 charging ports of various technologies within all market segments. The primary objective of this pilot program is to gather data ahead of mass EV adoption to better plan for and design possible future EV investments. The EVolution pilot focuses on infrastructure build-out, impacts of EV adoption rates, rate structures and demand models, and grid impacts of fast charging. The total investment in the EVolution pilot program is forecasted to be \$30 million through 2022.

In June 2020, FPL filed a petition with the PSC requesting approval of a new tariff with specific EV charging rates for both utility-owned and non-utility charging stations. The Utility-Owned Public Charging for EV (UEV) establishes a charging rate for utility-owned DCFC stations of \$0.30 per kWh. FPL chose this rate based on a comparison of automotive fuel alternatives as well as the average charge at non-utility DCFC stations. The Electric Vehicle Charging Infrastructure Riders for General Service Demand (GSD-1EV) and General Service Large Demand (GSLD-1EV) establish rates for non-utility charging stations operating in FPL's service area. The GSD-1EV and GSLD-1EV are designed to help mitigate the impact of demand charges for charging stations that have low use.

The PSC approved these tariffs in December 2020 and required FPL to submit annual reports to provide capital and operating costs, revenue requirements, revenues collected, and energy sales of its utility-owned fast charging stations. The report will also evaluate updated market rates, to allow the Commission to monitor the reasonableness of the UEV rate. The PSC ordered FPL to file, no later than Sept. 1, 2025, a petition to extend, modify, or terminate the tariffs.

On August 10, 2021, FPL filed a Joint Motion for Approval of Settlement in its current rate case, which contained provisions that would expand FPL's current EV charging pilot program to include the following:

(i) Public Fast Charging Program – This pilot program is intended to expand access to public fast charging, including access in underserved areas and evacuation routes. The total investment in the Public Fast Charging Program is forecast to be \$100 million over the four-year period 2022-2025, the revenue requirements of which will be partially offset by revenue received under FPL's UEV tariff which established a rate for FPL's utility-owned public EVFC stations.

(ii) Residential EV Charging Services Pilot – This is a voluntary tariff for residential customers who desire EV charging service, for a fixed rate, through the installation of a level 2 EV charger, owned, operated and maintained by FPL. The subscription includes unlimited off-peak charging and flexibility to charge during on-peak periods if needed, at the on-peak TOU rate. FPL will

provide full installation and equipment-only installation options. The total investment in the Residential EV Charging pilot is forecast to be \$25 million over the four-year period 2022-2025.

(iii) Commercial EV Charging Services Pilot – This is a voluntary tariff for Commercial customers who desire EV charging services for fleet vehicles through the installation of utility-owned, operated, and maintained electric vehicle supply equipment on a customer’s premise. Under the tariff, the customer will pay a fixed monthly charge, established via a formula-based rate to allow for individual customer pricing designed to recover all costs and expenses over the life of the assets. The total investment in the Fleet EV pilot program is forecast to be \$25 million over the four-year period 2022-2025.

(iv) New Technologies and Software – These are limited pilot initiatives designed to evaluate emerging EV technologies and enhance service and resiliency for customers. In addition, FPL will implement software upgrades, including the FPL Evolution App and systems enhancements, in support of the EV programs. The total investment in the Technologies and Software is forecast to be \$20 million over the four-year period 2022-2025.

(v) Education and Awareness - FPL will complement its EV program by adding components that increase awareness and educate customers about the choice to go electric. Total investment is forecast to be \$5 million over the four-year period 2022-2025.

The Commission approved FPL’s expanded EV pilot programs as a component of the rate case settlement agreement on October 26, 2021. FPL is required to file annual reports with the Commission containing data from the pilot programs.

Date: December 15, 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 920/HB 737

I. SUMMARY

SB 920, sponsored by Senator Perry, and HB 737, sponsored by Representative Borrero, establish Section 366.945, Florida Statutes (F.S.), directing the Florida Public Service Commission (Commission) to adopt rules for an electric vehicle (EV) transportation electrification plan. The bill establishes six requirements that the Commission must include in its rules, including a prohibition of investor-owned electric utilities (IOUs) using rate base investment to own and operate EV charging stations. The bill will require the Commission to propose the rules by January 1, 2023, with final rule adoption by January 1, 2024. The bill would allow an entity that provides electric vehicle charging stations to the public to intervene in any IOU ratemaking or other Commission proceeding involving rates, terms, or conditions. The bill provides for the removal of EV charging assets from an IOU's rate base, if the IOU provides EV charging stations to the public in a manner that violates the statute and Commission rules. The bill would take effect on July 1, 2022.

II. PRESENT SITUATION

In 2012, the Florida Legislature enacted Section 366.94(4), F.S., which states that the provision of EV charging service to the public by a non-utility is not to be considered the retail sale of electricity for purposes of that Chapter. As such, the rates, terms and conditions of EV charging services by a non-utility are exempt from regulation by the Commission. Chapter 366, F.S., gives the Commission broad authority over the retail sales of electricity (generation, transmission and distribution) by the IOUs, including authority over rates and service. The Commission has approved EV charging pilot programs for IOUs under its jurisdiction.

On April 1, 2021, the Commission approved Tampa Electric Company's (TECO) EV charging pilot program, under which TECO will spend up to \$2 million to purchase, install, own, and maintain 200 EV charging stations. Under the pilot, TECO will pay up to \$5,000 per Level 2 port, towards the cost of installation for workplaces, public/retail, and multi-unit dwellings, and the full cost of installation for income-qualified sites and government locations. TECO also plans to install four Level 3 Direct Current Fast Chargers (DCFC). TECO anticipated it would take approximately twelve months to complete deployment of the charging ports, after which the pilot program will run for four years. TECO was authorized to begin recovery of pilot program costs in rate base.

In 2019, Florida Power & Light (FPL) began a three year pilot program, known as EVOlution, which targeted the installation of 1,000 charging ports. The primary objective of the pilot is to gather information ahead of mass EV adoption to better plan for and design EV charging investments. In 2020, the Commission approved a new tariff for FPL with specific EV charging rates for both utility-owned and non-utility owned charging stations. The Commission required FPL to submit annual reports that will allow the Commission to monitor the reasonableness of the utility-owned public chargers. During its 2021 rate case, FPL filed a settlement agreement with parties that contained provisions expanding FPL's current EV charging pilot program to include the following: Public Fast Charging Program, Residential EV Charging Services Pilot, Commercial EV Charging Services Pilot, New Technologies and Software, and Education and Awareness. The Commission approved FPL's expanded EV pilot programs as a

component of the rate case settlement agreement on October 26, 2021. The total investment is forecast to be \$175 million over the four-year period 2022-2025. Under the terms of the settlement agreement, FPL is authorized to recover the costs associated with the EV programs in rate base.

In 2017, as part of Duke Energy Florida's (DEF) rate case settlement agreement, the Commission approved a five-year EV Charging Pilot Program that allowed DEF to invest \$8 million to install and own a minimum of 530 charging ports. In 2021, the Commission approved a new settlement agreement that requested approval of a permanent EV charging station program. DEF forecasted the cost to be \$62.9 million over the four-year period 2022-2025. Under the permanent EV charging program, DEF plans to implement a residential EV time-of use credit program for off-peak charging, a rebate program for commercial and industrial customer charging stations, and a DEF-owned DCFC program. The DCFC program will allow DEF to install an additional 100 utility-owned DCFC stations and includes a new tariff for a Fast Charge Fee ("FCF-1") that will be collected from EV drivers using DEF-owned DCFC stations. Reasonable costs of the programs will be recovered in rate base.

On March 11, 2020, the Florida Legislature enacted Section 339.287, F.S., requiring the Florida Department of Transportation, in consultation with the Commission and the Office of Energy in the Florida Department of Agriculture and Consumer Services, to coordinate, develop, and recommend a Master Plan for the development of electric vehicle charging infrastructure along the State Highway System. Among other things, the Commission was tasked with identifying the type of regulatory structure necessary for the delivery of electricity to EV charging station infrastructure, including competitive neutral policies and the participation of public utilities in the marketplace. The plan was delivered to the Governor, the President of the Senate, and the Speaker of the House of Representatives on July 1, 2021.

III. EFFECT OF PROPOSED CHANGES

The bill requires the Commission to adopt rules for an electric vehicle transportation electrification plan. The Commission must propose rules by January 1, 2023, with final rule adoption by January 1, 2024. The rules must include all of the following:

- Investment in publicly available Level 2 and DCFC stations in a competitively neutral manner that prioritizes and encourages private investment in and private ownership and operation of electric vehicle charging infrastructure
- Policies that stimulate innovation, competition, private investment, and customer choice in electric vehicle infrastructure charging equipment and networks
- Mechanisms, including incentives, which support the efficient and cost-effective use of the electric grid in a manner that supports electric vehicle charging infrastructure
- Investment incentives that support private investment in charging equipment
- Policies that prohibit investor-owned electric utilities from using rate base investment in the ownership and operation of electric vehicle charging stations and limit public utility cost recovery to distribution-level system infrastructure on the utility side of the meter
- Stimulation of fair and reasonable electricity pricing through investor-owned electric utilities' tariff provisions which will promote the widespread offering of electric vehicle charging

The bill does not grant the Commission authority over non-utility entities that provide electric vehicle charging. Therefore, it is unclear how the Commission, through rulemaking, would or could prioritize and encourage private investment, or stimulate competition and customer choice in a market that is outside of its jurisdiction.

Any Commission rulemaking that would require IOU investment in any activity to stimulate private investment, such as requiring IOUs to offer rebates or discounts to owners of charging stations, would have to allow IOUs to recover the reasonable costs of such activities. Allowing cost recovery would result in ratepayers who do not own EVs subsidizing private companies in their deployment of EV charging stations.

The Commission's rule must prohibit IOUs from including EV charging infrastructure in rate base. The bill

also requires IOUs that provide EV charging service directly to the public to remove from rate base any EV charging station infrastructure, within one year of the rule’s adoption, if the IOU provides EV charging stations to the public in a manner that violates the statute and Commission rules. The affected IOUs may only continue providing public EV charging through a separate, unregulated corporate affiliate on the same terms and conditions as any other provider of public electric vehicle charging stations. This would involve removing millions of dollars in investment from rate base, much of which was allowed in Commission-approved rate case settlement agreements between the IOUs and consumer representatives. It is unclear whether the Legislature intends for the IOUs to be able to recover this stranded investment. Prohibiting cost recovery of any EV stranded investments would result in an unconstitutional takings.

The bill authorizes intervention in certain Commission proceedings by EV charging station providers. Specifically, any entity that provides electric vehicle charging stations to the public may intervene and participate in any investor-owned electric utility’s ratemaking or other Commission proceeding involving rates, terms, or conditions. Such proceedings include the rate structure paid by or proposed to be paid by customers for electric vehicle charging offered to the public. There is no qualifier that the intervenor be a customer in the IOU’s service territory, which would normally be required to prove standing. For example, an EV charging station based in California, with no charging stations in Florida, could intervene in a proceeding in Florida. It is unclear what the purpose of this intervention is if an IOU is prohibited from including EV charging stations in its rate base. In addition, allowing participation by an intervenor that is not substantially affected by the proceeding would add to the cost and complexity for those participants that are substantially affected.

The bill takes effect July 1, 2022.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The bill requires rulemaking, which the Commission should be able to conduct and implement with existing staff.

	<u>(FY 22-23)</u> <u>Amount / FTE</u>	<u>(FY 23-24)</u> <u>Amount / FTE</u>	<u>(FY 24-25)</u> <u>Amount / FTE</u>
A. Revenues			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
B. Expenditures			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

Some requirements within the bill are meant to prioritize and encourage private investment and private

ownership of EV charging infrastructure. Private owners and operators of EV charging infrastructure are likely to see increased opportunities from the bill.

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)?

Yes, any prohibition of the IOUs receiving cost recovery for any EV stranded investments would result in an unconstitutional takings.

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

Yes. Litigation may occur during the Commission's rulemaking process. IOUs and EV charging suppliers will want to be involved in the development of rules for the EV transportation electrification plan. IOUs and EV charging suppliers could challenge the Commission's proposed rules.

Litigation may also occur between IOUs and EV charging suppliers that intervene in IOU proceedings at the Commission pursuant to Subsection (2) of the proposed legislation. An EV charging supplier that has intervened in an IOU's ratemaking proceeding or other Commission proceeding involving rates, terms, or conditions could appeal the Commission's decision to the Florida Supreme Court.

Finally, litigation may arise from an IOU's violation of the bill or the Commission's rules adopted pursuant to this legislation. Furthermore, it is unclear whether subsection (4) of the proposed legislation applies retroactively or after a certain future date.

VIII. COMMENTS

Prepared by: Shelby Eichler, Alexander Massiah, Matt Hardy, and Ashley Weisenfeld

1/18/2022

Meeting Date

Regulated Industries

Committee

Name Grace Lovett

Address 227 S. Adams St

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

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

920

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850.222.4082

Email grace@frf.org

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 Retail Federation

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

January 18, 2022
Meeting Date

Deliver both copies of this form to
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SB 920
Bill Number or Topic

Regulated Industries
Committee

Amendment Barcode (if applicable)

Name Robert FINGAR Phone 450-224-7091

Address 1983 Centre Pointe Blvd # 200 Email bob@quildaylaw.com
Street

Reset Form

Tallahassee FL 32308
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 Petroleum Marketers 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)



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: December 1, 2021

I respectfully request that **Senate Bill #920**, relating to Electric Vehicle Transportation Electrification Plan, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

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: CS/SB 1140

INTRODUCER: Regulated Industries Committee and Senator Perry

SUBJECT: Alarm Systems

DATE: January 19, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.			BI	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1140 reduces the initial training and continuing education requirements for fire alarm system agents with certain specialized certifications or training relating to fire alarm systems. Eligible agents need only meet a requirement for two hours of training in false alarms prevention required by s. 489.5185(1)(b), F.S.

The bill amends the definition of a low-voltage alarm system project to include closed-circuit television (CCTV) systems used to signal or detect a burglary, fire, robbery, or medical emergency. Such systems use a closed circuit for the signal rather than the typical open transmission used in broadcast television.

The bill establishes an expedited permitting process for fire alarm system alterations, requiring the issuance, in person or electronically, of permits in specified circumstances.

The bill is effective July 1, 2022.

II. Present Situation:

Licensed Alarm System Contractors

Part II of ch. 489, F.S., dealing with electrical and alarm system contracting, sets forth requirements for qualified persons to be licensed if they have sufficient technical expertise in the

applicable trade, and have been tested on technical and business matters.¹ The Electrical Contractors' Licensing Board (ECLB) within the Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating electrical and alarm system contractors in Florida under part II of ch. 489, F.S.²

An electrical contractor is a person whose business includes the electrical trade field and who has the experience, knowledge, and skill to install, repair, alter, add to, or design, in compliance with law, electrical wiring, fixtures, and appliances, and any related part, which generates, transmits, or uses electrical energy, in compliance with applicable plans, specifications, codes, laws, and regulations.³ The term "electrical contractor" also includes any person, firm, or corporation that engages in the business of electrical contracting under an expressed or implied contract or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.⁴

An alarm system is any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.⁵ Licensure of electrical and alarm systems contractors is required, and applicants must have sufficient technical experience and be tested on technical and business matters.

An alarm system contractor is a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to conduct all alarm services for compensation, for all types of alarm systems for all purposes.⁶ The term "alarm system contractor" also includes any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract, or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.⁷

An alarm system contractor whose business includes all types of alarm systems for all purposes is designated as an "alarm system contractor I, including fire alarm systems;" the practice area of an "alarm system contractor II" is identical except that it does not include fire alarm systems.⁸

The terms "registered alarm system contractor," and "registered electrical contractor" mean those contractors who have registered with the DBPR and met competency requirements for their trade category in the particular jurisdiction for which the registration is issued. Registered contractors may contract only in the jurisdiction for which the registration is issued.⁹

The term "certification" means the act by a contractor obtaining or holding a geographically unlimited certificate of competency from the DBPR.¹⁰ When an alarm system contractor is certified, the contractor possesses a certificate of competency, with some limitations as to the

¹ See s. 489.501, F.S.

² Section 489.507, F.S.

³ See s. 489.505(12), F.S.

⁴ *Id.*

⁵ Section 489.505(1), F.S.

⁶ See s. 489.505(2), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ See ss. 489.505(16), (21), and (22), F.S.

¹⁰ See ss. 489.505(4), (5), and (6), F.S.

scope of work that may be undertaken, without any mandatory licensure requirement.¹¹ The term “certified electrical contractor” means an electrical contractor who possesses a certificate of competency. To be certified a person must be 18 years of age, pass the certification examination, be of good moral character, and meet the eligibility requirements of s. 489.511(1)(b)3., F.S.¹²

Unless an exemption applies, the term “contracting” means engaging in business as a contractor or performing electrical or alarm work for compensation and includes, but is not limited to, performance of the work that may be performed by electrical or alarm system contractors.¹³ The attempted sale of contracting services and the negotiation or bid for a contract on these services also constitutes contracting. If the services offered require licensure or agent qualification, the offering, negotiation for a bid, or attempted sale of these services requires the corresponding licensure.¹⁴

The term “specialty contractor” means a contractor whose scope of practice is limited to a specific category of electrical or alarm system contracting, such as residential electrical contracting, maintenance of electrical fixtures, and fabrication, erection, installation, and maintenance of electrical advertising signs.¹⁵

Section 489.514, F.S., authorizes the ECLB to grandfather certain applicants for registered contract status, but only if application was made before November 1, 2021; under this provision, which now appears obsolete, the ECLB is required to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state, upon:

- Receipt of a completed application;
- Payment of the appropriate fee;¹⁶ and
- Evidence that he or she qualifies for the certification in a trade category based on:
 - Having a valid registered local license;
 - Passing an approved written examination;
 - Having a minimum of five years’ contracting experience in the applicable trade category (with an active license and excluding probationary periods);

¹¹ See s. 489.505(7), F.S., which describes the limitations on the scope of a certificate of competency as those circuits originating in alarm control panels, equipment governed by the Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, as well as the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks. RMS is an acronym for “root mean square,” a statistical term defined as the square root of mean square, or effective voltage. See <http://www.learningaboutelectronics.com/Articles/RMS-voltage-and-current-explained.php#:~:text=RMS%20Voltage%20and%20Current-%20Explained.%20RMS,%20or%20root,power%20dissipation,%20in%20circuit,%20as%20this%20AC%20voltage.> (last visited Jan. 12, 2022).

¹² Section 489.511(1)(b)3., F.S., provides experience requirements for certification.

¹³ See s. 489.505(9), F.S.; see also, ss. 489.505(2) and (12), F.S., for the various services that may be performed, and ss. 489.503(1) through (24), F.S., for the persons and types of work that are exempted from the term “contracting.”

¹⁴ See s. 489.505(9), F.S.

¹⁵ See s. 489.505(19), F.S.

¹⁶ The ECLB has established a \$196 fee for applications for registered contractor certification. See s. 489.109, F.S., and Fla. Admin. Code R. ch. 61G6-8.

- Never having had a contractor's license revoked, and during the last five years, not having had a suspended license or been assessed a fine in excess of \$500; and
- Meeting all required insurance and financial responsibility requirements.¹⁷

Mandatory Disclosure of Contractor Registration or Certification Numbers

Under s. 489.521(7), F.S., each registered or certified contractor must state the appropriate registration or certification number on each building permit application and each issued and recorded building permit. All city and county building departments must require, as a condition for building permit issuance, that the contractor applying for the permit verify his or her registration or certification as an electrical or alarm system contractor in the state.¹⁸

A contractor's registration or certification number must also be stated in each offer of services, business proposal, or advertisement, regardless of medium, used by that contractor; however, the term "advertisement" does not include business stationery or promotional novelties such as balloons, pencils, trinkets, or articles of clothing; this requirement does not apply to a newspaper, magazine, flyer, billboard, phone book, Internet, or broadcast advertisement for alarm system contracting as long as the contractor maintains a website that includes the number and the advertisement directs consumers to the website.¹⁹

The ECLB must assess a fine of not less than \$100 or issue a citation to any contractor who fails to include that contractor's certification or registration number when submitting an advertisement for publication, broadcast, or printing.²⁰ In addition, a person who claims in any advertisement to be a certified or registered contractor, but who does not hold a valid state certification or registration, commits a misdemeanor of the second degree.²¹

Fire Alarm Systems Agents; Licensing; Continuing Education Requirements

Section 489.505(28), F.S., defines "fire alarm system agent" as a person:

- Who is employed by a licensed fire alarm contractor or certified unlimited electrical contractor;
- Who is performing duties that are part of fire alarm system contracting requiring certification; and
- Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring a fire alarm system for compensation.

The provisions of s. 489.5185, F.S., include the requirements for fire alarm system agents, who may not be employed unless the person is at least 18 years of age, provides proof of a minimum of 14 hours of initial training, has not been convicted of a crime within the last three years

¹⁷ See s. 489.515(1)(b), F.S., which provides that an applicant must submit satisfactory evidence of workers' compensation insurance or an acceptable exemption issued by the DBPR, public liability and property damage insurance in amounts determined by the ECLB, and evidence of financial responsibility, credit, and business reputation of either the contractor or the business sought to be qualified for certification.

¹⁸ See s. 553.521(7)(a), F.S.

¹⁹ See s. 553.521(7)(b), F.S.

²⁰ *Id.*

²¹ As to a misdemeanor of the second degree, s. 775.082, F.S., provides such offense is punishable by a term of imprisonment not to exceed 60 days, and s. 775.083, F.S., provides such offense is punishable by a fine not to exceed \$500.

(related to the business of fire alarms), has a background check, and has not been convicted of a crime for controlled substances within the last three years.

The initial training for a fire alarm system agent must include basic fire alarm system technology in addition to related training in National Fire Protection Association (NFPA) codes and standards and access control training, with at least 2 hours of training in the prevention of false alarms.

A certified electrical contractor, a certified fire alarm system contractor, a registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, or an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, is not required to complete the training required for fire alarm system agents, and a registered electrical contractor is not required to complete that training, provided he or she is only doing electrical work up to the alarm panel.²²

Section 489.5185(2)(c), F.S., provides that a nonsupervising employee working as a helper or apprentice under the direct, onsite, continuous supervision of a certified or registered electrical contractor, a certified or registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, or a qualified fire alarm system agent, is not required to complete any fire alarm system training and is not required to be 18 years of age or older. Persons who perform only monitoring²³ are not required to complete the training required for fire alarm system agents.

Each fire alarm system agent must receive six hours of continuing education on fire alarm system installation and repair and false alarm prevention every two years, from a board-approved sponsor of training and through a board-approved training course.²⁴ Failure to comply with any of the provisions of s. 489.5185, F.S., is grounds for disciplinary action against the contractor as set forth in s. 489.533, F.S.²⁵

Alarm system contractors may also hold certificates of competency from the DBPR, which are geographically unlimited.²⁶ Holders of those certificates are certified alarm system contractors, and the scope of certification is limited to specific alarm circuits and equipment.²⁷ There is no mandatory licensure requirement created by the availability of certification.²⁸

²² See Section 489.5185(2), F.S.

²³ See *supra* note 15.

²⁴ See Section 489.5185(5), F.S.

²⁵ See Section 489.5185(6), F.S.

²⁶ Sections 489.505(4) and 489.505(5), F.S.,

²⁷ Section 489.505(7), F.S., describes the limitations as those circuits originating in alarm control panels, equipment governed by the Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, as well as the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks.

²⁸ *Id.*

National Institute of Certification in Engineering Technologies

The National Institute of Certification in Engineering Technologies (NICET), established in 1961, certifies engineering technicians and technologists, and more than 148,000 technicians and technologists have received NICET certification since then.²⁹ Certification programs include those for:³⁰

- Fire Alarm Systems;
- Inspection and Testing of Fire Alarm Systems;
- Inspection and Testing of Water-based Systems;
- Special Hazards Systems; and
- Water-based Systems Layout.

Certification requirements exist for four levels of Fire Alarm System (FAS) certification³¹ and two levels of Inspection and Testing of Fire Alarm Systems (I&TFAS) certification.³²

For a Level II Fire Alarm System certification, a person must:³³

- Pass Level I and Level II exams;
- Meet all Levels I and II performance measures; and
- Have at least two years of fire detection and signaling systems experience, which must include at least 12 months of fire alarm systems experience, including alarm and detection, notification, sprinkler monitoring, and interfaces and controls for agent releasing suppression systems.

For a Level II Inspection and Testing of Fire Alarm Systems certification, a person must:³⁴

- Pass Level I and Level II exam; and
- Meet all Levels I and II performance measures; and
- Have at least 18 months of experience in the inspection and testing of fire alarm and suppression systems.

Recertification is required every three years, by demonstrating continuing professional development.³⁵

²⁹ See NICET, *About Us*, <https://www.nicet.org/about-us/> (last visited Jan. 12, 2022).

³⁰ See NICET, *Certification Programs*, at <https://www.nicet.org/certification-programs/> (last visited Jan. 12, 2022).

³¹ See NICET, *Certification Programs, Fire Alarm Systems*, at <https://www.nicet.org/certification-programs/electrical-and-mechanical-systems/fire-alarm-systems/> (last visited Jan. 12, 2022).

³² See NICET, *Certification Programs, FAS Exams and I&TFAS Exam Credits*, at <https://www.nicet.org/certification-programs/electrical-and-mechanical-systems/inspection-and-testing-of-fire-alarm-systems/fas-exams-and-i-tfas-exam-credits/> (last visited Jan. 12, 2022).

³³ See NICET, *Certification Requirements*, <https://www.nicet.org/certification-programs/electrical-and-mechanical-systems/fire-alarm-systems/certification-requirements/> (last visited on Jan. 12, 2022).

³⁴ See NICET, *Certification Requirements*, <https://www.nicet.org/certification-programs/electrical-and-mechanical-systems/inspection-and-testing-of-fire-alarm-systems/certification-requirements/> (last visited Jan. 12, 2022).

³⁵ See NICET, *Recertify*, <https://www.nicet.org/recertify/> (last visited Jan. 12, 2022).

Electronic Security Association

The Electronic Security Association (ESA), established in 1948 to represent the electronic security and life safety industry, asserts it is the largest trade association in the United States, with more than 500,000 industry professionals employed by ESA member companies.³⁶

Certification programs include:³⁷

- Certified Alarm Technician Level I;
- Certified Fire Alarm Technician Level II Fire;
- Certified Fire Alarm Designer Level III Fire; and
- Certified Residential Fire Alarm Inspector.

For certification as a Fire Alarm Technician Level II Fire, a person must:³⁸

- Be certified as an ESA Alarm Technician Level I or higher;
- Have 24 months of work history or have been certified as an ESA Alarm Technician Level I for 24 months or more; and
- Have completed the following two courses within the previous five years:
 - Fire Alarm Installation Methods course and pass the examination.
 - Life Safety Code course or International Building Code course and passed the associated examination.

For certification as a Fire Alarm Designer Technician Level III, a person must:³⁹

- Be certified as an ESA Fire Alarm Technician Level II;
- Have 60 months of work history in the field of fire alarms installation, inspection, testing, commissioning, project managing, plan preparation, or supervision;
- Have a personal recommendation from a professional with the professionalism, ethical standards, and technical abilities of the applicant (e.g., from licensed engineers, registered land surveyors, certified fire engineers/designers); and
- Have completed the Fire Alarm Designer course and passed the associated examination.

Recertification is required every two years, by completing 24 hours of continuing education approved by the ESA and other continuing education that may qualify.⁴⁰

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

³⁶ See ESA, *About Us*, <https://esaweb.org/about/> (last visited Jan. 12, 2022).

³⁷ See ESA, *ESA Certifications for Security, Sales and Fire*, <https://esaweb.org/training/certifications/certification-types/> (last visited Jan. 12, 2022).

³⁸ ESA, *ESA Certified Fire Alarm Technician Level 2 (CFAT)*, <https://esaweb.org/training/certifications/cfat/> (last visited Jan. 12, 2022).

³⁹ ESA, *Certified Fire Alarm Designer (CFAD) Level III Fire Certification*, <https://esaweb.org/training/certifications/cfad/> (last visited Jan. 12, 2022).

⁴⁰ ESA, *How to Renew Your ESA Certification*, <https://esaweb.org/training/certification-renewal/#qualifying> (last visited Jan. 12, 2022).

buildings, structures, and facilities in the state.⁴¹ The building code must be applied, administered, and enforced uniformly and consistently throughout the state.⁴² The building code is adopted, updated, interpreted, and maintained by the Florida Building Commission (commission), which is housed within the DBPR, but is enforced by authorized state and local government agencies.⁴³ The commission adopts an updated building code every three years through review of codes published by the International Code Council and the National Fire Protection Association.⁴⁴

Violations of the building code are enforced by the appropriate enforcing agency or local government pursuant to s. 553.79, F.S., relating to required permits, and s. 553.80, F.S., relating to enforcement of the building code. Each local government and each legally constituted enforcement district with statutory authority must regulate building construction and, if authorized in legislation, each state agency, must enforce the building code by seeking injunctive relief from any court to address noncompliance with the building code.⁴⁵

Fire Alarm Permit Applications to Local Enforcement Agencies

Under Section 553.7921, F.S., a uniform fire alarm permit application with specified supporting documentation must be filed before installing or replacing a fire alarm, or repairing an existing alarm system, if the local enforcement authority requires a plan review before conducting these activities. The uniform fire alarm permit application must be accompanied by specified supporting documentation, must be signed by the owner or an authorized representative, and the contractor or the contractor's agent, and may be filed electronically or by facsimile.⁴⁶

Low-voltage Alarm System Projects

Section 553.793, F.S., relating to streamlined low-voltage alarm system installation permitting, provides that a "low-voltage alarm system project" is a project related to the installation, maintenance, inspection, replacement, or service of a new or existing alarm system that is hardwired and operating at low voltage, or a new or existing low-voltage electric fence. The term includes ancillary attached equipment, including but not limited to, home-automation equipment, thermostats, closed-circuit television systems, access controls, battery recharging devices, and video cameras. If the installation or replacement of a fire alarm requires a plan review by the local building code enforcement agency, streamlined permitting may not be used.⁴⁷

⁴¹ See s. 553.72, F.S. Part IV of ch. 553, F.S., cited as the "Florida Building Codes Act." See s. 553.70, F.S. The Florida Building Code, 7th Edition, is available at https://www.floridabuilding.org/bc/bc_default.aspx (last visited Jan. 12, 2022).

⁴² See s. 553.72(1), F.S.

⁴³ See s. 553.72(3), F.S.

⁴⁴ 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.

⁴⁵ See s. 553.83, F.S.

⁴⁶ See s. 553.7921, F.S., which sets forth the Uniform Fire Alarm Permit Application.

⁴⁷ See s. 553.793(4), F.S.

Under streamlined permitting, licensed electrical and alarm system contractors are authorized to purchase uniform basic permit labels for low-voltage alarm system projects⁴⁸ from local governments by submitting identification of the contractor and proof of the contractor's registration or certification as a licensed contractor, without any other project information about a project.⁴⁹

Contractors may purchase labels in bulk for one or more unspecified current or future projects, although the labels are valid only for one year and may be used only in the jurisdiction of the local government issuing the labels.⁵⁰ Local governments may not charge more than \$40 per permit label per project per unit, and may not require any other charge associated with the installation or replacement of a new or existing hardwired, low-voltage alarm system project.

Licensed electrical and alarm system contractors are not required to notify a local government before working on a low-voltage alarm system project, but first must post an unused permit label in a conspicuous place on the premises.⁵¹ Within 14 days after completion of the project, the contractor must submit a Uniform Notice of a Low Voltage Alarm System Project to the local government; a local enforcement government may take disciplinary action against a contractor who fails to timely submit the required notice.⁵²

A local enforcement agency may coordinate directly with the property owner or customer for inspection of a low-voltage alarm system project, and if a project fails an inspection, the contractor must take corrective action in order to pass the inspection.⁵³

Another permit label is not required for any subsequent maintenance, inspection, or service of a low-voltage alarm system project that was initially permitted using the streamlined permitting process.⁵⁴

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 489.5185, F.S., relating to firm alarm system agents, to reduce the number of required initial training hours and continuing education hours required for fire alarm system agents holding certain certifications. The requirement of 14 hours of initial training hours is reduced to two hours of board-approved training in the prevention of false alarms, if a person holds a current:

- National Institute of Certification in Engineering Technologies (NICET) Level II certification or higher in Fire Alarm Systems or Inspection and Testing of Fire Alarm Systems;
- Electronic Security Association (ESA) Certified Fire Alarm Technician certification; or
- ESA Certified Fire Alarm Designer certification.

⁴⁸ Section 553.793(2), F.S., provides that permits are not required to install, maintain, inspect, replace, or service a wire alarm system or its components or attachments.

⁴⁹ See s. 553.793(5), F.S.

⁵⁰ See ss. 553.80 and 553.83, F.S.

⁵¹ See ss. 553.793(6) and (7), F.S.

⁵² See s. 553.793(7), F.S.

⁵³ See s. 553.793(9), F.S.

⁵⁴ See s. 553.791(11), F.S.

Under the bill, the requirement of six hours of board-approved continuing education every two years on fire alarm system installation and repair and false alarm prevention is also reduced for persons holding the above certifications, with such persons required to complete only two hours of continuing education prevention of false alarms every two years.

Section 2 of the bill provides a low-voltage alarm system project includes closed-circuit television (CCTV) systems used to signal or detect a burglary, fire, robbery, or medical emergency. A CCTV system (i.e., video surveillance) transmits a signal to another location, but unlike broadcast television, the signal is sent via a closed circuit and not openly transmitted.⁵⁵ Currently, the definition of low-voltage alarm system project in s. 553.793(1)(b), F.S., includes CCTV systems only as ancillary components or equipment attached to a low-voltage alarm system project.

Section 3 of the bill creates s. 553.7932, F.S., to establish a simplified permitting process for certain limited fire alarm system alterations. The bill provides:

- The term “contractor” means a person qualified to engage in electrical or alarm system contracting pursuant to a certificate or registration issued by the DBPR under part II of ch. 489, F.S.
- The term “fire alarm system project” means a fire alarm system alteration of a total of 20 or fewer initiating devices and notification devices, or the installation or replacement of a fire communicator connected to an existing fire alarm control panel in an existing commercial, residential, apartment, cooperative, or cooperative building.
- A local enforcement agency:
 - May require a contractor to submit a completed application and payment, as a condition of obtaining a permit for an eligible fire alarm system project;
 - May not require a contractor to submit plans or specifications as a condition of obtaining a permit for an eligible fire alarm system project;
 - Must issue a permit for an eligible fire alarm system project in person or electronically;
 - Must require at least one inspection of an eligible fire alarm system project to ensure compliance with applicable codes and standards; if an eligible fire alarm system project fails an inspection, the contractor must take corrective action as necessary to pass inspection.
- A contractor must keep a copy of the plans and specifications at a fire alarm system project worksite and make them available to the inspector at each inspection.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁵⁵ See https://en.wikipedia.org/wiki/Closed-circuit_television (last visited Jan. 12, 2022). The term “closed circuit television” is not defined in Florida law.

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:

According to the Department of Business and Professional Regulation (DBPR), the expenditures will be reduced for initial training and continuing education by applicants and licensees (with the required certifications) who seek or renew a fire alarm system agent license.⁵⁶ Further, the expedited permitting process for fire alarm system alterations may reduce the time and cost involved for such permits.⁵⁷

C. Government Sector Impact:

According to the DBPR, local governments may experience increased expenditures to administer the required expedited permitting process created by the bill, but the amount cannot be determined at this time.⁵⁸

The DBPR also notes that the Florida Building Commission must initiate rulemaking for:

- The regulation of closed circuit television systems used to signal or detect a burglary, fire, robbery, or medical emergency as low-voltage alarm systems projects; and
- The new expedited permitting process for eligible fire alarm system alarms.⁵⁹

VI. Technical Deficiencies:

None.

⁵⁶ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for HB 669 (identical to SB 994)* at 4 (Nov. 29, 2021) (on file with the Senate Committee on Regulated Industries).

⁵⁷ *Id.*

⁵⁸ *Id.* at 3.

⁵⁹ *Id.* at 6.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 489.5185 and 553.793.

This bill creates section 553.7932 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Regulated Industries Committee on January 18, 2022:**

The committee substitute:

- Clarifies that the term “low-voltage alarm system project” includes ancillary components or equipment attached to a low-voltage alarm system or low-voltage electric fence.
- Significantly revises the simplified permitting process for eligible fire alarm system projects, to include:
 - Expanding the fire alarm system projects eligible for simplified permitting to include certain existing residential and cooperative buildings;
 - Providing that a local enforcement agency:
 1. May require a contractor to submit a completed application and payment, as a condition of obtaining a permit for an eligible fire alarm system project;
 2. May not require a contractor to submit plans or specifications as a condition of obtaining a permit for an eligible fire alarm system project;
 3. Must issue a permit for an eligible fire alarm system project in person or electronically;
 4. Must require at least one inspection of an eligible fire alarm system project to ensure compliance with applicable codes and standards;
- Requires a contractor, if an eligible fire alarm system project fails an inspection, to take corrective action as necessary to pass inspection; and
- Requires a contractor to keep a copy of the plans and specifications at the project worksite and make them available to the inspector at each inspection.

B. Amendments:

None.



498414

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/18/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 63 - 80
and insert:
fence. The term also includes, and ancillary components or
equipment attached to ~~such~~ a low-voltage alarm system or low-
voltage electric fence, including, but not limited to, home-
automation equipment, thermostats, closed-circuit television
systems, access controls, battery recharging devices, and video
cameras.



498414

11 Section 3. Section 553.7932, Florida Statutes, is created
12 to read:

13 553.7932 Simplified permitting process for fire alarm
14 system projects.-

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

16 (a) "Contractor" means a person who is qualified to engage
17 in the business of electrical or alarm system contracting
18 pursuant to a certificate or registration issued by the
19 department under part II of chapter 489.

20 (b) "Fire alarm system project" means a fire alarm system
21 alteration of a total of 20 or fewer initiating devices and
22 notification devices, or the installation or replacement of a
23 fire communicator connected to an existing fire alarm control
24 panel in an existing commercial, residential, apartment,
25 cooperative, or condominium building.

26 (2) (a) A local enforcement agency may require a contractor,
27 as a condition of obtaining a permit for a fire alarm system
28 project, to submit a completed application and payment.

29 (b) A local enforcement agency may not require a contractor
30 to submit plans or specifications as a condition of obtaining a
31 permit for a fire alarm system project.

32 (3) A local enforcement agency may issue a permit for a
33 fire alarm system project in person or electronically.

34 (4) A local enforcement agency must require at least one
35 inspection of a fire alarm system project to ensure compliance
36 with applicable codes and standards. If a fire alarm system
37 project fails an inspection, the contractor must take corrective
38 action as necessary to pass inspection.

39 (5) A contractor must keep a copy of the plans and



498414

40 specifications at a fire alarm system project worksite and make
41 such plans and specifications available to the inspector at each
42 inspection.

43

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

45 And the title is amended as follows:

46 Delete lines 12 - 17

47 and insert:

48 systems; creating s. 553.7932, F.S.; defining terms;
49 authorizing a local enforcement agency to require a
50 contractor to submit certain documentation and payment
51 for obtaining a permit for a fire alarm system
52 project; prohibiting a local enforcement agency from
53 requiring plans and specifications as a condition for
54 obtaining a permit for a fire alarm system project;
55 authorizing a local enforcement agency to issue
56 certain permits in person or electronically; requiring
57 a local enforcement agency to perform at least one
58 inspection for a fire alarm system project; requiring
59 a contractor to keep certain documentation at a
60 worksite for a fire alarm system project and make such
61 documentation available for inspection;



721546

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Perry) recommended the following:

1 **Senate Substitute for Amendment (498414) (with title**
2 **amendment)**

3
4 Delete lines 63 - 80

5 and insert:

6 fence. The term also includes, and ancillary components or
7 equipment attached to ~~such~~ a low-voltage alarm system or low-
8 voltage electric fence, including, but not limited to, home-
9 automation equipment, thermostats, closed-circuit television
10 systems, access controls, battery recharging devices, and video



721546

11 cameras.

12 Section 3. Section 553.7932, Florida Statutes, is created
13 to read:

14 553.7932 Simplified permitting process for fire alarm
15 system projects.-

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

17 (a) "Contractor" means a person who is qualified to engage
18 in the business of electrical or alarm system contracting
19 pursuant to a certificate or registration issued by the
20 department under part II of chapter 489.

21 (b) "Fire alarm system project" means a fire alarm system
22 alteration of a total of 20 or fewer initiating devices and
23 notification devices, or the installation or replacement of a
24 fire communicator connected to an existing fire alarm control
25 panel in an existing commercial, residential, apartment,
26 cooperative, or condominium building.

27 (2) (a) A local enforcement agency may require a contractor,
28 as a condition of obtaining a permit for a fire alarm system
29 project, to submit a completed application and payment.

30 (b) A local enforcement agency may not require a contractor
31 to submit plans or specifications as a condition of obtaining a
32 permit for a fire alarm system project.

33 (3) A local enforcement agency must issue a permit for a
34 fire alarm system project in person or electronically.

35 (4) A local enforcement agency must require at least one
36 inspection of a fire alarm system project to ensure compliance
37 with applicable codes and standards. If a fire alarm system
38 project fails an inspection, the contractor must take corrective
39 action as necessary to pass inspection.



721546

40 (5) A contractor must keep a copy of the plans and
41 specifications at a fire alarm system project worksite and make
42 such plans and specifications available to the inspector at each
43 inspection.

44
45 ===== T I T L E A M E N D M E N T =====

46 And the title is amended as follows:

47 Delete lines 12 - 17

48 and insert:

49 systems; creating s. 553.7932, F.S.; defining terms;
50 authorizing a local enforcement agency to require a
51 contractor to submit certain documentation and payment
52 for obtaining a permit for a fire alarm system
53 project; prohibiting a local enforcement agency from
54 requiring plans and specifications as a condition for
55 obtaining a permit for a fire alarm system project;
56 requiring a local enforcement agency to issue certain
57 permits in person or electronically; requiring a local
58 enforcement agency to perform at least one inspection
59 for a fire alarm system project; requiring a
60 contractor to keep certain documentation at a worksite
61 for a fire alarm system project and make such
62 documentation available for inspection;

By Senator Perry

8-00802B-22

20221140__

1 A bill to be entitled
 2 An act relating to alarm systems; amending s.
 3 489.5185, F.S.; authorizing individuals with certain
 4 fire alarm certifications to complete a reduced number
 5 of training and continuing education hours for the
 6 prevention of false alarms; requiring the training and
 7 continuing education sponsors and courses to be
 8 approved by the Electrical Contractors' Licensing
 9 Board; amending s. 553.793, F.S.; revising the
 10 definition of the term "low-voltage alarm system
 11 project" to include certain closed-circuit television
 12 systems; creating s. 553.7932, F.S.; requiring that
 13 electrical or fire permits for certain fire alarm
 14 system alterations be issued over the counter or
 15 online; requiring a permittee who receives a permit
 16 under the simplified process to keep shop drawings or
 17 other required documentation on site for inspection;
 18 providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsection (5) of section 489.5185, Florida
 23 Statutes, is amended, and paragraph (f) is added to subsection
 24 (2) of that section, to read:

25 489.5185 Fire alarm system agents.—

26 (2)

27 (f) If a person holds a current National Institute of
 28 Certification in Engineering Technologies (NICET) Level II
 29 certification or higher in Fire Alarm Systems or Inspection and

Page 1 of 3

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

8-00802B-22

20221140__

30 Testing of Fire Alarm Systems, a current certification as an
 31 Electronic Security Association (ESA) Certified Fire Alarm
 32 Technician, or a current certification as an ESA Certified Fire
 33 Alarm Designer, he or she is required to complete only the 2
 34 hours of training in the prevention of false alarms required by
 35 paragraph (1) (b) from a board-approved sponsor of training and
 36 through a board-approved training course.

37 (5) (a) Except as provided in paragraph (b), each fire alarm
 38 system agent must receive 6 hours of continuing education on
 39 fire alarm system installation and repair and false alarm
 40 prevention every 2 years from a board-approved sponsor of
 41 training and through a board-approved training course.

42 (b) A person holding a current NICET Level II certification
 43 or higher in Fire Alarm Systems or Inspection and Testing of
 44 Fire Alarm Systems, certification as an ESA Certified Fire Alarm
 45 Technician, or certification as an ESA Certified Fire Alarm
 46 Designer is required to complete only 2 hours of continuing
 47 education training in the prevention of false alarms every 2
 48 years from a board-approved sponsor of training and through a
 49 board-approved training course.

50 Section 2. Paragraph (b) of subsection (1) of section
 51 553.793, Florida Statutes, is amended to read:

52 553.793 Streamlined low-voltage alarm system installation
 53 permitting.—

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

55 (b) "Low-voltage alarm system project" means a project
 56 related to the installation, maintenance, inspection,
 57 replacement, or service of a new or existing alarm system, as
 58 defined in s. 489.505, including closed-circuit television

Page 2 of 3

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

8-00802B-22

20221140__

59 systems used to signal or detect a burglary, fire, robbery, or
60 medical emergency, that is hardwired and operating at low
61 voltage, as defined in the National Electrical Code Standard 70,
62 Current Edition, or a new or existing low-voltage electric
63 fence, and ancillary components or equipment attached to such a
64 system or fence, including, but not limited to, home-automation
65 equipment, thermostats, closed-circuit television systems,
66 access controls, battery recharging devices, and video cameras.

67 Section 3. Section 553.7932, Florida Statutes, is created
68 to read:

69 553.7932 Simplified permitting process for fire alarm
70 system alterations.-

71 (1) Electrical or fire permits for all of the following
72 must be issued over the counter or online:

73 (a) A fire alarm system alteration of a total of 20 or
74 fewer initiating devices and notification devices.

75 (b) The installation or replacement of a fire communicator
76 connected to an existing fire alarm control panel in an existing
77 commercial building, apartment, or condominium.

78 (2) A permittee who receives an electrical or fire permit
79 pursuant to this section shall keep shop drawings or other
80 required documentation on site at the time of inspection.

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



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>HB 669</u>
BILL TITLE:	<u>Alarm Systems</u>
BILL SPONSOR:	<u>Rep. Maggard</u>
EFFECTIVE DATE:	<u>July 1,/2022</u>

COMMITTEES OF REFERENCE

1) Regulatory Reform Subcommittee
2) State Administration & Technology Appropriations Subcommittee
3) Commerce Committee
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Regulatory Reform Subcommittee

SIMILAR BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	HB 823
SPONSOR:	Rep. Mariano
YEAR:	2021
LAST ACTION:	Approved by Governor – 6/16/21

IDENTICAL BILLS

BILL NUMBER:	SB 1140
SPONSOR:	Sen. Perry

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	November 29, 2021
LEAD AGENCY ANALYST:	Ruthanne Christie, Executive Director
ADDITIONAL ANALYST(S):	Jerry Wilson, Division of Regulation Tracy Dixon, Service Operations Robin Jordan, Technology Darrell Garvey, OGC Rules
LEGAL ANALYST:	Click or tap here to enter text.

FISCAL ANALYST:	Garrett Blanton, Budget Office
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POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill reduces the initial training and continuing education requirements for Fire Alarm System Agents who hold current National certification as NICET Level II or higher in Fire Alarm Systems or Inspection and Testing of Fire Alarm Systems or as an ESA certified Fire Alarm Designer. The bill also creates an expedited permit process for the installation and alteration of certain types of fire alarm systems and their components.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 489.5185 (1)(b), F.S. requires individuals performing the duties of a Fire Alarm System Agent as defined in section. 489.505 (28), F.S. to complete 14 hours of board approved initial training. Section 489.5185, F.S.(5), F.S. requires individuals performing the duties of a Fire Alarm System Agent as defined in section. 489.505 (28), F.S. to complete 6 hours of board approved continuing education every 2 years.

Section 553.793, F.S., creates a streamlined permitting process for certain types of low voltage alarm system installations. Section 553.793, F.S., is incorporated in its entirety into section 105.17 of the Florida Building Code, 7th Edition (2020).

The installation and alteration of fire alarm systems is regulated by the Fire Marshal’s Office pursuant to the Florida Fire Prevention Code and Part III of Chapter 633, F.S. Additionally, the installation of fire alarm systems and other alarm systems is also regulated by the local building official/local authority having jurisdiction pursuant to the requirements of the Florida Building Code and Chapter 553, Florida Statutes.

2. EFFECT OF THE BILL:

The bill amends 489.5185, F.S. to add section (2)(f), which reduces the initial training requirement from 14 hours to 2 hours of board approved false alarm training for individuals with current National Institute of Certification in Engineering Technologies (NICET) Level II certification or higher in Fire Alarm Systems or Inspection and Testing of Fire Alarm Systems, a current certification as an Electronic Security Association (ESA) Certified Fire Alarm Technician, or a current certification as an ESA Certified Fire Alarm Designer.

The bill amends section 489.5185, F.S. to add section (5)(b) which reduces the continuing education requirement from 6 hours to 2 hours of board approved false alarm training for individuals holding current National Institute of Certification in Engineering Technologies (NICET) Level II certification or higher in Fire Alarm Systems or Inspection and Testing of Fire Alarm Systems, a current certification as an Electronic Security Association (ESA) Certified Fire Alarm Technician, or a current certification as an ESA Certified Fire Alarm Designer.

The bill amends section 553.793, F.S., by clarifying the definition of “low voltage alarm system project” to include closed circuit television systems used to signal or detect a burglary, fire, robbery, or medical emergency.

The bill creates section 553.7932, F.S., which adds an expedited permitting process over-the-counter or online for alterations to fire alarm systems that consist of twenty or less initiating and notification devices. Additionally, the bill provides an expedited permitting process for the installation or replacement of fire communicator devices that are connected to an existing fire alarm control panel in an existing commercial building, apartment, or condominium. Furthermore, the bill states that any permittee making use of the expedited permit process shall maintain the shop drawings or other required documentation on site at the time of inspection.

The bill’s effective date is July 1, 2022.

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

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency’s core	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>

mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

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

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

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

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

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

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

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

Revenues:	Click or tap here to enter text.
Expenditures:	Possible increase in expenditures cannot be determined at this time to administer the expedited permitting process created by Section 553.7932, Florida Statutes. The amount of this increase in expenditures cannot be determined at this time.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote	Click or tap here to enter text.

prior to implementation of the tax or fee increase?	
---	--

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y N

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y N

Revenues:	Click or tap here to enter text.
Expenditures:	The bill should decrease the expenditures in the private sector for training and continuing education required to obtain and maintain a license. The permitting process may reduce time and thus reduce costs.
Other:	.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

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

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
--	-----

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

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

ADDITIONAL COMMENTS

The Florida Building Commission would need to initiate rulemaking to incorporate the changes to section 553.793, F.S., and the newly created section 553.793(2), F.S., into the Florida Building Code.

The term “over the counter” is used in the bill to describe the simplified permitting process for fire alarm system alterations. However, the term “over the counter” is not defined in the bill or in the current statutory language.

The Division of Regulation processes the complaints and investigations of contractors under Chapter 489, Part II, Florida Statutes. The Division can handle any additional workload associated with this bill by using existing staff.

Division of Service Operations: No impact.

OGC Rules: No additional comments.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No Comments.
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The Florida Senate

APPEARANCE RECORD

SB 1140

Bill Number or Topic

Jan. 18, 2022

Meeting Date

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

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name David Shepp

Phone 863 581-4250

Address P.O. Box 3739

Email shepp@thesouthern.com

Street

Lakeland

FL

33802

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:

Automatic Fire Alarm Association

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

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

S-001 (08/10/2021)

1/18/22
Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 1140 - Alarm Sys
Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Eric Prutsman

Phone 850.210.2525

Address P.O. Box 10448
Street

Email eric@tamjlb.com

Tallahassee FL 32302
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:

Alarm Association of Florida

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1140

Bill Number or Topic

Amendment Barcode (if applicable)

1/18/2022

Meeting Date

REG. INDUSTRIES

Committee

Name

CHRISTIAN CANARA

Phone

305 608 4300

Address

PO Box 122

Street

Email

CHRISTIAN@CHAMBERCONSULTANTSFL.COM

TALLAHASSEE, FL 32302

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:

INSTITUTE FOR JUSTICE

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

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

S-001 (08/10/2021)

1/18/2022

Meeting Date

Regulated Industries

Committee

The Florida Senate APPEARANCE RECORD

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

SB 1140

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Diana Ferguson**

Phone **850-681-6788**

Address **119 S Monroe Street**

Email **DFerguson@rutledge-ecenia.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

ADT

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

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

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

S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 13, 2022

I respectfully request that **Senate Bill #1140**, relating to Alarm Syses, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

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: CS/SB 1302

INTRODUCER: Regulated Industries Committee and Senator Burgess

SUBJECT: Criminal History Information

DATE: January 19, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	_____	_____	CJ	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1302 revises the process by which the Department of Business and Professional Regulation (DBPR) and regulatory boards within the department may consider the criminal background of license applicants. Under the bill, the process for considering the criminal background of a license applicant applies to all professions licensed by regulatory boards within the DBPR.

The bill prohibits the DBPR and its regulatory boards from inquiring into, or considering the criminal conviction history of, an applicant for a license until the applicant is determined to be otherwise qualified for licensure. The bill also repeals the provision in current law authorizing a board to consider the criminal history of an applicant for licensure if the criminal history has been found to relate to good moral character. However, many of the practice acts for professions regulated by DBPR and its boards require the license applicant to be of good moral character.

The bill provides several factors for a board to consider when determining if the criminal history of an applicant directly relates to the practice of the applicable profession for which the license is sought or held, including the nature and seriousness of the conviction, the age of the person at the time the felony was committed, the length of time since the conviction, evidence of mitigation or rehabilitation, and the applicant's current ability to practice the profession competently in accordance with the actual practice of the profession.

Under the bill, if the DBPR or a regulatory board intends to deny a license application solely or in part on the basis of the applicant's prior felony conviction, the DBPR or board must give the applicant written notice before making a final decision and give the applicant 10 business days to respond with information challenging the accuracy of the information and evidence of mitigation or rehabilitation and his or her current ability to practice the profession competently in accordance with the actual practice of the profession.

If the DBPR or regulatory board denies an application for a license solely or in part on the basis of the applicant's prior felony conviction, the applicable board must notify the applicant in writing of the final denial, the appeal process, the applicant's eligibility for other licenses or professions, and the earliest date the applicant may reapply for a license.

The bill also revises the process for a court-ordered sealing of a criminal record under s. 943.059(1), F.S., to require a court to grant a petition for the sealing of a criminal history record if a criminal history record has been automatically sealed pursuant to s. 943.0595, F.S., and the subject of the sealed record presents a certificate of sealing issued by the Florida Department of Law Enforcement (FDLE). Under the bill, the FDLE must issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record sealed by the FDLE pursuant to the automatic sealing of criminal history provisions in s. 943.0595, F.S.

The FDLE anticipates a fiscal impact of \$4,288,960 with \$3,869,260 recurring for 60 additional full time employees (FTEs) to implement the changes in the bill.

The bill takes effect July 1, 2022.

II. Present Situation:

Licensing Determinations and Criminal History

Section 112.011, F.S., provides guidelines for the review of a license applicant's criminal history by state agencies during licensure determinations. Generally, a person may be denied a professional license based on his or her prior conviction of a crime if the crime was a felony¹ or first-degree misdemeanor² that is directly related to the standards determined by the regulatory authority to be necessary and reasonably related to the protection of the public health, safety, and welfare for the specific profession for which the license is sought.³ Notwithstanding any law to

¹ Section 775.08(1), F.S., defines "felony" as any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or a term of imprisonment in a state penitentiary that exceeds one year.

² Section 775.08(2), F.S., defines "misdemeanor" as any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility of less than one year. A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

³ Section 112.011(1)(b), F.S. *See also*, e.g., *State ex rel. Sbordy v. Rowlett*, 138 Fla. 330, 190 So. 59, 63 (1939), holding that "the preservation of the public health is one of the duties of sovereignty and in a conflict between the right of a citizen to follow a profession and the right of a sovereignty to guard the health and welfare, it logically follows that the rights of the citizen to pursue his profession must yield to the power of the State to prescribe such restrictions and regulations as shall fully protect the people from ignorance, incapacity, deception, and fraud."

the contrary, a state agency may not deny an application for a license based solely on the applicant's lack of civil rights.⁴

Department of Business and Professional Regulation

Licensure, Generally

DBPR has 12 divisions that are tasked with the licensing and general regulation of several professions and businesses in Florida.⁵ Fifteen boards and programs exist within the Division of Professions,⁶ two boards exist within the Division of Real Estate,⁷ and one board exists in the Division of Certified Public Accounting.⁸

Chapter 455, F.S., relates to the regulation of professions by the DBPR.⁹ Sections 455.203 and 455.213, F.S., establish the DBPR's general licensing authority, including its authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.¹⁰ When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a "permit, registration, certificate, or license" to the licensee.¹¹

In Fiscal Year 2020-2021, there were 892,843 total active licenses in the Division of Certified Public Accounting, Division of Professions, Division of Real Estate, and Division of Regulation.¹²

Denial of Licensure

Chapter 455, F.S., provides procedural and administrative framework for the regulation of professionals by the DBPR, and boards housed under the DBPR, including the Divisions of

⁴ Section 112.011(1)(c), F.S.

⁵ See s. 20.165, F.S., creating the divisions of Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Drugs, Devices, and Cosmetics; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Professions; Real Estate; Regulation; Service Operations; and Technology.

⁶ Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481, F.S.; Florida Board of Auctioneers, part VI of ch. 468, F.S.; Barbers' Board, ch. 476, F.S.; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468, F.S.; Construction Industry Licensing Board, part I of ch. 489, F.S.; Board of Cosmetology, ch. 477, F.S.; Electrical Contractors' Licensing Board, part II of ch. 489, F.S.; Board of Employee Leasing Companies, part XI of ch. 468, F.S.; Board of Landscape Architecture, part II of ch. 481, F.S.; Board of Pilot Commissioners, ch. 310, F.S.; Board of Professional Engineers, ch. 471, F.S.; Board of Professional Geologists, ch. 492, F.S.; Board of Veterinary Medicine, ch. 474, F.S.; Home Inspection Services Licensing Program, part XV of ch. 468, F.S.; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

⁷ See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

⁸ See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

⁹ Section 455.017, F.S.

¹⁰ Section 455.219(1), F.S.

¹¹ Section 455.01(4) and (5), F.S.

¹² See Department of Business and Professional Regulation, *Division of Certified Public Accounting, Division of Professions, Division of Real Estate, and Division of Regulation Annual Report, Fiscal Year 2020-2021*, p. 20, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 13, 2022).

Certified Public Accounting, Professions, Real Estate, and Regulation.¹³ Provisions within the chapter specify that the provision applies to the DBPR if there is no board.¹⁴

The DBPR may regulate professions “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”¹⁵ Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.¹⁶

However, “neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.¹⁷

Licensing and Criminal Background for Certain Professions

The DBPR or a pertinent regulatory board may deny an application for licensure based on the grounds set forth in s. 455.227(1), F.S., or in the profession’s practice act.¹⁸ Specifically, the DBPR or regulatory board may deny a licensure application for any person who was:

...convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee’s profession.¹⁹ (Emphasis added.)

In 2019, the Legislature created a process for reviewing the criminal history of applicants for specified professions or occupations regulated by the DBPR.²⁰ The process applies to:

- Barbers;
- Cosmetologists and cosmetology specialists;
- Construction professionals, including:
 - Air-conditioning contractors;
 - Electrical contractors;
 - Mechanical contractors;
 - Plumbing contractors;
 - Pollutant storage systems contractors;
 - Roofing contractors;
 - Septic tank contractors;

¹³ See ss. 455.01(6) and 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

¹⁴ For example, s. 455.227(2), F.S., dealing with grounds for discipline, penalties, and enforcement, provides “[w]hen the board, or the department when there is no board, finds...”

¹⁵ Section 455.201(2), F.S.

¹⁶ Section 455.201(2), F.S.

¹⁷ Section 455.201(4)(b), F.S.

¹⁸ Section 455.227(2), F.S.

¹⁹ Section 455.227(1)(c), F.S.

²⁰ Chapter 2019-167, L.O.F., codified at s. 455.213(3), F.S.

- Sheet metal contractors;
- Solar contractors;
- Swimming pool and spa contractors;
- Underground utility and excavation contractors; and
- Other specialty contractors; or
- Any other profession for which the DBPR issues a license, provided the profession is offered to prisoners in any correctional institution or correctional facility as a vocational training or through an industry certification program.²¹

Under this process, a prisoner may apply for a license before he or she is lawfully released from confinement or supervision.²² The application may not be denied solely on the basis of the applicant's current confinement or supervision.

A license for one of the above-listed occupations may not be denied on the basis of a conviction for a crime occurring more than five years before the date of application.²³ However, a board may deny a license if the applicant's criminal history includes a crime listed in s. 775.21(4)(a)1., F.S., relating to sexual predator crimes, or s. 776.08, F.S., relating to forcible felonies,²⁴ if such criminal history relates to the practice of the applicable profession.²⁵ A regulatory board may also consider the criminal history of an applicant if such criminal history is found to relate to good moral character.²⁶

Additionally, a board must:

- Permit a person to apply for a license while under criminal confinement (incarceration) or supervision;²⁷
- Compile a list of crimes by rule of crimes that do not impair a person's qualifications for licensure;²⁸
- Compile a list of crimes that have been used in the past two years as the basis for a license denial,²⁹ and
- Permit applicants who are incarcerated or under supervision to appear by teleconference or video conference at a meeting of a board or the agency for a hearing concerning the person's license application.³⁰

The DBPR or a board may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of

²¹ Section 455.213(3)(a), F.S.

²² Section 455.213(3)(c), F.S.

²³ Section 455.213(3)(b)1., F.S. "Conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

²⁴ Section 776.08, F.S., defines "forcible felony" to mean "treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual."

²⁵ Section 455.213(3)(b)1., F.S.

²⁶ Section 455.213(3)(b)2., F.S.

²⁷ Section 455.213(3)(c), F.S.

²⁸ Section 455.213(3)(d), F.S.

²⁹ Section 455.213(3)(e), F.S.

³⁰ Section 455.213(5), F.S.

ch. 455, F.S., or the professional practice acts administered by the department and the boards, until such time as the investigation or prosecution is complete.³¹

License Qualifications Based on Moral Character

Several professions licensed by the DBPR require the applicant to be of good moral character, including applicants for a license to practice:

- Boxing, kick boxing and mixed martial arts issued by the Florida Athletic Commission;³²
- Construction contracting issued by the Construction Industry Licensing Board;³³
- Electrical contracting issued by the Electrical Contractors' Board.³⁴
- Athlete agents issued by the DBPR;³⁵
- Building code administrators and inspectors issued by the Florida Building Code Administrators and Inspectors Board;³⁶
- Certified public Accountants issued by the Board of Accountancy;³⁷
- Engineers issued by the Board of Professional Engineers;³⁸
- Real estate brokers and agents issued by the Florida Real Estate Commission; and³⁹
- Mold-related services issued by the DBPR.⁴⁰

License Qualifications Based on Criminal History Related to the Profession

Many professional practice acts do not require the applicant to be of good moral character but permit a license application to be denied if the applicant's criminal history directly relates to, or relates to, the practice of the profession. For example, the license qualifications for the following professions require that the applicant not have a criminal history directly related, or simply related, to the practice of the profession:

- Architecture issued by the Board of Architecture and Interior Design;⁴¹
- Asbestos contracting and consulting issued by the DBPR;⁴²

³¹ Section 455.213(4), F.S.

³² Section 548.071(3), F.S., provides a basis for the Florida Athletic Commission to disqualify for a license any person who has been convicted of, has pleaded guilty to, has entered a plea of nolo contendere to, or has been found guilty of a crime involving moral turpitude in any jurisdiction within 10 years preceding the suspension or revocation.

³³ Section 489.111(2)(b) and (3), F.S., provides that the Construction Industry Licensing Board may refuse to certify an applicant for failure to satisfy the requirement of good moral character if there is a substantial connection between the lack of good moral character and the professional responsibility of the certified contractor; and the lack of good moral character is supported by clear and convincing evidence. The board may deny a license application if the applicant's criminal history directly relates to the practice of the profession.

³⁴ Section 489.511(3)(a), F.S., defines good moral character as a history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation and specifies that the Electrical Contractors' Licensing Board may refuse to certify an applicant for failure to satisfy the requirement of good moral character if certain requirements are met. The board may deny a license application if the applicant's criminal history directly relates to the practice of the profession.

³⁵ Section 468.453(2)(b), F.S.

³⁶ Section 468.609(3)(b), F.S., also permits a license application to be denied if the applicant's criminal history directly relates to the practice of the profession.

³⁷ Section 473.308(5) and (6), F.S., also permits a license application to be denied if the applicant's criminal history directly relates to the practice of the profession.

³⁸ Section 471.013(2)(a), F.S.

³⁹ Section 475.227(1)(c), F.S.

⁴⁰ Section 468.8414(3), F.S.

⁴¹ Section 481.225(1)(d), F.S.

⁴² Section 469.009(1)(g), F.S.

- Auctioneering issued by the Florida Board of Auctioneers;⁴³
- Barbering issued by the Barbers' Board;⁴⁴
- Community association management issued by the Regulatory Council of Community Association Managers;⁴⁵
- Professional geology issued by the Board of Professional Geologists;⁴⁶
- Home inspection issued by the DBPR;⁴⁷
- Landscape architecture issued by the Board of Landscape Architecture;⁴⁸ and
- Veterinary medicine issued by the Board of Veterinary Medicine.⁴⁹

Disciplinary Actions and License Qualifications based on Section 455.227(1)(c), F.S.

Section 455.227(1)(c), F.S., authorizes a board, or the DBPR if there is no board for the profession, to take disciplinary action against a licensee if the person is convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession. This basis for discipline includes a criminal history that occurred prior to obtaining a license.⁵⁰

Disciplinary action includes refusal to certify, or to certify with restrictions, an application for a license and suspension or permanent revocation of a license.⁵¹

Several professions regulated by the DBPR, or a board within the DBPR, rely on the grounds for disciplinary action in s. 455.227(1)(c), F.S., as a basis for denial or grant of a license. In some professional practice acts, a license disqualification based on s. 455.227(1)(c), F.S., may be a basis grounds for a license denial in addition to a good moral character requirement or a specific criminal history disqualifier. The practice act for following professional licenses within the DBPR cross reference the grounds for denial of a license in s. 455.227(1)(c), F.S.:

- Barbers;⁵²
- Engineers issued by the Board of Professional Engineers;⁵³
- Professional geologists;⁵⁴
- Home inspectors;⁵⁵
- Mold-related service providers; and⁵⁶
- Real estate brokers and agents.⁵⁷

⁴³ Section 468.389(1)(l), F.S.

⁴⁴ Section 476.144(6)(a)2.b., F.S., provides that the qualifications for a barber license include having no disciplinary history related to barbering for five years.

⁴⁵ Section 468.436(2)(b), F.S.

⁴⁶ Section 492.113(1)(d), F.S.

⁴⁷ Section 468.832(1)(d), F.S.

⁴⁸ Section 481.325(1)(d), F.S.

⁴⁹ Sections 474.214(1)(c), (p) and (2), F.S., authorize the Board of Veterinary Medicine to deny a license application based on criminal history, including conviction on a charge of cruelty to animals.

⁵⁰ Section 455.227(2), F.S.

⁵¹ *Id.*

⁵² Section 476.204(1)(h), F.S.

⁵³ Section 471.033(1)(a), F.S.

⁵⁴ Section 492.113(1)(d), F.S.

⁵⁵ Section 468.832(1)(a), F.S.

⁵⁶ Section 468.842(1)(a), F.S.

⁵⁷ Section 475.25(1)(a), F.S.

Administrative Procedure Act

Chapter 120, F.S., the Administrative Procedure Act, provides uniform procedures for state agencies, including the conduct of rulemaking, implementing disciplinary actions, and the granting and denial of license applications.

Section 120.60, F.S., provides the process for the granting or denial of license applications. Upon receipt of a license application, an agency must examine the application and, within 30 days after such receipt, notify the applicant of any apparent errors or omissions and request any additional information the agency is permitted by law to require. An agency may not deny a license because of an applicant's failure to correct an error or omission or to supply additional information unless the agency has timely notified the applicant within this 30-day period. A license application is complete upon receipt by the agency of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired.

An agency must approve or deny a license application within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law. The 90-day time period is tolled by the initiation of a proceeding under ss. 120.569 and 120.57, F.S.⁵⁸ Any application for a license which is not approved or denied within the 90-day or shorter time period, within 15 days after conclusion of a public hearing held on the application, or within 45 days after a recommended order is submitted to the agency and the parties, whichever action and timeframe is latest and applicable, is considered approved unless the recommended order recommends that the agency deny the license.

Expunction and Sealing of Criminal History Records

Sections 943.045 through 943.0595, F.S., set forth the processes for multiple ways in which to seal or expunge (destroy) a criminal history record. A criminal history record is "any nonjudicial record maintained by a criminal justice agency containing criminal history information."⁵⁹ Unless sealed or expunged, a criminal history record of an adult is generally accessible to the public. And the term "record" refers not to any single document, but instead to all documents or other records of a particular arrest or incident.⁶⁰

"Expunction of a criminal history record" means:

...the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order, except that criminal history records in the custody of the department must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for

⁵⁸ Section 120.569 F.S., provides the administrative process for all proceedings in which the substantial interests of a party are determined by an agency, unless the parties are proceeding under the mediation process in s. 120.573, F.S., or the summary hearing process in s. 120.574, F.S. Section 120.57, F.S., provides additional procedures for matters involving disputed issues of material fact before an administrative law judge assigned by the Division of Administrative Hearings.

⁵⁹ Section 943.0045(6), F.S.

⁶⁰ See s. 943.045(17), F.S.

sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction.⁶¹

“Sealing of a criminal history record” means:

...the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein.⁶²

Eligibility for Court Ordered Sealing and Expunction

The processes for obtaining a court order to seal or expunge a criminal history record involve several similar steps. A person seeking the expunction or the sealing of a record must obtain a certificate of eligibility from the FDLE, and file a petition with the court for an order to seal or expunge his or her criminal history record.⁶³

To successfully complete this process and receive a court order, a person must meet certain eligibility requirements. The person is eligible to petition a court for a court-ordered expunction or sealing of a criminal record when:

- The criminal history record is not ineligible for court-ordered expunction under s. 943.0584, F.S, which includes an extensive list of crimes such as terrorism, murder, and sexual battery crimes;⁶⁴
- The person has never, as of the date the application for a certificate of eligibility is filed, been adjudicated guilty in this state of a criminal offense or been adjudicated delinquent in this state for committing any felony or any of the specified misdemeanors involving violence, firearms, or neglect of children, unless the record of such adjudication of delinquency has been expunged pursuant to s. 943.0515, F.S.;⁶⁵
- The person has not been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge or seal pertains;⁶⁶
- The person is no longer under court supervision for the arrest or alleged criminal activity to which the petition pertains;⁶⁷ or
- The person has never secured a prior sealing or expunction of a criminal history record, unless the expunction sought is of a criminal history record previously sealed for 10 years pursuant to s. 943.0585(2)(h), F.S.⁶⁸

Court-Ordered Sealing

When a criminal history record is sealed, it is preserved so that it is secure and inaccessible to any person who does not have a legal right to access the record or the information contained

⁶¹ Section 943.045(16), F.S.

⁶² Section 943.045(19), F.S.

⁶³ See ss. 943.0585(2)-(3), and 943.059, F.S.

⁶⁴ See ss. 943.0585(1)(c), and 943.059(1), F.S.

⁶⁵ See ss. 943.0585(1)(d), and 943.059(1), F.S.

⁶⁶ Sections 943.0585(1)(e), and 943.059(1), F.S.

⁶⁷ Sections 943.0585(1)(f), and 943.059(1), F.S.

⁶⁸ Sections 943.0585(2)(g), and 943.059(1), F.S.

within the record.⁶⁹ A court may order a criminal history record sealed,⁷⁰ rendering it confidential and exempt from Florida's public records laws.⁷¹ Only the following entities may access a sealed criminal history record:

- The subject of the record;
- His or her attorney;
- Criminal justice agencies for criminal justice purposes;
- Judges in the state courts system for assisting in their case-related decision-making responsibilities; and
- Certain enumerated entities⁷² for licensing, access authorization, and employment purposes.⁷³

To seal a record, a person must first apply to the Florida Department of Law Enforcement (FDLE) for a certificate of eligibility, which the FDLE must issue to a person who:

- Has submitted a certified copy of the charge disposition he or she seeks to seal;
- Is not seeking to seal a criminal history record relating to a violation of certain enumerated offenses;
- Meets the criteria for eligibility for a court-ordered sealing as described above.
- Remits a \$75 processing fee to the FDLE, unless such fee is waived.⁷⁴

Upon receiving a certificate of eligibility from the FDLE, a person must petition the court to seal the record.⁷⁵ A complete petition contains both a valid certificate of eligibility, issued within the previous 12 months, and a sworn statement from the petitioner attesting to his or her eligibility.⁷⁶ It is solely within the court's discretion to grant or deny a petition to seal.⁷⁷

There is no statutory right to a court-ordered sealing and any request for sealing of a criminal history record may be denied at the sole discretion of the court.⁷⁸

If the court grants a petition to seal, the clerk of the court then certifies copies of the order to the appropriate state attorney or the statewide prosecutor, the arresting agency, and any other agency that has received the criminal history record from the court. The arresting agency must provide the sealing order to any agencies that received the criminal history record information from the arresting agency. The FDLE must provide the order to the Federal Bureau of Investigation.⁷⁹

⁶⁹ Section 943.045(19), F.S.

⁷⁰ Section 943.059, F.S.

⁷¹ Sections 943.059(6) and 119.07(1), F.S.; Art. I, s. 24(a), Fla. Const.

⁷² Section 943.059(6)(b), F.S., provides that enumerated entities include criminal justice agencies, The Florida Bar, the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, the Department of Juvenile Justice, the Department of Education, a district school board, a university laboratory school, a charter school, a private or parochial school, a local governmental entity that licenses child care facilities, the Division of Insurance Agent and Agency Services within the Department of Financial Services, and the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services.

⁷³ Sections 943.059(6)(a), F.S.

⁷⁴ Section 943.059(2), F.S.

⁷⁵ Section 943.059(3), F.S.

⁷⁶ Section 943.059(2)(b), F.S.

⁷⁷ Section 943.059, F.S.

⁷⁸ Section 943.059(4)(e), F.S.

⁷⁹ Section 943.059(5)(b), F.S.

A person who has his or her criminal history record sealed may lawfully deny or fail to acknowledge arrests relating to the records that were sealed. However, there are several exceptions for which a person must disclose this information, including when a person is applying for certain state employment positions, seeking certain professional licenses, purchasing a firearm, applying for a concealed weapons permit, seeking expunction, or if the subject is a defendant in a criminal prosecution.⁸⁰

Automatic Sealing of Criminal History Record

The FDLE must automatically seal a criminal history record that does not result from an indictment, information, or other charging document for a forcible felony as defined in s. 776.08, F.S.,⁸¹ or for an offense enumerated in s. 943.0435(1)(h)1.a.(I), F.S.,⁸² if:

- An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record;
- An indictment, information, or other charging document was filed in the case giving rise to the criminal history record, but was dismissed or nolle prosequi by the state attorney or statewide prosecutor or was dismissed by a court of competent jurisdiction. However, a person is not eligible for automatic sealing under this section if the dismissal was pursuant to s. 916.145, F.S., or s. 985.19, F.S.;⁸³
- A not guilty verdict was rendered by a judge or jury. However, a person is not eligible for automatic sealing under this section if the defendant was found not guilty by reason of insanity; or
- A judgment of acquittal was rendered by a judge.

The clerk of court must transmit a certified copy of the disposition of the criminal history record to the FDLE, which must seal the record. The automatic sealing of such records does not require sealing by the court or other criminal justice agencies, or that such record be surrendered to the court, and such record must continue to be maintained by the department and other criminal justice agencies.⁸⁴

III. Effect of Proposed Changes:

DBPR Licensing and Criminal Background

CS/SB 1302 revises the process by which DBPR or a regulatory board may consider the criminal background of license applicants. The process for considering the criminal background of a license applicant applies to all professions licensed by a regulatory board within the DBPR, or the DBPR if there is no board.

⁸⁰ Section 943.059(6)(b), F.S.

⁸¹ See *supra* n. 24.

⁸² Section 943.0435(1)(h)1.a.(I), F.S., defines the term “sexual offender” as a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in this provision in Florida or similar offenses in another jurisdiction.

⁸³ Section 916.145, F.S., relates to the dismissal of charges for certain crimes due to the mental illness of a defendant. Section 985.19, F.S., relates to the stay of juvenile delinquency proceedings due to the incompetency of the child named in the juvenile delinquency petition to proceed with a hearing.

⁸⁴ Section 943.0595, F.S.

The bill amends s. 455.213(3), F.S., to prohibit DBPR and its regulatory boards from inquiring into, or considering the conviction history of, an applicant for license until the applicant is determined to be otherwise qualified for licensure.

The bill also amends s. s. 455.213(3), F.S., to repeal the prohibition against denial of an application on the basis of a conviction, or any other adjudication, for a crime more than five years before the date of application.

Under the bill, the following criminal background information may not be used, distributed, or disseminated by the DBPR, its boards, or its agents in connection with a license application:

- An arrest without a valid conviction;
- A conviction that has been sealed, dismissed, or expunged;
- Misdemeanor convictions without incarceration;⁸⁵ and
- Noncriminal infractions.

The bill also repeals the provision authorizing a board to consider the criminal history of an applicant for licensure if the criminal history has been found to relate to good moral character. However, many of the practice acts for professions regulated by the DBPR require the license applicant to be of good moral character.

The bill provides several factors for a board to consider when determining if the criminal history of an applicant directly relates to the practice of the applicable profession for which the license is sought or held. The bill does not require a board to consider these factors when reviewing a criminal history for a misdemeanor with incarceration. In determining if the applicant's criminal history directly relates to the practice of the applicable profession for which the license is sought or held, the bill requires the applicable board to consider:

- The nature and seriousness of the conviction;
- Whether the conviction directly relates to the practice of the applicable profession for which the license is sought or held;
- Whether the duties and responsibilities of the profession provide the opportunity for the same or a similar offense to occur;
- Whether circumstances leading to the offense for which the person was convicted will recur in the profession;
- The age of the person at the time the felony was committed;
- The length of time since the conviction;
- All circumstances relative to the felony, including mitigating circumstances or social conditions surrounding the commission of the felony; and
- Evidence of mitigation or rehabilitation and the applicant's current ability to practice the profession competently in accordance with the actual practice of the profession.

⁸⁵ There are two classes of misdemeanors in Florida. Both classes may result in a period of imprisonment, i.e., incarceration . Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500. Section 775.082, F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S. provides that a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

If the DBPR or a board intends to deny a license application solely or in part on the basis of the applicant's prior felony conviction, it must notify the applicant in writing of the following before making a final decision:

- Identify the reasons for the potential denial;
- Provide a copy of any criminal history record; and
- Provide examples of evidence of mitigation or rehabilitation and the current ability to practice the profession competently in accordance with the actual practice of the profession which the applicant may voluntarily provide.

The bill provides that an applicant who has been convicted of an offense that directly relates to the practice of the profession for which a license is sought may not be denied the license if he or she can show evidence of mitigation or rehabilitation and the current ability to practice the profession competently in accordance with the actual practice of the profession.

Under the bill, the license applicant has 10 business days after issuance of the DBPR or board's written notice to respond with any information, including challenging the accuracy of the information and submitting evidence of mitigation or rehabilitation and his or her current ability to practice the profession competently in accordance with the actual practice of the profession.

The bill provides that the applicant's evidence of mitigation or rehabilitation and the applicant's current ability to practice the profession competently in accordance with the actual practice of the profession may be established by:

- Proof of compliance with the terms and conditions of probation or parole; or
- Other evidence, including, but not limited to, letters of reference or program or education certificates.

If an applicable board denies an application for a license solely or in part on the basis of the applicant's prior felony conviction, the applicable board must notify the applicant in writing of the:

- Final denial;⁸⁶and
- Appeal process.⁸⁷

Court-Ordered Sealing of Criminal History Records

The bill creates subparagraph (f) of s. 943.059(1), F.S., to require a court to grant a petition for the sealing of a criminal history record if a criminal history record has been automatically sealed pursuant to s. 943.0595, F.S., and the subject of the sealed record presents a certificate of sealing issued by the FDLE. The court must grant the petition for the sealing of a criminal history record even if the person has previously been adjudicated guilty of a criminal offense listed in

⁸⁶ Section 120.60(3), F.S., requires agencies to give license applicants written notice, personally or by mail, that the agency intends to grant or deny, or has granted or denied, the application for license. The notice must state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act. Unless waived, the agency must deliver or mail to each party's attorney of record and to each person who has made a written request for notice of agency action. The notice must inform the recipient of the basis for the agency decision, inform the recipient of any administrative hearing pursuant to ss. 120.569 and 120.57, F.S., or judicial review pursuant to s. 120.68, F.S., which may be available, indicate the procedure that must be followed, and state the applicable time limits.

⁸⁷ *Id.*

s. 943.059(1)(b), F.S., or the person has previously secured a sealing or expunction of a criminal record for one of the offenses listed in s. 943.059(1)(e), F.S., which would otherwise make the offense ineligible for sealing or expunction.

The bill also amends s. 943.059(2), F.S., to revise the requirements for the FLDE-issued certificate of eligibility to have a criminal record sealed by the court. Under the bill, the FDLE must issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record that has been sealed by the FDLE pursuant to the automatic sealing of criminal history provisions in s. 943.0595, F.S. The eligibility certificate must indicate that the record has been sealed by the FDLE and is only valid for court-ordered sealing under s. 943.059(1)(f), F.S., of a record already automatically sealed pursuant to s. 943.0595, F.S. This provision applies even if the person seeking the certificate of eligibility does not satisfy the eligibility requirements for a court-ordered sealing, which includes payment of a \$75 processing fee.

Effective Date

The bill takes effect 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:

None.

C. Government Sector Impact:

The bill also amends s. 943.059(2), F.S., to require the FDLE to issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record that has been sealed by the FDLE pursuant to the automatic sealing of criminal history provisions in s. 943.0595, F.S. The bill exempts the person seeking an eligibility certificate from the payment of the \$75 processing fee. The FDLE anticipates a fiscal impact of \$4,288,960 with \$3,869,260 recurring for 60 additional full time employees (FTEs) to implement the changes in the bill.⁸⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 120.60(1), F.S., requires an agency to approve or deny a license application within 60 days of receipt of a completed application. The bill requires boards within the DBPR to give an applicant who has been convicted of an offense that directly relates to the practice of the profession for which a license is sought an opportunity to show evidence of mitigation or rehabilitation and the current ability to practice the profession competently in accordance with the actual practice of the profession. Under the bill, the license applicant has 10 business days after issuance of the notice to respond with any information, including challenging the accuracy of the information and submitting evidence of mitigation or rehabilitation and his or her current ability to practice the profession competently in accordance with the actual practice of the profession. This process does not toll the 90-day period in s. 120.60(1), F.S., during which an agency must approve or deny a completed license application.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 455.213 and 943.059.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Regulated Industries on January 18, 2022:**

The committee substitute:

- Extends the requirements in the bill to license applications submitted to the Department of Business and Professional Regulation (DBPR). The effect of the bill is limited to boards within the DBPR. Some professions are licensed by DBPR and not boards.

⁸⁸ Florida Department of Law Enforcement, *2022 Agency Legislative Bill Analysis for SB 1302* (Jan. 13, 2022) (on file with the Senate Committee on Regulated Industries).

- Clarifies that the DBPR or its boards or agents may not use, distribute, or disseminate the specified criminal history information by removing an incorrect reference to “political subdivisions.”
- Expands the license review process in the bill to include all of an applicant’s criminal history that is not exempted by the bill. The bill limited the review process to applicants with a felony criminal history.
- Removes from the bill the requirement that the DBPR or board, when it denies a license application solely or in part on the basis of the applicant’s prior criminal record, give the applicant written notice of the applicant’s eligibility for other licenses or professions and the earliest date the applicant may reapply for a license.

B. Amendments:

None.



568010

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete lines 46 - 162

and insert:

(3) (a) Notwithstanding any other law, the applicable board, or the department if there is no board, shall use the process in this subsection for review of an applicant's criminal record to determine his or her eligibility for licensure. ~~as:~~

(b) The applicable board, or the department if there is no board, may not inquire into or consider the conviction history



568010

11 of an applicant for licensure until the applicant is determined
12 to be otherwise qualified for licensure.

- 13 ~~1. A barber under chapter 476;~~
14 ~~2. A cosmetologist or cosmetology specialist under chapter~~
15 ~~477;~~
16 ~~3. Any of the following construction professions under~~
17 ~~chapter 489:~~
18 ~~a. Air-conditioning contractor;~~
19 ~~b. Electrical contractor;~~
20 ~~c. Mechanical contractor;~~
21 ~~d. Plumbing contractor;~~
22 ~~e. Pollutant storage systems contractor;~~
23 ~~f. Roofing contractor;~~
24 ~~g. Sheet metal contractor;~~
25 ~~h. Solar contractor;~~
26 ~~i. Swimming pool and spa contractor;~~
27 ~~j. Underground utility and excavation contractor; or~~
28 ~~k. Other specialty contractors; or~~
29 ~~4. Any other profession for which the department issues a~~
30 ~~license, provided the profession is offered to inmates in any~~
31 ~~correctional institution or correctional facility as vocational~~
32 ~~training or through an industry certification program.~~

33 (c)1.(b)1. A conviction, or any other adjudication, for a
34 crime ~~more than 5 years~~ before the date the application is
35 received by the applicable board, or the department if there is
36 no board, may not be grounds for denial of a license ~~specified~~
37 ~~in paragraph (a).~~ For purposes of this subsection ~~paragraph,~~ the
38 term "conviction" means a determination of guilt that is the
39 result of a plea or trial, regardless of whether adjudication is



568010

40 withheld. This subparagraph ~~paragraph~~ does not limit the
41 applicable board, or the department if there is no board, from
42 considering an applicant's criminal history that includes a
43 crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but
44 only if such criminal history has been found to directly relate
45 to the practice of the applicable profession.

46 2. Notwithstanding subparagraph 1., the following criminal
47 history may not be used, distributed, or disseminated by the
48 department or a board or its agents in connection with an
49 application for licensure:

50 a. An arrest without a valid conviction.

51 b. Convictions that have been sealed, dismissed, or
52 expunged.

53 c. Misdemeanor convictions without incarceration.

54 d. Noncriminal infractions.

55 (g) The applicable board, or the department if there is no
56 board, may not deny an application for a license solely or in
57 part on the basis of an applicant's criminal history unless the
58 criminal history directly relates to the practice of the
59 applicable profession for which the license is sought or held.

60 1. In determining if a criminal history directly relates to
61 the practice of the applicable profession for which the license
62 is sought or held, the applicable board, or the department if
63 there is no board, shall consider:

64 a. The nature and seriousness of the conviction.

65 b. Whether the conviction directly relates to the practice
66 of the applicable profession for which the license is sought or
67 held.

68 c. Whether the duties and responsibilities of the



568010

69 profession provide the opportunity for the same or a similar
70 offense to occur.

71 d. Whether circumstances leading to the offense for which
72 the person was convicted will recur in the profession.

73 e. The age of the person at the time the felony was
74 committed.

75 f. The length of time since the conviction.

76 g. All circumstances relative to the felony, including
77 mitigating circumstances or social conditions surrounding the
78 commission of the felony.

79 h. Evidence of mitigation or rehabilitation and the
80 applicant's current ability to practice the profession
81 competently in accordance with the actual practice of the
82 profession.

83 2. If the applicable board, or the department if there is
84 no board, intends to deny an application for a license solely or
85 in part on the basis of the applicant's criminal history, it
86 must notify the applicant in writing of its intent before making
87 a final decision. Such notice must do all of the following:

88 a. Identify the reasons for the potential denial.

89 b. Provide a copy of any criminal history record.

90 c. Provide examples of evidence of mitigation or
91 rehabilitation and the current ability to practice the
92 profession competently in accordance with the actual practice of
93 the profession, which the applicant may voluntarily provide.

94 (I) An applicant who has been convicted of an offense that
95 directly relates to the practice of the applicable profession
96 for which a license is sought may not be denied the license if
97 he or she can show evidence of mitigation or rehabilitation and



568010

98 the current ability to practice the profession competently in
99 accordance with the actual practice of the profession.

100 (II) The applicant shall have 10 business days after
101 issuance of the notice to respond with any information,
102 including challenging the accuracy of the information and
103 submitting evidence of mitigation or rehabilitation and his or
104 her current ability to practice the profession competently in
105 accordance with the actual practice of the profession.

106 (III) Evidence of mitigation or rehabilitation and the
107 applicant's current ability to practice the profession
108 competently in accordance with the actual practice of the
109 profession may be established by:

110 (A) Proof of compliance with the terms and conditions of
111 probation or parole; or

112 (B) Other evidence, including, but not limited to, letters
113 of reference or program or education certificates.

114 (IV) If an applicable board, or the department if there is
115 no board, denies an application for a license solely or in part
116 on the basis of the applicant's criminal history, it must notify
117 the applicant in writing of all of the following:

118 (A) Final denial.

119 (B) Appeal process.

120 ~~2. The applicable board may consider the criminal history~~
121 ~~of an applicant for licensure under subparagraph (a)3. if such~~
122 ~~criminal history has been found to relate to good moral~~
123 ~~character.~~

124

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

126 And the title is amended as follows:



568010

127 Delete lines 4 - 28
128 and insert:
129 board, or the Department of Business and Professional
130 Regulation if there is no such board, from inquiring
131 into or considering the conviction history of an
132 applicant for licensure until it is determined that
133 the applicant is otherwise qualified; revising
134 professions for licensure eligibility; removing a
135 provision relating to licensure of other professions
136 offered to certain inmates under certain
137 circumstances; prohibiting the use of a conviction, or
138 other adjudication, for a crime before the date an
139 application is received as being grounds for denial of
140 a license; authorizing an applicable board, or the
141 department if there is no board, to consider an
142 applicant's criminal history only if such criminal
143 history directly relates to the practice of the
144 applicable profession; prohibiting the use,
145 distribution, and dissemination of specified criminal
146 records; removing a provision authorizing an
147 applicable board to consider an applicant's criminal
148 history if the history has been found to relate to
149 good moral character; prohibiting the applicable
150 board, or the department if there is no board, from
151 denying an application for licensure of a person based
152 solely or in part on an applicant's criminal history;
153 providing an exception; providing requirements for
154 determining if such criminal history directly relates
155 to the practice of the applicable profession;



568010

156
157

providing requirements if the applicable board, or the
department if there is no board, intends

By Senator Burgess

20-00625A-22

20221302__

1 A bill to be entitled
 2 An act relating to criminal history information;
 3 amending s. 455.213, F.S.; prohibiting an applicable
 4 board from inquiring into, or considering the
 5 conviction history of, an applicant for licensure
 6 until it is determined that the applicant is otherwise
 7 qualified; revising professions for licensure
 8 eligibility; removing a provision relating to
 9 licensure of other professions offered to certain
 10 inmates under certain circumstances; prohibiting the
 11 use of a conviction, or other adjudication, for a
 12 crime before the date an application is received as
 13 being grounds for denial of a license; authorizing an
 14 applicable board to consider an applicant's criminal
 15 history that includes certain crimes only if such
 16 criminal history directly relates to the practice of
 17 the applicable profession; prohibiting the use,
 18 distribution, and dissemination of specified criminal
 19 records; removing a provision authorizing an
 20 applicable board to consider an applicant's criminal
 21 history if the history has been found to relate to
 22 good moral character; prohibiting the applicable board
 23 from denying an application for license of a person
 24 based solely or in part on a prior felony conviction;
 25 providing an exception; providing requirements for
 26 determining if such felony conviction directly relates
 27 to the practice of the applicable profession;
 28 providing requirements if the applicable board intends
 29 to deny an application for license based solely or in

Page 1 of 7

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

20-00625A-22

20221302__

30 part on the applicant's prior felony conviction;
 31 amending s. 943.059, F.S.; providing requirements for
 32 court-ordered sealing of certain records that were
 33 automatically sealed by the Department of Law
 34 Enforcement under specified provisions; providing an
 35 effective date.

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

38
 39 Section 1. Present paragraphs (b) through (e) of subsection
 40 (3) of section 455.213, Florida Statutes, are redesignated as
 41 paragraphs (c) through (f), respectively, a new paragraph (b)
 42 and paragraph (g) are added to that subsection, and paragraph
 43 (a) and present paragraph (b) of that subsection are amended, to
 44 read:

45 455.213 General licensing provisions.—

46 (3) (a) Notwithstanding any other law, the applicable board
 47 shall use the process in this subsection for review of an
 48 applicant's criminal record to determine his or her eligibility
 49 for licensure. ~~as+~~

50 (b) The applicable board may not inquire into, or consider
 51 the conviction history of, an applicant for licensure until the
 52 applicant is determined to be otherwise qualified for licensure.

53 ~~1. A barber under chapter 476,~~

54 ~~2. A cosmetologist or cosmetology specialist under chapter~~
 55 ~~477,~~

56 ~~3. Any of the following construction professions under~~
 57 ~~chapter 489:~~

58 ~~a. Air-conditioning contractor;~~

Page 2 of 7

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

20-00625A-22

20221302__

59 ~~b. Electrical contractor;~~
 60 ~~c. Mechanical contractor;~~
 61 ~~d. Plumbing contractor;~~
 62 ~~e. Pollutant storage systems contractor;~~
 63 ~~f. Roofing contractor;~~
 64 ~~g. Sheet metal contractor;~~
 65 ~~h. Solar contractor;~~
 66 ~~i. Swimming pool and spa contractor;~~
 67 ~~j. Underground utility and excavation contractor; or~~
 68 ~~k. Other specialty contractors; or~~
 69 ~~4. Any other profession for which the department issues a~~
 70 ~~license, provided the profession is offered to inmates in any~~
 71 ~~correctional institution or correctional facility as vocational~~
 72 ~~training or through an industry certification program.~~
 73 (c)(b)1. A conviction, or any other adjudication, for a
 74 crime more than 5 years before the date the application is
 75 received by the applicable board may not be grounds for denial
 76 of a license specified in paragraph (a). For purposes of this
 77 paragraph, the term "conviction" means a determination of guilt
 78 that is the result of a plea or trial, regardless of whether
 79 adjudication is withheld. This subparagraph paragraph does not
 80 limit the applicable board from considering an applicant's
 81 criminal history that includes a crime listed in s.
 82 775.21(4)(a)1. or s. 776.08 at any time, but only if such
 83 criminal history has been found to directly relate to the
 84 practice of the applicable profession.
 85 2. Notwithstanding subparagraph 1., the following criminal
 86 history may not be used, distributed, or disseminated by the
 87 state, its agents, or political subdivisions in connection with

Page 3 of 7

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20-00625A-22

20221302__

88 an application for licensure:
 89 a. An arrest without a valid conviction.
 90 b. Convictions that have been sealed, dismissed, or
 91 expunged.
 92 c. Misdemeanor convictions without incarceration.
 93 d. Noncriminal infractions.
 94 ~~2. The applicable board may consider the criminal history~~
 95 ~~of an applicant for licensure under subparagraph (a)3. if such~~
 96 ~~criminal history has been found to relate to good moral~~
 97 ~~character.~~
 98 (g) The applicable board may not deny an application for a
 99 license solely or in part on the basis of an applicant's prior
 100 felony conviction unless the conviction directly relates to the
 101 practice of the applicable profession for which the license is
 102 sought or held.
 103 1. In determining if a felony conviction directly relates
 104 to the practice of the applicable profession for which the
 105 license is sought or held, the applicable board shall consider:
 106 a. The nature and seriousness of the conviction.
 107 b. Whether the conviction directly relates to the practice
 108 of the applicable profession for which the license is sought or
 109 held.
 110 c. Whether the duties and responsibilities of the
 111 profession provide the opportunity for the same or a similar
 112 offense to occur.
 113 d. Whether circumstances leading to the offense for which
 114 the person was convicted will recur in the profession.
 115 e. The age of the person at the time the felony was
 116 committed.

Page 4 of 7

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20-00625A-22

20221302__

117 f. The length of time since the conviction.
 118 g. All circumstances relative to the felony, including
 119 mitigating circumstances or social conditions surrounding the
 120 commission of the felony.
 121 h. Evidence of mitigation or rehabilitation and the
 122 applicant's current ability to practice the profession
 123 competently in accordance with the actual practice of the
 124 profession.
 125 2. If the applicable board intends to deny an application
 126 for a license solely or in part on the basis of the applicant's
 127 prior felony conviction, the board must notify the applicant in
 128 writing of all of the following before making a final decision:
 129 a. Identify the reasons for the potential denial.
 130 b. Provide a copy of any criminal history record.
 131 c. Provide examples of evidence of mitigation or
 132 rehabilitation and the current ability to practice the
 133 profession competently in accordance with the actual practice of
 134 the profession which the applicant may voluntarily provide.
 135 (I) An applicant who has been convicted of an offense that
 136 directly relates to the practice of the applicable profession
 137 for which a license is sought may not be denied the license if
 138 he or she can show evidence of mitigation or rehabilitation and
 139 the current ability to practice the profession competently in
 140 accordance with the actual practice of the profession.
 141 (II) The applicant shall have 10 business days after
 142 issuance of the notice to respond with any information,
 143 including challenging the accuracy of the information and
 144 submitting evidence of mitigation or rehabilitation and his or
 145 her current ability to practice the profession competently in

Page 5 of 7

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20-00625A-22

20221302__

146 accordance with the actual practice of the profession.
 147 (III) Evidence of mitigation or rehabilitation and the
 148 applicant's current ability to practice the profession
 149 competently in accordance with the actual practice of the
 150 profession may be established by:
 151 (A) Proof of compliance with the terms and conditions of
 152 probation or parole; or
 153 (B) Other evidence, including, but not limited to, letters
 154 of reference or program or education certificates.
 155 (IV) If an applicable board denies an application for a
 156 license solely or in part on the basis of the applicant's prior
 157 felony conviction, the applicable board must notify the
 158 applicant in writing of all of the following:
 159 (A) Final denial.
 160 (B) Appeal process.
 161 (C) Eligibility for other licenses or professions.
 162 (D) Earliest date the applicant may reapply for a license.
 163 Section 2. Present paragraph (b) of subsection (2) of
 164 section 943.059, Florida Statutes, is redesignated as paragraph
 165 (c), and paragraph (f) is added to subsection (1) and a new
 166 paragraph (b) is added to subsection (2) of that section, to
 167 read:
 168 943.059 Court-ordered sealing of criminal history records.—
 169 (1) ELIGIBILITY.—A person is eligible to petition a court
 170 to seal a criminal history record when:
 171 (f) Notwithstanding paragraphs (b) and (e), if a criminal
 172 history record has been automatically sealed pursuant to s.
 173 943.0595 and the subject of the sealed record presents a record
 174 of the sealing by the department described in paragraph (2) (b)

Page 6 of 7

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20-00625A-22

20221302__

175 to the court, the court shall grant the sealing of the criminal
176 history record.

177 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning the
178 court to seal a criminal history record, a person seeking to
179 seal a criminal history record must apply to the department for
180 a certificate of eligibility for sealing. The department shall
181 adopt rules relating to the application for and issuance of
182 certificates of eligibility for sealing.

183 (b) Notwithstanding paragraph (a), the department shall
184 also issue a certificate of eligibility for sealing to a person
185 who is the subject of a criminal history record that has been
186 sealed by the department pursuant to s. 943.0595. This
187 certificate must indicate that the record has been sealed by the
188 department and is only valid for court-ordered sealing under
189 paragraph (1) (f) of a record already sealed pursuant to s.
190 943.0595.

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



2022 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
BILL NUMBER:	SB 1302
BILL TITLE:	Criminal History Information
BILL SPONSOR:	Senator Burgess
EFFECTIVE DATE:	July 1, 2022

COMMITTEES OF REFERENCE
1) Regulated Industries
2) Criminal Justice
3) Rules
4)
5)

CURRENT COMMITTEE
Regulated Industries

SIMILAR BILLS	
BILL NUMBER:	87, 1118
SPONSOR:	Chambliss, Perry

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 13, 2022
LEAD AGENCY ANALYST:	Robin Sparkman
ADDITIONAL ANALYST(S):	Lucy Saunders, Ashley Black, Becky Bezemek
LEGAL ANALYST:	Jim Martin, Weston Petkovsek
FISCAL ANALYST:	Cynthia Barr

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Criminal History Information: Prohibiting an applicable board from inquiring into, or considering the conviction history of, an applicant for licensure until it is determined that the applicant is otherwise qualified; prohibiting the applicable board from denying an application for license of a person based solely or in part on a prior felony conviction; providing requirements for determining if such felony conviction directly relates to the practice of the applicable profession; providing requirements for court-ordered sealing of certain records that were automatically sealed by FDLE under specified provisions.

2. SUBSTANTIVE BILL ANALYSIS

- 1. PRESENT SITUATION:** Pursuant to s. 455.213, FS, the Florida Department of Business and Professional Regulation (DBPR) regulates the general licensing provisions for numerous professions, which includes a review of an applicant's fingerprint-based state and national criminal history record to determine their eligibility for licensure. A conviction, or any other adjudication, for a crime more than five years before the date of application is received by the applicable licensing board may not be grounds for denial of a license.

Currently, eligibility for relief granted under s. 943.0595, FS, is determined programmatically within the Computerized Criminal History (CCH) repository maintained at FDLE upon the receipt of a qualifying disposition on an eligible charge. Under current statute, relief granted under s. 943.0595, FS, occurs only within the repository and the court or other criminal justice agencies are not required to seal the event. Currently, because the relief happens automatically within the repository, there is no application process or certificate of eligibility for relief granted under s. 943.0595, FS.

- 2. EFFECT OF THE BILL:** Amends s. 455.213, FS, to prohibit an applicable licensing board from inquiring into, or considering the conviction history of, an applicant for licensure until it is determined that the applicant is otherwise qualified. Prohibits the use of conviction, or other adjudication, for a crime before the date of application is received as being grounds for denial of a license. Also, the proposed bill provides requirements if the applicable board intends to deny an application for license solely or in part on the applicant's prior felony conviction, which includes dissemination of the criminal history record to the respective applicant.

Amends s. 943.059, FS, ordering FDLE to issue a certificate of eligibility to an individual who has a criminal history event that has been automatically sealed under s. 943.0595, FS. The bill also orders the court to grant an order to seal the criminal history record if relief is granted under s. 943.0595, FS, if the individual presents a record of the sealing under s. 943.0595.

- 3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y N**

If yes, explain:	<ul style="list-style-type: none"> Lines 180-182 allow the department to adopt rules to the application process. The current rule for applications for a certificate of eligibility for a seal under s. 943.059, FS, is 11C-7.007, FAC. Updates would need to be made or a new rule mimicking 11C-7.007, FS, would need to be created to outline the process for application submission. The department will need to create a new application for a certificate of eligibility for relief under s. 943.0595, FS.
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	11C-7.007, FAC

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

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

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

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

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

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

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

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

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

Revenues:	Currently, relief under s. 943.0595, FS, is granted automatically. Requiring the department to issue a certificate of eligibility would result in an application process. Assuming the department adopts the same application rules as outlined for relief under s. 943.059, FS, there would be a processing fee of \$75 per application. Based on 24,015 estimated new applications for processing, the department would collect approximately \$1.8 million in new fees. If there is no application fee applied, there no revenue would be generated.
Expenditures:	<ul style="list-style-type: none"> As of December 2021, CCH contains approximately 1,697,962 unique SIDs with 2,401,483 arrest events that have received relief under s. 943.0595, FS. Relief is granted per eligible event and does not have a limit to the number of times relief can be received.

	<ul style="list-style-type: none"> • Relief under s. 943.0595, FS, currently occurs programmatically upon receipt of a qualifying disposition on an eligible charge. The above totals are reflective of a snapshot in time. The number of arrest events for which relief has been granted changes every time a qualifying event is received. In addition, this only captures the eligible charges that are maintained at the repository. • Assuming certificates of eligibility are requested for one percent of the charges that have currently been granted relief under s. 943.0595, FS, the department would receive an additional 24,015 new applications for processing. • FDLE is requesting 16 FTE positions (one Operations and Management Consultant Manager, one Criminal Justice Information Consultant II, three Criminal Justice Information Consultant I, five Criminal Justice Information Analyst II and six Criminal Justice Information Analyst I) to process the new applications totaling \$1,098,241 (\$1,025,505 recurring). • Currently, the systems designed to receive, maintain and disseminate criminal history information do not have the capability to recognize and suppress arrests without a conviction, with an adjudication of dismissed or misdemeanor convictions that have no incarceration associated with them. As such, the work associated with reviewing, researching and redacting these charges from state and national criminal history results must be manual. • FDLE is requesting 44 FTE positions (40 Criminal Justice Information Analyst II (one for each licensing authority issued an ORI for background checks) and four Operations and Management Consultant Managers) to manually review each transaction response to identify and conduct necessary redactions to prevent dissemination of the events identified regarding licensure (lines 80-84) and then manually forward response to the licensing authority totaling \$3,043,779 (\$2,843,755 recurring). • FDLE is requesting \$145,00 in non-recurring funds to modify current IT systems (see Technology Impact). • FDLE Headquarters facility is at capacity and the department would be required to obtain new office space to accommodate additional FTE positions. Costs for obtaining that space have not been included in this analysis. <p>Total FDLE Fiscal: \$4,288,960 (\$3,869,260 recurring) and 60 FTE</p>
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

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

Revenues:	
Expenditures:	
Other:	

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

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	

What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	Programming for the issuance of a seal certificate to comply with the provisions of this bill will require changes to an existing system. Estimated IT work (analysis, design, programming and testing) will take 12 weeks to complete and total approximately \$147,000. Due to the time estimated to complete changes and other legislative required changes, FDLE is recommending that the effective date be amended to 10/31/2022.
--	--

FEDERAL IMPACT

1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	
--	--

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
--	--

ADDITIONAL COMMENTS

- The proposed legislation would essentially create a court order seal process that may be applied to multiple charges. Relief under s. 943.0595, FS, is currently an automatic process that occurs only within the repository. Courts, clerks, and other criminal justice agencies (such as the arresting agency and the booking agency) are not currently required to seal the event. Since the record is already sealed at the state level, the benefit of this bill is to cause the sealing of records at the local level.
- If an event has not received relief under s. 943.0595, FS, by the time of application due to a missing disposition or an inaccurate submission by the court, does that render the individual ineligible since the criteria for relief is that the event has already received relief under s. 943.0595, FS? Would it be incumbent on the Seal and Expunge unit to conduct research and subsequently update the record in order to cause the event to auto-seal and therefore be eligible?
- By requiring an application which would need to go through the administrative and financial intake process that an analyst would then need to review, potentially update the repository and issue a certificate of eligibility, this ceases to be automatic process.
- The bill proposes changes to the impact and process associated with relief under s. 943.0595, FS. However, the submitted bill proposes changes to the language in s. 943.059, FS. Unless changed, verbiage in 943.0595, FS, specifically notes that court or other criminal justice agencies are NOT required to seal charges at the local level.

- Lines 123-130, 142-143: As currently stated, if the applicable board intends to deny an individual's application for licensure based on prior felony conviction, the board must notify the applicant prior to final decision and provide a copy of the criminal history record. The applicant then has 10 business days for response, "including challenging the accuracy of the information". Is the intent for these individuals to conduct a Personal Review, as outlined in s. 943.056, FS? If so, there may be an increase to the workload of the Criminal History Record Maintenance section. The bill does not explicitly require that the applicant utilize the Review Challenge process as part of their response, nor does it require FDLE to abide by the 10-day response window if a Personal Review is utilized.
- Lines 155-160: If the applicable board does deny the application based on prior felony conviction, the applicant shall be notified of the appeal process. Is the intent to have applicants request a Personal Review from FDLE as part of the appeal? If so, the workload for the Criminal History Record Maintenance section may increase. This determination would be dependent on how the applicable board interprets which felonies are related to the license for which the applicant applies.
- Lines 180-182: Specify the department shall adopt rules for an application process. The current application process for relief under s. 943.059, FS, requires a \$75 processing fee. Clarification is needed as to whether or not the intention is for the department to collect the same processing fee for the new application type.

APPEARANCE RECORD

1302

1/18/22

Meeting Date

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name

Adam Basford

Phone

850 224 7123

Address

516 N Adams St

Email

abasford@aif.com

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

The Florida Senate

APPEARANCE RECORD

11/18

Meeting Date

1302

Bill Number or Topic

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

Regulated Industries
Committee

Amendment Barcode (if applicable)

Name Subhash Kateel, Alliance for Safety & Justice Phone 347 524 3374

Address 2847 Burwood ave Street Email

Orlando FL 32837
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1302

1/18/22

Meeting Date

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name Phillip Suderman

Phone

Address

Email

Street

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:

Americans for Prosperity

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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SB 1302

Bill Number or Topic

1/18/2022

Meeting Date

REG. INDUSTRIES

Committee

Amendment Barcode (if applicable)

Name

CHRISTIAN CAMARA

Phone

305-608-4300

Address

PO Box 122

Email

CHRISTIAN@CHAMBERCONSULTANTSFL.COM

Street

TALLAHASSEE FL

32303 32302

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:

INSTITUTE FOR JUSTICE

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)

1/18/22

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 1302

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name **Jorge Chamizo**

Phone **850-681-0024**

Address **108 S. Monroe Street**

Street

Email **jorge@flapartners.com**

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:

Opportunity Solutions Project

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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1/18/22

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 1302

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name **Jorge Chamizo**

Phone **850-681-0024**

Address **108 S. Monroe Street**

Street

Email **jorge@flapartners.com**

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Association of Criminal Defense Lawyers (FACDL)

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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11/18/22

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 1302

Bill Number or Topic

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

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name

N. Hines

Phone

786-363-1104

Address

4343 W. Flagler St

Email

Street

Miami

FL

Zip

City

State

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:

ACLU FL

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

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

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

S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 5, 2022

I respectfully request that **Senate Bill #1302**, relating to Criminal History Information, be placed on the:

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

A handwritten signature in blue ink that reads "Danny".

Senator Danny Burgess
Florida Senate, District 20

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By:

BILL: SPB 7036

INTRODUCER: Committee on Regulated Industries

SUBJECT: Lifeline Telecommunications Service

DATE: January 14, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sharon _____	Imhof _____	_____	RI Submitted as Comm. Bill/Fav

I. Summary:

SPB 7036 amends ss. 364.10 and 364.107, F.S., under the Lifeline program to conform to current federal regulations.

The bill clarifies that an eligible telecommunications carrier (ETC) must notify a Lifeline subscriber (subscriber) of impending termination of Lifeline service if there is reason to believe that the subscriber no longer qualifies for the service. It requires a subscriber to provide proof of continued eligibility for Lifeline service upon request of the ETC, the Federal Communications Commission (FCC) or its designee.

The bill removes obsolete provisions relating to income eligibility standards that are inconsistent with current FCC requirements. It removes references to state agencies no longer involved in the development of procedures for promoting Lifeline, leaving just the Public Service Commission (PSC) and the Department of Children and Families (DCF). The bill clarifies that the PSC and the DCF may exchange information with ETCs, and the FCC or its designee, in order to enroll eligible customers in Lifeline service. The bill requires any state agency that determines a person is eligible for Lifeline service to coordinate with the FCC or its designee to verify eligibility.

The bill amends s. 364.107, F.S, allowing state agencies to share information with the FCC or its designee to verify eligibility or auditing of a Lifeline Assistance Plan.

The bill is effective July 1, 2022.

II. Present Situation:

Lifeline Service

The Lifeline program has provided telecommunication services discounts to qualifying low-income consumers since 1985.¹ The initial goal was to ensure that all Americans could connect to jobs, family, and emergency services through phone service. Since then, that goal has expanded to include the provision of broadband Internet service.²

Under the program, qualifying consumers may receive a discount up to \$9.25 toward their monthly phone or broadband Internet bills through service providers that have been designated as ETCs. Consumers may choose to receive monthly wireless minutes and/or measured data service from designated wireless providers, instead of the credit.³

Lifeline is a federal program funded by the Universal Service Fund (USF).⁴ Its rules are established by the FCC, which designated the Universal Service Administrative Company (USAC), an independent not-for-profit corporation, as Lifeline's administrator.⁵ USAC is responsible for data collection and maintenance, support calculation, and disbursement for Lifeline.⁶

Consumers may qualify to participate in Lifeline through income-based eligibility standards, if their total household income is less than 135 percent of the Federal Poverty Guidelines, which are annually updated by the United States Department of Health and Human Services.⁷ Alternatively, consumers may qualify to participate in Lifeline through program-based eligibility if they are enrolled in any of the following:

- Supplemental Nutrition Assistance Program (SNAP);
- Medicaid;
- Federal Public Housing Assistance;
- Supplemental Security Income;
- Veterans or Survivors Pension Program; or
- Bureau of Indian Affairs Programs, including Tribal Temporary Assistance to Needy Families, Head Start Subsidy, and National School Lunch Program.⁸

¹ FCC, *Lifeline Program for Low-Income Consumers*, <https://www.fcc.gov/general/lifeline-program-low-income-consumers> (last visited Jan. 12, 2022).

² PSC, *2021 Florida Lifeline Assistance Report* (Dec. 2021), p. 3, available at: <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Telecommunication/LifelineReport/2021.pdf> (last visited Jan. 12, 2022).

³ *Id.*

⁴ The USF is both a fund and category of FCC programs and policies implementing the Universal Service principle that all Americans should have access to communications services. This principle is a cornerstone of the Communications Act of 1934 that established the FCC. See FCC, *Universal Service*, <https://www.fcc.gov/general/universal-service> (last visited Jan. 13, 2022).

⁵ PSC, *2021 Lifeline Report*, *supra* n. 2, at 3. See Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, *Poverty Guidelines for 2021*, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines> (last visited Jan. 13, 2022).

⁶ *Id.*

⁷ *Id.* at 4.

⁸ *Id.*

Lifeline in Florida

In Florida, the PSC has oversight of the program and is charged with designating telecommunications companies with ETC status, pursuant to 47 C.F.R. s. 54.201.⁹ ETCs must provide service to qualified residential subscribers, as defined in the ETC's published schedules.¹⁰ Each local exchange telecommunications company with more than one million access lines and which is designated as an ETC must, and any wireless service provider designated as an ETC may, upon filing a notice of election to do so with the PSC, provide Lifeline to any otherwise eligible customer or potential customer whose household income is 150 percent or less of the federal poverty guidelines for Lifeline.¹¹

The Office of Public Counsel (OPC)¹² certifies and maintains claims submitted by customers for Lifeline eligibility under the income test.¹³ Customers may also be eligible for Lifeline under the eligibility standards established by federal law based on participation in certain low-income assistance programs.¹⁴

Each state agency providing benefits to persons eligible for Lifeline service, must develop procedures to promote Lifeline participation in cooperation with the DCF, the Department of Education, the PSC, the OPC, and ETCs.¹⁵ These named agencies may exchange information with the appropriate ETC, including a person's name, date of birth, service address, and telephone number. This information is otherwise confidential and exempt from public disclosure, but for the limited purposes of determining eligibility and enrollment in the program.¹⁶

If a state agency determines that someone is eligible for Lifeline, that agency must immediately forward their information to the PSC for automatic enrollment with the appropriate ETC.¹⁷ The state agency must include an option for an eligible customer to choose not to subscribe to the Lifeline service.¹⁸

An ETC must notify a Lifeline subscriber of impending termination of Lifeline service if the ETC reasonably believes that the subscriber no longer qualifies for Lifeline service.¹⁹ Notification must be sent in a letter separate from the subscriber's bill.²⁰ A subscriber must be given 60 days from the termination letter to demonstrate continued eligibility.²¹

⁹ Section 364.10, F.S.; R. 25-4.0665, Fla. Admin. Code (Lifeline Assistance).

¹⁰ Section 364.10(1)(a), F.S.

¹¹ Section 364.10(2)(a), F.S. There have not been any wireline carriers in Florida with more than a million access lines since 2016. An ETC may provide the Lifeline discount to qualifying customers using the expanded 150 percent guideline, however, this would not qualify for reimbursement from USAC under the 135 percent guideline.

¹² Under s. 350.0611, F.S., the Office of Public Counsel provides representation for the people of the state in proceedings in front of the PSC.

¹³ Section 364.10(2)(a), F.S.

¹⁴ Section 364.10(2)(a), F.S.

¹⁵ Section 364.10(2)(g)1., F.S.

¹⁶ Sections 364.10(2)(g)1. and 364.107, F.S.

¹⁷ Section 364.10(2)(g)1., F.S.

¹⁸ Section 364.10(2)(g)2., F.S.

¹⁹ Section 364.10(1)(e)1., F.S.

²⁰ *Id.*

²¹ Section 364.10(1)(e)2.

2016 Lifeline Modernization Reform Order

In April 2016, the FCC issued the Lifeline Modernization Order (2016 Order).²² The intent was to modernize the program by including broadband as a supported service, designating uniform minimum service standards and eligibility criteria and establishing the National Verifier.²³ Prior to the 2016 Order, states could establish their own income eligibility standards or include additional state qualifying programs. In 2016, the FCC eliminated this provision to simplify administration of the program and bring uniformity among the states.²⁴

National Lifeline Eligibility Verifier

To fight waste, fraud, and abuse in the program, the 2016 Order directed the USAC to develop the National Verifier as a way to determine initial subscriber eligibility, conduct annual recertification, populate a national database of Lifeline customers, and support payments to ETCs.²⁵ The National Verifier's efficiency depends on the establishment of an automated verification interface process connected to qualifying program databases. The National Verifier is connected to federal databases, including the Public Housing Assistance and Medicaid databases, allowing additional avenues to verify eligibility.²⁶

USAC Interface with the DCF Database

In 2019, the PSC coordinated an informal meeting between the DCF and USAC, to assist in Florida's transition to the National Verifier.²⁷ This meeting established the groundwork for an automated verification process, allowing the USAC to interface with the DCF's qualifying program database. USAC's connection to the DCF database was established in January 2021. The DCF database provides the USAC with confirmation of a customer's participation in a qualifying program, without revealing the type of program or other customer information, and eliminating the need for supporting documentation.²⁸

Minimum Service Standards

The 2016 Order required all ETCs to provide a discount for broadband service meeting the FCC's established minimum service standards.²⁹ These standards are reviewed annually by the FCC to ensure that Lifeline service options remain viable as technology improves.³⁰ As of December 2019, the minimum service standards were:

- Mobile voice - 1,000 minutes per month;
- Mobile broadband usage - 8.75 GB per month at 3G; and
- Fixed broadband - 20 Mbps downstream and 3 Mbps upstream with 1 TB data usage per month.

²² FCC, *FCC Modernizes Lifeline Program for Low-Income Consumers*, <https://www.fcc.gov/document/fcc-modernizes-lifeline-program-low-income-consumers> (last visited Jan. 13, 2022).

²³ PSC, *2021 Lifeline Report*, *supra* n. 2, at 15.

²⁴ FCC, *Third Report and Order*, FCC 16-38, WC Docket No. 11-42 (released April 27, 2016) at p. 77, par. 212.

²⁵ PSC, *2021 Lifeline Report*, *supra* n. 2, at 17.

²⁶ *Id.* At 18.

²⁷ *Id.*

²⁸ *Id.*

²⁹ PSC, *2021 Lifeline Report*, *supra* n. 2, at 15. To be exempt, an ETC needed to be granted forbearance by the FCC.

³⁰ *Id.* To receive USF support, ETCs must meet the minimum service standards.

III. Effect of Proposed Changes:

Section 1 clarifies that an ETC must notify a subscriber of impending termination of Lifeline service if there is reason to believe that the subscriber no longer qualifies for the service. It requires a subscriber to provide proof of continued eligibility for Lifeline service upon request of the ETC, the FCC or its designee.

The bill removes obsolete provisions relating to income eligibility standards that are inconsistent with current FCC requirements. It removes references to state agencies no longer involved in the development of procedures for promoting Lifeline, leaving just the PSC and the DCF. The bill clarifies that the PSC and the DCF may exchange information with ETCs, and the FCC or its designee, in order to enroll eligible customers in the program. The bill requires any state agency that determines a person is eligible for Lifeline service to coordinate with the FCC or its designee to verify eligibility.

Section 2 amends s. 364.107, F.S., allowing state agencies to share information with the FCC or its designee to verify eligibility or auditing of a Lifeline Assistance Plan.

Section 3 provides that 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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections: 364.10 and 364.107 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Regulated Industries

580-01899-22

20227036pb

1 A bill to be entitled
 2 An act relating to Lifeline telecommunications
 3 service; amending s. 364.10, F.S.; requiring a
 4 Lifeline service subscriber to present proof of
 5 continued eligibility to certain entities upon
 6 request; deleting provisions authorizing certain local
 7 exchange telecommunications companies and commercial
 8 mobile radio service providers to provide Lifeline
 9 service to customers who meet certain income
 10 requirements; revising the entities required to
 11 cooperate in the development of procedures for
 12 promoting the Lifeline service; authorizing certain
 13 participant information to be exchanged with the
 14 Federal Communications Commission or its designee;
 15 revising requirements for state agencies to coordinate
 16 with the commission or its designee and verify
 17 participant eligibility in Lifeline qualifying
 18 programs; deleting provisions requiring certain
 19 entities to form a Lifeline Workgroup for sharing
 20 subscriber information; amending s. 364.107, F.S.;
 21 authorizing the release of certain confidential and
 22 exempt Lifeline Assistance Plan participant
 23 information to the commission or its designee for
 24 specified purposes; providing an effective date.
 25
 26 Be It Enacted by the Legislature of the State of Florida:
 27
 28 Section 1. Paragraphs (e) and (f) of subsection (1) and
 29 subsection (2) of section 364.10, Florida Statutes, are amended

Page 1 of 6

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

580-01899-22

20227036pb

30 to read:
 31 364.10 Lifeline service.-
 32 (1)
 33 (e)1. An eligible telecommunications carrier must notify a
 34 Lifeline subscriber of impending termination of Lifeline service
 35 if the company has a reasonable basis for believing that the
 36 subscriber no longer qualifies for the service. Notification of
 37 pending termination must be in the form of a letter that is
 38 separate from the subscriber's bill.
 39 2. ~~An eligible telecommunications carrier shall allow a~~
 40 ~~subscriber 60 days following the date of the pending termination~~
 41 ~~letter to demonstrate continued eligibility.~~ The subscriber must
 42 present proof of continued eligibility upon request of the
 43 eligible telecommunications carrier, or the Federal
 44 Communications Commission or its designee. An eligible
 45 telecommunications carrier may transfer a subscriber off of
 46 Lifeline service, pursuant to its tariff, if the subscriber
 47 fails to demonstrate continued eligibility.
 48 3. The commission shall establish procedures for such
 49 notification and termination.
 50 (f) An eligible telecommunications carrier shall timely
 51 credit a consumer's bill with the Lifeline Assistance credit as
 52 soon as practicable, but no later than 60 days following receipt
 53 of notice of eligibility ~~from the Office of Public Counsel or~~
 54 ~~proof of eligibility from the consumer.~~
 55 (2) (a) ~~Each local exchange telecommunications company that~~
 56 ~~has more than 1 million access lines and that is designated as~~
 57 ~~an eligible telecommunications carrier shall, and any commercial~~
 58 ~~mobile radio service provider designated as an eligible~~

Page 2 of 6

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580-01899-22

20227036pb

59 ~~telecommunications carrier pursuant to 47 U.S.C. s. 214(e) may,~~
 60 ~~upon filing a notice of election to do so with the commission,~~
 61 ~~provide Lifeline service to any otherwise eligible customer or~~
 62 ~~potential customer who meets an income eligibility test at 150~~
 63 ~~percent or less of the federal poverty income guidelines for~~
 64 ~~Lifeline customers. Such a test for eligibility must augment,~~
 65 ~~rather than replace, the eligibility standards established by~~
 66 ~~federal law and based on participation in certain low income~~
 67 ~~assistance programs. Each intrastate interexchange~~
 68 ~~telecommunications company shall file or publish a schedule~~
 69 ~~providing at a minimum the intrastate interexchange~~
 70 ~~telecommunications company's current Lifeline benefits and~~
 71 ~~exemptions to Lifeline customers who meet the income eligibility~~
 72 ~~test set forth in this subsection. The Office of Public Counsel~~
 73 ~~shall certify and maintain claims submitted by a customer for~~
 74 ~~eligibility under the income test authorized by this subsection.~~

75 ~~(b)~~ Each eligible telecommunications carrier ~~subject to~~
 76 ~~this subsection~~ shall provide to each state and federal agency
 77 providing benefits to persons eligible for Lifeline service
 78 applications, brochures, pamphlets, or other materials that
 79 inform the persons of their eligibility for Lifeline, and each
 80 state agency providing the benefits shall furnish the materials
 81 to affected persons at the time they apply for benefits.

82 (b)(c) An eligible telecommunications carrier may not
 83 discontinue basic local telecommunications service to a
 84 subscriber who receives Lifeline service because of nonpayment
 85 by the subscriber of charges for nonbasic services billed by the
 86 telecommunications company, including long-distance service. A
 87 subscriber who receives Lifeline service shall pay all

Page 3 of 6

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580-01899-22

20227036pb

88 applicable basic local telecommunications service fees,
 89 including the subscriber line charge, E-911, telephone relay
 90 system charges, and applicable state and federal taxes.

91 (c)(d) An eligible telecommunications carrier may not
 92 refuse to connect, reconnect, or provide Lifeline service
 93 because of unpaid toll charges or nonbasic charges other than
 94 basic local telecommunications service.

95 (d)(e) An eligible telecommunications carrier may require
 96 that payment arrangements be made for outstanding debt
 97 associated with basic local telecommunications service,
 98 subscriber line charges, E-911, telephone relay system charges,
 99 and applicable state and federal taxes.

100 (e)(f) An eligible telecommunications carrier may block a
 101 Lifeline service subscriber's access to all long-distance
 102 service, except for toll-free numbers, and may block the ability
 103 to accept collect calls if ~~when~~ the subscriber owes an
 104 outstanding amount for long-distance service or amounts
 105 resulting from collect calls. However, the eligible
 106 telecommunications carrier may not impose a charge for blocking
 107 long-distance service. The eligible telecommunications carrier
 108 shall remove the block at the request of the subscriber without
 109 additional cost to the subscriber upon payment of the
 110 outstanding amount. An eligible telecommunications carrier may
 111 charge a service deposit before removing the block.

112 (f)1.(g)1. Each state agency that provides benefits to
 113 persons eligible for Lifeline service shall undertake, in
 114 cooperation with the Department of Children and Families, ~~the~~
 115 ~~Department of Education,~~ the commission, ~~the Office of Public~~
 116 ~~Council,~~ and ~~telecommunications companies designated~~ eligible

Page 4 of 6

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580-01899-22

20227036pb

117 telecommunications carriers providing Lifeline services, the
 118 development of procedures to promote Lifeline participation. The
 119 ~~department and departments,~~ the commission, ~~and the Office of~~
 120 ~~Public Counsel~~ may exchange sufficient information with the
 121 appropriate eligible telecommunications carriers, or the Federal
 122 Communications Commission or its designee ~~and any commercial~~
 123 ~~mobile radio service provider electing to provide Lifeline~~
 124 ~~service under paragraph (a),~~ such as a person's name, date of
 125 birth, service address, and telephone number, so that eligible
 126 customers ~~the carriers can be enrolled~~ identify and enroll an
 127 ~~eligible person~~ in the Lifeline and Link-Up programs. The
 128 information remains confidential and exempt pursuant to s.
 129 364.107 and may only be used for purposes of determining
 130 eligibility and enrollment in the Lifeline and Link-Up programs.

131 2. If any state agency determines that a person is eligible
 132 for a Lifeline qualifying program services, the agency must
 133 coordinate with the Federal Communications Commission or its
 134 designee to verify eligibility for the Lifeline service ~~shall~~
 135 ~~immediately forward the information to the commission to ensure~~
 136 ~~that the person is automatically enrolled in the program with~~
 137 ~~the appropriate eligible telecommunications carrier. The state~~
 138 ~~agency shall include an option for an eligible customer to~~
 139 ~~choose not to subscribe to the Lifeline service. The Public~~
 140 ~~Service Commission and the Department of Children and Families~~
 141 ~~shall adopt rules creating procedures to automatically enroll~~
 142 ~~eligible customers in Lifeline service.~~

143 ~~3. The commission, the Department of Children and Families,~~
 144 ~~the Office of Public Counsel, and each eligible~~
 145 ~~telecommunications carrier offering Lifeline and Link-Up~~

Page 5 of 6

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580-01899-22

20227036pb

146 ~~services shall convene a Lifeline Workgroup to discuss how the~~
 147 ~~eligible subscriber information in subparagraph 1. will be~~
 148 ~~shared, the obligations of each party with respect to the use of~~
 149 ~~that information, and the procedures to be implemented to~~
 150 ~~increase enrollment and verify eligibility in these programs.~~

151 (g) (h) The commission shall report to the Governor, the
 152 President of the Senate, and the Speaker of the House of
 153 Representatives by December 31 of each year on the number of
 154 customers who are subscribing to Lifeline service and the
 155 effectiveness of any procedures to promote participation.

156 (h) (i) The commission may undertake appropriate measures to
 157 inform low-income consumers of the availability of the Lifeline
 158 and Link-Up programs.

159 (i) (j) The commission shall adopt rules to administer this
 160 section.

161 Section 2. Subsection (2) of section 364.107, Florida
 162 Statutes, is amended to read:
 163 364.107 Public records exemption; Lifeline Assistance Plan
 164 participants.-
 165 (2) Information made confidential and exempt under
 166 subsection (1) may be released to the applicable
 167 telecommunications carrier, or to the Federal Communications
 168 Commission or its designee, for purposes directly connected with
 169 eligibility for, verification related to, or auditing of a
 170 Lifeline Assistance Plan.

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

Page 6 of 6

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Date: December 20, 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: HB 789

I. SUMMARY

House Bill 789, sponsored by Representative Payne, would amend Sections 364.10 and 364.107, Florida Statutes (F.S.), to conform with current federal rules regarding the federal Lifeline program. The bill would remove provisions that are rendered obsolete by federal rules. The bill also authorizes certain information to be released to the Federal Communications Commission (FCC) or its designee for purposes of Lifeline eligibility verification and enrollment.

II. PRESENT SITUATION

The federal Lifeline program is designed to enable low-income households to obtain and maintain basic telephone and broadband services by offering qualifying households a discount on their monthly bills. Alternatively, consumers can choose to receive monthly wireless minutes and/or measured data service from certain wireless providers. Consumers can qualify based on participation in specified low-income programs (i.e., Supplemental Nutrition Assistance Program, Medicaid, Federal Public Housing Assistance, Supplemental Security Income, Veterans or Survivors Pension Program, and various low-income tribal programs) or by providing proof of income below 135 percent of the federal poverty guidelines.

Section 364.10, F.S., implements Florida's Lifeline program. It includes state eligibility criteria, involves multiple state agencies in promoting and verifying eligibility, and establishes a coordinated enrollment process. Section 364.107(2), F.S., allows for the release of confidential and exempt customer information to applicable telecommunications carriers for the purpose of verifying eligibility for Lifeline.

On April 27, 2016, the FCC released its Lifeline Modernization Order that reformed many aspects of the federal Lifeline program (See Order No. FCC 16-38, in WC Docket Nos. 11-42, 09-197, and 10-90). Among these changes were the prohibition of state qualifying criteria for consumers to receive federal Lifeline assistance, the removal of the National School Free Lunch program from the qualifying criteria, and the establishment of a National Lifeline Eligibility Verifier (National Verifier). The Lifeline Modernization Order subsequently rendered several aspects of Section 364.10 F.S. obsolete.

III. EFFECT OF PROPOSED CHANGES

The FCC's Lifeline Modernization Order outlines the programs that qualify consumers for enrollment in the Lifeline program. State-specific eligibility criteria will no longer be accepted for the federal program. The Order also removed certain qualifying programs, such as the National School Free Lunch program. HB 789 removes the state-specific income eligibility criteria of 150 percent of the federal poverty guidelines and refers the verification of income eligibility to the Office of Public Counsel. The bill also removes references to the Department of Education's offering of the National School Free Lunch program, as the program no longer qualifies consumers for the federal Lifeline program.

The FCC, in an effort to fight waste, fraud, and abuse in the Lifeline program, also directed the Universal Service Administrative Company to develop a National Verifier. The purpose of the National Verifier is to determine an initial subscriber's eligibility, conduct annual recertifications, populate a national database consisting of Lifeline

customers, and provide support payments to providers serving these customers. Prior to the National Verifier, eligible telecommunications carriers could accept applications, determine eligibility, and enroll consumers for the Lifeline discount. Section 364.10, F.S., specifies each of these roles, along with a coordinated enrollment process between the Public Service Commission (Commission) and the Department of Children and Families (DCF), whereby consumers that are approved for qualifying programs by DCF could be automatically enrolled in Lifeline as well. However, applications for the Lifeline program are now processed only by the National Verifier, rendering the coordinated enrollment process obsolete. While DCF and the Commission still coordinate data for eligible consumers and provide the data to carriers for the purposes of assisting consumers, an individual is now directed to the National Verifier for authorization into the Lifeline program. HB 789 would repeal provisions of Section 364.10, F.S., that are obsolete due to the newly established National Verifier.

HB 789 adds language to Sections 364.10 and 364.107(2), F.S., to allow state agencies to coordinate and share sufficient information with the FCC or its designee, to verify eligibility and enroll customers in the Lifeline program.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

	(FY 22-23) <u>Amount / FTE</u>	(FY 23-24) <u>Amount / FTE</u>	(FY 24-25) <u>Amount / FTE</u>
A. Revenues			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
B. Expenditures			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

None.

VII. LEGAL ISSUES

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

No, the bill updates Sections 364.10 and 364.107, F.S., to align Florida’s Statutes with federal requirements.

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 or impairment of contracts)?

No.

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

No.
D. Other

No.

VIII. COMMENTS

No additional comments at this time.

Prepared by: Gregory Fogleman, Walter Trierweiler.

Jan. 18, 2022

Meeting Date

The Florida Senate

DUPLICATE

APPEARANCE RECORD

SB 7036

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name **Zayne Smith**

Phone **850.228.4243**

Address **215 S. Monroe St. Suite 603**

Email **zsmith@aarp.org**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AARP

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.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Children, Families, and Elder Affairs
Judiciary
Reapportionment
Regulated Industries

SELECT SUBCOMMITTEE:

Select Subcommittee on Congressional
Reapportionment

SENATOR DARRYL ERVIN ROUSON

19th District

January 17, 2022

Senator Travis Hutson
416 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Hutson,

Please excuse my absence from the Regulated Industries Committee meeting on January 18th, 2022.

Thank you,

A handwritten signature in green ink that reads "Darryl E. Rouson".

Darryl E. Rouson
State Senator, District 19

REPLY TO:

- 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Regulated Industries Committee

Judge:

Started: 1/18/2022 1:30:32 PM

Ends: 1/18/2022 1:45:01 PM

Length: 00:14:30

1:30:30 PM Chair Hutson-meeting called to order
1:30:55 PM Roll Call
1:31:32 PM Senator Rouson is absent
1:31:38 PM TAB 1 - SB 448 by Senator Brodeur. Sen. Stewart moves it be temporarily postponed
1:31:55 PM Chair Hutson
1:31:56 PM Tab 4 - SB 1140 by Senator Burgess
1:32:34 PM Chair Hutson
1:32:38 PM Tab 4 - Burgess explains the bill
1:33:02 PM Chair Hutson
1:33:39 PM Amendment Barcode 568010 is favorable
1:35:11 PM Jorge Chamizo, FACDL & Institute for Justice waives in support
1:35:12 PM Christian Camara, Institute for Justice waives in support
1:35:13 PM Phillip Suderman, Americans for Prosperity waives in support
1:35:14 PM Subhush Kateel, Alliance for Safety and Justice waives in support
1:35:15 PM Adam Basford waives in support
1:35:17 PM Roll Call
1:35:39 PM CS/SB 1140 is reported favorably
1:36:16 PM Chair Hutson
1:36:19 PM Tab 2 - SB 920 by Senator Perry
1:36:21 PM Senator Perry explains the bill
1:36:23 PM Senator Stewart with questions
1:38:04 PM Robert Fingar, Florida Petroleum waives in support
1:38:07 PM Grace Lovett, Florida Retail Federation waives in support
1:38:14 PM Senator Perry closes on the bill
1:39:05 PM Roll call
1:39:19 PM SB 920 is reported favorably
1:39:30 PM Tab 3 - SB 1140 by Senator Perry
1:40:06 PM Amendment 498414 replaced with substitute amendment
1:40:21 PM Amendment 721546 by Perry
1:40:40 PM Chair Hutson
1:40:43 PM Without objection amendment is adopted
1:40:57 PM Diane Ferguson, ADT waives in support
1:40:59 PM Christian Camara, Institute for Justice waives in support
1:41:16 PM Eric Prutsman, Alarm Association of Florida waives in support
1:41:21 PM David Shepp, Automatic Fire Alarm Association waives in support
1:41:25 PM Back on bill as amended
1:41:30 PM Senator Perry waives close
1:41:33 PM Roll Call
1:41:40 PM bill is reported favorably
1:41:52 PM Tab 5 - SPB 7036
1:42:15 PM Shirley Sharon to explain the proposed bill
1:43:46 PM Chair Hutson
1:44:02 PM questions
1:44:08 PM Zayne Smith AARP waives in support
1:44:15 PM Chair Hutson
1:44:17 PM Roll Call on SPB 7036 reported favorably
1:44:33 PM Senator Hutson with closing remarks
1:44:40 PM Meeting adjourned