Tab 1	**CS/SB 462** by **TR, DiCeglie;** Similar to CS/H 00567 Transportation					
187586	A	S		RI, DiCeglie	Delete L.833 - 1995:	03/31 03:29 PM

Tab 2	**SB 1574** by **DiCeglie;** Identical to H 01239 Energy Infrastructure Investment					
377534	A	S		RI, DiCeglie	Delete L.22 - 28:	03/31 08:32 AM

Tab 3	**SB 496** by **McClain;** Identical to H 00897 Timeshare Management Firms					
~~953944~~	A	S	WD	RI, McClain	Delete L.79 - 178:	03/31 03:45 PM
348504	A	S		RI, McClain	Delete L.79 - 178:	03/31 03:45 PM

Tab 4	**SB 1076** by **McClain;** Similar to CS/H 00715 Roof Contracting					
242358	A	S		RI, McClain	Delete L.63 - 112:	03/31 11:20 AM

Tab 5	**SB 1002** by **Truenow (CO-INTRODUCERS) Trumbull;** Similar to H 01137 Utility Service Restrictions

Tab 6	**SB 726** by **Ingoglia;** Compare to CS/H 00279 False Reporting

Tab 7	**SB 408** by **Burgess;** Compare to CS/CS/H 00105 Thoroughbred Permitholders					
238598	D	S		RI, Burgess	Delete everything after	03/31 03:33 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Bradley, Chair
Senator Pizzo, Vice Chair

MEETING DATE: Tuesday, April 1, 2025
TIME: 4:00—6:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Bradley, Chair; Senator Pizzo, Vice Chair; Senators Bernard, Boyd, Burgess, Calatayud, Fine, Gruters, and Ingoglia

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 462** Transportation / DiCeglie (Similar CS/H 567)	Transportation; Requiring the Department of Revenue to distribute from the proceeds of a specified tax a specified amount monthly to the State Transportation Trust Fund beginning on a certain date; revising provisions relating to the administration and financing of certain aviation and airport programs and projects; revising construction; requiring that the removal or relocation of an electric utility transmission line be at the utility owner's expense, rather than the electric utility's expense; revising requirements for the designation of additional metropolitan planning organizations (M.P.O.'s), etc. TR 03/19/2025 Fav/CS RI 04/01/2025 FP	
2	**SB 1574** DiCeglie (Identical H 1239)	Energy Infrastructure Investment; Authorizing the Public Service Commission to establish an experimental mechanism that meets certain requirements to facilitate certain energy infrastructure investment in gas, etc. RI 04/01/2025 AEG FP	
3	**SB 496** McClain (Identical H 897)	Timeshare Management Firms; Revising applicability for provisions governing conflicts of interest between community association managers or community association management firms and certain persons with a financial interest in such associations; deleting a provision requiring managing entities that perform community association management to comply with certain provisions related to community association management firms; requiring the board of administration of a timeshare condominium to meet once per year, etc. RI 04/01/2025 AEG FP	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 1076** McClain (Similar CS/H 715)	Roof Contracting; Revising the definition of the term "roofing contractor"; revising the circumstances under which residential property owners are authorized to cancel a roof repair or replacement contract without penalty or obligation following a declared state of emergency; revising the notice that contractors must provide to residential property owners when executing such a contract, etc. RI 04/01/2025 JU RC	
5	**SB 1002** Truenow (Similar H 1137, Compare CS/H 1523, S 1704)	Utility Service Restrictions; Including boards, agencies, commissions, and authorities of counties, municipal corporations, or other political subdivisions of the state with the entities preempted from taking certain actions that restrict, prohibit, or have the effect of restricting or prohibiting the types or fuel sources of energy produced, used, delivered, converted, or supplied by certain entities to serve customers; voiding existing specified documents and policies from governmental entities that are preempted by the act, etc. CA 03/11/2025 Favorable RI 04/01/2025 RC	
6	**SB 726** Ingoglia (Compare CS/H 279, S 278)	False Reporting; Providing that a person who misuses emergency communication systems is liable for the costs of prosecution and investigation; providing that a person who makes a false report to law enforcement authorities is liable for the costs of prosecution and investigation; providing that such persons are also liable for restitution if the false report involves another person who sustained injuries or property damage as a result of the false report, etc. CJ 03/25/2025 Favorable RI 04/01/2025 RC	
7	**SB 408** Burgess (Compare CS/CS/H 105)	Thoroughbred Permitholders; Removing a requirement that a thoroughbred permitholder must conduct live racing; removing certain slot machine gaming licensure requirements for thoroughbred permitholders who are slot machine licensees, etc. RI 04/01/2025 AEG RC	

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.		
	Florida Building Commission		
	Brown, Donald D. (DeFuniak Springs)	11/21/2027	
	Hershberger, Rodney (Sarasota)	07/27/2027	
	Batts, James T. III (Jacksonville Beach)	11/05/2028	
	Board of Architecture and Interior Design		
8	Arango, Ivette (Miami-Dade)	10/31/2026	
	Barbers' Board		
	Lewandowski, Stephanie (Punta Gorda)	10/31/2026	
	Construction Industry Licensing Board		
	Burgess, Nicholas (Zephyrhills)	10/31/2028	
	Wood, Rachelle (Jupiter)	10/31/2027	
	Mayo, Wayne E. (Tallahassee)	10/31/2026	
	Cook, Jonathan T. (Chipley)	10/31/2027	
	Cesarone, Donald M., Jr. (Lake Worth)	10/31/2027	
	Board of Cosmetology		
	Schmid, Marisol Marin (Miami)	10/31/2026	
	Electrical Contractors' Licensing Board		
	Astrom, Mark (Gainesville)	10/31/2025	
	Florida Real Estate Appraisal Board		
	Graves, Calvin Brandon (Santa Rosa Beach)	10/31/2028	
	Construction Industry Licensing Board		
	Richmond, Steve (Naples)	10/31/2025	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL:	CS/SB 462
INTRODUCER:	Transportation Committee and Senator DiCeglie
SUBJECT:	Transportation
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	**Fav/CS**
2.	Schrader	Imhof	RI	**Pre-meeting**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 462 addresses various provisions relating to transportation. The bill:

- Distributes $4.167 million monthly in sales tax revenues to the State Transportation Trust Fund to account for the impact of electric and hybrid vehicles.
- Requires each county to annually submit specified transportation project data to the Florida Department of Transportation (FDOT).
- Increases maximum allowable speed limits on certain highways by five miles per hour.
- Authorizes public use airports to participate in the federal Airport Investment Partnership Program and make such airports eligible for certain state funds.
- Authorizes the FDOT to use eminent domain to preserve a corridor for future proposed improvements.
- Authorizes FDOT to provide workforce development grants to state colleges and school districts to fund elective courses in heavy civil construction.
- Requires certain studies regarding capacity improvements on limited access facilities to evaluate the use of elevated roadways.
- Requires certain project development and environmental studies to be completed within 18 months.
- Specifies that contractors who enter into construction and maintenance contracts with FDOT are providing a service to FDOT.
- Provides requirements for FDOT to obtain best and final officers from bidders, and for rebidding certain contracts.

- Revises provisions related to phased design-build contracts.
- Provides additional insurance requirements for bridge-related contracts over navigable waters.
- Prohibits FDOT, through the settlement of a bid protest, from creating a new contract unless the new contract is competitively procured.
- Authorizes FDOT to waive prequalification for certain contracts of $1 million or less.
- Requires contractors seeking to bid on certain FDOT maintenance contracts to possess the qualifications and equipment needed to perform such work.
- Increases threshold amounts for contract disputes resolved by the State Arbitration Board.
- Requires lawsuits related to warranty and construction defect claims made after final acceptance, must be made within 360 days after notification of the claim.
- Requires certain underground utility facilities to be electronically detectable.
- Requires utility owners to pay authorities (FDOT and local jurisdictions) reasonable damages for failure to or refusal to timely remove or relocate a utility.
- Provides requirements for the use of as-built plans as it relates to utility work in the right-of-way.
- Authorizes FDOT, if certain conditions are met, to reimburse a utility owner for a portion of its relocation costs.
- Provides procedures for FDOT and the utility owner to follow related to notice requirements, the submission of relocation plans, and the need for additional work.
- Requires FDOT to establish mediation boards to resolve utility-related disputes and provides requirements for such boards.
- Revises provisions regarding metropolitan planning organizations, including requiring the exchange of best practices, and accountability and transparency requirements.
- Repeals the Metropolitan Planning Organization Advisory Council.
- Requires FDOT to develop and submit a report regarding the widening of Interstate 4.

The bill has a potential fiscal impact on state and local governmental entities. *See* section V, "Fiscal Impact Statement" for details.

The bill takes effect July 1, 2025.

II. Present Situation:

For ease of organization and readability, the present situation is discussed below with the effect of proposed changes.

III. Effect of Proposed Changes:

Distribution of Sales Tax Revenues (Section 1)

Present Situation

Florida levies a six percent tax on the retail sale of most tangible personal property, admissions, transient lodgings and motor vehicles.[1] However, the sales tax rate for non-residential electric services is 4.35 percent.[2] The Department of Revenue (DOR) distributes state sales tax proceeds to various state trust funds and local governments, with any remaining sales tax proceeds distributed to the General Revenue Fund.[3]

Effect of Proposed Changes

The bill provides that, to account for the impact of electric and hybrid vehicles on the State Highway System and the use of taxes collected from motorists when charging such vehicles, beginning July 2025, and reassessed every 5 fiscal years, the DOR must distribute $4.167 million monthly to the State Transportation Trust Fund (STTF). This distribution must take place on or before the 25th day of each month.

County Transportation Project Data (Section 2)

Present Situation

Annually, each county and municipality must provide FDOT with uniform program data. Uniform program data must include, but is not limited to, details on transportation receipts and expenditures, and on the number of miles of road under the local governmental entity's jurisdiction. FDOT must compile this data and, upon request, furnish its compilation to any interested person.[4]

Effect of Proposed Changes

The bill requires each county to annually provide FDOT with uniform project data. Such data must conform to the county's fiscal year and include details on transportation revenues by source of taxes or fees, expenditure of such revenues for projects that were funded, and any unexpended balance for the fiscal year. The data must also include project details, including the project cost, location, and scope. The scope of the project must be categorized broadly using a category, such as widening, repair and rehabilitation, or sidewalks. The data must specify which projects the revenues not dedicated to specific projects are supporting. FDOT must inform each county of the method and format for submitting its data. FDOT must compile this data and publish its compilation on its website.

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[1] Office of Economic and Demographic Research, *2024 Florida Tax Handbook*, p. 166. https://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2024.pdf (last visited Mar. 28, 2025).
[2] *Id.* at 171. Section 212.05(1)(e).1.c., F.S.
[3] *Id.* at 173. Section 212.20(6), F.S.
[4] Section 218.322, F.S.

Speed Limits (Sections 3 and 4)

Present Situation

Florida law prohibits a person from driving a vehicle on a highway at a speed greater than what is reasonable and prudent under current conditions and with regard to actual and potential hazard.[5]

Florida law also establishes minimum speed limits. On all highways on the National System of Interstate and Defense and have four or more lanes, the minimum speed is 40 miles per hour, except that when the posted speed limit is 70 miles per hour, then the minimum speed is 50 miles per hour.[6] Florida law establishes the following maximum allowable speed limits:

- On limited access highways - 70 miles per hour.[7]
- On divided highways outside an urban area of 5,000 or more persons, with at least four lanes - 65 miles per hour.[8]
- On other FDOT roadways - as FDOT deems safe and advisable, but not to exceed 60 miles per hour.[9]

Speeding violations are noncriminal traffic infractions, punishable as moving violations.[10] The statutory fines, based on the miles per hour above the speed limit are as follows:

- 1-5 mph -Warning
- 6-9 mph - $25
- 10-14 mph - $100
- 15-19 mph - $150
- 20-29 mph - $175
- 30 mph and above - $250[11]

Effect of Proposed Changes

The bill requires FDOT to determine the safe and advisable minimum speed on all highways on the National System of Interstate and Defense Highways that have at least four lanes.

The bill increases maximum allowable speed limits as follows:

- For limited-access highways, from 70 to 75 miles per hour.
- For other highways outside an urban area that have at least four lanes and are a divided highway, from 65 to 70 miles per hour.
- For other roadways under FDOT's jurisdiction, from 60 to 65 miles per hour.

[5] Section 316.183(1), F.S.
[6] Section 316.183(2), F.S.
[7] Section 316.187(2)(a), F.S.
[8] Section 316.187(2)(b), F.S.
[9] Section 316.187(2)(c), F.S.
[10] Sections 316.183(7) and 316.187(3), F.S. Penalties are as provided in ch. 318, F.S.
[11] Section 318.18(3)(b), F.S. In addition to these penalties, Florida law imposes or authorizes additional fees and surcharges.

Florida Airport Development and Assistance Act (Sections 6-8)

Present Situation

The federal Airport Investment Partnership Program,[12] authorizes private companies to own, manage, lease, and develop public airports. Public airport sponsors and private operators may jointly manage an airport. The airport owner or leaseholder may be exempt from repayment of federal grants, return of property acquired with federal assistance, and the use of proceeds from the airport's sale or lease to be used exclusively for airport purposes.[13]

For purposes of the Florida Airport Development and Assistance Act,[14] the term "public-use airport" means any publicly owned airport which is used or to be used for public purposes.[15]

The term "eligible agency" means a political subdivision of the state or an authority which owns or seeks to develop a public-use airport.[16]

The Florida Airport Development and Assistance Act provides FDOT with certain statutory duties regarding aviation development and assistance. These duties include providing financial and technical assistance to airports,[17] and encouraging the maximum allocation of federal funds to local airport projects.[18]

FDOT's annual legislative budget request for aviation and airport development projects is based on the funding required for development projects in its aviation and airport work program. FDOT must prioritize funding to support the planning, design, and construction of proposed projects by local sponsors, with special emphasis on projects for runways and taxiways, including the painting and marking of runways and taxiways, lighting, other related airside activities, and airport access transportation facility projects on airport property.[19]

Section 332.007, F.S., authorizes FDOT to fund certain aviation and airport-related projects. The statute provides requirements and limits on airport funding from the STTF. Requirements can be based on the airport type, availability of federal funds, project type, and size of the airport.

Section 255.065, F.S., authorizes local jurisdictions, including counties, municipalities, and special districts to enter into public-private partnerships for qualifying projects, which include airport facilities, for a public purpose. That statute provides legislative findings and intent, requirements for project approval, a project qualification process, the requirements for agreements related to the partnership, powers and duties of the private entity, and other related provisions.

[12] 49 U.S.C. s. 47134, the program was previously known as the Airport Privatization Pilot Program.
[13] Federal Aviation Administration, *Airport Investment Partnership Program, formerly Airport Privatization Pilot Program*, https://www.faa.gov/airports/airport_compliance/privatization (last visit March 28, 2025).
[14] Sections 332.003-332.007, F.S.
[15] Section 332.004(14), F.S.
[16] Section 332.004(7), F.S.
[17] Section 332.006(4), F.S.
[18] Section 332.006(8), F.S.
[19] Section 332.007(4)(a), F.S.

Effect of Proposed Changes

The bill amends the Florida Airport Development and Assistance Act to change various references to airports to public-use airports.

The bill amends the definition of the term "eligible agency" to include a public-private partnership through a lease or agreement under s. 255.065, F.S., with a political subdivision of the state or an authority, which owns or seeks to develop a public-use airport.

The bill authorizes a municipality, county, or authority that owns a public-use airport to participate in the FAA's Airport Investment Partnership Program by contracting with a private partner to operate the airport under lease or agreement. Subject to the availability of appropriated funds from aviation fuel tax revenues, FDOT may provide for improvements to a municipality, county, or authority that has a private partner under the federal Airport Investment Partnership Program for capital costs of a discretionary improvement project at a public-use airport.

FDOT - Eminent Domain Authority (Section 9)

Present Situation

Eminent domain refers to the government's power to take private property and convert it into public use. The Fifth Amendment of the United States Constitution provides that the government may only exercise the power of eminent domain if it provides just compensation to the property owners.[20]

Similarly, Article X, section 6(a) of the Florida Constitution provides that "[n]o private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner."[21]

FDOT may acquire, by eminent domain, all property or property rights, whether public or private, which it determines necessary to perform its duties or execute its powers.[22]

FDOT has the statutory authority to condemn all necessary lands and property, whether public or private, for the purpose of securing and utilizing transportation rights-of-way, including a FDOT-designated transportation corridor.[23] Florida's statutory definition of the term "transportation corridor" includes all property or property interests necessary for future transportation facilities for the purpose of securing and utilizing future transportation rights-of-way.[24]

Effect of Proposed Changes

The bill authorizes FDOT to use its eminent domain authority in advance to preserve a transportation corridor for future proposed improvements.

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[20] Cornell Law School, Legal Information Institute, *Eminent Domain,* https://www.law.cornell.edu/wex/eminent_domain#:~:text=Eminent%20domain%20refers%20to%20the,compensation%20to%20the%20property%20owners. (last visited Mar. 28, 2025).
[21] Florida's eminent domain laws are codified in chs. 73 and 74, F.S.
[22] Section 334.044(6), F.S.
[23] Section 337.27(1), F.S.
[24] Section 334.03(29)(b), F.S.

FDOT - Workforce Development (Section 9)

Present Situation

Florida law authorizes FDOT to provide a construction workforce development program, in consultation with affected stakeholders, to deliver projects in FDOT's work program.[25] FDOT must annually allocate $5 million to this program.[26]

Effect of Proposed Changes

The bill authorizes FDOT to annually expend, in fiscal years 2025-2026 through 2029-2030, up to $5 million, from the STTF, for grants to state colleges and school districts, prioritizing colleges and school districts located in counties in rural communities.[27] These grants may be used to purchase equipment simulators and a companion curriculum, and to support offering an elective course in heavy civil construction. The course must, at a minimum, provide the student with federal Occupational Safety and Health Administration certification and fill equipment simulator certification.

Center for Urban Transportation Research (Section 10)

Present Situation

The Center for Urban Transportation Research (CUTR) is established at the University of South Florida (USF). CUTR's responsibilities include conducting and facilitating research on issues related to Florida's urban transportation problems and serving as an information exchange and depository for the most current information pertaining to urban transportation and related issues.[28]

CUTR's advisory board reviews and advises CUTR concerning its research program. Except for projects mandated by law, CUTR may not undertake state-funded projects without advisory board approval. CUTR's advisory board consists of nine transportation-related experts, including:

- The Secretary of Transportation or his or her designee.
- The Secretary of Environmental Protection or his or her designee.
- The Secretary of Commerce or his or her designee.
- A member of the Florida Transportation Commission.

[25] Section 334.044(35), F.S. FDOT's work program is developed pursuant to s. 339.135, F.S.
[26] Section 339.84, F.S. This is beginning in the 2023-2024 fiscal year and for five years thereafter. These funds are from the STTF.
[27] Section 288.0656(2)(e), F.S., defines the term "rural community" to mean a county with a population of 75,000 or fewer; a county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; a municipality within a county above; or an unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors and verified by the Department of Commerce.
[28] Section 334.065(1), F.S.

The nomination of the remaining board members is made to USF's President by the USF College of Engineering. The appointments of these members are reviewed and approved by the Florida Transportation Commission and confirmed by the Board of Governors.[29]

Effect of Proposed Changes

The bill amends CUTR's advisory board to consist of 10 transportation experts including the following:

- A member appointed by the President of the Senate.
- A member appointed by the Speaker of the House of Representatives.
- The Secretary of Transportation or his or her designee.
- The Secretary of Commerce or his or her designee.
- A member of the Florida Transportation Commission.
- Four members recommended to the President of USF by USF's College of Engineering, whose appointments must be reviewed and approved by the Florida Transportation Commission and confirmed by the Board of Governors.

FDOT – Project Concept Studies (Section 11)

Present Situation

FDOT conducts Project Development and Environment (PD&E) studies to meet federal National Environmental Policy Act[30] requirements. During these studies, FDOT determines the location and conceptual design of feasible build alternatives for roadway improvements and the social, economic, and environmental effects of such improvements. Throughout the study, a no-build alternative, where roads are left in their present state with routine maintenance, remains a viable alternative. A PD&E study is finalized when the Federal Highway Administration reviews the study's documentation and recommendations and provides a Location and Design Concept Acceptance.[31]

Effect of Proposed Changes

The bill requires project concept studies[32] and PD&E studies for capacity improvement projects on limited access facilities[33] to evaluate alternatives providing transportation capacity using elevated roadways above existing lanes.

The bill also requires PD&E studies for new alignment projects and capacity improvement projects to be completed within 18 months after the date of commencement.

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[29] Section 334.065(3), F.S.
[30] Pub. L. 91-190; 83 Stat. 852.
[31] FDOT District 7, *What is a PD&E Study,* https://www.fdotd7studies.com/projects/what-is-a-pde-study/. (last visited Mar. 27, 2025).
[32] The term "project concept study" is not defined in federal or state law.
[33] Section 334.03(12), F.S., defines the term "limited access facility" to mean a street or highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be facilities from which trucks, buses, and other commercial vehicles are excluded; or they may be facilities open to use by all customary forms of street and highway traffic.

FDOT Contracting Authority (Section 12)

Present Situation

FDOT may enter into contracts for the construction and maintenance of all roads on the State Highway System, the State Park Road System, or any other road under its supervision. FDOT may also enter into contracts for the construction and maintenance of rest areas, weigh stations, and other structures used in connection with such facilities. However, these contracts do not create third-party beneficiary rights in any person that is not a party to the contract.[34]

Effect of Proposed Changes

The bill stipulates a contractor entering into a construction and maintenance contract with FDOT provides a service to FDOT.

Awarding of FDOT Contracts (Section 12)

Present Situation

FDOT may award a contract for proposed construction and maintenance work to the lowest responsible bidder, or with a time-plus-money contract, the lowest evaluated responsible bidder, or it may reject all bids and rebid the work or otherwise perform the work.[35]

Effect of Proposed Changes

If FDOT receives bids, outside of its criteria for an automatic contract award, the bill requires FDOT to:

- Arrange an in-person meeting with the lowest responsive, responsible bidder to determine why the bids are over FDOT's estimate. FDOT may, at its discretion, subsequently award the contract to the lowest responsive, responsible bidder;
- Reject all bids and rebid the work; or
- Invite all responsive, responsible bidders to provide their best and final offers without filing a protest or posting a bond. Thereafter, if FDOT awards the contract, it must be awarded to the bidder that presents the lowest best and final offer.

If FDOT intends to reject all bids on any project after announcing, but before posting official notice of its intent, the bill requires FDOT to provide to the lowest responsive, responsible bidder the opportunity to negotiate the scope of work with a corresponding reduction in price, as provided in the bid, to provide its best and final offer without filing a protest or posting a bond. Upon reaching a decision regarding the lowest bidder's best and final offer, FDOT must post notice of final agency action to either reject all bids or accept the best and final offer.

This does not prohibit any bidder from filing a protest or altering the statutory deadlines related to bid protests.[36]

[34] Section 337.11(1), F.S.
[35] Section 337.11(4), F.S.
[36] The statutory deadlines relating to bid protests are in s. 120.57(3), F.S.

The bill provides that notwithstanding ss. 120.57(3)(c), F.S., relating to bid protests and 287.057(25), F.S., relating to a disclosure on the procurement of solicitations, upon receipt of a timely-filed formal written protest, FDOT may continue this process, but it may not take final agency action as to the lowest bidder except as part of its final agency action in the protest or upon the protesting party's dismissal of the protest.

FDOT Phased Design-Build Contracts (Section 12)

Present Situation

FDOT may enter into phased-design build contracts, where contract selection and award is done with a two-phase process. For phase one, FDOT competitively awards the contract, based upon qualifications, to a design-build firm. For phase two, the design-build firm competitively bids construction trade subcontractor packages and based upon these bids, negotiates with FDOT a price that meets the project's budget and scope.[37]

Effect of Proposed Changes

The bill requires FDOT, for phased design-build projects, to competitively award the contract to a qualified firm, provided that FDOT receives at least three statements of qualification from qualified firms. If during phase one, FDOT elects, based upon qualifications, to enter into contracts with more than one design-build firm, FDOT must competitively award the phase-two contract to a single design-build firm.

The bill authorizes the design-build firm to self-perform portions of the project's work and use estimates related to this self-performance to negotiate with FDOT.

Marine General Liability Insurance (Section 12)

Present Situation

FDOT requires each contractor to indemnify and hold harmless FDOT and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of the construction contract.[38]

FDOT also requires each contractor to carry commercial general liability insurance that provides continuous coverage for all work and operations provided under the contract. Additional requirements exist for construction adjacent to railroad tracks and certain utility facilities.[39]

Since commercial general liability insurance policies exclude marine work, marine general liability insurance is designed to protect against claims of liability for bodily injury, property

[37] Section 337.11(7)(b), F.S. The project's budget and scope are as advertised in the request for qualifications.
[38] DOT Specs Book (January 2017) at Section 7-12.1, https://www.fdot.gov/docs/default-source/programmanagement/implemented/specbooks/january2017/files/007-117.pdf (last visited Mar. 28, 2025).
[39] *Id.* at Sections 7-13.2, 7-13.3, and 7-13.4.

damage, and personal injury for those who work on or near the water. These classes include ship repairers, marina operators, charterers, stevedores, and terminal operators.[40]

Each contract let by FDOT to perform bridge construction or maintenance over navigable waters must require marine general liability insurance, in an amount determined by FDOT, to cover third-party personal injury and property damage caused by vessels used by the contractor in the performance of the work.[41]

Effect of Proposed Changes

The bill requires a contract let by FDOT on or after July 1, 2025, for work requiring a contractor to have marine general liability insurance, that such insurance includes protection and indemnity coverage. The contractor may receive this additional coverage by an endorsement on its marine general liability insurance policy or from a separate insurance policy.

Settlement Agreements (Section 13)

Present Situation

Agencies subject to the Administrative Procedures Act,[42] including FDOT, must resolve protests arising from the contract solicitation or award process using uniform rules of procedure.[43]

FDOT's contracting statute provides additional information regarding its settlement of bid protests. When FDOT determines that it is in the public's best interest to resolve a bid protest through a settlement agreement, and the agreement requires FDOT to pay a nonselected responsive bidder $1 million or more, any stipend paid to a non-selected design-build firm, which is not included in FDOT's work program, or any amount paid pursuant to any other law, FDOT must:

- Document the specific reasons that such settlement and payment is in the best interest of the state. Such documentation must include a description of any rights or designs that FDOT will acquire or retain with such settlement, and the specific appropriation that FDOT intends to use to provide such payment.
- Provide prior written notification to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General before FDOT makes the settlement agreement final.
- Provide written notification of settlement discussions to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General.[44]

[40] Kelly White and Associates Insurance, LLC, *Marine General Liability Insurance*, https://kwhiteinsurance.com/marine-insurance/#:~:text=Marine%20General%20Liability%20protects%20against,%2C%20stevedores%2C%20and%20terminal%20operators (last visited Mar. 28, 2025).
[41] Section 337.11(15), F.S.
[42] Chapter 120, F.S.
[43] Section 120.57(3), F.S. The Uniform Rules of Procedure relating to bid protests are contained in Fla. Admin. Code R. 28-110.001 through 28-110.005.
[44] Section 337.1101(1), F.S.

Effect of Proposed Changes

The bill provides that FDOT may not, through the settlement of a protest of the award of a contract being procured or related to the purchase of commodities or contractual services, create a new contract unless it competitively procures the new contract.

Application for Qualification (Section 14)

Present Situation

Under Florida law any contractor desiring to bid on a construction contract in excess of $250,000 must be certified as qualified by FDOT.[45] FDOT's contractor certification rules address these qualifications and provide requirements regarding a contractor's equipment, past record, experience, financial resources, and organizational personnel.[46]

FDOT may waive prequalification for projects of $500,000 or less if FDOT determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property.[47]

Effect of Proposed Changes

The bill authorizes FDOT to waive its prequalification requirements for contracts of $1 million or less which have a diverse scope of work that may or may not be performed. These contracts are typically known as push-button or task work order contracts.

FDOT Contractor Certification (Section 14)

Present Situation

Certification by FDOT is required in order for a contractor to bid on a road, bridge, or public transportation construction contract of more than $250,000. However, prior to the award of the contract, the successful bidder must furnish a contract bond. FDOT may waive all or a portion of the bonding requirement for contracts of $150,000 or less.[48]

Effect of Proposed Changes

The bill increases the maximum contract amount for which FDOT may waive bond requirements from $150,000 to $250,000.

[45] Certification for qualification is pursuant to s. 337.14, F.S., and FDOT rules.
[46] Section 337.14(1), F.S.
[47] Section 337.14(1), F.S.
[48] Section 337.14(2), F.S.

FDOT Maintenance Contracts (Section 14)

Present Situation

Section 337.14(8), F.S., provides that s. 337.14, F.S., which relates to the applications for qualification and certificates of qualification for FDOT contractors, does not apply to maintenance contracts.

Effect of Proposed Changes

The bill amends s. 337.14(8), F.S., requiring a contractor seeking to bid on a maintenance contract that predominately includes repair and replacement of safety appurtenances, including, but not limited to, guardrails, attenuators, traffic signals, and striping, to possess the prescribed qualifications equipment, record, and experience to perform such repair and replacement.

State Arbitration Board (Section 15)

Present Situation

The State Arbitration Board (SAB), within FDOT, facilitates the prompt resolution of claims arising out of or in connection with FDOT's construction or maintenance contract.[49]A contractor[50] may submit a claim[51] of greater than $250,000 up to $1 million per contract or, upon agreement of the parties, up to $2 million per contract for arbitration by the SAB. An SAB-issued award is final, unless a request for a trial de novo is filed within the time frame provided by Rule 1.830, Florida Rules of Civil Procedure.[52]

Parties may not make an arbitration request prior to FDOT's final acceptance of the project;[53] but such requests must be made within 820 days after final acceptance.[54]

Effect of Proposed Changes

The bill authorizes the SAB to arbitrate a claim of up to $2 million, instead of the current $1 million or, upon agreement, claims greater than $2 million.

The bill provides that an arbitration request related to a written warranty or defect claim must be made within 360 days after FDOT provides written notice of such claim. This applies when the claim is made after FDOT's final acceptance of the project.

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[49] Section 337.185(1), F.S.
[50] Section 337.185(2)(b), F.S., defines the term "contractor" to mean a person or firm having a contract for rendering services to FDOT relating to the construction or maintenance of a transportation facility.
[51] Section 337.185(2)(a), F.S., defines the term "claim" to mean the aggregate of all outstanding written requests for additional monetary compensation, time, or other adjustments to the contract, the entitlement or impact of which is disputed by FDOT and could not be resolved by negotiation between FDOT and the contractor.
[52] Section 337.185(4), F.S.
[53] Section 337.185(2)(c), F.S., defines the term "final acceptance" to mean that the contractor has completely performed the work provided for under the contract, FDOT or its agent has determined that the contractor has satisfactorily completed the work provided for under the contract, and FDOT or its agent has submitted written notice of final acceptance to the contractor.
[54] Section 337.185(5), F.S.

Suits By and Against FDOT (Section 16)

Present Situation

Under Florida law, suits may be brought by and against FDOT for certain contract-related claims, which must commence within 820 days of FDOT's final acceptance of the work.[55]

Effect of Proposed Changes

The bill provides that, for contracts entered into on, or after, July 1, 2025, suits regarding claims related to a written warranty or defect must commence within 360 days after FDOT's written notice of such claim. This applies to claims made after FDOT's final acceptance of the work.

Utility Relocation (Sections 17-18)

Present Situation

Florida law authorizes an authority, defined as FDOT and local governmental entities,[56] with jurisdiction and control of public roads or publicly-owned rail corridors to prescribe and enforce reasonable rules or regulations regarding the placement and maintenance of utilities within their rights-of-way.[57]

For this purpose, the term "utility" is defined to mean electric transmission, voice, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures.[58]

An authority may grant a utility the use of its right-of-way in accordance with its rules or regulations. A utility may not be installed, located, or relocated unless authorized by an authority-issued permit. However, for roads or rail corridors under FDOT's jurisdiction, in lieu of a written permit, a utility relocation schedule and relocation agreement may be executed. A utility permit must require that the permitholder is responsible for any damage resulting from the issuance of such permit.[59]

In most cases, if the authority finds that a utility in its right-of-way is unreasonably interfering with the public road or publicly owned rail corridor, the utility must, upon 30 days' written notice, initiate the work necessary, at its own expense, to alleviate the interference. The work must be completed within such reasonable time as stated in the notice or at such time as agreed to by the authority and the utility owner.[60]

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[55] Section 337.19(1) and (2), F.S.
[56] Section 334.03(13), F.S., defines the term "local governmental entity" to mean a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.
[57] Section 337.401(1)(a), F.S
[58] *Id.*
[59] Section 337.401(2), F.S.
[60] Section 337.403(1), F.S.

Section 337.403, F.S., relates to interference caused by a utility. Under that statute, if the authority finds that a utility within the right-of-way limits of any public road or publicly owned rail corridor is unreasonably interfering in any way with such public road or publicly owned rail corridor, the utility owner must, upon 30 days' written notice, initiate the work necessary to alleviate the interference at its own expense except as provided in various scenarios. The work must be completed within such a reasonable time as stated in the notice, or at such time as agreed to by the authority and the utility owner.[61]

When FDOT and the utility execute a joint agreement for utility work as part of a contract to construct a transportation facility, FDOT may participate in the cost of utility work exceeding 10 percent of FDOT's official estimated cost of the utility work. FDOT's cost participation is limited to the difference between its official estimate plus 10 percent and the amount awarded for this work in the construction contract. FDOT may not participate in any utility work costs that occur due to changes or additions during the course of the contract.[62]

Section 288.0656(2)(d), F.S., defines a rural area of opportunity as a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact. Florida's current rural areas of opportunity are:

- Opportunity Florida (the Northwest Rural Area of Opportunity), consisting of Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the area within the city limits of Freeport and Walton County north of the Choctawhatchee Bay and intercoastal waterway.
- North Florida Economic Development Partnership (the North Central Rural Area of Opportunity), consisting of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.
- Florida's Heartland Regional Economic Development Initiative, Inc. (the South Central Rural Area of Opportunity), consisting of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).[63]

Effect of Proposed Changes

Electronically Detectable

The bill requires an entity that places, replaces, or relocates underground utilities within a right-of-way to make such underground utilities electronically detectable using FDOT-approved techniques.

Damage Responsibility

The bill requires that a utility permit or relocation agreement must require that the permitholder or party to the agreement is responsible for any damage resulting from the required work. The utility owner must pay the authority reasonable damages resulting from its failure or refusal to

[61] Section 337.403(1), F.S. Paragraphs (a)-(j) provide various scenarios regarding utility relocation.
[62] Section 337.403(1)(b), F.S.
[63] Florida Department of Commerce, *Office of Rural Initiatives*, https://www.floridajobs.org/community-planning-and-development/office-of-rural-initiatives (last visited Mar. 28, 2025).

timely remove or relocate a utility. An authority's issuance of permits for new utility placements within its right-of-way may be subject to payment of any of the authority's actual costs: due to the utility owner's failure to timely relocate utilities, pursuant to an approved utility work schedule; for damage done to existing infrastructure by the utility owner; and roadway failures caused by work performed by the utility owner.

As-Built Plans
The bill defines the term "as-built plans" to mean plans that include all changes and modifications that incur during the construction phase of a project. The bill requires the authority and the utility owner to agree in writing to an approved depth of as-built plans in accordance with the project's scope.

The bill requires the utility owner to submit its as-built plans within 20 business days after completing the utility work. The as-built plans must show actual final surface and subsurface utilities, including location alignment profile, depth, and geodetic datum[64] of each structure. The utility owner must provide as-built plans in an electronic format that is compatible with FDOT's software and meets FDOT-provided technical specifications or in an electronic format determined by the utility industry to meet industry standards. FDOT may, by written agreement, make exceptions to the electronic format requirement.

The bill requires that before any costs are reimbursed, the utility must submit to the authority its as-built plans.

FDOT Reimbursement
The bill authorizes FDOT to reimburse:
- Up to 50 percent of the costs for relocation of publicly regulated utility facilities and municipally owned or county owned utility facilities; and
- One hundred percent of the costs of relocation of municipally or county owned utility facilities located in a rural area of opportunity on the State Highway System.[65]

This reimbursement is after deducting any increase in the value of a new facility and any salvage value derived from the old facility. The reimbursement is upon a determination that it is in the public's best interest and necessary to expedite the project's construction and that the utility owner has relocated the facility at least 5 percent ahead of the time allocated for relocation per the latest approved utility relocation schedule.

Procedures
The bill provides that before FDOT gives notice to the utility to initiate work, FDOT and the utility owner must follow the following procedure:
- FDOT must provide the utility owner with its preliminary plans for a proposed highway project and notice of a period of between 30 and 120 days after the utility owner receives the

[64] A geodetic datum or reference frame is an abstract coordinate system with a reference surface (such as sea level) that serves to provide known locations to begin surveys and create maps. https://geodesy.noaa.gov/datums/index.shtml (last visited March 13, 2025)
[65] Section 337.403(1)(h), F.S., authorizes FDOT to pay, all or a part of any utility work necessitated by an FDOT project on the state highway system for a municipally owned utility or county-owned utility in a rural area of opportunity if FDOT determines that the utility is unable, and will not be able within the next 10 years, to pay the cost of such work.

notice, within which the utility owner must submit the required plans to FDOT. The utility owner must provide FDOT with written acknowledgement of its receipt of FDOT's preliminary plans.

- The utility owner must submit to FDOT, within the FDOT-provided time period, plans showing the existing and proposed locations of its utility facilities. If the utility owner fails to submit the plans within FDOT's specified time period, FDOT is not required to participate in the work, may withhold any amount due to the utility owner on other projects within the rights-of-way of the same FDOT district, and may withhold the issuance of any other permits for work within rights-of-way of the same FDOT district.
- The utility owner's submitted plans must include, for FDOT's approval, a utility relocation schedule, which meets FDOT's rules regarding form and timeframes.
- If the Governor declares a state of emergency,[66] the utility is entitled to receive an extension to its utility relocation schedule which must be at least equal to any extension FDOT granted to its contractor. The utility owner must notify FDOT of additional delays associated with causes beyond the utility owner's control, including, but not limited to, participation in recovery work under a mutual aid agreement. This notification to FDOT must occur within 10 calendar days after the commencement of the delay and provide a reasonably complete description of the cause and nature of the delay and the possible impacts to the utility relocation schedule. Within 10 calendar days after the cause of the delay ends, the utility owner must submit, for FDOT's approval, a revised utility relocation schedule. FDOT may not unreasonably withhold, delay, or condition its approval of the revised utility relocation schedule.
- If the utility owner does not initiate work in accordance with the utility relocation schedule, FDOT must provide the utility owner with a final notice directing the utility owner to initiate the work within 10 calendar days after it receives the final notice or, the utility owner having begun such work, fails to complete the work in accordance with the utility relocation schedule, FDOT is not required to participate in the work, may withhold any amount due to the utility owner for projects within the rights-of-way of the same FDOT district, and may exercise its right to obtain injunctive relief.[67]
- If, after the letting date of a highway improvement project, it is found that additional utility work is necessary, the utility must provide a revised utility relocation schedule within 30 calendar days after becoming aware of the need for such additional utility work or upon receiving FDOT's written notification advising the utility of the need for additional utility work. FDOT must review the revised utility relocation schedule and, if form and timeframes are met, FDOT must approve the revised utility relocation schedule.
- The utility owner is liable to FDOT for documented damages resulting from the utility's failure to comply with the utility relocation schedule, including any FDOT-approved delay costs incurred by the contractor. Within 45 days after receiving FDOT's written notification that the utility is liable for damages, the utility owner must pay FDOT the amount for which the utility owner is liable or request mediation.

Mediation Boards

The bill requires FDOT to establish mediation boards to resolve disputes between FDOT and utilities concerning:

[66] The Governor may declare states of emergency pursuant to s. 252.36, F.S.
[67] Injunctive relief is pursuant to s. 120.69, F.S.

- A utility relocation schedule or revised utility relocation schedule that the utility has submitted, but FDOT has not approved;
- A contractor's claim, approved by FDOT, for delay costs or other damages related to the utility's work; or
- Any matter related to the removal, relocation, or adjustment of the utility's facilities.

The bill requires FDOT to establish mediation board procedures, which must provide that:

- Each mediation board is composed of one FDOT-designated mediator, one utility owner-designated mediator, and a third mediator mutually accepted by the other two mediators, who serves as the board's presiding officer.
- The mediation board must hold a hearing for each dispute submitted to it. The board must provide notice of the hearing to each party involved in the dispute and afford each involved party an opportunity to present evidence at the hearing.
- Decisions on issues presented to the mediation board are made by a majority vote of the mediators.
- The mediation board must issue a written final decision for each submitted dispute and serve a copy of its final decision on each party to the dispute.
- The mediation board's final decisions are subject to de novo review in the Second Judicial Circuit in and for Leon County by way of a petition for judicial review, which FDOT or the utility owner may file within 30 days after service of notice of the final decision.

The bill requires members of mediation boards to receive compensation for the performance of their duties. This compensation will be from deposits made by the parties, based on an estimate of compensation by the mediation board. All deposits are held in escrow by the board chair in advance of the hearing. Each board member is compensated at $200 per hour, up to a maximum of $1,500 per day. A board member must also be reimbursed for his or her actual travel expenses. The board may allocate funds for clerical and other administrative services. This is the same compensation rate currently provided for members of the state arbitration board.[68]

The bill authorizes FDOT to establish a list of qualified mediators and adopt rules to administer its mediation boards, including procedures for mediating contested cases.

The bill also adds the word "owner" after the word "utility" in several locations in provisions relating to utility relocation.

Metropolitan Planning Organizations (Sections 19)

A metropolitan planning organization (MPO) is a policy board created and designated to carry out the metropolitan transportation planning process.[69] MPOs are required to represent localities in all urbanized areas with populations over 50,000, as determined by the U.S. Census.[70] Currently, Florida has 27 MPOs, the largest number of MPOs in the nation.[71]

[68] Section 337.185(10), F.S.
[69] 23 C.F.R. § 450.104.
[70] Federal Transit Administration, *Metropolitan Planning Organization,* https://www.transit.dot.gov/regulations-and-guidance/transportation-planning/metropolitan-planning-organization-mpo (last visited March 28, 2025).
[71] A list and a map of Florida's MPOs is available at: https://www.mpoac.org/mpos/ (last visited March 28, 2025).

Federal law and regulations give MPOs, in coordination with FDOT and others, significant transportation planning responsibility. Federal law requires MPOs to be designated for each urbanized area with a population of more than 50,000 individuals by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the affected population, including the largest incorporated city; or in accordance with procedures established by applicable state or local law.[72]

MPO Purpose/Intent

Present Situation

Florida law provides legislative intent to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through the state's urbanized areas while minimizing transportation-related fuel consumption, air pollution, and greenhouse gas emissions through metropolitan transportation planning processes.[73]

To accomplish these objectives, MPOs must develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. These plans and programs must provide for the development and integrated management and operation of transportation systems and facilities that will function as an intermodal transportation system for the metropolitan area.[74]

Effect of Proposed Changes

The bill amends legislative intent regarding MPOs to emphasize:

- Developing multimodal transportation systems, instead of surface transportation systems; and
- Serving the mobility needs of people and freight and fostering economic growth and development throughout the urbanized areas of this state while balancing conservation of natural resources.

MPO Designation

Present Situation

An MPO must be designated for each urbanized area of the state. However, an individual MPO is not required to be designated for each urbanized area. MPO designation is done by agreement between the Governor and the general-purpose local governments representing at least 75 percent of the urbanized area's population. However, the general-purpose local government representing the central city or cities within the MPO must be a party to the agreement.[75]

To the extent possible, only one MPO may be designated for each urbanized area or group of contiguous urbanized areas. More than one MPO may be designated within an existing urbanized

[72] 23 U.S.C., § 134(d)(1)
[73] Section 339.175(1), F.S.
[74] *Id.*
[75] Section 339.175(2)(a)1., F.S.

area only if the Governor and the existing MPO determine that the existing urbanized area's size and complexity makes designating more than one MPO for the area appropriate, in which case each MPO designated for the area must:

- Consult with every other MPO designated for the urbanized area and the state to coordinate plans and transportation improvement programs.
- Ensure, to the maximum extent practicable, the consistency of data used in the planning process, including data used in forecasting travel demand within the urbanized area.[76]

MPO boundaries are determined by agreement between the Governor and the MPO. The MPO's boundaries must include at least the metropolitan planning area but may encompass the entire metropolitan statistical area or the consolidated metropolitan statistical area.[77]

Effect of Proposed Changes

The bill provides that after July 1, 2025, no additional MPOs may be designated in Florida except in urbanized areas[78] where the urbanized area is not contiguous to an urbanized area designated before the 2020 census.

The bill repeals the requirement that when there is more than one MPO in an urbanized area, the MPOs must consult with every other MPO in the urbanized area and the state to coordinate plans and transportation improvement programs and to ensure consistency in data used in the planning process.

MPO Powers, Duties, and Responsibilities

Present Situation

Each MPO must perform all acts necessary to qualify for federal aid, and each MPO must be involved in transportation planning and programming to the extent permitted by state or federal law. However, an MPO may not perform project production or delivery for capital improvement projects on the State Highway System.[79]

In developing its long-range transportation plan (LRTP)[80] and the transportation improvement program (TIP),[81] each MPO must consider projects and strategies that will:

- Support the economic vitality of the contiguous urbanized metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.
- Increase the safety and security of the transportation system for motorized and nonmotorized users.
- Increase the accessibility and mobility options available to people and for freight.
- Protect and enhance the environment, promote energy conservation, and improve quality of life.

[76] Section 339.175(2)(a)2., F.S.
[77] Section 339.175(2)(a)3., F.S.
[78] This is as defined by the United States Bureau of the Census.
[79] Section 339.175(6), F.S.
[80] The long-range transportation plan is developed pursuant to s. 339.175(7), F.S.
[81] The transportation improvement program is developed pursuant to s. 339.175(8), F.S.

- Enhance the integration and connectivity of the transportation system, across and between modes and contiguous urbanized metropolitan areas, for people and freight.
- Promote efficient system management and operation.
- Emphasize the preservation of the existing transportation system.
- Improve the resilience of transportation infrastructure.[82]

To more fully accomplish an MPO's purposes, MPOs must develop coordination mechanisms with one another to expand and improve transportation within the state.[83]

Effect of Proposed Changes

The bill amends the considerations required by each MPO in developing its LRTP and TIP to include conserving natural resources, instead of promoting energy conservation. Additionally, MPOs must consider projects and strategies to reduce traffic and congestion.

The bill requires FDOT to, at least annually, convene MPOs of similar size, based on population served, to exchange best practices.

The bill authorizes MPOs to develop committees or working groups as needed to accomplish such purpose. At FDOT's discretion, training for new MPO governing board members must be provided by FDOT, by an entity pursuant to a contract with FDOT, by the Center for Urban Transportation Research at the University of South Florida, or by Implementing Solutions for Transportation Research and Evaluation of Emerging Technologies (I-STREET) Living Lab at the University of Florida.

MPO Consolidation Report

Present Situation

By December 31, 2023, the MPOs serving Hillsborough, Pasco, and Pinellas counties were required to submit a feasibility report to the Governor, the President of the Senate, and the Speaker of the House of Representatives exploring the benefits, costs, and process of consolidation into a single MPO serving the contiguous urbanized area, the goals of which would be to:

- Coordinate transportation projects deemed to be regionally significant.
- Review the impact of regionally significant land use decisions on the region.
- Review all proposed regionally significant transportation projects in the transportation improvement programs.[84]

Effect of Proposed Changes

The bill repeals this obsolete report requirement.

[82] Section 339.175(6)(b), F.S.
[83] Section 339.175(6)(j)1., F.S.
[84] Section 339.175(6)(i), F.S.

MPO Long-Range Transportation Plans

Present Situation

Each MPO must develop an LRTP addressing at least a 20-year planning horizon. The LRTP must include both long-range and short-range strategies. The prevailing principles to be considered in the LRTP are preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility.[85]

The LRTP must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the local government within the MPO. Each MPO is encouraged to consider strategies integrating transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. Local governments must consider LRTPs in developing transportation elements in local government comprehensive plans.[86]

In developing its LRTP, each MPO must provide the public and other interested parties with a reasonable opportunity to comment. The MPO must approve its LRTP.[87]

Effect of Proposed Changes

The bill revises provisions relating to MPO LRTP's by removing the requirement that multiple MPOs within a contiguous urbanized area must coordinate the development of LRTPs to be reviewed by the MPOAC.

The bill includes public-private partnerships in the list of innovative financing techniques that MPOs may consider.

Regarding transportation enhancement activities, the bill includes the integration of advanced air mobility and integration of autonomous and electric vehicles, electric bicycles, and motorized scooters used for freight, commuter or micromobility purposes. The bill removes historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising as potential transportation enhancement activities.

MPO Agreements and Accountability

Present Situation

Currently, there are no MPO-specific statutory accountability provisions.

Effect of Proposed Changes

The bill authorizes each MPO to execute a written agreement with FDOT, which must be reviewed, and updated as necessary, every five years, which clearly establishes the cooperative relationship essential to accomplish state and federal transportation planning requirements. Roles, responsibilities, and expectations for accomplishing consistency with federal and state requirements and priorities must be set forth in the agreement. In addition, the agreement must

[85] Section 339.175(7), F.S.
[86] Section 339.175(7), F.S.
[87] Section 339.175(7), F.S.

set forth the MPO's responsibility, in collaboration with FDOT, to identify, prioritize, and present a complete list of multimodal transportation projects consistent with the metropolitan planning area's needs. It is FDOT's responsibility to provide projects in the state transportation improvement plan.

The bill requires FDOT to establish, in collaboration with each MPO, quality performance metrics such as safety, infrastructure condition, congestion relief, and mobility. Each MPO, as part of its LRTP, in direct coordination with FDOT, must develop targets for each performance measure within the metropolitan planning area. The performance targets must support efficient and safe movement of people and goods both within the metropolitan planning area and between regions. Each MPO must report progress toward establishing performance targets for each measure annually in its transportation improvement plan. FDOT must evaluate and post on its website whether each MPO has made significant progress toward its target for the applicable reporting period.

Metropolitan Planning Organization Advisory Council

Present Situation

The Metropolitan Planning Organization Advisory Council (MPOAC), consisting of one representative from each MPO, was established to augment, and not supplant, the individual MPO's role in the cooperative transportation planning process.[88]

The MPOAC's powers and duties are to:

- Establish bylaws providing procedural rules to guide its proceedings and consideration of matters before MPOAC, or, alternatively, adopt rules to implement provisions of law conferring powers or duties upon it.
- Assist MPOs in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion.
- Serve as a clearinghouse for review and comment by MPOs on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes. The MPOAC must annually report to the Florida Transportation Commission on the alignment of MPO LRTPs with the Florida Transportation Plan.
- Employ an executive director and such other staff as necessary to adequately perform its functions.[89]
- Deliver training on federal and state program requirements and procedures to MPO board members and MPO staff.
- Adopt a strategic plan, prioritizing steps it will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directives.[90]

[88] Sections 339.175(11)(a) and (b), F.S.
[89] The MPOAC is assigned to the Office of the Secretary of Transportation for fiscal and accountability purposes. It otherwise functions independently of FDOT's control and direction.
[90] Section 339.175(11)(c), F.S.

The MPOAC may enter into contracts to support the activities described above. Lobbying and the acceptance of funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources are prohibited.[91]

Effect of Proposed Changes

The bill repeals the MPOAC.

Strategic Intermodal System Highway Corridors (Section 20)

Present Situation

Florida's Strategic Intermodal System (SIS) is its high priority network of transportation facilities important to the state's economy and mobility.[92] FDOT must plan and develop SIS highway corridors to allow for high-speed and high-volume.[93] SIS highway corridors include facilities on State Highway System that meet FDOT-adopted criteria, including Interstate highways, the Florida Turnpike System, interregional and intercity limited access facilities, existing interregional and intercity arterial highways meeting certain standards, and new limited access facilities necessary to complete a balanced statewide system.[94]

FDOT must develop and maintain a plan of SIS highway corridor projects that it anticipates, to contract for construction within at least the next 20 years. This plan must also identify when SIS Highway Corridor segments will meet SIS standards and criteria.[95]

Effect of Proposed Changes

The bill requires FDOT, in its SIS highway corridors plan of projects, to prioritize projects affecting gaps in a corridor so that the corridor becomes contiguous in its functional characteristics.

Interstate 4 Widening (Section 26)

Present Situation

Included in FDOT's Moving Florida Forward Initiative is the acceleration of the addition of two new express lanes in each direction along Interstate 4 (I-4) from west of U.S. 27 in Polk County to east of World Center Drive (S.R. 536) in Orange County. FDOT is also accelerating the construction of two new congestion relief lanes, one in each direction, between U.S. 27 and east of World Drive.[96]

[91] Section 339.175(11)(d), F.S.
[92] FDOT, *Strategic Intermodal System,* https://www.fdot.gov/planning/systems/sis (last visited Mar. 28, 2025).
[93] Section 339.65(1), F.S.
[94] Section 339.65(2), F.S.
[95] Section 339.65(4), F.S.
[96] FDOT, Moving I-4 Forward, https://movingi4forward.com/ (last visited Mar. 28, 2025).

Effect of Proposed Changes

The bill provides legislative findings that widening of I-4 from U.S. 27 in Polk County to I-75 in Hillsborough County is in the state's public interest and the region's strategic interest to improve the movement of people and goods.

The bill requires FDOT to develop a report on the efficient widening I-4 from U.S. 27 in Polk County to I-75 in Hillsborough County. The report must include, but is not limited to, detailed cost projections and schedules for project development and environmental studies, design, acquisition of rights-of-way, and construction. The report must identify funding shortfalls and provide strategies to address such shortfalls, including, but not limited to, the use of express lanes toll revenues[97] generated on the I-4 corridor and FDOT funds available for public-private partnerships.[98] By December 31, 2025, FDOT must submit its report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Conforming Changes (Sections 5, 21-25)

The bill repeals s. 331.3051(14), F.S., requiring Space Florida to partner with the MPOAC regarding aerospace planning and programming in Florida's cooperative planning process. This is to conform to the repeal of the MPOAC.

The bill amends ss. 125.42, 220.20, 331.310 and 610.106, F.S., conforming cross-references.

The bill reenacts s. 332.115, F.S., incorporating a change made to s. 332.004, F.S.

Effective Date (Section 27)

The bill takes effect July 1, 2025.

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:

[97] Tolls on express lanes are authorized in s. 338.166, F.S.
[98] Public-private partnerships are authorized in s. 334.30, F.S.

Section 19 of Article VII of the State Constitution requires a "state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject." A "fee" is defined by the Florida Constitution to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."[99] Section 19 of Article VII of the State Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

The bill, in section 18, requires that members of mediation boards must receive compensation for the performance of their duties. It directs that such compensation must be from deposits made by the parties, based on an estimate of compensation by the mediation board. This requirement may constitute a "charge or payment required by law" for a service (mediation services), and, thus, must be contained within a separate bill pursuant to Section 19 of Article VII of the State Constitution.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill (section 1) allocates to the STTF $4.167 million monthly in sales tax revenues which are currently allocated to the General Revenue Fund.

B. Private Sector Impact:

The bill will collectively have an indeterminate negative fiscal impact on the private sector as follows:

- Increased insurance costs for FDOT contactors performing certain work over navigable waters (section 12).
- Costs for making underground utilities electronically detectable (section 17).
- Costs for utility owners to pay reasonable damages for failure or refusal to timely relocate a utility (section 17).

However, utility owners may experience a reduction in costs if FDOT pays a portion of their utility relocation costs (section 18).

C. Government Sector Impact:

The bill (section 1) allocates $4.167 million monthly of the sales tax revenue currently allocated to General Revenue to the STTF.

[99] FLA. CONST. art. VII, s. 19(d)(1).

The bill (section 2) requires each county to annually submit transportation project data to FDOT. Counties will incur indeterminate costs to compile and provide this data. FDOT will also incur costs associated with compiling this data and publishing it on its website.

The bill (section 9) authorizes FDOT to expend up to $5 million per fiscal year, from the STTF, in grants to state colleges and school districts to support offering elective courses in heavy civil construction. This provision authorizes transfer of state transportation funds to state colleges and school districts.

The bill (section 17) requires certain underground utilities to be electronically detectable. Government entities may incur costs to comply with this provision.

The bill (section 17) requires utility owners to pay an authority the actual damages for failure or refusal to timely relocate a utility. Since the authority is a public entity, it may receive damages from utility owners. However, some utility owners are government entities and may be required to pay another government entity such damages.

The bill (section 18) authorizes FDOT to reimburse utility owners a portion of certain utility relocation costs. FDOT may experience an indeterminate, but likely significant, negative fiscal impact associated with paying these costs.

The bill (section 18) requires FDOT to establish mediation boards to resolve certain disputes related to utility relocation disputes. FDOT may incur costs to operate these boards, including compensating board members and paying their travel expenditures.

The bill (section 25) requires FDOT to develop a report regarding the widening of I-4. FDOT will incur indeterminate costs to develop this report.

VI. Technical Deficiencies:

The bill (section 18) uses the term "publicly regulated utility facilities." However, that term is not defined in either the bill or existing law and it is unclear what that term is meant to include.

VII. Related Issues:

Section 1 of the bill directs the Department of Revenue to "reassess," every 5 fiscal years, a monthly distribution of $4.167 million to the STTF. However, the bill does not appear to provide on what basis this reassessment is to be completed, and the bill does not appear to allow for this distribution to be revised by the Department of Revenue.

The bill (section 18) requires FDOT to establish mediation boards to resolve disputes related to certain utility relocation issues; however, the bill appears to describe process that is more of an arbitration in nature. The bill also requires mediation board members to be compensated from deposits based on estimates of compensation, though the bill does not specify how such estimate would be determined.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.20, 220.20, 316.183, 316.187, 331.3051, 331.3051, 331.310 332.004, 332.006, 332.007, 334.044, 334.065, 337.11, 337.1101, 337.14, 337.185, 337.19, 337.401, 337.403, 339.175, 339.65, and 610.106.

This bill creates the following sections of the Florida Statutes: 218.3215 and 334.63.

This bill reenacts s. 332.115 of the Florida Statutes.

This bill creates one undesignated section of 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 Transportation on March 19, 2025:

- Revises the monthly distribution of sales tax revenues to the STTF to $4.167 million.
- Increases maximum allowable highway speed limits on certain highways by 5 miles per hour.
- Authorizes public-use airports to participate in the FAA's Airport Investment Partnership Program and to contract with a private partner to operate the airport under lease or agreement.
- Makes airports operating under public-private partnership agreements eligible for certain aviation-related funding.
- Revises the membership of the board for the Center for Urban Transportation Research at the University of South Florida.
- Revises provisions regarding FDOT's requirements if it receives bids outside of its criteria to automatically award the bid.
- Requires the utility owner to pay actual, instead of reasonable, damages and costs associated with its failure or refusal to timely relocate utilities.
- Authorizes FDOT to reimburse the utility owner for a portion of its utility relocation costs if certain conditions are met.
- Authorizes FDOT to withhold amounts due to a utility owner or withhold the issuance of new permits to the utility owner in the same FDOT district where the utility relocation is located, if the utility owner is not meeting certain obligations.
- Provides that the members of FDOT's mediation boards are compensated for their services.
- Revises provisions relating to MPOs, including requiring the exchange of best practices, and accountability and transparency requirements, and the repeal of the MPOAC.
- Clarifies the scope of FDOT's report on the widening of I-4.
- Makes other technical and conforming changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 833 - 1995
and insert:

Section 16. Present subsection (10) of section 339.175, Florida Statutes, is redesignated as subsection (11), a new subsection (10) is added to that section, and subsection (1), paragraph (a) of subsection (2), paragraphs (b), (i), and (j) of subsection (6), paragraphs (a), (b), and (d) of subsection (7), and present subsection (11) of that section are amended, to

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read:

339.175 Metropolitan planning organization.—

(1) PURPOSE.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of multimodal ~~surface~~ transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas of this state while balancing conservation of natural resources ~~minimizing transportation-related fuel consumption, air pollution, and greenhouse gas emissions through metropolitan transportation planning processes identified in this section~~. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed. To ensure that the process is integrated with the statewide planning process, M.P.O.'s shall develop plans and programs that identify transportation facilities that should function as an

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integrated metropolitan transportation system, giving emphasis to facilities that serve important national, state, and regional transportation functions. For the purposes of this section, those facilities include the facilities on the Strategic Intermodal System designated under s. 339.63 and facilities for which projects have been identified pursuant to s. 339.2819(4).

(2) DESIGNATION.—

(a)1. An M.P.O. shall be designated for each urbanized area of the state; however, this does not require that an individual M.P.O. be designated for each such area. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as defined by the United States Bureau of the Census, must be a party to such agreement.

2. To the extent possible, only one M.P.O. shall be designated for each urbanized area or group of contiguous urbanized areas. More than one M.P.O. may be designated within an existing urbanized area only if the Governor and the existing M.P.O. determine that the size and complexity of the existing urbanized area makes the designation of more than one M.P.O. for the area appropriate. After July 1, 2025, no additional M.P.O.'s may be designated in this state except in urbanized areas, as defined by the United States Census Bureau, where the urbanized area boundary is not contiguous to an urbanized area designated before the 2020 census~~, in which case each M.P.O. designated for the area must:~~

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~~a. Consult with every other M.P.O. designated for the urbanized area and the state to coordinate plans and transportation improvement programs~~.

~~b. Ensure, to the maximum extent practicable, the consistency of data used in the planning process, including data used in forecasting travel demand within the urbanized area.~~

Each M.P.O. required under this section must be fully operative no later than 6 months following its designation.

(6) POWERS, DUTIES, AND RESPONSIBILITIES.—The powers, privileges, and authority of an M.P.O. are those specified in this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law. An M.P.O. may not perform project production or delivery for capital improvement projects on the State Highway System.

(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. shall provide for consideration of projects and strategies that will:

1. Support the economic vitality of the contiguous urbanized metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

2. Increase the safety and security of the transportation system for motorized and nonmotorized users.

3. Increase the accessibility and mobility options available to people and for freight.

4. Protect and enhance the environment, conserve natural resources ~~promote energy conservation~~, and improve quality of life.

5. Enhance the integration and connectivity of the transportation system, across and between modes and contiguous urbanized metropolitan areas, for people and freight.

6. Promote efficient system management and operation.

7. Emphasize the preservation of the existing transportation system.

8. Improve the resilience of transportation infrastructure.

9. Reduce traffic and congestion.

~~(i) By December 31, 2023, the M.P.O.'s serving Hillsborough, Pasco, and Pinellas Counties must submit a feasibility report to the Governor, the President of the Senate, and the Speaker of the House of Representatives exploring the benefits, costs, and process of consolidation into a single M.P.O. serving the contiguous urbanized area, the goal of which would be to:~~

~~1. Coordinate transportation projects deemed to be regionally significant.~~

~~2. Review the impact of regionally significant land use decisions on the region.~~

~~3. Review all proposed regionally significant transportation projects in the transportation improvement programs.~~

(i)1.~~(j)1.~~ To more fully accomplish the purposes for which M.P.O.'s have been mandated, the department shall, at least annually, convene M.P.O.'s of similar size, based on the size of population served, for the purpose of exchanging best practices. M.P.O.'s may ~~shall~~ develop committees or working groups as needed to accomplish such purpose. At the discretion of the department, training for new M.P.O. governing board members shall be provided by the department, by an entity pursuant to a contract with the department, by the Florida Center for Urban Transportation Research, or by the Implementing Solutions from Transportation Research and Evaluation of Emerging Technologies (I-STREET) living lab ~~coordination mechanisms with one another to expand and improve transportation within the state. The appropriate method of coordination between M.P.O.'s shall vary depending upon the project involved and given local and regional needs. Consequently, it is appropriate to set forth a flexible methodology that can be used by M.P.O.'s to coordinate with other M.P.O.'s and appropriate political subdivisions as circumstances demand~~.

2. Any M.P.O. may join with any other M.P.O. or any individual political subdivision to coordinate activities or to achieve any federal or state transportation planning or development goals or purposes consistent with federal or state law. When an M.P.O. determines that it is appropriate to join with another M.P.O. or any political subdivision to coordinate activities, the M.P.O. or political subdivision shall enter into an interlocal agreement pursuant to s. 163.01, which, at a minimum, creates a separate legal or administrative entity to coordinate the transportation planning or development activities

required to achieve the goal or purpose; provides the purpose for which the entity is created; provides the duration of the agreement and the entity and specifies how the agreement may be terminated, modified, or rescinded; describes the precise organization of the entity, including who has voting rights on the governing board, whether alternative voting members are provided for, how voting members are appointed, and what the relative voting strength is for each constituent M.P.O. or political subdivision; provides the manner in which the parties to the agreement will provide for the financial support of the entity and payment of costs and expenses of the entity; provides the manner in which funds may be paid to and disbursed from the entity; and provides how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the operation of the entity. Such interlocal agreement shall become effective upon its recordation in the official public records of each county in which a member of the entity created by the interlocal agreement has a voting member. Multiple M.P.O.'s may merge, combine, or otherwise join together as a single M.P.O.

(7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent,

to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. Each M.P.O. is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, spaceports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range transportation plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan. ~~Multiple M.P.O.'s within a contiguous urbanized area must coordinate the development of long-range transportation plans to be reviewed by the Metropolitan Planning Organization Advisory Council.~~

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry

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out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the department shall cooperatively develop estimates of funds that will be available to support the plan implementation. Innovative financing techniques may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, public-private partnerships, the use of value capture financing, or the use of value pricing. Multiple M.P.O.'s within a contiguous urbanized area must ensure, to the maximum extent possible, the consistency of data used in the planning process.

(d) Indicate, as appropriate, proposed transportation enhancement activities, including, but not limited to, pedestrian and bicycle facilities, trails or facilities that are regionally significant or critical linkages for the Florida Shared-Use Nonmotorized Trail Network, scenic easements, landscaping, integration of advanced air mobility, and integration of autonomous and electric vehicles, electric bicycles, and motorized scooters used for freight, commuter, or micromobility purposes ~~historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising~~.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies,

representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

(10) AGREEMENTS; ACCOUNTABILITY.—

(a) Each M.P.O. may execute a written agreement with the department, which shall be reviewed, and updated as necessary, every 5 years, which clearly establishes the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law. Roles, responsibilities, and expectations for accomplishing consistency with federal and state requirements and priorities must be set forth in the agreement. In addition, the agreement must set forth the M.P.O.'s responsibility, in collaboration with the department, to identify, prioritize, and present to the department a complete list of multimodal transportation projects consistent with the needs of the metropolitan planning area. It is the department's responsibility to program projects in the state transportation improvement program.

(b) The department must establish, in collaboration with each M.P.O., quality performance metrics, such as safety, infrastructure condition, congestion relief, and mobility. Each M.P.O. must, as part of its long-range transportation plan, in direct coordination with the department, develop targets for each performance measure within the metropolitan planning area boundary. The performance targets must support efficient and

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safe movement of people and goods both within the metropolitan planning area and between regions. Each M.P.O. must report progress toward establishing performance targets for each measure annually in its transportation improvement plan. The department shall evaluate and post on its website whether each M.P.O. has made significant progress toward its target for the applicable reporting period.

~~(11) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—~~

~~(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in this section.~~

~~(b) The council shall consist of one representative from each M.P.O. and shall elect a chairperson annually from its number. Each M.P.O. shall also elect an alternate representative from each M.P.O. to vote in the absence of the representative. Members of the council do not receive any compensation for their services, but may be reimbursed from funds made available to council members for travel and per diem expenses incurred in the performance of their council duties as provided in s. 112.061.~~

~~(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:~~

~~1. Establish bylaws by action of its governing board providing procedural rules to guide its proceedings and consideration of matters before the council, or, alternatively, adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.~~

~~2. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal~~

~~forum for collective policy discussion pursuant to law.~~

~~3. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155. The council must also report annually to the Florida Transportation Commission on the alignment of M.P.O. long-range transportation plans with the Florida Transportation Plan.~~

~~4. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 110 and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.~~

~~5. Deliver training on federal and state program requirements and procedures to M.P.O. board members and M.P.O. staff.~~

~~6. Adopt an agency strategic plan that prioritizes steps the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directives.~~

~~(d) The Metropolitan Planning Organization Advisory Council may enter into contracts in accordance with chapter 287 to support the activities described in paragraph (c). Lobbying and the acceptance of funds, grants, assistance, gifts, or bequests~~

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~~from private, local, state, or federal sources are prohibited.~~

Section 17. Subsection (4) of section 339.65, Florida Statutes, is amended to read:

339.65 Strategic Intermodal System highway corridors.—

(4) The department shall develop and maintain a plan of Strategic Intermodal System highway corridor projects that are anticipated to be let to contract for construction within a time period of at least 20 years. The department shall prioritize projects affecting gaps in a corridor so that the corridor becomes contiguous in its functional characteristics across the corridor. The plan must ~~shall~~ also identify when segments of the corridor will meet the standards and criteria developed pursuant to subsection (5).

Section 18. Paragraph (e) of subsection (2) of section 331.310, Florida Statutes, is amended to read:

331.310 Powers and duties of the board of directors.—

(2) The board of directors shall:

(e) Prepare an annual report of operations as a supplement to the annual report required under s. 331.3051(15) ~~s. 331.3051(16)~~. The report must include, but not be limited to, a balance sheet, an income statement, a statement of changes in financial position, a reconciliation of changes in equity accounts, a summary of significant accounting principles, the auditor’s report, a summary of the status of existing and proposed bonding projects, comments from management about the year’s business, and prospects for the next year.

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

And the title is amended as follows:

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Delete lines 68 - 144

and insert:

warranty or defect; amending s. 339.175, F.S.; revising legislative intent; revising requirements for the designation of additional metropolitan planning organizations (M.P.O.'s); revising projects and strategies to be considered in developing an M.P.O.'s long-range transportation plan and transportation improvement program; deleting obsolete provisions; requiring the department to convene M.P.O.'s of similar size to exchange best practices at least annually; authorizing M.P.O.'s to develop committees or working groups; requiring training for new M.P.O. governing board members to be provided by the department or another specified entity; deleting provisions relating to M.P.O. coordination mechanisms; including public-private partnerships in authorized financing techniques; revising proposed transportation enhancement activities that must be indicated by the long-range transportation plan; authorizing each M.P.O. to execute a written agreement with the department regarding state and federal transportation planning requirements; requiring the department, in collaboration with M.P.O.'s, to establish certain quality performance metrics and develop certain performance targets; requiring the department to evaluate and post on its website whether each M.P.O. has made significant progress toward such targets; deleting provisions relating to the Metropolitan

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Planning Organization Advisory Council; amending s. 339.65, F.S.; requiring the department to prioritize certain Strategic Intermodal System highway corridor projects; amending s. 331.310, F.S.; conforming a cross-reference; reenacting

By the Committee on Transportation; and Senator DiCeglie

596-02596-25 2025462c1

A bill to be entitled

An act relating to transportation; amending s. 212.20, F.S.; requiring the Department of Revenue to distribute from the proceeds of a specified tax a specified amount monthly to the State Transportation Trust Fund beginning on a certain date; creating s. 218.3215, F.S.; requiring each county to provide the Department of Transportation with uniform project data; providing requirements for such data; requiring the department to compile the data and publish it on its website; amending s. 316.183, F.S.; requiring the department to determine the safe and advisable minimum speed limit on certain highways; amending s. 316.187, F.S.; revising the maximum allowable speed limit on certain highways and roadways; amending s. 331.3051, F.S.; conforming provisions to changes made by the act; amending s. 332.004, F.S.; revising definitions; amending s. 332.006, F.S.; revising duties and responsibilities of the department relating to airports; amending s. 332.007, F.S.; revising provisions relating to the administration and financing of certain aviation and airport programs and projects; authorizing certain airports to participate in a specified federal program in a certain manner; authorizing the department to provide for improvements to certain entities for the capital cost of a discretionary improvement project at a public-use airport, subject to the availability of certain funds; amending s. 334.044, F.S.; authorizing the department

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to acquire property or property rights in advance to preserve a corridor for future proposed improvements; authorizing the department to expend from the State Transportation Trust Fund a certain amount of grant funds annually to state colleges and school districts for certain construction workforce development programs; requiring that priority be given to certain colleges and school districts; amending s. 334.065, F.S.; revising membership of the Center for Urban Transportation Research advisory board; creating s. 334.63, F.S.; providing requirements for certain project concept studies and project development and environment studies; amending s. 337.11, F.S.; clarifying a provision related to third-party beneficiary rights; revising the bidding and award process for contracts for road construction and maintenance projects; revising the circumstances in which the department must competitively award a phased design-build contract for phase one; authorizing a design-build firm to self-perform portions of work under a contract; requiring that contracts let by the department on or after a certain date for bridge construction or maintenance over navigable waters include protection and indemnity coverage; amending s. 337.1101, F.S.; prohibiting the department from creating a new contract in certain circumstances unless the contract is competitively procured; amending s. 337.14, F.S.; authorizing the department to waive contractor certification requirements for

certain projects; reducing the threshold value of contracts for which the department may waive a contract bond requirement; requiring that a contractor seeking to bid on certain maintenance contracts possess certain qualifications; amending s. 337.185, F.S.; increasing the limits of claims per contract which a contractor may submit to the State Arbitration Board; limiting the period in which an arbitration request may be made for a claim related to a written warranty or defect; amending s. 337.19, F.S.; limiting the period in which a suit by or against the department may be commenced for a claim related to a written warranty or defect for a contract entered into on or after a certain date; amending s. 337.401, F.S.; revising construction; requiring that the removal or relocation of an electric utility transmission line be at the utility owner's expense, rather than the electric utility's expense; requiring certain entities to make underground utilities within a right-of-way electronically detectable; requiring a utility owner to pay the authority actual damages in certain circumstances; conditioning the issuance of permits for certain utility placements on the payment of certain costs; defining the term "as-built plans"; providing submission requirements for as-built plans; requiring the submission of as-built plans before reimbursement of certain costs; amending s. 337.403, F.S.; authorizing the department to reimburse a certain percentage of costs for relocation of certain

utility facilities; revising the costs considered in determining whether the department may participate in utility work costs; revising the agreements under which the authority must bear the cost of utility removal or relocation; revising a determination that, if made by the department, authorizes the department to pay the cost of certain utility work; requiring the department and a utility owner to adhere to certain rules and procedures before issuance of the notice to initiate work; requiring the department to provide to a utility owner preliminary plans and certain notice; requiring the utility owner to submit certain plans to the department; authorizing the department to withhold certain amounts due a utility owner and the issuance of certain work permits under certain circumstances; requiring that the plans include a utility relocation schedule; providing for extensions and revisions to a utility relocation schedule in certain circumstances; providing that a utility owner is liable to the department for certain damages; requiring the department to establish mediation boards to resolve certain disputes between the department and a utility; providing mediation board requirements and procedures; providing for compensation of members of the mediation board; authorizing rulemaking; amending s. 339.175, F.S.; revising legislative intent; revising requirements for the designation of additional metropolitan planning organizations (M.P.O.'s); revising projects and strategies to be considered in

developing an M.P.O.’s long-range transportation plan and transportation improvement program; deleting obsolete provisions; requiring the department to convene M.P.O.’s of similar size to exchange best practices at least annually; authorizing M.P.O.’s to develop committees or working groups; requiring training for new M.P.O. governing board members to be provided by the department or another specified entity; deleting provisions relating to M.P.O. coordination mechanisms; including public-private partnerships in authorized financing techniques; revising proposed transportation enhancement activities that must be indicated by the long-range transportation plan; authorizing each M.P.O. to execute a written agreement with the department regarding state and federal transportation planning requirements; requiring the department, in collaboration with M.P.O.’s, to establish certain quality performance metrics and develop certain performance targets; requiring the department to evaluate and post on its website whether each M.P.O. has made significant progress toward such targets; deleting provisions relating to the Metropolitan Planning Organization Advisory Council; amending s. 339.65, F.S.; requiring the department to prioritize certain Strategic Intermodal System highway corridor projects; amending ss. 125.42, 202.20, 331.310, and 610.106, F.S.; conforming cross-references; reenacting s. 332.115(1), F.S., relating to joint project

agreements with port districts for transportation corridors between airports and port facilities, to incorporate the amendment made to s. 332.004, F.S., in a reference thereto; providing a legislative finding; requiring the department to develop a report on widening Interstate 4; providing requirements for the report; requiring the department to submit the report to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.9744

percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less $5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.0966 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0810 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3653 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount

received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute $166,667 monthly to each

applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.1162(5) or s. 288.11621(3).

c. The department shall distribute up to $83,333 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to $166,667 monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 20 years to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise or not more than 25 years to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

d. The department shall distribute $15,333 monthly to the

State Transportation Trust Fund.

e.(I) On or before July 25, 2021, August 25, 2021, and September 25, 2021, the department shall distribute $324,533,334 in each of those months to the Unemployment Compensation Trust Fund, less an adjustment for refunds issued from the General Revenue Fund pursuant to s. 443.131(3)(e)3. before making the distribution. The adjustments made by the department to the total distributions shall be equal to the total refunds made pursuant to s. 443.131(3)(e)3. If the amount of refunds to be subtracted from any single distribution exceeds the distribution, the department may not make that distribution and must subtract the remaining balance from the next distribution.

(II) Beginning July 2022, and on or before the 25th day of each month, the department shall distribute $90 million monthly to the Unemployment Compensation Trust Fund.

(III) If the ending balance of the Unemployment Compensation Trust Fund exceeds $4,071,519,600 on the last day of any month, as determined from United States Department of the Treasury data, the Office of Economic and Demographic Research shall certify to the department that the ending balance of the trust fund exceeds such amount.

(IV) This sub-subparagraph is repealed, and the department shall end monthly distributions under sub-sub-subparagraph (II), on the date the department receives certification under sub-sub-subparagraph (III).

f. Beginning July 1, 2023, in each fiscal year, the department shall distribute $27.5 million to the Florida Agricultural Promotional Campaign Trust Fund under s. 571.26, for further distribution in accordance with s. 571.265.

g. To account for the impact of electric and hybrid vehicles on the state highway system and the use of taxes collected from motorists when charging such vehicles, beginning July 2025, and reassessed every 5 fiscal years, on or before the 25th day of each month thereafter, of the portion of the proceeds of the tax imposed under s. 212.05(1)(e)1.c., the department shall distribute $4.167 million to the State Transportation Trust Fund.

7. All other proceeds must remain in the General Revenue Fund.

Section 2. Section 218.3215, Florida Statutes, is created to read:

218.3215 County transportation project data.—Each county shall annually provide the Department of Transportation with uniform project data. The data must conform to the county's fiscal year and must include details on transportation revenues by source of taxes or fees, expenditure of such revenues for projects that were funded, and any unexpended balance for the fiscal year. The data must also include project details, including the project cost, location, and scope. The scope of the project must be categorized broadly using a category such as widening, repair and rehabilitation, or sidewalks. The data must specify which projects the revenues not dedicated to specific projects are supporting. The Department of Transportation shall inform each county of the method and required format for submitting the data. The Department of Transportation shall compile the data and publish such compilation on its website.

Section 3. Subsection (2) of section 316.183, Florida Statutes, is amended to read:

316.183 Unlawful speed.—

(2) On all streets or highways, the maximum speed limits for all vehicles must be 30 miles per hour in business or residence districts, and 55 miles per hour at any time at all other locations. However, with respect to a residence district, a county or municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable. It is not necessary to conduct a separate investigation for each residence district. The Department of Transportation shall determine the safe and advisable minimum speed limit on all highways that comprise a part of the National System of Interstate and Defense Highways and have at least ~~not fewer than~~ four lanes ~~is 40 miles per hour, except that when the posted speed limit is 70 miles per hour, the minimum speed limit is 50 miles per hour~~.

Section 4. Subsection (2) of section 316.187, Florida Statutes, is amended to read:

316.187 Establishment of state speed zones.—

(2)(a) The maximum allowable speed limit on limited access highways is 75 ~~70~~ miles per hour.

(b) The maximum allowable speed limit on any other highway that ~~which~~ is outside an urban area of 5,000 or more persons and that ~~which~~ has at least four lanes divided by a median strip is 70 ~~65~~ miles per hour.

(c) The Department of Transportation is authorized to set such maximum and minimum speed limits for travel over other roadways under its authority as it deems safe and advisable, not to exceed as a maximum limit 65 ~~60~~ miles per hour.

Section 5. Subsection (14) of section 331.3051, Florida Statutes, is amended to read:

331.3051 Duties of Space Florida.—Space Florida shall:

~~(14) Partner with the Metropolitan Planning Organization Advisory Council to coordinate and specify how aerospace planning and programming will be part of the state's cooperative transportation planning process.~~

Section 6. Subsections (4), (5), (7), and (8) of section 332.004, Florida Statutes, are amended to read:

332.004 Definitions of terms used in ss. 332.003-332.007.—As used in ss. 332.003-332.007, the term:

(4) "Airport or aviation development project" or "development project" means any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof, including, but not limited to: the purchase of equipment; the acquisition of land, including land required as a condition of a federal, state, or local permit or agreement for environmental mitigation; off-airport noise mitigation projects; the removal, lowering, relocation, marking, and lighting of airport hazards; the installation of navigation aids used by aircraft in landing at or taking off from a public-use ~~public~~ airport; the installation of safety equipment required by rule or regulation for certification of the airport under s. 612 of the Federal Aviation Act of 1958, and amendments thereto; and the improvement of access to the airport by road or rail system which is on airport property and which is consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the units of local government in which the

airport is located.

(5) "Airport or aviation discretionary capacity improvement projects" or "discretionary capacity improvement projects" means capacity improvements which are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government in which the public-use airport is located, and which enhance intercontinental capacity at airports which:

(a) Are international airports with United States Bureau of Customs and Border Protection;

(b) Had one or more regularly scheduled intercontinental flights during the previous calendar year or have an agreement in writing for installation of one or more regularly scheduled intercontinental flights upon the commitment of funds for stipulated airport capital improvements; and

(c) Have available or planned public ground transportation between the airport and other major transportation facilities.

(7) "Eligible agency" means a political subdivision of the state or an authority, or a public-private partnership through a lease or an agreement under s. 255.065 with a political subdivision of the state or an authority, which owns or seeks to develop a public-use airport.

(8) "Federal aid" means funds made available from the Federal Government for the accomplishment of public-use airport or aviation development projects.

Section 7. Subsections (4) and (8) of section 332.006, Florida Statutes, are amended to read:

332.006 Duties and responsibilities of the Department of Transportation.—The Department of Transportation shall, within

the resources provided pursuant to chapter 216:

(4) Upon request, provide financial and technical assistance to public agencies that own ~~which operate~~ public-use airports by making department personnel and department-owned facilities and equipment available on a cost-reimbursement basis to such agencies for special needs of limited duration. The requirement relating to reimbursement of personnel costs may be waived by the department in those cases in which the assistance provided by its personnel was of a limited nature or duration.

(8) Encourage the maximum allocation of federal funds to local public-use airport projects in this state.

Section 8. Paragraphs (a) and (c) of subsection (4), subsection (6), paragraphs (a) and (d) of subsection (7), and subsections (8) and (10) of section 332.007, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

332.007 Administration and financing of aviation and airport programs and projects; state plan.—

(4)(a) The annual legislative budget request for aviation and airport development projects shall be based on the funding required for development projects in the aviation and airport work program. The department shall provide priority funding in support of the planning, design, and construction of proposed projects by local sponsors of public-use airports, with special emphasis on projects for runways and taxiways, including the painting and marking of runways and taxiways, lighting, other related airside activities, and airport access transportation facility projects on airport property.

(c) No single airport shall secure airport or aviation

development project funds in excess of 25 percent of the total airport or aviation development project funds available in any given budget year. However, any public-use airport which receives discretionary capacity improvement project funds in a given fiscal year shall not receive greater than 10 percent of total aviation and airport development project funds appropriated in that fiscal year.

(6) Subject to the availability of appropriated funds, the department may participate in the capital cost of eligible public-use ~~public~~ airport and aviation development projects in accordance with the following rates, unless otherwise provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act:

(a) The department may fund up to 50 percent of the portion of eligible project costs which are not funded by the Federal Government, except that the department may initially fund up to 75 percent of the cost of land acquisition for a new airport or for the expansion of an existing airport which is owned ~~and operated~~ by a municipality, a county, or an authority, and shall be reimbursed to the normal statutory project share when federal funds become available or within 10 years after the date of acquisition, whichever is earlier. Due to federal budgeting constraints, the department may also initially fund the federal portion of eligible project costs subject to:

1. The department receiving adequate assurance from the Federal Government or local sponsor that this amount will be reimbursed to the department; and

2. The department having adequate funds in the work program to fund the project.

Such projects must be contained in the Federal Government's Airport Capital Improvement Program, and the Federal Government must fund, or have funded, the first year of the project.

(b) The department may retroactively reimburse cities, counties, or airport authorities up to 50 percent of the nonfederal share for land acquisition when such land is needed for airport safety, expansion, tall structure control, clear zone protection, or noise impact reduction. No land purchased prior to July 1, 1990, or purchased prior to executing the required department agreements shall be eligible for reimbursement.

(c) When federal funds are not available, the department may fund up to 80 percent of master planning and eligible aviation development projects at public-use ~~publicly owned, publicly operated~~ airports. If federal funds are available, the department may fund up to 80 percent of the nonfederal share of such projects. Such funding is limited to general aviation airports, or commercial service airports that have fewer than 100,000 passenger boardings per year as determined by the Federal Aviation Administration.

(d) The department is authorized to fund up to 100 percent of the cost of an eligible project that is statewide in scope or that involves more than one county where no other governmental entity or appropriate jurisdiction exists.

(7) Subject to the availability of appropriated funds in addition to aviation fuel tax revenues, the department may participate in the capital cost of eligible public airport and aviation discretionary capacity improvement projects. The annual

legislative budget request shall be based on the funding required for discretionary capacity improvement projects in the aviation and airport work program.

(a) The department shall provide priority funding in support of:

1. Land acquisition which provides additional capacity at the qualifying international airport or at that airport's supplemental air carrier airport.

2. Runway and taxiway projects that add capacity or are necessary to accommodate technological changes in the aviation industry.

3. Public-use airport access transportation projects that improve direct airport access and are approved by the airport sponsor.

4. International terminal projects that increase international gate capacity.

(d) The department may fund up to 50 percent of the portion of eligible project costs which are not funded by the Federal Government except that the department may initially fund up to 75 percent of the cost of land acquisition for a new public-use airport or for the expansion of an existing public-use airport which is owned ~~and operated~~ by a municipality, a county, or an authority, and shall be reimbursed to the normal statutory project share when federal funds become available or within 10 years after the date of acquisition, whichever is earlier.

(8) The department may also fund eligible projects performed by not-for-profit organizations that represent a majority of public airports in this state. Eligible projects may include activities associated with aviation master planning,

professional education, safety and security planning, enhancing economic development and efficiency at airports in this state, or other planning efforts to improve the viability of public-use airports in this state.

(10) Subject to the availability of appropriated funds, and unless otherwise provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, the department may fund up to 100 percent of eligible project costs of all of the following at a public-use ~~publicly owned, publicly operated~~ airport located in a rural community as defined in s. 288.0656 which does not have any scheduled commercial service:

(a) The capital cost of runway and taxiway projects that add capacity. Such projects must be prioritized based on the amount of available nonstate matching funds.

(b) Economic development transportation projects pursuant to s. 339.2821.

Any remaining funds must be allocated for projects specified in subsection (6).

(11) Notwithstanding any other provisions of law, a municipality, a county, or an authority that owns a public-use airport may participate in the Federal Aviation Administration Airport Investment Partnership Program under federal law by contracting with a private partner to operate the airport under lease or agreement. Subject to the availability of appropriated funds from aviation fuel tax revenues, the department may provide for improvements under this section to a municipality, a county, or an authority that has a private partner under the

Airport Investment Partnership Program for the capital cost of a discretionary improvement project at a public-use airport.

Section 9. Subsections (6) and (35) of section 334.044, Florida Statutes, are amended to read:

334.044 Powers and duties of the department.—The department shall have the following general powers and duties:

(6) To acquire, by the exercise of the power of eminent domain as provided by law, all property or property rights, whether public or private, which it may determine are necessary to the performance of its duties and the execution of its powers, including, but not limited to, in advance to preserve a corridor for future proposed improvements.

(35) To expend funds for ~~provide~~ a construction workforce development program, in consultation with affected stakeholders, for delivery of projects designated in the department's work program. The department may annually expend up to $5 million from the State Transportation Trust Fund for fiscal years 2025-2026 through 2029-2030 in grants to state colleges and school districts, with priority given to state colleges and school districts in counties that are rural communities as defined in s. 288.0656(2), for the purchase of equipment simulators with authentic original equipment manufacturer controls and a companion curriculum, for the purchase of instructional aids for use in conjunction with the equipment simulators, and to support offering an elective course in heavy civil construction which must, at a minimum, provide the student with an Occupational Safety and Health Administration 10-hour certification and a fill equipment simulator certification.

Section 10. Subsection (3) of section 334.065, Florida

Statutes, is amended to read:

334.065 Center for Urban Transportation Research.—

(3) An advisory board shall be created to periodically and objectively review and advise the center concerning its research program. Except for projects mandated by law, state-funded base projects shall not be undertaken without approval of the advisory board. The membership of the board shall be composed ~~consist~~ of nine experts in transportation-related areas, as follows:

(a) A member appointed by the President of the Senate.

(b) A member appointed by the Speaker of the House of Representatives.

(c) The Secretary of Transportation, or his or her designee.

(d) The Secretary of Commerce, or his or her designee. ~~including the secretaries of the Department of Transportation, the Department of Environmental Protection, and the Department of Commerce, or their designees, and~~

(e) A member of the Florida Transportation Commission.

(f) The nomination of the remaining four members of the board shall be made to the President of the University of South Florida by the College of Engineering at the University of South Florida.~~, and~~ The appointment of these members must be reviewed and approved by the Florida Transportation Commission and confirmed by the Board of Governors.

Section 11. Section 334.63, Florida Statutes, is created to read:

334.63 Project concept studies and project development and environment studies.—

(1) Project concept studies and project development and environment studies for capacity improvement projects on limited access facilities must include the evaluation of alternatives that provide transportation capacity using elevated roadway above existing lanes.

(2) Project development and environment studies for new alignment projects and capacity improvement projects must be completed within 18 months after the date of commencement.

Section 12. Subsections (1) and (4), paragraph (b) of subsection (7), and subsection (15) of section 337.11, Florida Statutes, are amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(1) The department shall have authority to enter into contracts for the construction and maintenance of all roads designated as part of the State Highway System or the State Park Road System or of any roads placed under its supervision by law. The department shall also have authority to enter into contracts for the construction and maintenance of rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities and associated buildings used in connection with such facilities. A contractor who enters into such a contract with the department provides a service to the department, and such contract does not ~~However, no such contract shall~~ create any third-party beneficiary rights in any person not a party to the contract.

(4)(a) Except as provided in paragraph (b), the department

may award the proposed construction and maintenance work to the lowest responsible bidder, or in the instance of a time-plus-money contract, the lowest evaluated responsible bidder, or it may reject all bids and proceed to rebid the work in accordance with subsection (2) or otherwise perform the work.

(b) Notwithstanding any other provision of law to the contrary:

1. If the department receives bids outside the award criteria set forth by the department, the department must:

a. Arrange an in-person meeting with the lowest responsive, responsible bidder to determine why the bids are over the department's estimate and may subsequently award the contract to the lowest responsive, responsible bidder at its discretion;

b. Reject all bids and proceed to rebid the work in accordance with subsection (2); or

c. Invite all responsive, responsible bidders to provide best and final offers without filing a protest or posting a bond under paragraph (5)(a). If the department thereafter awards the contract, the award must be to the bidder that presents the lowest best and final offer.

2. If the department intends to reject all bids on any project after announcing, but before posting official notice of, such intent, the department must provide to the lowest responsive, responsible bidder the opportunity to negotiate the scope of work with a corresponding reduction in price, as provided in the bid, to provide a best and final offer without filing a protest or posting a bond under paragraph (5)(a). Upon reaching a decision regarding the lowest bidder's best and final offer, the department must post notice of final agency action to

either reject all bids or accept the best and final offer.

(c) This subsection does not prohibit the filing of a protest by any bidder or alter the deadlines provided in s. 120.57.

(d) Notwithstanding the requirements of ss. 120.57(3)(c) and 287.057(25), upon receipt of a formal written protest that is timely filed, the department may continue the process provided in this subsection but may not take final agency action as to the lowest bidder except as part of the department's final agency action in the protest or upon dismissal of the protest by the protesting party.

(7)

(b) If the department determines that it is in the best interests of the public, the department may combine the design and construction phases of a project fully funded in the work program into a single contract and select the design-build firm in the early stages of a project to ensure that the design-build firm is part of the collaboration and development of the design as part of a step-by-step progression through construction. Such a contract is referred to as a phased design-build contract. For phased design-build contracts, selection and award must include a two-phase process. For phase one, the department shall competitively award the contract to a design-build firm based upon qualifications, provided that the department receives at least three statements of qualifications from qualified design-build firms. If during phase one the department elects to enter into contracts with more than one design-build firm based upon qualifications, the department must competitively award the contract for phase two to a single design-build firm. For phase

two, the design-build firm may self-perform portions of the work and shall competitively bid construction trade subcontractor packages and, based upon these bids, negotiate with the department a fixed firm price or guaranteed maximum price that meets the project budget and scope as advertised in the request for qualifications.

(15) Each contract let by the department for performance of bridge construction or maintenance over navigable waters must contain a provision requiring marine general liability insurance, in an amount to be determined by the department, which covers third-party personal injury and property damage caused by vessels used by the contractor in the performance of the work. For a contract let by the department on or after July 1, 2025, such insurance must include protection and indemnity coverage, which may be covered by endorsement on the marine general liability insurance policy or may be a separate policy.

Section 13. Subsection (3) is added to section 337.1101, Florida Statutes, to read:

337.1101 Contracting and procurement authority of the department; settlements; notification required.—

(3) The department may not, through a settlement of a protest filed in accordance with s. 120.57(3) of the award of a contract being procured pursuant to s. 337.11 or related to the purchase of commodities or contractual services being procured pursuant to s. 287.057, create a new contract unless the new contract is competitively procured.

Section 14. Subsections (1), (2), and (8) of section 337.14, Florida Statutes, are amended to read:

337.14 Application for qualification; certificate of

qualification; restrictions; request for hearing.—

(1) Any contractor desiring to bid for the performance of any construction contract in excess of $250,000 which the department proposes to let must first be certified by the department as qualified pursuant to this section and rules of the department. The rules of the department must address the qualification of contractors to bid on construction contracts in excess of $250,000 and must include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor which are necessary to perform the specific class of work for which the contractor seeks certification. Any contractor who desires to bid on contracts in excess of $50 million and who is not qualified and in good standing with the department as of January 1, 2019, must first be certified by the department as qualified and must have satisfactorily completed two projects, each in excess of $15 million, for the department or for any other state department of transportation. The department may limit the dollar amount of any contract upon which a contractor is qualified to bid or the aggregate total dollar volume of contracts such contractor is allowed to have under contract at any one time. Each applying contractor seeking qualification to bid on construction contracts in excess of $250,000 shall furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification must be accompanied by audited, certified financial statements prepared in accordance with generally accepted accounting principles and auditing standards by a

certified public accountant licensed in this state or another state. The audited, certified financial statements must be for the applying contractor and must have been prepared within the immediately preceding 12 months. The department may not consider any financial information of the parent entity of the applying contractor, if any. The department may not certify as qualified any applying contractor who fails to submit the audited, certified financial statements required by this subsection. If the application or the annual financial statement shows the financial condition of the applying contractor more than 4 months before the date on which the application is received by the department, the applicant must also submit interim audited, certified financial statements prepared in accordance with generally accepted accounting principles and auditing standards by a certified public accountant licensed in this state or another state. The interim financial statements must cover the period from the end date of the annual statement and must show the financial condition of the applying contractor no more than 4 months before the date that the interim financial statements are received by the department. However, upon the request of the applying contractor, an application and accompanying annual or interim financial statement received by the department within 15 days after either 4-month period under this subsection shall be considered timely. An applying contractor desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than $2 million may submit reviewed annual or reviewed interim financial statements prepared by a certified public accountant. The information required by this subsection is confidential and exempt from s.

119.07(1). The department shall act upon the application for qualification within 30 days after the department determines that the application is complete. The department may waive the requirements of this subsection for projects having a contract price of $1 million or less which have diverse scopes of work that may or may not be performed or $500,000 or less if the department determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property. Contracts for projects that have diverse scopes of work that may or may not be performed are typically referred to as push-button or task work order contracts.

(2) Certification is ~~shall be~~ necessary in order to bid on a road, bridge, or public transportation construction contract of more than $250,000. However, the successful bidder on any construction contract must furnish a contract bond before ~~prior to~~ the award of the contract. The department may waive the requirement for all or a portion of a contract bond for contracts of $250,000 ~~$150,000~~ or less under s. 337.18(1).

(8) This section does not apply to maintenance contracts. Notwithstanding any provision of law to the contrary, a contractor seeking to bid on a maintenance contract that predominantly includes repair and replacement of safety appurtenances, including, but not limited to, guardrails, attenuators, traffic signals, and striping, must possess the prescribed qualifications, equipment, record, and experience to perform such repair and replacement.

Section 15. Subsections (4) and (5) of section 337.185, Florida Statutes, are amended to read:

337.185 State Arbitration Board.—

(4) The contractor may submit a claim greater than $250,000 up to $2 ~~$1~~ million per contract or, upon agreement of the parties, greater than ~~up to~~ $2 million per contract to be arbitrated by the board. An award issued by the board pursuant to this subsection is final if a request for a trial de novo is not filed within the time provided by Rule 1.830, Florida Rules of Civil Procedure. At the trial de novo, the court may not admit evidence that there has been an arbitration proceeding, the nature or amount of the award, or any other matter concerning the conduct of the arbitration proceeding, except that testimony given in connection with ~~at~~ an arbitration hearing may be used for any purpose otherwise permitted by the Florida Evidence Code. If a request for trial de novo is not filed within the time provided, the award issued by the board is final and enforceable by a court of law.

(5) An arbitration request may not be made to the board before final acceptance but must be made to the board within 820 days after final acceptance or within 360 days after written notice by the department of a claim related to a written warranty or defect after final acceptance.

Section 16. Subsection (2) of section 337.19, Florida Statutes, is amended to read:

337.19 Suits by and against department; limitation of actions; forum.—

(2) For contracts entered into on or after June 30, 1993, suits by or ~~and~~ against the department under this section must ~~shall~~ be commenced within 820 days of the final acceptance of the work. For contracts entered into on or after July 1, 2025, suits by or against the department under this section must be

commenced within 820 days of the final acceptance of the work or within 360 days after written notice by the department of a claim related to a written warranty or defect after final acceptance ~~This section shall apply to all contracts entered into after June 30, 1993~~.

Section 17. Present subsections (3) through (9) of section 337.401, Florida Statutes, are redesignated as subsections (4) through (10), respectively, paragraph (c) is added to subsection (1) and a new subsection (3) is added to that section, and paragraph (b) of subsection (1), subsection (2), paragraphs (a), (c), and (g) of present subsection (3), present subsection (5), paragraph (e) of present subsection (6), and paragraphs (d) and (n) of present subsection (7) of that section are amended, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(1)

(b) For aerial and underground electric utility transmission lines designed to operate at 69 or more kilovolts which ~~that~~ are needed to accommodate the additional electrical transfer capacity on the transmission grid resulting from new base-load generating facilities, the department's rules shall provide for placement of and access to such transmission lines adjacent to and within the right-of-way of any department-controlled public roads, including longitudinally within limited access facilities where there is no other practicable alternative available, to the greatest extent allowed by federal law, if compliance with the standards established by such rules is achieved. Without limiting or conditioning the department's

jurisdiction or authority described in paragraph (a), with respect to limited access right-of-way, such rules may include, but need not be limited to, that the use of the right-of-way for longitudinal placement of electric utility transmission lines is reasonable based upon a consideration of economic and environmental factors, including, without limitation, other practicable alternative alignments, utility corridors and easements, impacts on adjacent property owners, and minimum clear zones and other safety standards, and further provide that placement of the electric utility transmission lines within the department's right-of-way does not interfere with operational requirements of the transportation facility or planned or potential future expansion of such transportation facility. If the department approves longitudinal placement of electric utility transmission lines in limited access facilities, compensation for the use of the right-of-way is required. Such consideration or compensation paid by the ~~electric~~ utility owner in connection with the department's issuance of a permit does not create any property right in the department's property regardless of the amount of consideration paid or the improvements constructed on the property by the utility owner. Upon notice by the department that the property is needed for expansion or improvement of the transportation facility, the electric utility transmission line will be removed or relocated at the utility owner's ~~electric utility's~~ sole expense. The ~~electric~~ utility owner shall pay to the department reasonable damages resulting from the utility owner's ~~utility's~~ failure or refusal to timely remove or relocate its transmission lines. The rules to be adopted by the department may also address the

compensation methodology and removal or relocation. As used in this subsection, the term "base-load generating facilities" means electric power plants that are certified under part II of chapter 403.

(c) An entity that places, replaces, or relocates underground utilities within a right-of-way must make such underground utilities electronically detectable using techniques approved by the department.

(2) The authority may grant to any person who is a resident of this state, or to any corporation that ~~which~~ is organized under the laws of this state or licensed to do business within this state, the use of a right-of-way for the utility in accordance with such rules or regulations as the authority may adopt. A utility may not be installed, located, or relocated unless authorized by a written permit issued by the authority. However, for public roads or publicly owned rail corridors under the jurisdiction of the department, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit. The permit or relocation agreement must require the permitholder or party to the agreement to be responsible for any damage resulting from the work required. The utility owner shall pay to the authority actual damages resulting from a failure or refusal to timely remove or relocate a utility. Issuance of permits for new placement of utilities within the authority's rights-of-way may be subject to payment of actual costs incurred by the authority due to the failure of the utility owner to timely relocate utilities pursuant to an approved utility work schedule, for damage done to existing infrastructure by the utility owner, and for roadway failures

caused by work performed by the utility owner ~~issuance of such permit~~. The authority may initiate injunctive proceedings as provided in s. 120.69 to enforce ~~provisions of~~ this subsection or any rule or order issued or entered into pursuant thereto. A permit application required under this subsection by a county or municipality having jurisdiction and control of the right-of-way of any public road must be processed and acted upon in accordance with the timeframes provided in subparagraphs (8)(d)7., 8., and 9 ~~(7)(d)7., 8., and 9~~.

(3)(a) As used in this subsection, the term "as-built plans" means plans that include all changes and modifications that occur during the construction phase of a project.

(b) The authority and utility owner shall agree in writing to an approved depth of as-built plans in accordance with the scope of a project.

(c) The utility owner shall submit as-built plans within 20 business days after completion of the utility work which show actual final surface and subsurface utilities, including location alignment profile, depth, and geodetic datum of each structure. As-built plans must be provided in an electronic format that is compatible with department software and meets technical specifications provided by the department or in an electronic format determined by the utility industry to be in accordance with industry standards. The department may by written agreement make exceptions to the electronic format requirement.

(d) As-built plans must be submitted before any costs may be reimbursed by the authority under subsection (2).

(4)(a) ~~(3)(a)~~ Because of the unique circumstances applicable

to providers of communications services, including, but not limited to, the circumstances described in paragraph (e) and the fact that federal and state law require the nondiscriminatory treatment of providers of telecommunications services, and because of the desire to promote competition among providers of communications services, it is the intent of the Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way. Rules or regulations imposed by a municipality or county relating to providers of communications services placing or maintaining communications facilities in its roads or rights-of-way must be generally applicable to all providers of communications services, taking into account the distinct engineering, construction, operation, maintenance, public works, and safety requirements of the provider's facilities, and, notwithstanding any other law, may not require a provider of communications services to apply for or enter into an individual license, franchise, or other agreement with the municipality or county as a condition of placing or maintaining communications facilities in its roads or rights-of-way. In addition to other reasonable rules or regulations that a municipality or county may adopt relating to the placement or maintenance of communications facilities in its roads or rights-of-way under this subsection or subsection (8) ~~(7)~~, a municipality or county may require a provider of communications services that places or seeks to place facilities in its roads or rights-of-way to register with the municipality or county. To

register, a provider of communications services may be required only to provide its name; the name, address, and telephone number of a contact person for the registrant; the number of the registrant's current certificate of authorization issued by the Florida Public Service Commission, the Federal Communications Commission, or the Department of State; a statement of whether the registrant is a pass-through provider as defined in subparagraph (7)(a)1. ~~(6)(a)1.~~; the registrant's federal employer identification number; and any required proof of insurance or self-insuring status adequate to defend and cover claims. A municipality or county may not require a registrant to renew a registration more frequently than every 5 years but may require during this period that a registrant update the registration information provided under this subsection within 90 days after a change in such information. A municipality or county may not require the registrant to provide an inventory of communications facilities, maps, locations of such facilities, or other information by a registrant as a condition of registration, renewal, or for any other purpose; provided, however, that a municipality or county may require as part of a permit application that the applicant identify at-grade communications facilities within 50 feet of the proposed installation location for the placement of at-grade communications facilities. A municipality or county may not require a provider to pay any fee, cost, or other charge for registration or renewal thereof. It is the intent of the Legislature that the placement, operation, maintenance, upgrading, and extension of communications facilities not be unreasonably interrupted or delayed through the permitting or

other local regulatory process. Except as provided in this chapter or otherwise expressly authorized by chapter 202, chapter 364, or chapter 610, a municipality or county may not adopt or enforce any ordinance, regulation, or requirement as to the placement or operation of communications facilities in a right-of-way by a communications services provider authorized by state or local law to operate in a right-of-way; regulate any communications services; or impose or collect any tax, fee, cost, charge, or exaction for the provision of communications services over the communications services provider's communications facilities in a right-of-way.

(c) Any municipality or county that, as of January 1, 2019, elected to require permit fees from any provider of communications services that uses or occupies municipal or county roads or rights-of-way pursuant to former paragraph (c) or former paragraph (j), Florida Statutes 2018, may continue to require and collect such fees. A municipality or county that elected as of January 1, 2019, to require permit fees may elect to forego such fees as provided herein. A municipality or county that elected as of January 1, 2019, not to require permit fees may not elect to impose permit fees. All fees authorized under this paragraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee authorized under this paragraph may not be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-

of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not authorized under this paragraph, the prevailing party may recover court costs and attorney fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this paragraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way, including, but not limited to, the performance of service restoration work on existing facilities, extensions of such facilities for providing communications services to customers, and the placement of micro wireless facilities in accordance with subparagraph (8)(e)3 ~~(7)(e)3~~.

1. If a municipality or charter county elects to not require permit fees, the total rate for the local communications services tax as computed under s. 202.20 for that municipality or charter county may be increased by ordinance or resolution by an amount not to exceed a rate of 0.12 percent.

2. If a noncharter county elects to not require permit fees, the total rate for the local communications services tax as computed under s. 202.20 for that noncharter county may be increased by ordinance or resolution by an amount not to exceed

a rate of 0.24 percent, to replace the revenue the noncharter county would otherwise have received from permit fees for providers of communications services.

(g) A municipality or county may not use its authority over the placement of facilities in its roads and rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission, including, but not limited to, the operations, systems, equipment, technology, qualifications, services, service quality, service territory, and prices of a provider of communications services. A municipality or county may not require any permit for the maintenance, repair, replacement, extension, or upgrade of existing aerial wireline communications facilities on utility poles or for aerial wireline facilities between existing wireline communications facility attachments on utility poles by a communications services provider. However, a municipality or county may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane or parking lane, unless the provider is performing service restoration to existing facilities. A permit application required by an authority under this section for the placement of communications facilities must be processed and acted upon consistent with the timeframes provided in subparagraphs (8)(d)7., 8., and 9 ~~(7)(d)7., 8., and 9~~. In addition, a municipality or county may not require any permit or other approval, fee, charge, or cost, or other exaction for the maintenance, repair, replacement, extension, or upgrade of

existing aerial lines or underground communications facilities located on private property outside of the public rights-of-way. As used in this section, the term "extension of existing facilities" includes those extensions from the rights-of-way into a customer's private property for purposes of placing a service drop or those extensions from the rights-of-way into a utility easement to provide service to a discrete identifiable customer or group of customers.

(6)~~(5)~~ This section, except subsections (1) and (2) and paragraph (4)(g) ~~(3)(g)~~, does not apply to the provision of pay telephone service on public, municipal, or county roads or rights-of-way.

(7)~~(6)~~

(e) This subsection does not alter any provision of this section or s. 202.24 relating to taxes, fees, or other charges or impositions by a municipality or county on a dealer of communications services or authorize that any charges be assessed on a dealer of communications services, except as specifically set forth herein. A municipality or county may not charge a pass-through provider any amounts other than the charges under this subsection as a condition to the placement or maintenance of a communications facility in the roads or rights-of-way of a municipality or county by a pass-through provider, except that a municipality or county may impose permit fees on a pass-through provider consistent with paragraph (4)(c) ~~(3)(c)~~.

(8)~~(7)~~

(d) An authority may require a registration process and permit fees in accordance with subsection (4) ~~(3)~~. An authority shall accept applications for permits and shall process and

issue permits subject to the following requirements:

1. An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority.

2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate the applicant's compliance with applicable codes for the placement of small wireless facilities in the locations identified in the application. An applicant may not be required to provide inventories, maps, or locations of communications facilities in the right-of-way other than as necessary to avoid interference with other at-grade or aerial facilities located at the specific location proposed for a small wireless facility or within 50 feet of such location.

3. An authority may not:

a. Require the placement of small wireless facilities on any specific utility pole or category of poles;

b. Require the placement of multiple antenna systems on a single utility pole;

c. Require a demonstration that collocation of a small wireless facility on an existing structure is not legally or technically possible as a condition for granting a permit for the collocation of a small wireless facility on a new utility pole except as provided in paragraph (i);

d. Require compliance with an authority's provisions regarding placement of small wireless facilities or a new utility pole used to support a small wireless facility in

rights-of-way under the control of the department unless the authority has received a delegation from the department for the location of the small wireless facility or utility pole, or require such compliance as a condition to receive a permit that is ancillary to the permit for collocation of a small wireless facility, including an electrical permit;

e. Require a meeting before filing an application;

f. Require direct or indirect public notification or a public meeting for the placement of communication facilities in the right-of-way;

g. Limit the size or configuration of a small wireless facility or any of its components, if the small wireless facility complies with the size limits in this subsection;

h. Prohibit the installation of a new utility pole used to support the collocation of a small wireless facility if the installation otherwise meets the requirements of this subsection; or

i. Require that any component of a small wireless facility be placed underground except as provided in paragraph (i).

4. Subject to paragraph (r), an authority may not limit the placement, by minimum separation distances, of small wireless facilities, utility poles on which small wireless facilities are or will be collocated, or other at-grade communications facilities. However, within 14 days after the date of filing the application, an authority may request that the proposed location of a small wireless facility be moved to another location in the right-of-way and placed on an alternative authority utility pole or support structure or placed on a new utility pole. The authority and the applicant may negotiate the alternative

location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the authority of such nonagreement and the authority must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

5. An authority shall limit the height of a small wireless facility to 10 feet above the utility pole or structure upon which the small wireless facility is to be collocated. Unless waived by an authority, the height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the authority shall limit the height of the utility pole to 50 feet.

6. The installation by a communications services provider of a utility pole in the public rights-of-way, other than a utility pole used to support a small wireless facility, is subject to authority rules or regulations governing the

placement of utility poles in the public rights-of-way.

7. Within 14 days after receiving an application, an authority must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the authority must specifically identify the missing information. An application is deemed complete if the authority fails to provide notification to the applicant within 14 days.

8. An application must be processed on a nondiscriminatory basis. A complete application is deemed approved if an authority fails to approve or deny the application within 60 days after receipt of the application. If an authority does not use the 30-day negotiation period provided in subparagraph 4., the parties may mutually agree to extend the 60-day application review period. The authority shall grant or deny the application at the end of the extended period. A permit issued pursuant to an approved application shall remain effective for 1 year unless extended by the authority.

9. An authority must notify the applicant of approval or denial by electronic mail. An authority shall approve a complete application unless it does not meet the authority's applicable codes. If the application is denied, the authority must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after notice of the denial is sent to the applicant. The authority shall approve or deny the revised

application within 30 days after receipt or the application is deemed approved. The review of a revised application is limited to the deficiencies cited in the denial. If an authority provides for administrative review of the denial of an application, the review must be complete and a written decision issued within 45 days after a written request for review is made. A denial must identify the specific code provisions on which the denial is based. If the administrative review is not complete within 45 days, the authority waives any claim regarding failure to exhaust administrative remedies in any judicial review of the denial of an application.

10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 small wireless facilities. If the application includes multiple small wireless facilities, an authority may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

11. An authority may deny an application to collocate a small wireless facility or place a utility pole used to support a small wireless facility in the public rights-of-way if the proposed small wireless facility or utility pole used to support a small wireless facility:

a. Materially interferes with the safe operation of traffic control equipment.

b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.

c. Materially interferes with compliance with the Americans

with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

d. Materially fails to comply with the 2017 edition of the Florida Department of Transportation Utility Accommodation Manual.

e. Fails to comply with applicable codes.

f. Fails to comply with objective design standards authorized under paragraph (r).

12. An authority may adopt by ordinance provisions for insurance coverage, indemnification, force majeure, abandonment, authority liability, or authority warranties. Such provisions must be reasonable and nondiscriminatory. An authority may require a construction bond to secure restoration of the postconstruction rights-of-way to the preconstruction condition. However, such bond must be time-limited to not more than 18 months after the construction to which the bond applies is completed. For any financial obligation required by an authority allowed under this section, the authority shall accept a letter of credit or similar financial instrument issued by any financial institution that is authorized to do business within the United States, provided that a claim against the financial instrument may be made by electronic means, including by facsimile. A provider of communications services may add an authority to any existing bond, insurance policy, or other relevant financial instrument, and the authority must accept such proof of coverage without any conditions other than consent to venue for purposes of any litigation to which the authority is a party. An authority may not require a communications services provider to indemnify it for liabilities not caused by

the provider, including liabilities arising from the authority's negligence, gross negligence, or willful conduct.

13. Collocation of a small wireless facility on an authority utility pole does not provide the basis for the imposition of an ad valorem tax on the authority utility pole.

14. An authority may reserve space on authority utility poles for future public safety uses. However, a reservation of space may not preclude collocation of a small wireless facility. If replacement of the authority utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

15. A structure granted a permit and installed pursuant to this subsection shall comply with chapter 333 and federal regulations pertaining to airport airspace protections.

(n) This subsection does not affect provisions relating to pass-through providers in subsection (7) ~~(6)~~.

Section 18. Present subsections (2) and (3) of section 337.403, Florida Statutes, are redesignated as subsections (4) and (5), respectively, new subsections (2) and (3) are added to that section, and subsection (1) of that section is amended, to read:

337.403 Interference caused by utility; expenses.—

(1) If a utility that is placed upon, under, over, or within the right-of-way limits of any public road or publicly owned rail corridor is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion,

of such public road or publicly owned rail corridor, the utility owner shall, upon 30 days' written notice to the utility or its agent by the authority, initiate the work necessary to alleviate the interference at its own expense except as provided in paragraphs (a)-(k) ~~(a)-(j)~~. The work must be completed within such reasonable time as stated in the notice or such time as agreed to by the authority and the utility owner.

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 84-627, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of the project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal-Aid Highway Act, or any amendment thereof, ~~then in that event~~ the utility owning or operating such facilities must ~~shall~~ perform any necessary work upon notice from the department, and the state must ~~shall~~ pay the entire expense properly attributable to such work after deducting therefrom any increase in the value of a new facility and any salvage value derived from an old facility.

(b) The department may reimburse up to 50 percent of the costs for relocation of publicly regulated utility facilities and municipally owned or county-owned utility facilities, and 100 percent of the costs for relocation of municipally owned or county-owned utility facilities located in a rural area of opportunity as defined in s. 288.0656(2), on the State Highway System after deducting therefrom any increase in the value of a new facility and any salvage value derived from an old facility upon determining that such reimbursement is in the best

interests of the public and necessary to expedite the construction of the project and that the utility owner has relocated its facility at least 5 percent ahead of the time allotted for relocation per the latest approved utility relocation schedule.

(c) ~~(b)~~ When a joint agreement between the department and the utility is executed for utility work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility work costs that exceed the department's official estimate of the cost of the work by more than 10 percent in addition to any costs identified in paragraph (a). The amount of such participation is limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility work costs that occur as a result of changes or additions during the course of the contract.

(d) ~~(c)~~ When an agreement between the department and utility is executed for utility work to be accomplished in advance of a contract for construction of a transportation facility, the department may participate in the cost of clearing and grubbing necessary to perform such work.

(e) ~~(d)~~ If the utility facility was initially installed to exclusively serve the authority or its tenants, or both, the authority must ~~shall~~ bear the costs of the utility work. However, the authority is not responsible for the cost of utility work related to any subsequent additions to that facility for the purpose of serving others. For a county or

municipality, if such utility facility was installed in the right-of-way as a means to serve a county or municipal facility on a parcel of property adjacent to the right-of-way and if the intended use of the county or municipal facility is for a use other than transportation purposes, the obligation of the county or municipality to bear the costs of the utility work extends ~~shall extend~~ only to utility work on the parcel of property on which the facility of the county or municipality originally served by the utility facility is located.

(f) ~~(e)~~ If, under an agreement between a utility owner and the authority entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority, without the agreement expressly addressing future responsibility for the cost of necessary utility work, the authority must ~~shall~~ bear the cost of removal or relocation. This paragraph does not impair or restrict, and may not be used to interpret, the terms of any such agreement entered into before July 1, 2009.

(g) ~~(f)~~ If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past 5 years, the department shall incur all costs of the necessary utility work.

(h) ~~(g)~~ An authority may bear the costs of utility work required to eliminate an unreasonable interference when the utility is not able to establish that it has a compensable property right in the particular property where the utility is

located if:

1. The utility was physically located on the particular property before the authority acquired rights in the property;

2. The utility demonstrates that it has a compensable property right in adjacent properties along the alignment of the utility or, after due diligence, certifies that the utility does not have evidence to prove or disprove that it has a compensable property right in the particular property where the utility is located; and

3. The information available to the authority does not establish the relative priorities of the authority's and the utility's interests in the particular property.

(i) ~~(h)~~ If a municipally owned utility or county-owned utility is located in a rural area of opportunity, as defined in s. 288.0656(2), and the department determines that the utility owner is unable, and will not be able within the next 10 years, to pay for the cost of utility work necessitated by a department project on the State Highway System, the department may pay, in whole or in part, the cost of such utility work performed by the department or its contractor.

(j) ~~(i)~~ If the relocation of utility facilities is necessitated by the construction of a commuter rail service project or an intercity passenger rail service project and the cost of the project is eligible and approved for reimbursement by the Federal Government, ~~then~~ in that event the utility owning or operating such facilities located by permit on a department-owned rail corridor must ~~shall~~ perform any necessary utility relocation work upon notice from the department, and the department must ~~shall~~ pay the expense properly attributable to

such utility relocation work in the same proportion as federal funds are expended on the commuter rail service project or an intercity passenger rail service project after deducting therefrom any increase in the value of a new facility and any salvage value derived from an old facility. In no event is ~~shall~~ the state ~~be~~ required to use state dollars for such utility relocation work. This paragraph does not apply to any phase of the Central Florida Commuter Rail project, known as SunRail.

(k)~~(j)~~ If a utility is lawfully located within an existing and valid utility easement granted by recorded plat, regardless of whether such land was subsequently acquired by the authority by dedication, transfer of fee, or otherwise, the authority must bear the cost of the utility work required to eliminate an unreasonable interference. The authority shall pay the entire expense properly attributable to such work after deducting any increase in the value of a new facility and any salvage value derived from an old facility.

(2) Before the notice to initiate the work, the department and the utility owner shall follow a procedure that includes all of the following:

(a) The department shall provide to the utility owner preliminary plans for a proposed highway improvement project and notice of a period that begins 30 days and ends within 120 days after receipt of the notice within which the utility owner shall submit to the department the plans required in accordance with paragraph (b). The utility owner shall provide to the department written acknowledgement of receipt of the preliminary plans.

(b) The utility owner shall submit to the department plans showing existing and proposed locations of utility facilities

within the period provided by the department. If the utility owner fails to submit the plans to the department within the period, the department is not required to participate in the work, may withhold any amount due to the utility owner on other projects within the rights-of-way of the same district of the department, and may withhold issuance of any other permits for work within the rights-of-way of the same district of the department.

(c) The plans submitted by the utility owner must include a utility relocation schedule for approval by the department. The utility relocation schedule must meet form and timeframe requirements established by department rule.

(d) If a state of emergency is declared by the Governor, the utility is entitled to receive an extension to the utility relocation schedule which is at least equal to any extension granted to the contractor by the department. The utility owner shall notify the department of any additional delays associated with causes beyond the utility owner's control, including, but not limited to, participation in recovery work under a mutual aid agreement. The notification must occur within 10 calendar days after commencement of the delay and provide a reasonably complete description of the cause and nature of the delay and the possible impacts to the utility relocation schedule. Within 10 calendar days after the cause of the delay ends, the utility owner shall submit a revised utility relocation schedule for approval by the department. The department may not unreasonably withhold, delay, or condition such approval.

(e) If the utility owner does not initiate work in accordance with the utility relocation schedule, the department

must provide the utility owner a final notice directing the utility owner to initiate work within 10 calendar days. If the utility owner does not begin work within 10 calendar days after receipt of the final notice or, having so begun work, thereafter fails to complete the work in accordance with the utility relocation schedule, the department is not required to participate in the work, may withhold any amount due to the utility owner for projects within the rights-of-way of the same district of the department, and may exercise its right to obtain injunctive relief under s. 120.69.

(f) If additional utility work is found necessary after the letting date of a highway improvement project, the utility must provide a revised utility relocation schedule within 30 calendar days after becoming aware of the need for such additional work or upon receipt of the department's written notification advising of the need for such additional work. The department shall review the revised utility relocation schedule for compliance with the form and timeframe requirements of the department and must approve the revised utility relocation schedule if such requirements are met.

(g) The utility owner is liable to the department for documented damages resulting from the utility's failure to comply with the utility relocation schedule, including any delay costs incurred by the contractor and approved by the department. Within 45 days after receipt of written notification from the department that the utility owner is liable for damages, the utility owner must pay to the department the amount for which the utility owner is liable or request mediation pursuant to subsection (3).

(3)(a) The department shall establish mediation boards to resolve disputes that arise between the department and utilities concerning any of the following:

1. A utility relocation schedule or revised utility relocation schedule that has been submitted by the utility owner but not approved by the department.

2. A contractor's claim, approved by the department, for delay costs or other damages related to the utility's work.

3. Any matter related to the removal, relocation, or adjustment of the utility's facilities pursuant to this section.

(b) The department shall establish mediation board procedures, which must include all of the following:

1. Each mediation board shall be composed of one mediator designated by the department, one mediator designated by the utility owner, and one mediator mutually selected by the department's designee and the utility owner's designee who shall serve as the presiding officer of the mediation board.

2. The mediation board shall hold a hearing for each dispute submitted to the mediation board for resolution. The mediation board shall provide notice of the hearing to each party involved in the dispute and afford each party an opportunity to present evidence at the hearing.

3. Decisions on issues presented to the mediation board must be made by a majority vote of the mediators.

4. The mediation board shall issue a final decision in writing for each dispute submitted to the mediation board for resolution and shall serve a copy of the final decision on each party to the dispute.

5. Final decisions of the mediation board are subject to de

novo review in the Second Judicial Circuit Court in and for Leon County by way of a petition for judicial review filed by the department or the utility owner within 30 days after service of the final decision.

(c) The members of the mediation board shall receive compensation for the performance of their duties from deposits made by the parties based on an estimate of compensation by the mediation board. All deposits will be held in escrow by the chair in advance of the hearing. Each member shall be compensated at $200 per hour, up to a maximum of $1,500 per day. A member shall be reimbursed for the actual cost of his or her travel expenses. The mediation board may allocate funds for clerical and other administrative services.

(d) The department may establish a list of qualified mediators and adopt rules to administer this subsection, including procedures for the mediation of a contested case.

Section 19. Present subsection (10) of section 339.175, Florida Statutes, is redesignated as subsection (11), a new subsection (10) is added to that section, and subsection (1), paragraph (a) of subsection (2), paragraphs (b), (i), and (j) of subsection (6), paragraphs (a), (b), and (d) of subsection (7), and present subsection (11) of that section are amended, to read:

339.175 Metropolitan planning organization.—

(1) PURPOSE.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of multimodal ~~surface~~ transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through

urbanized areas of this state while balancing conservation of natural resources ~~minimizing transportation-related fuel consumption, air pollution, and greenhouse gas emissions through metropolitan transportation planning processes identified in this section~~. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed. To ensure that the process is integrated with the statewide planning process, M.P.O.'s shall develop plans and programs that identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to facilities that serve important national, state, and regional transportation functions. For the purposes of this section, those facilities include the facilities on the Strategic Intermodal System designated under s. 339.63 and facilities for which projects have been identified pursuant to s. 339.2819(4).

(2) DESIGNATION.—

(a)1. An M.P.O. shall be designated for each urbanized area of the state; however, this does not require that an individual M.P.O. be designated for each such area. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as defined by the United States Bureau of the Census, must be a party to such agreement.

2. To the extent possible, only one M.P.O. shall be designated for each urbanized area or group of contiguous urbanized areas. More than one M.P.O. may be designated within an existing urbanized area only if the Governor and the existing M.P.O. determine that the size and complexity of the existing urbanized area makes the designation of more than one M.P.O. for the area appropriate. After July 1, 2025, no additional M.P.O.'s may be designated in this state except in urbanized areas, as defined by the United States Census Bureau, where the urbanized area boundary is not contiguous to an urbanized area designated before the 2020 census~~, in which case each M.P.O. designated for the area must:~~

~~a. Consult with every other M.P.O. designated for the urbanized area and the state to coordinate plans and transportation improvement programs~~.

~~b. Ensure, to the maximum extent practicable, the consistency of data used in the planning process, including data used in forecasting travel demand within the urbanized area.~~

Each M.P.O. required under this section must be fully operative no later than 6 months following its designation.

(6) POWERS, DUTIES, AND RESPONSIBILITIES.—The powers, privileges, and authority of an M.P.O. are those specified in this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law. An M.P.O. may not perform project production or delivery for capital improvement projects on the State Highway System.

(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. shall provide for consideration of projects and strategies that will:

1. Support the economic vitality of the contiguous urbanized metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

2. Increase the safety and security of the transportation system for motorized and nonmotorized users.

3. Increase the accessibility and mobility options available to people and for freight.

4. Protect and enhance the environment, conserve natural resources ~~promote energy conservation~~, and improve quality of life.

5. Enhance the integration and connectivity of the transportation system, across and between modes and contiguous urbanized metropolitan areas, for people and freight.

6. Promote efficient system management and operation.

7. Emphasize the preservation of the existing transportation system.

8. Improve the resilience of transportation infrastructure.

9. Reduce traffic and congestion.

~~(i) By December 31, 2023, the M.P.O.'s serving Hillsborough, Pasco, and Pinellas Counties must submit a feasibility report to the Governor, the President of the Senate, and the Speaker of the House of Representatives exploring the benefits, costs, and process of consolidation into a single M.P.O. serving the contiguous urbanized area, the goal of which would be to:~~

~~1. Coordinate transportation projects deemed to be regionally significant.~~

~~2. Review the impact of regionally significant land use decisions on the region.~~

~~3. Review all proposed regionally significant transportation projects in the transportation improvement programs.~~

(i)1.~~(j)1.~~ To more fully accomplish the purposes for which M.P.O.'s have been mandated, the department shall, at least annually, convene M.P.O.'s of similar size, based on the size of population served, for the purpose of exchanging best practices. M.P.O.'s may ~~shall~~ develop committees or working groups as needed to accomplish such purpose. At the discretion of the department, training for new M.P.O. governing board members

shall be provided by the department, by an entity pursuant to a contract with the department, by the Florida Center for Urban Transportation Research, or by the Implementing Solutions from Transportation Research and Evaluation of Emerging Technologies (I-STREET) living lab ~~coordination mechanisms with one another to expand and improve transportation within the state. The appropriate method of coordination between M.P.O.'s shall vary depending upon the project involved and given local and regional needs. Consequently, it is appropriate to set forth a flexible methodology that can be used by M.P.O.'s to coordinate with other M.P.O.'s and appropriate political subdivisions as circumstances demand~~.

2. Any M.P.O. may join with any other M.P.O. or any individual political subdivision to coordinate activities or to achieve any federal or state transportation planning or development goals or purposes consistent with federal or state law. When an M.P.O. determines that it is appropriate to join with another M.P.O. or any political subdivision to coordinate activities, the M.P.O. or political subdivision shall enter into an interlocal agreement pursuant to s. 163.01, which, at a minimum, creates a separate legal or administrative entity to coordinate the transportation planning or development activities required to achieve the goal or purpose; provides the purpose for which the entity is created; provides the duration of the agreement and the entity and specifies how the agreement may be terminated, modified, or rescinded; describes the precise organization of the entity, including who has voting rights on the governing board, whether alternative voting members are provided for, how voting members are appointed, and what the

relative voting strength is for each constituent M.P.O. or political subdivision; provides the manner in which the parties to the agreement will provide for the financial support of the entity and payment of costs and expenses of the entity; provides the manner in which funds may be paid to and disbursed from the entity; and provides how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the operation of the entity. Such interlocal agreement shall become effective upon its recordation in the official public records of each county in which a member of the entity created by the interlocal agreement has a voting member. Multiple M.P.O.'s may merge, combine, or otherwise join together as a single M.P.O.

(7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. Each M.P.O. is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range

transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, spaceports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range transportation plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan. ~~Multiple M.P.O.'s within a contiguous urbanized area must coordinate the development of long-range transportation plans to be reviewed by the Metropolitan Planning Organization Advisory Council.~~

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the

department shall cooperatively develop estimates of funds that will be available to support the plan implementation. Innovative financing techniques may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, public-private partnerships, the use of value capture financing, or the use of value pricing. Multiple M.P.O.'s within a contiguous urbanized area must ensure, to the maximum extent possible, the consistency of data used in the planning process.

(d) Indicate, as appropriate, proposed transportation enhancement activities, including, but not limited to, pedestrian and bicycle facilities, trails or facilities that are regionally significant or critical linkages for the Florida Shared-Use Nonmotorized Trail Network, scenic easements, landscaping, integration of advanced air mobility, and integration of autonomous and electric vehicles, electric bicycles, and motorized scooters used for freight, commuter, or micromobility purposes ~~historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising~~.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

(10) AGREEMENTS; ACCOUNTABILITY.—

(a) Each M.P.O. may execute a written agreement with the department, which shall be reviewed, and updated as necessary, every 5 years, which clearly establishes the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law. Roles, responsibilities, and expectations for accomplishing consistency with federal and state requirements and priorities must be set forth in the agreement. In addition, the agreement must set forth the M.P.O.'s responsibility, in collaboration with the department, to identify, prioritize, and present to the department a complete list of multimodal transportation projects consistent with the needs of the metropolitan planning area. It is the department's responsibility to program projects in the state transportation improvement program.

(b) The department must establish, in collaboration with each M.P.O., quality performance metrics, such as safety, infrastructure condition, congestion relief, and mobility. Each M.P.O. must, as part of its long-range transportation plan, in direct coordination with the department, develop targets for each performance measure within the metropolitan planning area boundary. The performance targets must support efficient and safe movement of people and goods both within the metropolitan planning area and between regions. Each M.P.O. must report progress toward establishing performance targets for each measure annually in its transportation improvement plan. The department shall evaluate and post on its website whether each M.P.O. has made significant progress toward its target for the applicable reporting period.

~~(11) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.~~

~~(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in this section.~~

~~(b) The council shall consist of one representative from each M.P.O. and shall elect a chairperson annually from its number. Each M.P.O. shall also elect an alternate representative from each M.P.O. to vote in the absence of the representative. Members of the council do not receive any compensation for their services, but may be reimbursed from funds made available to council members for travel and per diem expenses incurred in the performance of their council duties as provided in s. 112.061.~~

~~(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:~~

~~1. Establish bylaws by action of its governing board providing procedural rules to guide its proceedings and consideration of matters before the council, or, alternatively, adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.~~

~~2. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.~~

~~3. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155. The council must also report annually to the Florida Transportation Commission on the~~

~~alignment of M.P.O. long-range transportation plans with the Florida Transportation Plan.~~

~~4. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 110 and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.~~

~~5. Deliver training on federal and state program requirements and procedures to M.P.O. board members and M.P.O. staff.~~

~~6. Adopt an agency strategic plan that prioritizes steps the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directives.~~

~~(d) The Metropolitan Planning Organization Advisory Council may enter into contracts in accordance with chapter 287 to support the activities described in paragraph (c). Lobbying and the acceptance of funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources are prohibited.~~

Section 20. Subsection (4) of section 339.65, Florida Statutes, is amended to read:

339.65 Strategic Intermodal System highway corridors.—

(4) The department shall develop and maintain a plan of Strategic Intermodal System highway corridor projects that are anticipated to be let to contract for construction within a time

period of at least 20 years. The department shall prioritize projects affecting gaps in a corridor so that the corridor becomes contiguous in its functional characteristics across the corridor. The plan must ~~shall~~ also identify when segments of the corridor will meet the standards and criteria developed pursuant to subsection (5).

Section 21. Subsection (5) of section 125.42, Florida Statutes, is amended to read:

125.42 Water, sewage, gas, power, telephone, other utility, and television lines within the right-of-way limits of county roads and highways.—

(5) In the event of widening, repair, or reconstruction of any such road, the licensee shall move or remove such water, sewage, gas, power, telephone, and other utility lines and television lines at no cost to the county should they be found by the county to be unreasonably interfering, except as provided in s. 337.403(1)(e)-(k) ~~s. 337.403(1)(d)-(j)~~.

Section 22. Paragraph (b) of subsection (2) of section 202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax conversion rates.—

(2)

(b) Except as otherwise provided in this subsection, "replaced revenue sources," as used in this section, means the following taxes, charges, fees, or other impositions to the extent that the respective local taxing jurisdictions were authorized to impose them prior to July 1, 2000.

1. With respect to municipalities and charter counties and the taxes authorized by s. 202.19(1):

a. The public service tax on telecommunications authorized

by former s. 166.231(9).

b. Franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

c. The public service tax on prepaid calling arrangements.

d. Franchise fees on dealers of communications services which use the public roads or rights-of-way, up to the limit set forth in s. 337.401. For purposes of calculating rates under this section, it is the legislative intent that charter counties be treated as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.

e. Actual permit fees relating to placing or maintaining facilities in or on public roads or rights-of-way, collected from providers of long-distance, cable, and mobile communications services for the fiscal year ending September 30, 1999; however, if a municipality or charter county elects the option to charge permit fees pursuant to s. 337.401(4)(c) ~~s. 337.401(3)(c)~~, such fees shall not be included as a replaced revenue source.

2. With respect to all other counties and the taxes authorized in s. 202.19(1), franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

Section 23. Paragraph (e) of subsection (2) of section 331.310, Florida Statutes, is amended to read:

331.310 Powers and duties of the board of directors.—

(2) The board of directors shall:

(e) Prepare an annual report of operations as a supplement to the annual report required under s. 331.3051(15) ~~s. 331.3051(16)~~. The report must include, but not be limited to, a balance sheet, an income statement, a statement of changes in financial position, a reconciliation of changes in equity accounts, a summary of significant accounting principles, the auditor's report, a summary of the status of existing and proposed bonding projects, comments from management about the year's business, and prospects for the next year.

Section 24. Section 610.106, Florida Statutes, is amended to read:

610.106 Franchise fees prohibited.—Except as otherwise provided in this chapter, the department may not impose any taxes, fees, charges, or other impositions on a cable or video service provider as a condition for the issuance of a state-issued certificate of franchise authority. No municipality or county may impose any taxes, fees, charges, or other exactions on certificateholders in connection with use of public right-of-way as a condition of a certificateholder doing business in the municipality or county, or otherwise, except such taxes, fees, charges, or other exactions permitted by chapter 202, s. 337.401(7) ~~s. 337.401(6)~~, or s. 610.117.

Section 25. For the purpose of incorporating the amendment made by this act to section 332.004, Florida Statutes, in a reference thereto, subsection (1) of section 332.115, Florida Statutes, is reenacted to read:

332.115 Joint project agreement with port district for transportation corridor between airport and port facility.—

(1) An eligible agency may acquire, construct, and operate all equipment, appurtenances, and land necessary to establish, maintain, and operate, or to license others to establish, maintain, operate, or use, a transportation corridor connecting an airport operated by such eligible agency with a port facility, which corridor must be acquired, constructed, and used for the transportation of persons between the airport and the port facility, for the transportation of cargo, and for the location and operation of lines for the transmission of water, electricity, communications, information, petroleum products, products of a public utility (including new technologies of a public utility nature), and materials. However, any such corridor may be established and operated only pursuant to a joint project agreement between an eligible agency as defined in s. 332.004 and a port district as defined in s. 315.02, and such agreement must be approved by the Department of Transportation and the Department of Commerce. Before the Department of Transportation approves the joint project agreement, that department must review the public purpose and necessity for the corridor pursuant to s. 337.273(5) and must also determine that the proposed corridor is consistent with the Florida Transportation Plan. Before the Department of Commerce approves the joint project agreement, that department must determine that the proposed corridor is consistent with the applicable local government comprehensive plans. An affected local government may provide its comments regarding the consistency of the proposed corridor with its comprehensive plan to the Department of Commerce.

Section 26. (1) The Legislature finds that the widening of

Interstate 4, from U.S. 27 in Polk County to Interstate 75 in Hillsborough County, is in the public interest and the strategic interest of the region to improve the movement of people and goods.

(2) The Department of Transportation shall develop a report on widening Interstate 4, from U.S. 27 in Polk County to Interstate 75 in Hillsborough County, as efficiently as possible which includes, but is not limited to, detailed cost projections and schedules for project development and environment studies, design, acquisition of rights-of-way, and construction. The report must identify funding shortfalls and provide strategies to address such shortfalls, including, but not limited to, the use of express lane toll revenues generated on the Interstate 4 corridor and available department funds for public-private partnerships. The Department of Transportation shall submit the report by December 31, 2025, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 27. This act shall take effect July 1, 2025.

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 1574
INTRODUCER:	Senator DiCeglie
SUBJECT:	Energy Infrastructure Investment
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	**Pre-meeting**
2.			AEG	
3.			FP	

I. Summary:

SB 1574 amends s. 366.075, F.S., relating to Florida's experimental and transitional utility rates. The bill authorizes the Florida Public Service Commission (PSC) to establish an experimental mechanism to facilitate energy infrastructure investment in renewable natural gas (RNG).

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.[1] The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe and reliable manner and at fair prices.[2] In order to do so, the PSC exercises authority over utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.[3]

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid[4] and may order the addition or repair of infrastructure as necessary.[5] The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities[6] (called "public utilities" under

[1] Section 350.001, F.S.
[2] *See* Florida Public Service Commission, *Florida Public Service Commission Homepage*, http://www.psc.state.fl.us (last visited Mar. 27, 2025).
[3] Florida Public Service Commission, *About the PSC*, https://www.psc.state.fl.us/about (last visited Mar. 27, 2025).
[4] Section 366.04(5) and (6), F.S.
[5] Section 366.05(1) and (8), F.S.
[6] Section 366.05, F.S.

ch. 366, F.S.).[7] However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, and bulk power supply operations and planning.[8] Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative's membership.

PSC Setting of Public Utility Rates and Other Charges

Section 366.041, F.S., establishes the considerations the PSC must apply in fixing just, reasonable, and compensatory rates:

> the [PSC] is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base

Section 366.06, F.S., establishes the PSC's authority to establish and implement procedures for the fixing of and changing public utility rates. Under this section, all applications made by public utilities for changes in rates must be in writing with the PSC under the PSC's established rules and regulations.[9] Section 366.06(2), F.S., requires the PSC to hold a public hearing whenever it finds, upon request made, or upon its own motion, one or more of the following:

- That the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law;
- That such rates are insufficient to yield reasonable compensation for the services rendered;
- That such rates yield excessive compensation for services rendered; or
- That such service is inadequate or cannot be obtained.

During such a hearing, the PSC must determine just and reasonable rates to be thereafter charged for such service, and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.

The PSC establishes separate rates and charges for various components of a public utility's cost of providing service to its customers. These are established through various proceedings which include:

- Base rate proceedings (also known as rate cases);
- Cost recovery clauses;
- Infrastructure surcharges;

[7] Section 366.02(8), F.S.
[8] Florida Public Service Commission, *About the PSC*, *supra* note 3.
[9] Section 366.06(1), F.S.

- Interim charges.[10]

Experimental and Transitional Rates

Section 366.075, F.S., authorizes the PSC to approve experimental or transitional rates for the purpose of encouraging energy conservation or efficiency. This provision is used by the PSC to allow electric and natural gas utilities under its rate-regulatory jurisdiction to conduct limited scope pilot programs.

Such rates must be limited in geographic area and be for a limited period of time. The PSC may approve the area used in testing experimental rates and must specify in the order setting those rates the area that will be affected by those rates. The PSC can extend this time period "if it determines that further testing is necessary to fully evaluate the effectiveness of such experimental rates."

Renewable Energy

Section 366.91, F.S., establishes a number of renewable policies for the state. The purpose of these policies, as established in this section, states it is in the public interest to promote the development of renewable energy resources in this state.[11] Further, the statute is intended to encourage fuel diversification to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.[12]

The section defines "renewable energy" as:

> [E]electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.[13]

Renewable Natural Gas

Natural gas is a fossil energy source which forms beneath the earth's surface. Natural gas contains many different compounds, the largest of which is methane. Conventional natural gas is primarily extracted from subsurface porous rock reservoirs via gas and oil well drilling and

[10] Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, (Feb. 28, 2025).
[11] Section 366.91(1), F.S
[12] *Id.*
[13] Section 366.91(2)(e), F.S.

hydraulic fracturing, commonly referred to as "fracking."[14] RNG refers to biogas that has been upgraded to use in place of fossil fuel natural gas (i.e. conventional natural gas).[15]

Section 366.91, F.S., identifies sources for producing RNG as a potential source of renewable energy.[16] The section specifically defines renewable natural gas as anaerobically generated biogas,[17] landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater. Under the definition, such gas may be used as a transportation fuel or for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

Biogas used to produce RNG comes from various sources, including municipal solid waste landfills, digesters at water resource recovery facilities, livestock farms, food production facilities, and organic waste management operations.[18] Raw biogas has a methane content between 45 and 65 percent.[19] Once biogas is captured, it is treated in a process called conditioning or upgrading, which involves the removal of water, carbon dioxide, hydrogen sulfide, and other trace elements. After this process, the nitrogen and oxygen content is reduced and the RNG has a methane content comparable to natural gas and is thus a suitable energy source in applications that require pipeline-quality gas, such as vehicle applications.[20]

RNG that meets certain standards qualifies as an advanced biofuel under the Federal Renewable Fuel Standard Program.[21] This program was enacted by the United States Congress in order to reduce greenhouse gas emissions by reducing reliance on imported oil and expanding the nation's renewable fuels sector.[22]

Nationally as of September 2023, there were 580 landfill gas facilities in operation and 530 anaerobic digester systems operating at commercial livestock farms in the United States.[23] Of the more than 16,000 wastewater treatment plants in operation in the United States,

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[14] United States Energy Information Administration, *Natural gas explained*, Oct. 10, 2024, available at https://www.eia.gov/energyexplained/natural-gas/ (last visited Mar. 27, 2025)
[15] Environmental Protection Agency, *Landfill Methane Outreach Program (LMOP): Renewable Natural Gas*, available at https://www.epa.gov/lmop/renewable-natural-gas (last visited Mar. 27, 2025).
[16] Section 366.91(2)(e), F.S., defines "renewable energy," in part, as energy produced from biomass. Section 366.91(2)(b), F.S., defines "biomass" in part, as "a power source that is comprised of, but not limited to, combustible residues or gases from…waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas." RNG would be such a combustible gas.
[17] Section 366.91(2)(a) defines "biogas" as a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas.
[18] Environmental Protection Agency, *supra* note 15.
[19] *Id.*
[20] United States Department of Energy, *Renewable Natural Gas Production*, available at https://afdc.energy.gov/fuels/natural_gas_renewable.html (last visited Mar. 27, 2025).
[21] United States Department of Energy, *Renewable Fuel Standard*, available at https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20(RFS,Act%20of%202007%20(EISA) (last visited Mar. 27, 2025).
[22] Environmental Protection Agency, *Renewable Fuel Standard Program*, available at https://www.epa.gov/renewable-fuel-standard-program (last visited Mar. 27, 2025).
[23] United States Department of Energy, *supra* note 20, and American Biogas Council, *Biogas Market Snapshot*, https://americanbiogascouncil.org/biogas-market-snapshot/ (last visited Mar. 27, 2025).

approximately 1,200 have anaerobic digesters on site, and 860 of those have the equipment to use their biogas on site.[24]

Florida Power and Light (FPL) Woodford Decision

In *Citizens of State v. Graham*, 191 So. 3d 897 (Fla. 2016), the Florida Supreme Court found the PSC lacked statutory authority to approve cost recovery for FPL investment in a natural gas production facility in the Woodford Shale Gas Region in Oklahoma (Woodford Project). The Woodford Project involved exploration and production of natural gas and not the purchase of actual fuel—something that would generally be within the types of activities an electric utility would engage in. The Supreme Court cited to s. 366.02(2), F.S. (2014), which defines an "electric utility" as "any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state," and found that the Woodford Project activities did not fall within this definition.[25]

However, in making its decision, the Supreme Court noted the following:

> This may be a good idea, but whether advance cost recovery of speculative capital investments in gas exploration and production by an electric utility is in the public interest is a policy determination that must be made by the Legislature. For example, in contrast to natural gas exploration and production, the Legislature has authorized the PSC to approve cost recovery for capital investments in nuclear power plants and energy efficient and renewable energy power sources. See ss. 366.8255; 366.92; 366.93, Fla. Stat. (2014). Without statutory authorization from the Legislature, the recovery of FPL's costs and capital investment in the Woodford Project through the fuel clause is overreach.[26]

Thus, while the Supreme Court determined that the PSC could not approve cost recovery for capital electric utility investments in natural gas production, it indicated that the Legislature has the authority to allow for such if it chose to do so.[27]

Biogas in Florida

According to the American Biogas Council, Florida has 70 operational biogas systems:

- 40 wastewater systems;
- 21 landfills;
- Five food waste systems; and
- Four manure processing locations.[28]

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[24] *Id.*
[25] *Citizens of State v. Graham*, 191 So. 3d 897, 901-2 (Fla. 2016).
[26] *Id.* at 902.
[27] Florida Public Service Commission, *Bill Analysis for SB 1162* (Mar. 14, 2023) (on file with the Senate Regulated Industries Committee).
[28] American Biogas Council at https://americanbiogascouncil.org/resources/state-profiles/florida/ (last visited Mar. 27, 2025).

Storm Protection Plans

Section 366.96 (ch. 2019-158, Laws of Fla.), F.S., requires public electric utilities to file with the PSC "a transmission and distribution storm protection plan (SPP) that covers the immediate 10-year planning period. Each plan must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability."[29] Public electric utilities file, for PSC-review and approval, an updated SPP every three years.[30] In its review of SPPs, s. 366.96(4), F.S., requires the PSC to consider:

- The extent to which the SPP is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the SPP prioritizes areas of lower reliability performance;
- The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility's service territory, including, but not limited to, flood zones and rural areas;
- The estimated costs and benefits of the SPP to the utility and its customers of making the improvements proposed in the plan; and
- The estimated annual rate impact resulting from implementation of the SPP during the first three years addressed in the plan.

Section 366.96(7), F.S., also includes an annual cost-recovery clause mechanism that allows these utilities to recover transmission and distribution SPP costs through a charge separate and apart from that utility's base rates. This annual recovery is called the SPP cost recovery clause (SPPCRC) docket. Once a utility's SPP has been approved, the utility may proceed with implementing the plan. Once the PSC determines that SPP costs were prudently incurred (and actions taken to implement the approved SPP cannot be taken as evidence of imprudence), SPP implementation costs are not subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the public utility.

A public utility may recover SPP capital expenditures by recovering the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs calculated at the public utility's weighted average cost of capital using the last approved return on equity.[31]

Florida Supreme Court Interpretation of s. 366.96, F.S.: *Citizens of the State of Florida v. Andrew Giles Fay*

In 2022, the PSC approved proposals from Florida's four public electric utilities for their SPPs for the 2022-2032 period.[32] Florida's Office of Public Counsel (OPC)[33] challenged the PSC

[29] Section 366.96(3), F.S.
[30] Section 366.96(6), F.S.
[31] Section 366.96(9), F.S.
[32] *Citizens of State v. Fay*, 396 So. 3d 549, 553 (Fla. 2024).
[33] The Public Counsel, appointed by the Florida Senate and House of Representatives Joint Committee on Public Counsel Oversight, represents the general public in proceedings before the PSC and before counties that regulate water and wastewater utilities. Sections 350.61 and 350.611, F.S.

orders at the Florida Supreme Court.[34] The OPC argued that the PSC erred in its interpretation of the statute and impaired the fairness of the proceedings below by granting the utilities' motions to strike portions of expert testimony on whether SPP costs were prudent.[35] The OPC asserted that the PSC erred in its decision by:

- Determining that the PSC was not required to conduct a prudence review of the public utilities' proposed program and project investments in SPPs; and
- Misinterpreting the PSC's SPP Rule and refusing to require FPL and Florida Public Utilities Company (FPUC) to provide an estimate of the reduction in outage times and restoration costs that would result from their proposed SPPs, or a comparison of the estimated costs and benefits of their proposed SPPs, both of which were required by the PSC's SPP Rule.[36]

In its opinion in the case, issued on November 14, 2024, the Florida Supreme Court found that the PSC had correctly reviewed and approved the utilities' SPP proposals after the PSC concluded that the proposed SPPs were in the public interest. Also, that the PSC did not abuse its discretion in striking the expert testimony at issue.[37] In making this finding, the Supreme Court found that approval of SPPs only requires that the PSC find that the project is in the public interest. The PSC does not need to find that the benefits of a proposed SPP outweigh its costs[38] and the PSC's review of a proposed SPP is not based on the prudency of the SPP.[39] However, an estimated cost/benefit analysis is still part of the four factors the PSC is to consider when approving an SPP.[40] A prudency review is only required when a utility seeks to recover for actual expenditures in implementing an SPP (as part of the SPPCRC docket).[41]

This review of prudency with the SPPCRC is distinct from the PSC's normal rate setting procedure. Rather, the Supreme Court found, in interpreting s. 366.96(7), F.S., that if, "any costs ultimately incurred [by the utility] exceed the relevant component of forecasted benefit [as proposed in the SPP and approved by the PSC], that deficiency will not constitute evidence of imprudence by the utility."[42]

III. Effect of Proposed Changes:

Section 1 amends s. 366.075, F.S., to authorize the PSC to establish an experimental mechanism to facilitate energy infrastructure investment in gas using the administrative proceeding structure created for storm protection plans and cost recovery in ss. 366.96, (7) and (8), F.S. As used in the section, "gas" means anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for pipeline distribution.

[34] Actions seeking judicial review of PSC decisions regarding rates or service of utilities providing electric or gas service are brought directly to the Florida Supreme Court under s. 366.10, F.S.
[35] *Citizens, supra* note 32, at 560.
[36] *Id* at 554.
[37] *Id* at 560-61.
[38] *Id* at 555.
[39] *Id* at 558.
[40] *Id* at 557-60.
[41] *Id* at 556-57.
[42] *Id* at 556.

In establishing this mechanism, the PSC is to consider the intent provided in s. 366.91(1), F.S., for renewable energy.[43] The gas infrastructure investment may include only such investments that collect, prepare, clean, process, transport, or inject gas as a transportation fuel or for pipeline distribution.

The section provides that the PSC has the discretion to determine whether to use an annual proceeding to conduct such an experimental mechanism. The section also requires the PSC to propose a rule for adoption as soon as practicable, but not later than January 1, 2026.

Section 2 provides an effective date of July 1, 2025.

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:

Public utilities will likely expand their use and sale of RNG, the costs of which will be authorized to be passed through to the utilities' customers. In addition, if the production

[43] Section 366.91(1), F.S., provides that the "Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies."

of RNG increases in response to the experimental mechanism authorized in the bill, operators of farming operations that have the potential to generate RNG may see a revenue increase as a result of increased RNG capture and production.

C. Government Sector Impact:

The bill expands the responsibilities of the PSC. Though the PSC has not provided an analysis of this version of the bill, a similar provision is included in CS/SB 1624 from the 2024 Legislative session. In the PSC's analysis of the provision in that bill, the PSC stated that the workload may be handled with its existing level of full-time equivalent positions authorized for fiscal year 2023-2024.[44]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 366.075 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.

[44] Florida Public Service Commission, *Bill Analysis for CS/SB 1624*, pg. 8, Feb. 9. 2024 (on file with the Senate Regulated Industries Committee).

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 22 - 28

and insert:

with a similar structure as set forth in s. 366.99(2)-(6) and with the intent of s. 366.91(1). Such gas infrastructure investment may include only such investments that collect, prepare, clean, process, transport, or inject gas as a transportation fuel or for pipeline distribution. As used in this subsection, the term "gas" means

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

13 And the title is amended as follows:

14 Delete lines 8 - 10

15 and insert:

16 investments; defining the term "gas"; requiring the

By Senator DiCeglie

18-00609-25 20251574__

A bill to be entitled

An act relating to energy infrastructure investment; amending s. 366.075, F.S.; authorizing the Public Service Commission to establish an experimental mechanism that meets certain requirements to facilitate certain energy infrastructure investment in gas; providing requirements for gas infrastructure investments; authorizing the commission to make certain determinations regarding the experimental mechanism; defining the term "gas"; requiring the commission to adopt rules and propose such rules by a specified date; providing an effective date.

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

Section 1. Subsection (3) is added to section 366.075, Florida Statutes, to read:

366.075 Experimental and transitional rates; experimental mechanisms.—

(3) The commission may establish an experimental mechanism to facilitate energy infrastructure investment in gas consistent with the structure set forth in s. 366.96(7) and (8) and the intent of s. 366.91(1). Such gas infrastructure investment may include only such investments that collect, prepare, clean, process, transport, or inject gas as a transportation fuel or for pipeline distribution. The commission shall have discretion to determine whether such mechanism is conducted in an annual proceeding. As used in this subsection, the term "gas" means anaerobically generated biogas, landfill gas, or wastewater

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treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for pipeline distribution. The commission shall adopt rules to implement and administer this subsection and shall propose such rules for adoption as soon as practicable but no later than January 1, 2026.

Section 2. This act shall take effect July 1, 2025.

Date: February 28, 2025

Agency Affected: Public Service Commission
Agency Contact: David Frank, Director of Legislative Affairs | (850) 413-6125

RE: SB 354

I. SUMMARY:

SB 354 makes numerous changes to laws related to the Florida Public Service Commission (Commission or FPSC). It amends Section 350.01, Florida Statutes (F.S.), to expand the Commission from five to seven members and to add qualifications for two commissioners. It also amends Section 366.06, F.S., to require the FPSC to establish a schedule by which public utilities may submit rate change requests. It amends Section 366.81, F.S., to give Legislative direction regarding Return on Equity (ROE). Finally, it amends Section 366.82, F.S., to expand the scope of the Commission's annual report on activities under FEECA. The bill takes effect on July 1, 2025.

II. PRESENT SITUATION:

Statutory Background

Section 350.01(1), F.S., establishes that the Commission shall consist of five Commissioners appointed in accordance with the requirements of Section 350.031, F.S. Section 350.01(2), F.S., establishes 4-year staggered terms for Commissioners. At present, the Gerald Gunter building, which houses the Commission, and the hearing room in the Betty Easley building, where the Commission holds most of its public hearings, are designed around a five-member Commission. Currently, each Commissioner is afforded a personal staff of two, including a legal/technical advisor and an executive assistant.

Subsection 350.031(5), F.S., requires the Florida Public Service Commission Nominating Council to nominate to the Governor persons who are competent and knowledgeable in one or more fields, including: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the Commission. Subsection (5) also requires the Commission to fairly represent the above-stated fields. Members of the Commission are not required to be certified or licensed in a particular profession.

Section 366.02, F.S., defines a public utility as an entity selling electricity or natural gas to the public but excludes municipal utilities and rural electric cooperatives, as well as certain sellers of natural gas. As a result, the term "public utilities," as used in Chapter 366, F.S., applies to Florida's four investor-owned electric utilities, as well as seven natural gas local distribution companies.

Section 366.04, F.S., establishes the jurisdiction of the Commission to regulate and supervise each public utility with respect to its rates and service. Section 366.041, F.S., establishes the considerations the Commission is to apply in fixing just, reasonable, and compensatory rates:

> the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base

Section 366.06, F.S., establishes the Commission's authority over the procedure for fixing and changing rates. Specifically, Section 366.06(1), F.S., confers authority to the Commission that all applications for changes in rates shall be made to the Commission in writing under rules and regulations prescribed. The Commission has adopted rules to facilitate the orderly filing, review, and consideration of rate proceedings that will meet the 12-month statutory deadline for final agency action under Section 366.04(3), F.S. Also, Section 366.06(2), F.S., requires the Commission to hold a public hearing whenever the Commission finds that rates are either insufficient or excessive, and to determine just and reasonable rates to be thereafter charged.

Base Rate Proceedings (Rate Cases)

The Commission establishes separate rates and charges to recover various components of a public utility's cost of service. Base rate proceedings, filed less frequently, address a utility's costs of infrastructure including a reasonable return on investment, operating and maintenance expenses and the cost of administering the utility. The cost of salaries and benefits, including executive compensation, is reviewed at an aggregate level. Considerations include a relative comparison to industry norms and the need to attract and retain qualified executive and non-executive utility personnel.

In fixing a reasonable rate of return, the Commission is guided by the Supreme Court of the United States' decisions in *Hope* and *Bluefield*, under which a reasonable return is one that is commensurate with the return investors would expect from like investments of comparable risk, is reasonably sufficient to assure investor confidence that the utility is financially sound, and is adequate to attract capital on reasonable terms. A just and reasonable ROE is integral to meeting sound regulatory economics and the standards set forth by the U.S. Supreme Court. The *Bluefield* case set the standard against which just and reasonable rates are measured:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties. . . . The return should be reasonable, sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management, to maintain and support

> its credit and enable it to raise money necessary for the proper discharge of its public duties.[1]

The *Hope* case expanded on the guidelines as to a reasonable ROE, reemphasizing the findings in *Bluefield* and establishing that the rate-setting process must produce an end result that allows the utility a reasonable opportunity to cover its capital costs. The U.S. Supreme Court stated:

> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock . . . . By that standard, the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain credit and attract capital.[2]

In a base rate proceeding, the Commission establishes a utility's authorized rate of return or cost of capital. This is based upon the return on equity, long-term and short-term debt, customer deposits, and deferred taxes. A substantial evidentiary record of information is developed, including analyses of ROE using various industry-accepted models, as well as perspectives on the various risks impacting the utility. The rate of return authorized by the Commission provides an opportunity for the utility to earn a reasonable return. The Commission establishes a mid-point ROE for purposes of setting rates, and an ROE range of 100 basis points (+/- 1%) for purposes of ensuring rates remain reasonable.

The realized return, based upon a utility's earnings, is dependent on the utility's ability to manage its costs and react to exogenous factors, some of which may be outside its control. Such factors include changes in revenues due to the impact of weather on sales; or new, modified, or cancelled tariffed rates or charges. Other factors include the costs of materials, supplies, and labor; and interest rates affecting the cost of debt that could place upward or downward pressure on earnings. The Commission monitors the earnings of each public utility through recurring surveillance reports. The realized ROE filed in a surveillance report is analyzed for whether it falls within the established ROE range. Should earnings fall outside the range, the Commission's staff makes inquiries to gather information in order to recommend potential actions by the Commission.

In a base rate proceeding, the entire financial and operational condition of a utility is reviewed, as well as the grounds for a utility's request to adjust rates. This perspective affords the Commission the opportunity to assess a utility's risk in current and near-term market conditions, while judging the reasonableness of the need for increased revenue.

Cost Recovery Clauses, Infrastructure Surcharges, Interim Charges

Cost recovery clause proceedings are designed to recover variable, volatile, or legislatively mandated costs. For electric public utilities, proceedings are held annually to address fuel and

[1] *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923).
[2] *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

purchased power costs, capacity costs, environmental compliance costs, storm protection plan costs, and energy conservation program costs.[3] For natural gas public utilities, annual proceedings address purchased natural gas and energy conservation program costs. The annual proceedings are governed by orders establishing procedure, including the schedule of key milestones.

Interim charges may be established to recover storm restoration costs. The charge is time-limited and subject to true-up following a subsequent Commission hearing to determine final costs that are eligible for recovery.

Finally, natural gas public utilities have received Commission approval to establish surcharges to recover costs required to comply with natural gas infrastructure safety mandates. The surcharges are reviewed annually and revised to ensure revenues match costs.

These types of proceedings establish rates to recover discrete costs. The Commission does not establish ROE or the overall rate of return in these focused rate setting processes, as that function is part of a broad base rate case.

Tariffs

A utility's tariffs are a series of documents that provide the rates, terms, and conditions for service. Tariffs are approved by the Commission as part of every rate setting proceeding, including those described above. A utility's tariffs also include standard forms for different service offerings and standard contracts and agreements. These can include the legislatively mandated contracts to purchase energy from cogenerators or renewable energy providers. While tariffs are normally revised or new tariffs approved as part of the proceedings described above, utilities can seek approval to modify an existing tariff or for a new tariff as circumstances warrant. The Commission, however, does not establish ROE or the overall rate of return in reviewing stand alone requests to approve new, modified or to cancel a tariff.

Florida Energy Efficiency and Conservation Act (FEECA)

Sections 366.80 through 366.83, and 403.519, F.S., are collectively known as FEECA. FEECA emphasizes four key areas: reducing the growth rates of weather-sensitive peak demand and electricity usage, increasing the efficiency of the production and use of electricity and natural gas, encouraging demand-side renewable energy systems, and conserving expensive resources, particularly petroleum fuels. Sections 366.82(2) and 366.82(6), F.S., require the Commission to establish goals for the FEECA utilities and review the goals every five years, at a minimum. The utilities are required to develop cost-effective demand-side management (DSM) plans and programs that meet their goals and submit them to the Commission for approval. Public utilities subject to FEECA may seek cost recovery for approved DSM programs.

[3] Most utilities purchase fuels to generate electricity and these commodities can include natural gas, coal, uranium and refined crude oil products. Utilities may also purchase, through contracts, all or a portion of the electricity required to serve customers. Purchased power contracts typically have two components: 1) energy charges, and 2) demand or capacity charges, that reserve generating capacity to help meet peak demand. The energy charge component of purchased power is recovered through the fuel and purchased power cost recovery clause. The capacity component of purchased power is recovered through the capacity cost recovery clause.

Energy conservation and DSM in Florida are accomplished through a multi-pronged approach that includes energy efficiency requirements in building codes for new construction, federal appliance efficiency standards, utility programs, and consumer education. Utility programs, which are paid for by all customers, are aimed at increasing efficiency levels above building codes and appliance efficiency standards.

The Commission is required by Section 366.82(10), F.S., to provide an annual report to the Florida Legislature and the Governor by March 1, summarizing the adopted goals and the progress made toward achieving those goals. Similarly, Section 377.703(2)(f), F.S., requires the Commission to file information on electricity and natural gas energy conservation programs with the Department of Agriculture and Consumer Services.

III. EFFECT OF PROPOSED CHANGES:

Section 1 – Section 350.01, F.S.

The bill amends Section 350.01, F.S., to expand the Commission from five to seven members. It also adds a provision that one member must be a certified public accountant, and one member must be a chartered financial analyst. Because of the current composition of the Commission, the new appointments would be limited to these specific qualifications.

Subsection 350.01(2), F.S., outlines the method by which staggered term dates were initially established. As a result, two of the current Commissioners' terms end on January 1, 2026; two on January 1, 2027; and one on January 1, 2029. SB 354 does not provide a start or end date for the two new Commissioners' terms.

Each Commissioner would require two further FTEs as support staff, for a total of six added FTEs. The Gerald Gunter building, which currently houses the Commission, would need renovations to account for added workspace, as would the Commission hearing room in the Betty Easley Conference Center, where structural changes would be needed to accommodate an expanded Commission. The fiscal impact of these additional FTEs, as well as the construction costs, is discussed in section IV below.

Section 2 – Section 366.06, F.S.

The bill amends Section 366.06, F.S., to require the Commission to establish a schedule by which rate change requests may be submitted to the Commission by each public utility company. This section would apply to four investor-owned electric utilities, as well as seven natural gas local distribution companies. This section of the bill also makes various wording changes that do not appear to be substantive.

The bill does not establish the scope of the term "rate change requests." As a result, the impact of this bill is dependent on whether "rate change requests" is interpreted narrowly, and only applies to base rate cases, or broadly, applying to any change in rates or charges in the various rate making proceedings described above, including stand alone changes to tariffed charges.

A narrow interpretation would require the Commission to establish a schedule by which electric and gas IOUs could file a base rate case. While this provision may ensure that the Commission's resources are not overwhelmed by multiple, simultaneous rate cases at any given time, in the event that a utility is over- or under-earning, a restrictive schedule could delay either the utility or its customers from receiving needed rate relief in a timely fashion. This provision appears to conflict with section 366.06(2), F.S., that requires the Commission to hold a public hearing whenever rates are either insufficient or excessive. With regard to the utility being unable to seek rate relief when needed, this could be considered a form of regulatory taking and raise a constitutionality question.

Under a broad interpretation, the bill could implicate many other types of proceedings where rates are impacted, leading to less-than-optimal schedules and inefficient processes for utilities and customers. Also, a broad interpretation introduces increased regulatory risk and instability that could increase risk to the financial integrity of the utility. Such increased risk could negatively impact investor expectations and potentially increase the cost of capital.

Section 3 – Section 366.81, F.S.

Sections 3 and 4 of the bill both make changes to portions of FEECA, though neither section appears to address FEECA, energy efficiency, or energy conservation directly. This analysis assumes that the placement of these sections of the bill within FEECA does not limit the application of those sections of the bill.

The bill amends Section 366.81, F.S., to require the Commission to work to keep the allowable ROE close to the risk-free rate of return and requires a utility seeking a tariff modification to specifically justify any upward deviations from that rate.

In establishing ROE in a base rate proceeding, the Commission considers the risk-free rate of return, which is based upon the average of the forecasted yields on 30-year U.S. Treasury bonds and adjusts upward based on a number of factors, including the various risks faced by the utility and the current returns of similarly situated utilities. Numerous factors go into ROE, and the Commission analyzes multiple models and potential scenarios to create a range of potential ROE figures that incorporate the factors affecting the risk that the utility faces. Factors such as storm damage and a volatile business environment can increase the amount of risk the company faces, while factors such as higher-than-typical equity or a stable business environment can lower that risk. The Commission strives to establish an ROE for a given company that properly reflects the risk that company faces.

Public utilities may seek approval for new tariffs or to modify existing tariffs in the various rate setting proceedings described in section II, and as part of discrete, stand alone requests to the Commission. The bill suggests that a public utility need only seek to modify a tariff in order to initiate a review of its authorized ROE and range. This could occur in the annual cost recovery clause proceedings, annual natural gas infrastructure surcharge proceedings, interim rate setting proceedings, or stand alone tariff modification proceedings. Revising ROE annually introduces increased regulatory risk and instability that could increase risk to the financial integrity of the

utility. Such increased risk could negatively impact investor expectations and potentially increase the cost of capital.

Section 4 – Section 366.82, F.S.

The bill amends Section 366.82, F.S., to significantly expand the Commission's Annual Report on Activities pursuant to FEECA (FEECA Report). At present, the FEECA Report is solely concerned with activities directly related to FEECA, such as the programs utilities have undertaken and their success with those programs. The bill expands the FEECA Report to include numerous subjects outside of FEECA, including:

- An investigation of contemporary economic analysis related to rate changes in Florida;

- An analysis of potential cost impacts to Florida utility customers if excess ROEs have occurred, and potential cost savings, if any, to customers if the excess ROEs have not occurred at a significant rate;

- An analysis of alternative rate-of-return scenarios, including an investigation of the rationale for why such scenarios were not chosen in the past, and an investigation of the applicability of such scenarios for the future;

- An assessment of long-term impacts and economic repercussions of rising rates of regulated ROEs to utilities and their customers in the future;

- A summary detailing the compensation of the executive officers of all public utilities servicing Florida, or the executive officers of their affiliated companies or parent company, including but not limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments, expressed both as dollar amounts and as a percentage of the entity's total revenue. The summary must include the profits and losses of each entity as reported in its financial statements and highlight any compensation exceeding the industry average. The office shall also include in the report any rationale provided by the insurer justifying compensation exceeding the industry average and, for each insurer, an explanation of how specific data gathered during the creation of the report informed the office's decisions on that insurer's rate change requests; and

- Benchmarking that compares public utilities servicing Florida with public utilities servicing other states, including commentary on all findings.

It would be helpful to have further clarification on the references to "insurer" in lines 143-146, as well as which "office" is intended in line 146.

As explained earlier, the apparent concept behind the topics outlined above in the annual report is used and considered by the Commission in establishing the authorized ROE and range in a base rate proceeding. For example, the Commission routinely monitors public utility earnings

and has authority to initiate a proceeding to adjust rates whenever earnings are excessive or insufficient. Second, the Commission establishes a substantial record of evidence of alternative rate of return model results based on the assumptions of various expert witnesses in a base rate proceeding. Third, the returns of similarly situated utilities in and out of Florida are considered by the Commission in establishing the authorized ROE and range.

During a base rate proceeding, compensation is reviewed and established at an aggregate level. The additional reporting requirements involving "detailing the compensation of the executive officers of all public utilities servicing Florida, or the executive officers of their affiliated companies or parent company, including but not limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments" would require extensive discovery sent to public utilities. Much of this information would likely be considered proprietary business information that necessitates confidential treatment by the Commission under Section 366.093, F.S. It would be helpful to have further clarification on how this confidential information could be disseminated in a public report to the Legislature and remain consistent with current law.

The bill will take effect on July 1, 2025.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The bill is expected to have a significant fiscal impact on the Commission. Section 1 of the bill requires the Commission to add six FTEs: two Commissioners, two advisors, and two executive assistants, for an annual increase of $762,353. The Commission will also need to conduct renovations in the Gerald Gunter and Betty Easley buildings to accommodate the additional Commissioners, at a non-recurring cost of $1,000,000 - $2,000,000. The actual construction cost will be provided once the legislation passes.

	(FY 25-26) Amount / FTE	(FY 26-27) Amount / FTE	(FY 27-28) Amount / FTE
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	$762,353/6 FTE	$762,353/6 FTE	$762,353/6 FTE
2. Non-Recurring	$31,838/0 FTE	$0/0 FTE	$0/0 FTE
3. Non-Recurring (Construction)*	$1-$2M/0 FTE		

* The building renovations will be required to accommodate additional staff. In consultation with Department of Management Services (DMS) the estimated range of construction cost is $1-$2M.

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

The bill is not expected to have any significant effects on local governments.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

The bill is not expected to have any significant effect on the private sector.

VII. LEGAL ISSUES:

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

No conflicts with existing federal laws or regulations have been identified.

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)?

Utilities do not currently file rate requests on a set schedule. Section 366.06(2), F.S., which currently governs the timing of rate requests, provides in full as follows:

> Whenever the commission finds, upon request made or upon its own motion, that the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law; that such rates are insufficient to yield reasonable compensation for the services rendered; that such rates yield excessive compensation for services rendered; or that such service is inadequate or cannot be obtained, the commission shall order and hold a public hearing, giving notice to the public and to the public utility, and shall thereafter determine just and reasonable rates to be thereafter charged for such service and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.

Under this statute, fluctuations in revenues drive rate requests. The underlying events that drive these fluctuations are not predictable. This statute allows the Commission and the utility the ability to coordinate rate requests with revenues as circumstances dictate. The inherent statutory flexibility has operated as intended over time, with utilities maintaining rates that are neither excessive nor inadequate.

Adopting a set schedule directly conflicts with this statute. The dates adopted in the rate request schedule would drive the filings. Whether revenues are sufficient or excessive, the utility would have to wait for its scheduled date.

In addition to creating a statutory conflict, establishing by rule a schedule applicable to all utilities could have significant financial consequences for utilities and ratepayers. For example, under the current situation with no set schedule, a utility with sufficient revenues can delay the expense of a rate request until circumstances change. With a set schedule, that same utility would be forced to file an unnecessary rate request and incur those expenses, which are ultimately passed along to the ratepayers. Also, with no set schedule, a utility has the ability to file a rate

request as soon as a revenue increase or decrease indicates a near-term deficiency or excess. With a set schedule, that utility would have to wait for its scheduled submission date, which could make a bad situation worse.

A utility that is earning revenues below its adopted range is "underearning." Under the proposed bill, a utility that is underearning would have to continue to do so until allowed to seek a rate increase pursuant to the "rate change request" schedule. Forcing a utility to maintain this position may result in a claim for a "regulatory taking."

> The rate of return which public utility companies may be allowed to earn is a question of vital importance to both rate payers and investors. An inadequate return may prevent satisfactory services to the public and concomitantly disappoint investors who will look for alternative sources of investment. The Public Service Commission is given the power to fix the return within certain limits. That return cannot be set so low as to confiscate the property of the utility, nor can it be made so high as to provide greater than a reasonable rate of return, thereby prejudicing the consumer.[4]

The phrase "rate change request" is not defined. The broader the interpretation of this phrase and wider the effect of the schedule, the more likely such a scenario is to occur.

On the other side of this spectrum, a utility that is earning revenues above its adopted range is "overearning." A utility that is subject to the rule and is overearning at a time that does not coincide with its "rate change request" schedule would be prohibited from lowering its rates. Ratepayers would not receive the rate relief to which they are entitled in a timely manner. The utility would be compelled to accept and hold the overearnings, calculate refunds as part of its schedule "rate change request," and deal with the potential of Commission sanctions for overearning.

The existing statutory framework avoids these scenarios. Utilities currently project revenues and seek rate adjustments either in the normal course of business or in reaction to unanticipated or sudden events or opportunities. An established schedule removes this maneuverability.

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

The schedule for utilities to make a "rate change request" must be established by the Commission, presumably by rule adoption. Because the phrase "rate change request" is not defined in the legislation, it may be appropriate to provide a definition in that same rule. This definition and the establishment of the schedule may generate a rule challenge from utilities or affected ratepayers.

The potential for regulatory takings litigation was addressed immediately above in Section B.

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[4] *United Telephone Company v. Mayo,* 345 So. 2d 648, 653 (Fla. 1977)(emphasis added); *see* U.S. Const. amend. V; Fla. Const. art. X, § 6.

D. Other

There are a number of issues raised in Section 3 of the bill:

1. Section 3 amends the intent section of the Florida Energy Efficiency and Conservation Act ("FEECA"), Section 366.81, F.S., to include a new requirement regarding the utility's Return on Equity ("ROE"). Placement of the new provision within Section 366.81, F.S., creates inherent confusion because that section of law is the legislative intent section of the FEECA statutes regarding demand side management ("DSM") plans and programs. Because there are no tariffs adopted to implement legislative intent, the scope, application, and meaning of this provision could benefit from further clarification.

2. Section 3 interjects the placement of the substantive requirements for ROE in the FEECA statute and thus conflicts with the historic practice and application of Chapter 366, F.S. This is because ROE has consistently been litigated as an issue in base rate proceedings only. Return on common equity, once established in a base rate proceeding, is applied uniformly across the utility's rate base until the utility's next base rate proceeding.

3. Section 3 of the bill (notwithstanding that the new requirement is in the intent section of the FEECA statute) could be construed to require a full-blown analysis of ROE in a DSM proceeding, which could lead to a substantial change in the scope, magnitude, and cost of a DSM proceeding, especially since the DSM docket involves all electric IOUs (which could mean a review of the ROE of all utilities simultaneously). Of course, presumably it would apply only to those utilities "seeking a tariff modification" in connection with implementing their proposed DSM plans and programs. But any analysis of ROE is an involved undertaking and potentially costly to customers.

4. Section 3 could also benefit from further clarification as to whether the new language is intended to direct the Commission to establish generally-applicable ROE requirements in a DSM proceeding (i.e. applicable to all utilities).

VIII. COMMENTS:

Section 4 of the bill includes references to "insurer" and "office," which do not have clear meaning or relevance within Chapter 366, F.S.

Prepared by: Benjamin Crawford and Shaw Stiller
Date: February 23, 2025

March 14, 2023

Agency Affected:	Public Service Commission	
Program Manager:	Lance Watson	Telephone: 413.6125
Agency Contact:	Katherine Pennington	Telephone: 413.6596
Respondent:	Katherine Pennington	Telephone: 413.6596

RE: SB 1162

I. SUMMARY:

SB 1162 amends Section 366.91(9), Florida Statutes (F.S.), to include, as eligible for cost recovery along with renewable natural gas, contracts for the purchase of hydrogen in which the purchase price exceeds the market price for natural gas. The bill establishes new criteria for the eligibility of such contracts for cost recovery. The bill creates language that provides a public utility may recover, through the appropriate cost-recovery mechanism administered by the commission, prudently incurred costs for renewable natural gas and hydrogen fuel infrastructure projects. This bill takes effect July 1, 2023.

II. PRESENT SITUATION:

Pursuant to Section 366.91, F.S., it is in the public interest to promote the development of renewable energy resources to help diversify fuel types for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.

Renewable energy is defined in Section 366.91(2)(e), F.S., as energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

Renewable natural gas is defined in Section 366.91(2)(f), F.S., as anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline.

Section 366.91(9), F.S., currently allows the Commission to approve cost recovery by a gas public utility for contracts for the purchase of renewable natural gas in which the pricing provisions exceed the current market price of natural gas, but which are otherwise deemed reasonable and prudent by the commission.

Current rate setting mechanisms include base rates and cost recovery clauses. Base rates allow a utility to recover capital investment in facilities and operating and maintenance expenses used to provide service to customers, along with the opportunity to earn a fair rate of return on its investment. Base rates are set during a general rate case, which is a large evidentiary proceeding where the utility's rate base is investigated and a revenue requirement is established. Base rates are then set to recover that revenue requirement, and will remain fixed until the next rate case.

Cost recovery clauses are the mechanisms by which electric and gas investor-owned utilities may petition the Commission for recovery of specified costs not otherwise recovered in base rates. Typically, cost recovery clauses allow utilities to recover costs that are not easily controlled by the utility, such as the cost of complying with new environmental regulations or fuel costs that rise and fall with the market. Utilities recover such costs by charging customers a usage-sensitive rate (e.g., cents per kWh) that is set on an annual basis. The cost recovery clauses now available to investor-owned utilities in Florida include Fuel and Purchased Power, Capacity, Environmental, Energy and Natural Gas Conservation, the Purchased Gas Adjustment, Nuclear Cost Recovery, and the Storm Protection Plan Cost Recovery Clause. The environmental, energy conservation, nuclear, and storm protection plan cost recovery clauses are established by statute.

The most common method for producing hydrogen is a process called steam-methane reforming. Steam-methane reforming uses high-temperature steam, under pressure, to react with methane in the presence of a catalyst to produce hydrogen, carbon monoxide, and a relatively small amount of carbon dioxide. Natural gas is the main methane source for this type of hydrogen production. Hydrogen can also be produced through a process called electrolysis, which utilizes electricity to separate water into hydrogen and oxygen molecules. Electrolysis itself does not produce any byproducts or emissions other than hydrogen and oxygen. Hydrogen is captured for use as a fuel, similar to natural gas, either for end use or as a fuel used to generate electricity. Hydrogen is not an energy source, but rather an energy carrier, since it is produced using other energy sources.

The overwhelming majority of hydrogen is currently produced using fossil fuels, mostly natural gas. Overall, less than 0.7% of current hydrogen production utilizes renewable energy. In recent years, colors have been used to refer to different sources of hydrogen production. "Black", "grey" or "brown" refer to the production of hydrogen using coal, natural gas and lignite respectively. "Blue" is commonly used for the production of hydrogen from fossil fuels with CO2 emissions reduced by the use of carbon capture. "Green" is a term applied to production of hydrogen using renewable energy.

Most hydrogen is currently produced near to its end use. If hydrogen can be used close to where it is made, production costs could be low. However, if the hydrogen is produced a long distance from its end use, the costs of transmission and distribution could be three times as large as the cost of hydrogen production. Long-distance transmission and local distribution of hydrogen is difficult given its low energy density. Compression, liquefaction or incorporation of the hydrogen into larger molecules are possible options to overcome this hurdle. Each option has advantages and disadvantages, and the cheapest choice will vary according to geography, distance, scale and the required end use.

It is possible to blend small shares of hydrogen in existing natural gas transmission systems with only minor changes to infrastructure, equipment and most end-user appliances, if changes are needed at all. Some new investment in hydrogen injection facilities would be needed, but in general blending at a safe level offers a relatively quick and easy way to transmit hydrogen supplies to end users, as long as hydrogen production is located near the gas transmission or distribution network.

Pipelines are likely to be the most cost-effective long-term choice for local hydrogen distribution if there is sufficiently large, sustained and localized demand. However, distribution today usually relies on trucks carrying hydrogen either as a gas or liquid, and this is likely to remain the main distribution mechanism over the next decade.

As part of a 2021 settlement agreement, Florida Power and Light (FPL) was authorized to develop a Green Hydrogen pilot project. The new hydrogen-hub facility, named the Cavendish NextGen Hydrogen Hub, is located in Okeechobee, Florida. The hydrogen-hub facility uses energy from a solar-powered facility to convert water into green hydrogen through electrolysis, which will then be burned as a fuel in its nereby natural gas-fueled electric generation plant.

III. EFFECT OF PROPOSED CHANGES:

The bill amends Section 366.91(9), F.S., to include contracts for the purchase of hydrogen as eligible for cost recovery. The amendment removes language that cost recovery may be approved for a gas public utility, but does not identify the utilities that are subject to this subsection. It is unclear whether the intent of this language is for this subsection to be applicable to all public utilities (investor-owned electric or natural gas utilities). The bill does not define hydrogen or specify the means by which it must be produced.

The bill establishes new criteria for eligibility of cost recovery for renewable natural gas and hydrogen purchase contracts. The bill deletes existing language that requires the Commission to deem the incurred costs as reasonable and prudent for cost recovery. Contracts for the purchase of renewable natural gas and hydrogen in which the pricing provisions exceed the current market price of natural gas are currently eligible for cost recovery, but only if the commission finds that the contract meets the overall goals of subsection (1) by promoting the development or use of renewable energy resources in this state and providing fuel diversification. Under the bill, it is unclear to what extent the Commission may exercise its authority in reviewing utility costs to ensure rates are fair, just and reasonable. The plain language of the bill appears to constrain the Commission's authority to limit costs to be recovered from customers.

The bill creates Section 366.91(10), F.S., which states that a public utility may recover, through the appropriate cost-recovery mechanism administered by the commission, prudently incurred costs for renewable natural gas and hydrogen fuel infrastructure projects.

Eligible infrastructure projects include, but are not limited to, capital investment in projects necessary to prepare or produce renewable natural gas and hydrogen fuel or pipeline distribution and usage; capital investment in facilities, such as fuel storage; operation and maintenance expenses associated with any such renewable natural gas and hydrogen fuel infrastructure

projects; and an appropriate return on investment consistent with that allowed for other utility plants used to provide service to customers.

It is unclear whether eligibility for cost recovery under this bill only applies to projects located in Florida. Without clarification or additional restrictions, it is unclear whether infrastructure projects to prepare or produce renewable natural gas and hydrogen fuel for pipeline distribution, or storage facilities located in other states could be eligible for cost recovery from Florida ratepayers under the bill.

The bill also allows for the recovery of costs associated with the production of a fuel used to generate electricity or used in the natural gas distribution system for service to end-use customers. This new policy is in contrast with the 2016 Florida Supreme Court reversal of the Commission's approval of the capital investment and expenses associated with Florida Power and Light Company's Woodford Project. The Supreme Court found that the exploration, drilling, and production of fuel falls outside the purview of an electric utility and that costs associated with the exploration and recovery of natural gas were not part of the generation, transmission and distribution of electricity.

It is unclear what methodology should be used as the appropriate cost-recovery mechanism. Currently, costs for fuel infrastructure used in the generation of electricity or in the distribution of natural gas are recovered in base rates. An alternative option for cost-recovery would be through a new or existing clause. Cost-recovery clauses for gas utilities include the Purchased Gas Adjustment Cost Recovery Clause (PGA) and the Natural Gas Conservation Cost Recovery Clause (NGCCR). The PGA is intended to compensate for day-to-day fluctuations in the cost of gas, however, it does not account for costs related to infrastructure. The NGCCR is intended for the recovery of costs associated with conservation programs for natural gas local distribution companies. As such, these two existing clauses may not be compatible with the type of capital cost-recovery addressed in the bill. Therefore, a new clause may need to be established.

This bill states that for the purposes of cost recovery for infrastructure projects, renewable natural gas may include a mixture of natural gas and renewable natural gas. The bill does not provide a ratio of renewable natural gas to regular natural gas in the fuel mixture in order for an infrastructure project to be eligible. As written, it appears any injection of renewable natural gas, no matter how small, would make an infrastructure project eligible under the bill.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

Incremental workload on the Commission is dependent upon utility decisions to seek cost recovery of contracts and infrastructure projects. We expect that the workload can be absorbed.

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None known at this time.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

Private utility companies will likely expand the use and sale of hydrogen, either through new purchase contracts or new infrastructure projects.

VII. LEGAL ISSUES:

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

None known at this time.

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, impairment of contracts)?

None known at this time.

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

None known at this time.

D. Other:

VIII. COMMENTS:

Prepared by: David Frank
Date: March 10, 2023

Date: February 7, 2024

Agency Affected:	Public Service Commission	
Program Manager:	Lance Watson	Telephone: 413.6125
Agency Contact:	Katherine Pennington	Telephone: 413.6596
Respondent:	Katherine Pennington	Telephone: 413.6596

RE: CS/SB 1624

I. SUMMARY:

SB 1624 is an omnibus bill containing numerous provisions related to energy. While the majority of the bill does not relate directly to the jurisdiction of the Florida Public Service Commission (FPSC or Commission), a number of sections of the bill directly affect the Commission or the entities it regulates. These provisions include:

- Amending Section 366.04, Florida Statutes (F.S.), establishing a new storm reserve process for public utilities
- Amending Section 366.075, F.S., authorizing experimental mechanisms for renewable natural gas investment
- Amending Section 366.94, F.S., establishing considerations for the provision of electric vehicle (EV) charging by Investor-Owned Utilities (IOUs)
- Creating Section 366.99, F.S., establishing a new cost recovery mechanism for natural gas facility relocation costs
- Amending Section 403.9405, F.S., exempting natural gas transmission pipelines less than 100 miles in length from the Natural Gas Transmission Pipeline Siting Act
- Requiring the Commission to assess the security and resiliency of the electric grid and natural gas facilities against both physical and cyber threats
- Requiring the Commission to develop a report on the technical and economic feasibility of small modular nuclear reactors

The bill will take effect on July 1, 2024.

II. PRESENT SITUATION:

Section 6 – 366.04, F.S. – Targeted Storm Reserve

Section 366.02, F.S., defines a public utility as an entity selling electricity or natural gas to the public, but excludes municipal utilities and rural electric cooperatives, as well as certain sellers of natural gas. As a result, the term "public utilities," as used in Chapter 366, F.S., when used in reference to electric utilities, refers to the four electric investor-owned utilities (IOUs):

- Florida Power and Light Company (FPL)
- Duke Energy Florida, LLC (DEF)

- Tampa Electric Company (TECO)
- Florida Public Utilities Company (FPUC)

Prior to Hurricane Andrew in 1992, Florida's IOUs were able to purchase commercial insurance for their transmission and distribution facilities at reasonable and affordable prices. Accruals were made to a property insurance reserve to cover items such as insurance deductible amounts. Due to the level of damage caused by Hurricane Andrew, however, the price of commercial insurance for Florida IOU transmission and distribution facilities became cost prohibitive and uneconomical. As a result, the Commission authorized Florida IOUs to begin operating under a self-insurance program for their transmission and distribution facilities. Each IOU was required to file a study to determine the appropriate accumulated target level for the property damage reserve[1] and the appropriate annual accrual amount to achieve and maintain that target level over time. The target levels and annual accrual amounts were subject to review in rate change proceedings or whenever changes were sought in the target levels or the annual accrual amounts.

Until the 2004 hurricane season, each of the electric IOU's self-insurance programs was adequate to cover the costs incurred for storm damage restoration. However, the combined effects of the damages caused by Hurricanes Charley, Frances, Ivan and Jeanne during 2004 far exceeded the amounts that had been accumulated in four of the then-existing five IOUs' property damage reserves. As a result, FPL and Progress Energy Florida, Inc. (PEF, now DEF) filed petitions seeking to recover storm damage restoration costs that exceeded the amounts in their property damage reserves.[2] Gulf Power Company (Gulf, since acquired and consolidated with FPL) sought approval of a stipulation for recovery of storm damage costs between Gulf and various parties.[3] TECO also filed a petition seeking approval of a stipulation with various parties concerning the accounting treatment of storm damage restoration costs.[4] TECO, however, did not request that a surcharge be implemented.

The Gulf and TECO stipulations were approved as filed.[5] The FPL and PEF petitions, however, were litigated before the Commission. FPL and PEF were ultimately allowed to implement surcharges to recover the amount of storm damage restoration costs approved by the Commission.[6] In each of these four cases, each electric IOU employed a different methodology to determine the amount of storm damage restoration costs that should be charged to the property damage reserve

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[1] Account 228.1 is titled "Accumulated Provision for Property Insurance." This account will be referred to as the "property damage reserve."

[2] Docket No. 20041291-EI, *In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company*; Docket No. 20041272-EI, *In re: Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc*.

[3] Docket No. 20050093-EI – *In re: Petition for approval of stipulation and settlement for special accounting treatment and recovery of costs associated with Hurricane Ivan's impact on Gulf Power Company.*

[4] Docket No. 20050225-EI – *In re: Joint petition of Office of Public Counsel, Florida Industrial Power Users Group, and Tampa Electric Company for approval of stipulation and settlement as full and complete resolution of any and all matters and issues which might be addressed in connection with matters regarding effects of Hurricanes Charley, Frances, and Jeanne on Tampa.*

[5] GULF in Order No. PSC-O5-0250-PAA-EI, issued March 4, 2005; TECO in Order No. PSC-05-0675-PAA-EI, issued June 20, 2005.

[6] FPL in Order No. PSC-05-0937-FOF-EI, issued September 21, 2005; PEF in Order No. PSC-05-0748-FOF-EI, issued July 14, 2005.

and the amount, if any, to be recovered from ratepayers through a surcharge.

In 2007, Commission staff recommended rule amendments to establish a single, consistent, and uniform methodology for determining which storm damage restoration costs can appropriately be charged to the property damage reserve by each of the Florida IOUs. In May of that year, the Commission adopted amendments to Rule 25-6.0143, Florida Administrative Code (F.A.C.). The rule amendments require the establishment of a separate subaccount for storm related damage expenses and accruals, the "storm damage subaccount." The rule amendments also require use of the Incremental Cost and Capitalization Approach (ICCA) methodology and delineate types of expenses that are expressly allowed or prohibited from being charged to the storm damage subaccount. The ICCA methodology is designed to prevent double recovery. Under the ICCA, a utility only charges to the storm damage subaccount those storm restoration costs that are not already being recovered through base rates ("incremental" costs). For example, a utility would not be able to charge the normal base salaries of employees working on storm restoration, but would be able to charge overtime costs related to storm restoration activities to the storm damage subaccount.

Section 7 – 366.075, F.S. – Experimental Mechanisms to Facilitate Energy Infrastructure Investment

Under Subsection 366.91(1), F.S., the Legislature finds that it is in the public interest to promote the development of renewable energy resources in Florida. The subsection also provides that renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies. Subsection 366.91(2), F.S., defines "renewable natural gas" as anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline.

Section 366.96, F.S., requires public utilities to file for Commission approval, electric transmission and distribution storm protection plans (SPPs) that are designed to reduce restoration costs and outage times associated with extreme weather events. Subsections 366.96(7) and (8), F.S., establish the parameters of cost recovery for approved SPP activities through the storm protection plan cost recovery clause (SPPCRC):

- The commission shall conduct an annual proceeding to determine the utility's prudently incurred transmission and distribution SPP costs to be recovered through a charge separate and apart from ~~its~~ base rates
- If the commission determines that costs were prudently incurred, those costs will not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the public utility
- The annual transmission and distribution SPP costs may not include costs recovered through the public utility's base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the commission

Section 8 – 366.94, F.S. – Voluntary Electric Vehicle Charging Programs

Under Section 366.94(1), F.S., the provision of EV charging service to the public by a non-utility is not considered the retail sale of electricity. As such, the rates, terms and conditions of EV charging services by a non-utility are exempt from regulation by the Commission.

The cost of utility-owned property used to generate, transmit and distribute electricity to the public is included in the utility's rate base and used to establish rates for electric service. The demarcation point for utility-owned property is up to and including the meter used to measure consumption. The cost of electrical property behind the meter or on the customer's side of meter is the responsibility of the owner of the dwelling. This property can include the inside wiring, the breaker box and other items used to facilitate the use of electricity.

Section 9 – 366.99, F.S. – Natural Gas Facilities Relocation Costs

Subsection 337.401(1)(a), F.S., defines "authority" as the Florida Department of Transportation (FDOT) and local governmental entities that have jurisdiction and control of public roads or publicly owned rail corridors. At present, the Commission does not have a formal process specific to the relocation or replacement of natural gas facilities by gas IOUs. If FDOT or a local authority requires the relocation or reconstruction of natural gas facilities existing base rate revenues are used to cover such costs. The utility may seek cost recovery for these expenses as part of a base rate case or limited proceeding, if existing base rates generate insufficient revenues. Rate cases are not held on a formal schedule, but are petitioned for at the discretion of the utility seeking cost recovery.

Section 21 – Report on Small Nuclear Reactors

At present, all of the nuclear reactors currently operating in Florida are above 800 megawatts (MW) in capacity. Smaller nuclear reactors with a generating capacity of not more than 300 MW, often referred to as modular reactors, have been proposed within the industry as an alternative option. The idea being that modular reactors could allow deployment of nuclear power in a wider variety of circumstances than large central station nuclear generators currently allow. While the Nuclear Regulatory Commission (NRC) has approved aspects of the design for some small nuclear reactors, these reactors have not yet been built or installed anywhere.

III. EFFECT OF PROPOSED CHANGES:

Section 6 – 366.04, F.S. –Targeted Storm Reserve

SB 1624 will create Subsection 366.04(10), F.S., requiring the Commission to approve a targeted storm reserve amount for each public utility, effective January 1, 2025. The targeted storm reserve amount must be equal to 80 percent of the approved incremental storm costs for the utility's service area for the most impactful storm of the previous five years prior to January 2025.

The reserve amount is to be updated on a rolling five-year basis and will be recovered over a four-year period. It will be funded by an increase in base rates, effective January 1, 2025. Base rate

adjustments and accompanying tariffs must be filed by October 15 of every year, with administrative approval granted by November 15, and the new rates being effective as of January 1 of the following year.

SB 1624 creates an extremely narrow timeframe (just 30 days) for the Commission to process base rate changes. Even the Commission's "limited" water and wastewater rate increase proceedings—designed to be more expeditious than a typical rate case—take months to process. The Florida Administrative Procedures Act requires a clear point of entry for persons substantially affected by agency action to allow them to participate in the agency proceeding. It is unclear how the process for setting the targeted storm reserve amount does *not* affect the substantial interests of ratepayers that must pay for any increases in the reserve. The 30-day timeframe set out in the bill amendment is insufficient for the Commission to act, especially in light of the protections afforded the public under Chapter 120, F.S. Moreover, it is unclear what the Legislature intends by the "administrative approval" process to be implemented under the bill.

Because the storm reserve levels are set to 80 percent of the previous five years' most expensive storm, reserve levels could vary considerably depending on how active recent storm seasons have been. For example, utilities impacted by Hurricane Irma saw costs ranging from roughly $380 million to $1.2 billion, which would result in reserve level ranges from $304 million to $960 million. For comparison, the current storm reserves for the four electric IOUs are:

Utility	Most recent storm reserve amount ($ million)
FPL	220
DEF	132
TECO	56
FPUC	1.5

If FPL's service territory was affected by a storm during 2024 that had a similar economic impact to that of Hurricane Irma in 2017, its targeted storm reserve amount would need to increase from $220 million to approximately $960 million, an increase of $740 million. Funded over the course of four years, this would result in an increase of $185 million per year.

Since the bill refers to "public utilities" in general, as opposed to electric public utilities specifically, gas IOUs will also be subject to the bill's 80 percent storm reserve requirement. However, since gas IOUs do not consistently submit storm reserve figures, the economic impact on ratepayers cannot be estimated at this time.

The bill disallows rate adjustments made in order to fund the storm reserves from being included in the calculation of earnings in the utility's earnings surveillance reports filed with the Commission. This provision would prevent these funds from being included in the utility's return on equity (ROE) calculations. The Commission will need to adopt rules and accounting procedures to isolate the storm reserve fund amount when calculating ROE values so utilities do not improperly benefit.

Section 7 – 366.075, F.S. – Experimental Mechanisms to Facilitate Energy Infrastructure Investment

The bill creates subsection 366.075(3), F.S., authorizing the Commission to establish an experimental mechanism to facilitate energy infrastructure investment consistent with the structure set forth in Subsections 366.96(7) and (8), F.S., the legislative intent language in Subsection 366.91(1), F.S., and the definition of the term "renewable natural gas" in Subsection 366.91(2), F.S. The Commission will have the discretion whether to use an annual proceeding to conduct this experimental mechanism. The Commission is also required to adopt rules to implement and administer this subsection, which must be proposed as soon as practicable after the effective date of the act, but no later than October 31, 2024.

This process could create a recurring process modeled after the SPPCRC; however, the Commission has discretion regarding the frequency of holding such a proceeding. A new proceeding will generate additional workload.

The bill requires the Commission to propose rules within four months of the effective date, which is a very condensed timeframe. The rulemaking process generally requires substantial allocation of time for noticing and public input, for which the Commission has limited ability to expedite.

Section 8 – 366.94, F.S. – Voluntary Electric Vehicle Charging Programs

The bill creates subsection 366.94(4), F.S., authorizing the Commission to approve voluntary public utility programs for residential, customer-specific EV charging, which may go into effect after January 1, 2025, if the Commission determines the programs do not adversely impact the utility's general body of ratepayers. All revenues received from the programs must be credited to the public utility's retail ratepayers. The bill does not preclude cost recovery for EV programs approved prior to January 1, 2025.

The bill would allow electric IOUs to sell EV charging equipment to residential customers, on the customer-side of the meter. The bill would allow regulated utilities to enter the unregulated, competitive market of residential EV charging services and include the investement in rate base. The bill does not allow cross-subsidization of the residential EV program by the general body of ratepayers; however, in the event revenues from participating customers do not cover the costs of EV charging equipment, the bill places the risk of recovery on the general body of ratepayers by allowing this investment in rate base.

Section 9 – 366.99, F.S. – Natural Gas Facilities Relocation Costs

The bill creates Section 366.99, F.S., concerning natural gas facilities relocation costs. The bill defines "natural gas facilities relocation costs" as the costs to relocate or reconstruct facilities as required by a mandate, a statute, a law, an ordinance, or an agreement between the utility and an authority, including, but not limited to, costs associated with reviewing plans provided by an authority, but does not include any costs recovered through the public utility's base rates.

A utility may submit a petition to the Commission describing its projected relocation costs for the

next calendar year, actual relocation costs for the prior calendar year, and proposed cost-recovery factors to recover these costs. A utility's decision to proceed with implementing a plan before filing such a petition would not constitute imprudence.

The bill requires the Commission to conduct an annual proceeding to determine each utility's prudently incurred relocation costs and to allow each utility to recover such costs through a charge separate and apart from base rates, to be referred to as the Natural Gas Facilities Relocation Cost Recovery Clause. The Commission's review is limited to determining the prudence of the utility's actual incurred relocation costs and the reasonableness of the utility's projected relocation costs for the following calendar year, and providing for a true-up of the costs with the projections on which past factors were set. Any refund or collection made as part of the true-up process must include interest.

All costs approved for recovery through the cost recovery clause must be allocated to customer classes pursuant to the rate design most recently approved by the Commission. If a capital expenditure is recoverable as a relocation cost, the utility may recover the annual depreciation on the cost, calculated at the utility's current approved depreciation rates, and a return on the undepreciated balance of the costs at the utility's weighted average cost of capital using its latest approved return on equity. The Commission is required to adopt rules to implement and administer this section and to propose a rule for adoption as soon as practicable after July 1, 2024.

The cost recovery clause appears to be modeled on existing cost recovery clauses. The new clause will provide an opportunity for more timely recovery of such costs. Any such reloaction costs currently included in the establishment of base rates would be reviewed by the Commission to ensure customers are not subject to double recovery.

Section 20 – Assessment of Security and Resiliency of Grid

Section 20 of the bill requires the Commission to conduct an assessment of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats. The FPSC is required to consult with the Florida Digital Service in assessing cyber threats. All electric utilities, natural gas utilities, and natural gas pipelines operating in Florida, regardless of ownership structure, must cooperate with the Commission to provide access to all information necessary to conduct the assessment.

The Commission must submit a report of its assessment to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2025. The report must also contain any recommendations for potential legislative or administrative actions that may enhance the physical security or cyber security of the state's electric grid or natural gas facilities.

The scope of the assessment exceeds the resources that the Commission has available to carry it out over the time period provided. As a result, the Commission will need to employ the services of an outside consultant in order to carry out the assessment in the time provided. In 2008, while carrying out the Legislative requirement to develop a Renewable Portfolio Standard, the Commission secured the services of Navigant Consulting at a cost of $130,000, which was funded by the U.S. Department of Energy. Adjusted for inflation, this amount would be approximately

$190,000 today. The scope of a contract to conduct the assessment under the timeline contemplated by the bill could be significantly more expensive.

Under Section 366.093(3)(c), F.S., "security systems, systems, or procedures" are considered "proprietary confidential business information" for which confidentiality must be maintained. It appears the information the Legislature seeks in its report falls under this category such that the information should be exempt from public disclosure. The entities who own and control the confidential information would need to be assured that there are procedures in place to ensure that confidentiality of the information is maintained. Even with these assurances, some companies may not cooperate or be forthcoming with providing the information the Commission would need to draft the report, which may necessitate the need for litigation to obtain the information. Given the limited time the Commission has to conduct the assessment, as well as the additional time needed following the assessment to assemble the report, there will likely be gaps in the assessment while the court process plays out.

Section 21 – Report on Small Nuclear Reactors

Section 21 of the bill requires the Commission to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies, including small modular reactors, to meet the electrical power needs of the state, and research means to encourage and foster the installation and use of such technologies at military installations in the state. The Commission must submit a report of its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2025. The report must also contain any recommendations for potential legislative or administrative actions that may enhance the use of advanced nuclear technologies in a manner consistent with the energy policy goals in Subsection 377.601(2), F.S. Because this technology is in its infancy, and no such reactors have been put into operation either in Florida or elsewhere, the Commission will likely need to secure the services of experts in this field to properly conduct the report.

In 2008, while carrying out the Legislative requirement to develop a Renewable Portfolio Standard, the Commission secured the services of Navigant Consulting at a cost of $130,000, which was funded by the U.S. Department of Energy. Adjusted for inflation, this amount would be approximately $190,000 today. The scope of a contract regarding modular reactors under the timeline contemplated by the bill could potentially be more expensive.

The bill will take effect on July 1, 2024.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The bill requires the Commission to conduct new annual proceedings for the Targeted Storm Reserve, the Natural Gas Facilities Relocation Cost Recovery Clause, and a recurring hearing on Experimental Mechanisms to Facilitate Energy Infrastructure Investment. These incremental proceedings and associated workload may be handled with the existing level of FTEs authorized for FY 2023-2024.

If the Commission needs to hire consultants to conduct the assessment of the security and

resiliency of the electric grid and the study on modular nuclear reactors, as required by the bill, additional funding would be required. The 2008 contract awarded to Navigant Consulting for the Renewable Portfolio Standard rulemaking process was for approximately $130,000. Today, a similar contract adjusted for inflation would cost approximately $190,000. Assuming two such contracts, at least an additional $380,000 would be required.

	(FY 24-25) Amount / FTE	(FY 25-26) Amount / FTE	(FY 26-27) Amount / FTE
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	$380,000/0 FTE	$0/0 FTE	$0/0 FTE

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

Municipal utilities might incur some fiscal impact from either cooperation with or litigation of the security assessment.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

Private sector owners of aspects of the electric or natural gas system might incur some fiscal impact from either cooperation with or litigation of the security assessment.

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, impairment of contracts)?

Yes. Section 6 of SB 1624 may deprive ratepayers of their property without due process of law in violation of Article I, Section 9 of the Florida Constitution because the bill will create new processes that affect rates while foreclosing the opportunity of interested parties and customers to meaningfully participate.

The process outlined in Section 6 of SB 1624 does not clearly afford a point of entry because of

ambiguity surrounding the contemplated "administrative approval" process for the targeted storm reserve. The Commission is an administrative agency. Any action it takes must be in accordance with Florida's Administrative Procedures Act. Because rate base changes affect the substantial interests of ratepayers, ratepayers are entitled to an opportunity to be heard. Due process demands that an agency "grant affected parties a clear point of entry, within a specified time after some recognizable event . . ., to formal or informal proceedings under Section 120.57." *Capeletti Bros., Inc. v. Dep't Transp.*, 362 So.2d 346, 348 (Fla. 1st DCA 1978).

In the past, the Commission has chosen to internally delegate certain powers to Staff (pursuant to its Administrative Procedure Manual) to address largely ministerial matters where the parameters for approval are clearly defined by the Commission. However, if the phrase "administrative approval" was a reference to the typical administrative process by which changes in base rate are approved, then SB 1624 does not provide enough time to ensure substantially interested persons can participate.

Moreover, even if the process is not administratively processed by Commission staff, the bill does not afford sufficient time for the stakeholders to have the opportunity to participate in the proceedings. The Commission would have to process a base rate case for 11 different utilities in order to implement the bill's storm reserve mandate in 30 days, which is impossible. The Commission is subject to the Sunshine Law, Chapter 286.011, F.S., so its decisions must be rendered in the public. Moreover, Section 120.569(2)(b), F.S., requires that as an agency, the Commission afford all "parties" with reasonable notice of not less than 14 days. Because the bill requires the whole storm reserve process to be completed and the decision rendered by the Commission in as little as 30 days upon the utility's filings of the storm reserve petitions, the Commission would have to immediately notice and hold proceedings to take evidence and testimony on the petition from stakeholders and allow customer input. The Commission's professional staff would have little to no time to synthesize the information provided in these proceedings nor would the Commission have sufficient time to analyze the filings and information in order to reach an informed decision. The process contemplated by the bill leaves no time for the Commission to fulfill its statutory mandate to ensure rates are just, fair, and reasonable. There is a risk that by complying with Section 6 of SB 1624, the Commission will violate its other statutory obligations in Ch. 120, F.S., and Ch. 366, F.S.

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

Yes. Section 6 of SB 1624 is likely to generate litigation from ratepayers and other substantially interested persons on the basis that they were denied a meaningful opportunity to participate in the Commission changing their base rate. See discussion in Section VII(B.) *supra*.

D. Other:

N/A

VIII. COMMENTS:

The bill allows some interpretation related to the "highest cost storm over the prior five years" provision. For example, the bill does not clarify whether the five years begin when the storm first accrues costs, or when costs for the storm are finalized. A late season storm could potentially have costs that are not incurred until after January 1, allowing for some uncertainty. Additionally, it is not clear which start date to apply when determining storms that have occurred in the last five years.

The bill requires the Commission to "administratively" approve the funding level and rate impact of the targeted storm reserve amount. Ambiguity surrounding the "administrative approval" process, combined with the narrow deadlines that the various required steps will be operating under, might result in stakeholders being left out of the process. If so, they could potentially mount legal challenges to the storm reserve figure if they object to its rate impact.

Section 7 of the bill requires the Commission to "propose" a rule for adoption that implements the experimental mechanism no later than October 31, 2024. The rulemaking process can span several months. October 31, 2024, may not be a feasible deadline given legal noticing requirements and solicitation of public comments.

Prepared by: Benjamin Crawford, Carlos Marquez
Date: February 6, 2024

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 496
INTRODUCER:	Senator McClain
SUBJECT:	Timeshare Management Firms
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Pre-meeting**
2.			AEG	
3.			FP	

I. Summary:

SB 496 revises regulations related to timeshare plans and their management. It clarifies that timeshare plans are governed by ch. 721, F.S., rather than created under that chapter. The bill provides that the community association managers (CAMs) and CAM firms who manage timeshare plans are subject to s. 721.13, F.S., relating to the managing entities of timeshare plans, rather than to part VIII of ch. 468, F.S., relating to the regulation of CAMs, including record-keeping requirements that are applicable to the managing entities of timeshare plans.

The bill also exempts the CAMs and CAM firms managing timeshares from the conflict-of-interest provisions that are applicable to the CAMs and community associations, such as condominium and homeowners' associations. Under current law, CAMs managing a community association must disclose any activity or proposed service which may reasonably be construed by the association's board to be a conflict of interest, and associations are required to follow a process for addressing potential conflicts of interest, such as considering multiple bids for the activity or proposed service.

The bill provides that timeshare management firms and their licensed employees are subject to the regulations governing timeshare managing entities, including violations related to refusal to mail any material requested by the purchaser and any failure of the managing entity to faithfully discharge the fiduciary duty to purchasers. The bill also includes the timeshare management firm, and any individual licensed as a CAM employed by the timeshare management firm, in the exemption from liability for monetary damages in s. 721.13(13)(a), F.S., as provided in s. 617.0834, F.S., unless the officer, director, agent, or firm does not qualify for an exemption.

Additionally, the bill requires timeshare boards to meet at least once annually, instead of at least once each quarter as required for the boards of condominium associations.

The bill provides that, if a management firm provides goods or services through arrangements with a parent, affiliate, or subsidiary of the timeshare management firm, the existence of such arrangements must be disclosed annually to the members of that owners' association as part of the common expense budgeting process, as an explanatory note to the annual budget, or otherwise.

The bill takes effect on July 1, 2025.

II. Present Situation:

A timeshare interest is a form of ownership of real and personal property.[1] In a timeshare, multiple parties hold the right to use a condominium unit or a cooperative unit. Each owner of a timeshare interest is allotted a period of time (typically one week) during which the owner has the exclusive right to use the property.

The Florida Vacation Plan and Timesharing Act, ch. 721, F.S., establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers and prospective purchasers.[2] Chapter 721, F.S., applies to all timeshare plans consisting of more than seven timeshare periods over a period of at least 3 years when the accommodations and facilities are located or offered within this state.[3] Part I of ch. 721, F.S., relates to vacation plans and timesharing, and part II of ch. 721, F.S., relates to multisite vacation and timeshare plans that are also known as vacation clubs.

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) of the Department of Business and Professional Regulation (DBPR) administers ch. 721, F.S.

Condominiums

A condominium is a "form of ownership of real property created under ch. 718, F.S,"[4] the "Condominium Act." Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements, and members of the condominium association.[5] For unit owners, membership in the association is an unalienable right and required condition of unit ownership.[6] The association that operates a condominium, including a timeshare condominium, must be a Florida corporation for profit or a Florida corporation not for profit.[7]

A condominium association is administered by a board of directors referred to as a "board of administration."[8] The board of administration is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and

[1] *See* s. 721.05(36), F.S.
[2] Section 721.02(2) and (3), F.S.
[3] Section 721.03, F.S.
[4] Section 718.103(11), F.S.
[5] *See* s. 718.103, F.S., for the terms used in the Condominium Act.
[6] *Id.*
[7] Section 718.111(1)(a), F.S.
[8] Section 718.103(4), F.S.

are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.[9]

Section 718.112(2)(c), F.S., requires the board of administration for a condominium association of 10 or more units to meet at least once each quarter. At least four times per year, the meeting agenda must include an opportunity for members to ask questions. Members have the right to ask questions at meetings with respect to reports on the status of construction or repair projects, status of revenues and expenditures during the current fiscal year, and other issues affecting the condominium.

Definitions - Timeshares

The term "timeshare plan" means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, where a purchaser, for consideration, receives ownership rights in or a right to use accommodations and facilities, if any, for a period of time less than a full year during any given year, but not necessarily for consecutive years.[10] The term includes both personal property timeshare and real property timeshare plans.[11]

A "timeshare unit" is an accommodation of a timeshare plan which is divided into timeshare periods or a condominium unit in which timeshare estates have been created.[12]

A "timeshare estate" is a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof.[13] The term also includes an interest in a condominium unit, a cooperative unit, or a trust. Whether the term includes both direct and indirect interests in trusts is not specified. An example of an indirect interest in a trust is the interest of a trust beneficiary's spouse or other dependent.

A "timeshare license" is the right to occupy a timeshare unit, which right is not a personal property timeshare interest or a timeshare estate.[14] A "timeshare interest" is a timeshare estate, a personal property timeshare interest, or a timeshare license.[15]

Timeshare Managing Entity

Section 721.13(1), F.S., requires the developer to provide a managing entity for each timeshare plan. The managing entity operates or maintains the timeshare plan.[16] Section 721.13, F.S.,

[9] Section 718.103(2), F.S.
[10] Section 721.05(39), F.S.
[11] Section 721.05(39)(a), F.S., defines a "personal property timeshare plan," as a timeshare plan in which the accommodations are comprised of personal property that is not permanently affixed to real property. Section 721.05(39)(b), F.S., defines a "real property timeshare plan," as a timeshare plan in which the accommodations of the timeshare plan are comprised of or permanently affixed to real property.
[12] *See* ss. 721.05(41) and 718.103(26), F.S.
[13] Section 721.05(34), F.S.
[14] Section 721.05(37), F.S.
[15] Section 721.05(36), F.S.
[16] *See* s. 721.05(22), F.S., defining the term "managing entity."

provides the duties of a managing entity. The managing entity may be the developer, a separate manager or management firm, or an owners' association.[17]

Section 721.13(1)(e), F.S., requires that any managing entity performing community association management must comply with part VIII of ch. 468, F.S. The managing entity must act in the capacity of a fiduciary to the purchasers of the timeshare plan.[18]

The managing entity must arrange for an annual audit of the financial statements of the timeshare plan by a certified public accountant licensed by the Board of Accountancy of the DBPR, in accordance with generally accepted auditing standards. The financial statements must be prepared on an accrual basis using fund accounting and presented in accordance with generally accepted accounting principles. A copy of the audited financial statements must be filed with the division for review and forwarded to the board and officers of the owners' association no later than five calendar months after the end of the timeshare plan's fiscal year.[19]

The annual budget must contain, as a footnote or otherwise, any related party transaction disclosures or notes which appear in the audited financial statements of the managing entity for the previous budget year. A copy of the final budget must be filed with the division for review within 30 days after the beginning of each fiscal year.[20]

As a nonprofit corporation, timeshare associations are subject to the provisions of ch. 617, F.S., which provide that a conflict-of-interest transaction is not void or voidable if:[21]

- The fact of such relationship or interest is disclosed or known to the board which authorizes the contract by a vote sufficient for the purpose without counting the votes of such interested directors;
- The fact of such relationship or interest is disclosed to the members entitled to vote on such contract, if any, and they authorize it by vote or written consent; or
- The contract or transaction is fair and reasonable as to the corporation at the time it is authorized by the board, a committee, or the members.

Community Association Managers

Community association managers (CAMs) are licensed and regulated by the Department of Business and Professional Regulation (DBPR or department) pursuant to part VIII of ch. 468, F.S. A license is required to practice community association management.[22]

The term "community association" means:[23]

> residential homeowners' association in which membership is a condition of ownership of a unit in a planned unit development, or of a lot for a

[17] Section 721.13(1)(a), F.S.
[18] Section 721.13(2)(a), F.S.
[19] Section 721.13(3)(e), F.S.
[20] Section 721.13(3)(c)1., F.S.
[21] Section 617.0832, F.S.
[2222] Section 468.432(1), F.S.
[23] Section 468.431(1), F.S.

> home or a mobile home, or of a townhouse, villa, condominium, cooperative, or other residential unit which is part of a residential development scheme and which is authorized to impose a fee which may become a lien on the parcel.

Section 468.431(2), F.S., defines "community association management" to mean:

> any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 10 units or have an annual budget or budgets in excess of $100,000: controlling or disbursing funds of a community association, preparing budgets or other financial documents for a community association, assisting in the noticing or conduct of community association meetings, and coordinating maintenance for the residential development and other day-to-day services involved with the operation of a community association.

A license is not required for persons who perform clerical or ministerial functions under the direct supervision and control of a licensed manager or who only perform the maintenance of a community and do not assist in any of the management services.[24]

Community association managers are regulated by the seven-member Regulatory Council of Community Association Managers. Five of the members must be licensed CAMs, one of whom must be a CAM for a timeshare. The other two must not be CAMs. Members are appointed to four-year terms by the Governor and confirmed by the Senate.[25]

To become licensed as a CAM, a person must apply to the department to take the licensure examination and submit to a background check. Upon determination that the applicant is of good moral character, the applicant must attend a department-approved in-person training prior to taking the examination.[26] Community association managers must successfully complete an exam and pay a fee to become licensed. They must also complete continuing education hours as approved by the council to maintain their licenses.[27]

CAM Practice Standards and Conflicts of Interest

Section 468.4334, F.S., delineates the professional practice standards for CAMs and CAM firms, including the duty to "discharge the duties performed on behalf of the association as authorized by [ch. 468, F.S.], loyally, skillfully, and diligently; dealing honestly and fairly; in good faith; with care and full disclosure to the community association; accounting for all funds; and not charging unreasonable or excessive fees."

Section 468.4334(4), F.S., requires CAMs and CAM firms to return all community association records in their possession within 20 business days of termination of a services agreement or a

[24] Section 468.431(2), F.S.
[25] Section 468.4315(1), F.S.
[26] Section 468.433, F.S.
[27] Sections 468.4336 and 468.4337, F.S.

written request, whichever occurs first, with license suspension and civil penalties per day for up to 10 business days for noncompliance. These requirements do not apply to timeshare plans created under ch. 721, F.S. Instead, the applicable time periods for timeshare plans are provided in s. 721.14(4)(b), F.S., relating to the discharge of a managing entity, which provides a 90-day period for the manager or management firm to transfer records after the termination of a managing entity. Section 721.14(2)(a), F.S., provides that an owners' association and a manager or management firm may, in the management contract or other written document, agree to the transition procedures and related time periods to be followed in the event the manager or management firm is discharged, i.e., termination of the management contract.

Section 468.4335, F.S., provides conflict of interest disclosure requirements for CAMs and CAM firms and a process for associations to approve contracts with a CAM or CAM firm, or a relative of such persons,[28] that may present a conflict of interest.

A CAM or CAM firm, including the directors, officers, persons with a financial interest in the CAM firm and any relatives of such persons, must disclose to the board of a community association any activity which may reasonably be construed by the board to be a conflict of interest. There is a rebuttable presumption of an existing conflict of interest if a CAM or CAM firm, including directors, officers, persons with a financial interest in a CAM firm, or the relative of such persons:[29]

- Enters into a contract for goods or services with the association, other than community association management services; and
- Holds an interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract or other transaction with the association.

If a community association receives and considers a bid to provide a good or service that exceeds $2,500, other than community association management services, from a CAM or CAM firm, including directors, officers, persons with a financial interest in a CAM firm, or a relative of such persons, the association must also solicit multiple bids from other third-party providers of such good or service.[30]

The proposed activity that may be a conflict of interest must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the board's meeting agenda and entered into the written minutes of the meeting. The board must approve the contracts with a potential conflict of interest, and all management contracts, by an affirmative vote of two-thirds of all directors present.[31]

If the contract is canceled because the board finds that the CAM or CAM firm has violated the disclosure requirements, the association is liable only for the reasonable value of the

[28] Section 568.4335(6), F.S., provides that the term "relative" means a relative within the third degree of consanguinity by blood or marriage.
[29] Section 568.4335(1), F.S.
[30] Section 568.4335(2), F.S.
[31] Section 568.4335(3), F.S.

management services provided up to the time of cancellation and is not liable for any termination fee, liquidated damages, or other form of penalty for such cancellation.[32]

If the activity has not been properly disclosed as a conflict of interest or potential conflict of interest, the contract is voidable and terminates upon the association filing a written notice terminating the contract with the consent of at least 20 percent of the voting interests of the association for the written notice terminating the management services contract.[33]

Section 468.436(2)(a), F.S., provides grounds to discipline licensed CAMs and CAM firms for failure to disclose a conflict of interest as required under s. 468.4335, F.S.[34]

Section 468.438, F.S., requires a CAM firm acting as managing entity of a timeshare plan pursuant to ch. 721, F.S., can only be required to employ at least one individual licensed under part VIII of ch. 468, F.S., at each noncontiguous geographic location at which the management firm provides community association management. No other person providing community association management on behalf of such management firms can be required to hold a license pursuant to this part, provided that any community association management provided is performed under the direct supervision and control of a licensed CAM. A licensed CAM employed by a timeshare management firm assumes responsibility for all community association management performed by unlicensed persons employed by the timeshare management firm.

III. Effect of Proposed Changes:

The bill amends s. 468.4334(4), F.S., to provide that timeshare plans are governed by ch. 721, F.S., instead of created under ch. 721, F.S. It also specifies that s. 721.14(4), F.S., applies for the return of records requirements in s. 468.4334(4), F.S.

The bill creates s. 468.4335(7), F.S., to exempt CAMs and CAM firms that manage timeshare plans governed by ch. 721, F.S., from the conflict-of-interest provisions in s. 468.4335, F.S.

The bill creates s. 468.438(3), F.S., to specify that a timeshare management firm and any individual licensed under part VIII of ch. 468, F.S., who is employed by a timeshare management firm are governed by s. 721.13. F.S., relating to the managing entities of timeshare plans.

The bill deletes s. 721.13(1)(e), F.S., requiring that any managing entity performing community association management must comply with part VIII of ch. 468, F.S.

The bill amends s. 721.13(4), F.S., to provide that it is a violation of ch. 721., F.S., for the board of administration or the manager or management firm to refuse to mail any material requested by the purchaser to be mailed, provided the sole purpose of the materials is to advance legitimate owners' association business. The bill deletes the provision that any failure of managing entity to faithfully discharge the fiduciary duty to purchasers imposed by s. 721.13, F.S., or otherwise comply with that section is a violation of part VIII of ch. 468, F.S.

[32] Section 568.4335(4), F.S.,
[33] Section 568.4335(5), F.S.,
[34] Section 568.436(2)b.7., F.S.,

The bill amends s. 721.13(10), F.S., to provide that any failure of the managing entity to faithfully discharge the fiduciary duty to purchasers imposed by s. 721.13, F.S., or to otherwise comply with the provisions of that section is a violation of ch. 721, F.S., and deletes the provision that such failure is also a violation of part VIII of ch. 468, F.S.

The bill amends s. 721.13(13)(a), F.S., which requires an officer, director, or agent of an owners' association to discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, to include as subject to this requirement a timeshare management firm and any individual licensed under part VIII of ch. 468, F.S., employed by the timeshare management firm.

The bill also includes the management firm and any individual licensed under part VIII of ch. 468, F.S., employed by the timeshare management firm, in the exemption from liability for monetary damages in s. 721.13(13)(a), F.S., as provided in s. 617.0834, F.S., unless the officer, director, agent, or firm does not qualify for exemption for the reasons specified in this paragraph and in s. 617.0834, F.S.[35]

The bill creates s. 721.13(13)(b), F.S., to provide that the board of administration of a timeshare condominium is required to meet only once each year, unless additional board meetings are called pursuant to a timeshare instrument.

The bill creates s. 721.13(13)(c)1., F.S., to provide that, if a management firm provides goods or services through arrangements with a parent, affiliate, or subsidiary of the timeshare management firm, the existence of such arrangements must be disclosed annually to the members of that owners' association as part of the common expense budgeting process, as an explanatory note to the annual budget, or otherwise. Under the bill, it is not clear how the disclosure would "otherwise" be made other than as an explanatory note to the annual budget.

The bill amends s. 721.13(13)(c)2., F.S., to provide that a timeshare management firm and any individual licensed under part VIII of ch. 468, F.S., employed by the timeshare management firm are governed by ss. 721.13 and 468.438, F.S.

Section 721.1(2), F.S., relating to the discharge of a managing entity, is reenacted by the bill to incorporate the amendment made to s. 721.13, F.S.

The bill takes effect July 1, 2025.

[35] Sections 721.13(13)(a) and 617.0834, F.S., provide that the exemption from liability for monetary damages does not apply if breach or failure duties constitutes a violation of criminal law; constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

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 of the Florida Statutes: 468.4334, 468.4335, 468.438, 721.13, and 721.14.

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.

953944

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/31/2025	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 79 - 178
and insert:
a timeshare plan governed by chapter 721 and that must provide disclosure under s. 721.13(13)(c)1.

Section 3. Subsection (3) is added to section 468.438, Florida Statutes, to read:

468.438 Timeshare management firms.—

(3) A timeshare management firm and any individual licensed

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under this part who is employed by a timeshare management firm are governed by s. 721.13 and not by s. 468.4335.

Section 4. Paragraph (e) of subsection (1) and subsections (4), (10), and (13) of section 721.13, Florida Statutes, are amended to read:

721.13 Management.—

(1)

~~(e) Any managing entity performing community association management must comply with part VIII of chapter 468.~~

(4) The managing entity shall maintain among its records and provide to the division upon request a complete list of the names and addresses of all purchasers and owners of timeshare units in the timeshare plan. The managing entity shall update this list no less frequently than quarterly. Pursuant to paragraph (3)(d), the managing entity may not publish this owner's list or provide a copy of it to any purchaser or to any third party other than the division. However, the managing entity shall mail to those persons listed on the owner's list materials provided by any purchaser, upon the written request of that purchaser, if the purpose of the mailing is to advance legitimate owners' association business, such as a proxy solicitation for any purpose, including the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The use of any proxies solicited in this manner must comply with the provisions of the timeshare instrument and this chapter. A mailing requested for the purpose of advancing legitimate owners' association business shall occur within 30 days after receipt of a request from a purchaser. The board of administration of the owners' association shall be

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responsible for determining the appropriateness of any mailing requested pursuant to this subsection. The purchaser who requests the mailing must reimburse the owners' association in advance for the owners' association's actual costs in performing the mailing. It is ~~shall be~~ a violation of this chapter ~~and, if applicable, of part VIII of chapter 468,~~ for the board of administration or the manager or management firm to refuse to mail any material requested by the purchaser to be mailed, provided the sole purpose of the materials is to advance legitimate owners' association business. If the purpose of the mailing is a proxy solicitation to recall one or more board members elected by the owners or to discharge the manager or management firm and the managing entity does not mail the materials within 30 days after receipt of a request from a purchaser, the circuit court in the county where the timeshare plan is located may, upon application from the requesting purchaser, summarily order the mailing of the materials solely related to the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The court shall dispose of an application on an expedited basis. In the event of such an order, the court may order the managing entity to pay the purchaser's costs, including attorney ~~attorney's~~ fees reasonably incurred to enforce the purchaser's rights, unless the managing entity can prove it refused the mailing in good faith because of a reasonable basis for doubt about the legitimacy of the mailing.

(10) Any failure of the managing entity to faithfully discharge the fiduciary duty to purchasers imposed by this section or to otherwise comply with ~~the provisions of~~ this

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section is ~~shall be~~ a violation of this chapter ~~and of part VIII of chapter 468~~.

(13)(a) Notwithstanding ~~any provisions of~~ chapter 607, chapter 617, or chapter 718, an officer, a director, or an agent of an owners' association, including a timeshare management firm and any individual licensed under part VIII of chapter 468 employed by the timeshare management firm, shall discharge its ~~his or her~~ duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner it ~~he or she~~ reasonably believes to be in the interests of the owners' association. An officer, a director, or an agent of an owners' association, including a timeshare management firm and any individual licensed under part VIII of chapter 468 employed by the timeshare management firm, are ~~shall be~~ exempt from liability for monetary damages in the same manner as provided in s. 617.0834 unless such officer, director, ~~or~~ agent, or firm breached or failed to perform its ~~his or her~~ duties and the breach of, or failure to perform, its ~~his or her~~ duties constitutes a violation of criminal law as provided in s. 617.0834; constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) Notwithstanding chapter 718, the board of administration of a timeshare condominium is required to meet only once each year, unless additional board meetings are called pursuant to a timeshare instrument.

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(c)1. If a timeshare management firm or an owners' association provides goods or services through a parent, an affiliate, or a subsidiary of a timeshare management firm, the fact that a related party provides goods or services must be disclosed annually to the members of that owners' association as an explanatory note to the annual budget pursuant to subsection (3)(c)1., in the management contract, or otherwise in the manner provided for notice to owners in s. 721.855(2)(a)2.

348504

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment

Delete lines 79 - 178

and insert:

a timeshare plan governed by chapter 721 and that must provide disclosure under s. 721.13(13)(c)1.

Section 3. Subsection (3) is added to section 468.438, Florida Statutes, to read:

468.438 Timeshare management firms.—

(3) A timeshare management firm and any individual licensed

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under this part who is employed by a timeshare management firm are governed by s. 721.13 and not by s. 468.4335.

Section 4. Paragraph (e) of subsection (1) and subsections (4), (10), and (13) of section 721.13, Florida Statutes, are amended to read:

721.13 Management.—

(1)

~~(e) Any managing entity performing community association management must comply with part VIII of chapter 468.~~

(4) The managing entity shall maintain among its records and provide to the division upon request a complete list of the names and addresses of all purchasers and owners of timeshare units in the timeshare plan. The managing entity shall update this list no less frequently than quarterly. Pursuant to paragraph (3)(d), the managing entity may not publish this owner's list or provide a copy of it to any purchaser or to any third party other than the division. However, the managing entity shall mail to those persons listed on the owner's list materials provided by any purchaser, upon the written request of that purchaser, if the purpose of the mailing is to advance legitimate owners' association business, such as a proxy solicitation for any purpose, including the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The use of any proxies solicited in this manner must comply with the provisions of the timeshare instrument and this chapter. A mailing requested for the purpose of advancing legitimate owners' association business shall occur within 30 days after receipt of a request from a purchaser. The board of administration of the owners' association shall be

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responsible for determining the appropriateness of any mailing requested pursuant to this subsection. The purchaser who requests the mailing must reimburse the owners' association in advance for the owners' association's actual costs in performing the mailing. It is ~~shall be~~ a violation of this chapter ~~and, if applicable, of part VIII of chapter 468,~~ for the board of administration or the manager or management firm to refuse to mail any material requested by the purchaser to be mailed, provided the sole purpose of the materials is to advance legitimate owners' association business. If the purpose of the mailing is a proxy solicitation to recall one or more board members elected by the owners or to discharge the manager or management firm and the managing entity does not mail the materials within 30 days after receipt of a request from a purchaser, the circuit court in the county where the timeshare plan is located may, upon application from the requesting purchaser, summarily order the mailing of the materials solely related to the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The court shall dispose of an application on an expedited basis. In the event of such an order, the court may order the managing entity to pay the purchaser's costs, including attorney ~~attorney's~~ fees reasonably incurred to enforce the purchaser's rights, unless the managing entity can prove it refused the mailing in good faith because of a reasonable basis for doubt about the legitimacy of the mailing.

(10) Any failure of the managing entity to faithfully discharge the fiduciary duty to purchasers imposed by this section or to otherwise comply with ~~the provisions of~~ this

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section is ~~shall be~~ a violation of this chapter ~~and of part VIII of chapter 468~~.

(13)(a) Notwithstanding ~~any provisions of~~ chapter 607, chapter 617, or chapter 718, an officer, a director, or an agent of an owners' association, including a timeshare management firm and any individual licensed under part VIII of chapter 468 employed by the timeshare management firm, shall discharge its ~~his or her~~ duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner it ~~he or she~~ reasonably believes to be in the interests of the owners' association. An officer, a director, or an agent of an owners' association, including a timeshare management firm and any individual licensed under part VIII of chapter 468 employed by the timeshare management firm, are ~~shall be~~ exempt from liability for monetary damages in the same manner as provided in s. 617.0834 unless such officer, director, ~~or~~ agent, or firm breached or failed to perform its ~~his or her~~ duties and the breach of, or failure to perform, its ~~his or her~~ duties constitutes a violation of criminal law as provided in s. 617.0834; constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) Notwithstanding chapter 718, the board of administration of a timeshare condominium is required to meet only once each year, unless additional board meetings are called pursuant to a timeshare instrument.

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(c)1. If a timeshare management firm or an owners' association provides goods or services through a parent, an affiliate, or a subsidiary of a timeshare management firm, the fact that a related party provides goods or services must be disclosed annually to the members of that owners' association as an explanatory note to the annual budget pursuant to subparagraph (3)(c)1. or in the management contract, or by mail sent to each owner's notice address, in the notice of an annual or special meeting of the owners, by posting on the website of the applicable timeshare plan, or by any owner communication used by the managing entity.

By Senator McClain

9-00598-25 2025496__

A bill to be entitled

An act relating to timeshare management firms; amending s. 468.4334, F.S.; conforming provisions to changes made by the act; amending s. 468.4335, F.S.; revising applicability for provisions governing conflicts of interest between community association managers or community association management firms and certain persons with a financial interest in such associations; amending s. 468.438, F.S.; providing construction; amending s. 721.13, F.S.; deleting a provision requiring managing entities that perform community association management to comply with certain provisions related to community association management firms; requiring timeshare management firms and individuals employed by timeshare management firms to discharge their duties in good faith; exempting such firms and individuals from liability for monetary damages; requiring the board of administration of a timeshare condominium to meet once per year; providing an exception; requiring disclosure of certain information annually to certain persons if a timeshare management firm or an owners' association provides goods and services through arrangements with specified entities; providing construction; reenacting s. 721.14(2), F.S., relating to discharge of a managing entity, to incorporate the amendment made to s. 721.13, F.S., in a reference thereto; providing an effective date.

9-00598-25 2025496__

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

Section 1. Subsection (4) of section 468.4334, Florida Statutes, is amended to read:

468.4334 Professional practice standards; liability; community association manager requirements; return of records after termination of contract.—

(4) A community association manager or a community association management firm shall return all community association official records within its possession to the community association within 20 business days after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request for return of the official records, whichever occurs first. A notice of termination of a contractual agreement to provide community association management services must be sent by certified mail, return receipt requested, or in the manner required under such contractual agreement. The community association manager or community association management firm may retain, for up to 20 business days, those records necessary to complete an ending financial statement or report. If an association fails to provide access to or retention of the accounting records to prepare an ending financial statement or report, the community association manager or community association management firm is relieved from any further responsibility or liability relating to the preparation of such ending financial statement or report. Failure of a community association manager or a community association management firm to timely return all of the official records within its

possession to the community association creates a rebuttable presumption that the community association manager or community association management firm willfully failed to comply with this subsection. A community association manager or a community association management firm that fails to timely return community association records is subject to suspension of its license under s. 468.436, and a civil penalty of $1,000 per day for up to 10 business days, assessed beginning on the 21st business day after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request from the association for return of the records, whichever occurs first. However, for a timeshare plan governed by ~~created under~~ chapter 721, s. 721.14(4) applies ~~the time periods provided in s. 721.14(4)(b) apply~~.

Section 2. Subsection (7) is added to section 468.4335, Florida Statutes, to read:

468.4335 Conflicts of interest.—

(7) This section does not apply to a community association manager or a community association management firm that manages a timeshare plan governed by chapter 721.

Section 3. Subsection (3) is added to section 468.438, Florida Statutes, to read:

468.438 Timeshare management firms.—

(3) A timeshare management firm and any individual licensed under this part who is employed by a timeshare management firm are governed by s. 721.13.

Section 4. Paragraph (e) of subsection (1) and subsections (4), (10), and (13) of section 721.13, Florida Statutes, are

amended to read:

721.13 Management.—

(1)

~~(e) Any managing entity performing community association management must comply with part VIII of chapter 468.~~

(4) The managing entity shall maintain among its records and provide to the division upon request a complete list of the names and addresses of all purchasers and owners of timeshare units in the timeshare plan. The managing entity shall update this list no less frequently than quarterly. Pursuant to paragraph (3)(d), the managing entity may not publish this owner's list or provide a copy of it to any purchaser or to any third party other than the division. However, the managing entity shall mail to those persons listed on the owner's list materials provided by any purchaser, upon the written request of that purchaser, if the purpose of the mailing is to advance legitimate owners' association business, such as a proxy solicitation for any purpose, including the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The use of any proxies solicited in this manner must comply with the provisions of the timeshare instrument and this chapter. A mailing requested for the purpose of advancing legitimate owners' association business shall occur within 30 days after receipt of a request from a purchaser. The board of administration of the owners' association shall be responsible for determining the appropriateness of any mailing requested pursuant to this subsection. The purchaser who requests the mailing must reimburse the owners' association in advance for the owners' association's actual costs in performing

the mailing. It is ~~shall be~~ a violation of this chapter ~~and, if applicable, of part VIII of chapter 468,~~ for the board of administration or the manager or management firm to refuse to mail any material requested by the purchaser to be mailed, provided the sole purpose of the materials is to advance legitimate owners' association business. If the purpose of the mailing is a proxy solicitation to recall one or more board members elected by the owners or to discharge the manager or management firm and the managing entity does not mail the materials within 30 days after receipt of a request from a purchaser, the circuit court in the county where the timeshare plan is located may, upon application from the requesting purchaser, summarily order the mailing of the materials solely related to the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The court shall dispose of an application on an expedited basis. In the event of such an order, the court may order the managing entity to pay the purchaser's costs, including attorney's fees reasonably incurred to enforce the purchaser's rights, unless the managing entity can prove it refused the mailing in good faith because of a reasonable basis for doubt about the legitimacy of the mailing.

(10) Any failure of the managing entity to faithfully discharge the fiduciary duty to purchasers imposed by this section or to otherwise comply with ~~the provisions of~~ this section is ~~shall be~~ a violation of this chapter ~~and of part VIII of chapter 468~~.

(13)(a) Notwithstanding any provisions of chapter 607, chapter 617, or chapter 718, an officer, director, or agent of

an owners' association, including a timeshare management firm and any individual licensed under part VIII of chapter 468 employed by the timeshare management firm, shall discharge its ~~his or her~~ duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner it ~~he or she~~ reasonably believes to be in the interests of the owners' association. An officer, director, or agent of an owners' association, including a timeshare management firm and any individual licensed under part VIII of chapter 468 employed by the timeshare management firm, are ~~shall be~~ exempt from liability for monetary damages in the same manner as provided in s. 617.0834 unless such officer, director, ~~or~~ agent, or firm breached or failed to perform its ~~his or her~~ duties and the breach of, or failure to perform, its ~~his or her~~ duties constitutes a violation of criminal law as provided in s. 617.0834; constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) Notwithstanding chapter 718, the board of administration of a timeshare condominium is required to meet only once each year, unless additional board meetings are called pursuant to a timeshare instrument.

(c)1. If a timeshare management firm that is an agent of an owners' association or an owners' association provides goods or services through arrangements with a parent, affiliate, or subsidiary of the timeshare management firm, the existence of

such arrangements must be disclosed annually to the members of that owners' association as part of the common expense budgeting process, as an explanatory note to the annual budget, or otherwise.

2. A timeshare management firm and any individual licensed under part VIII of chapter 468 employed by the timeshare management firm are governed by this section and s. 468.438.

Section 5. For the purpose of incorporating the amendment made by this act to section 721.13, Florida Statutes, in a reference thereto, subsection (2) of section 721.14, Florida Statutes, is reenacted to read:

721.14 Discharge of managing entity.—

(2) In the event the manager or management firm is discharged, the board of administration of the owners' association shall remain responsible for operating and maintaining the timeshare plan pursuant to the timeshare instrument and s. 721.13(1). If the board of administration fails to do so, any timeshare owner may apply to the circuit court within the jurisdiction of which the accommodations and facilities lie for the appointment of a receiver to manage the affairs of the owners' association and the timeshare plan. At least 30 days before applying to the circuit court, the timeshare owner shall mail to the owners' association and post in a conspicuous place on the timeshare property a notice describing the intended action. If a receiver is appointed, the owners' association shall be responsible as a common expense of the timeshare plan, for payment of the salary and expenses of the receiver, relating to the discharge of her or his duties and obligations as receiver, together with the receiver's court

costs, and reasonable attorney's fees. The receiver shall have all powers and duties of a duly constituted board of administration and shall serve until discharged by the circuit court.

Section 6. This act shall take effect July 1, 2025.

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 1076
INTRODUCER:	Senator McClain
SUBJECT:	Roof Contracting
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	Imhof	RI	**Pre-meeting**
2.			JU	
3.			RC	

I. Summary:

SB 1076 expands the scope of work for licensed roofing contractors to include evaluation and enhancement of roof-to-wall connections for structures with wood roof decking provided that any enhancement was properly installed and inspected in accordance with certain requirements.

The bill puts a limit (within 30 days) *only* on the time period that a residential property owner may cancel a contract that was entered into based on events that are subject of a state of emergency as declared by the Governor. The bill also removes the requirement that the contract must be entered into *because of* the event causing the state of emergency.

The bill takes effect upon becoming law.

II. Present Situation:

Roofing Contractors

Chapter 489, F.S., regulates the profession of contracting in the state. Generally speaking, a licensed contractor is the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, and whose job scope is substantially similar to the job scopes described in s. 489.105, F.S.[1]

A roofing contractor means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, and use materials and items used in the installation, maintenance, extension, and alteration of all

[1] Section 489.105(3), F.S.

kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof.[2]

A roofing contractor's scope of work also includes skylights, required roof-deck attachments, repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement, and any related work.[3]

A roofing contractor's scope of work does not include evaluating or enhancing roof-to-wall connections.

Florida Building Code

The Florida Building Codes Act ("Building Code"), provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single state building code that must be applied, administered, and enforced uniformly and consistently across the state. The Building Code is adopted by the Building Commission and enforced by local governments.[4]

The Building Code sets minimum standards for the design, construction, erection, alteration, modification, repair, and demolition of structures in the state. Section 706 of the Building Code (Existing Building) provides methods for recovering or replacing an existing roof covering.[5]

A *roof covering* is the most visual part of the roofing system and makes up the majority of waterproofing and protection. The most popular roof covering is shingles; however, there are other types including, but not limited to, metal roofing and wood shakes.[6]

Roof decking or "sheathing" is the layer of material that sits underneath the shingles and serves as the foundation of the roof. Roof decking can be made of different types of materials such as wood or metal.[7]

Uniform Mitigation Verification Inspection Form

A uniform mitigation form is a form developed by the Office of Insurance Regulation (OIR) that insurers provide to residential property insurance policyholders that notifies them of any discounts, credits, or deductibles that are available for certain fixtures or construction techniques that reduce the amount of loss in a windstorm.[8]

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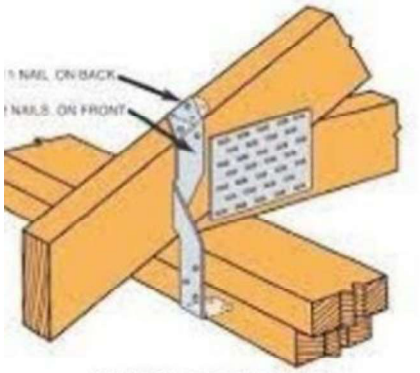
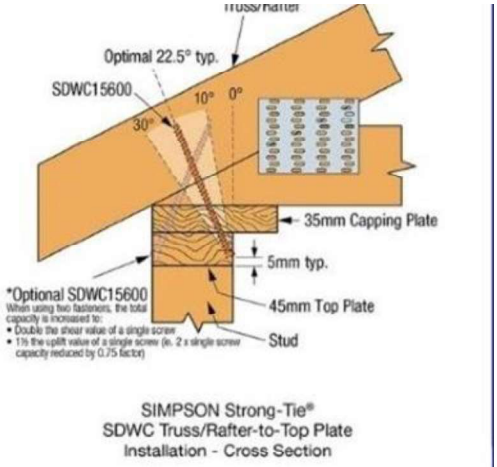
[2] Section 489.105(3)(e), F.S.
[3] *Id*.
[4] Sections 125.56, 553.72, 553.73, and 553.74, F.S.
[5] Section 553.72, F.S.; Section 706 of the Florida Building Code (Existing Building).
[6] RoofCorp of Metro Denver, Inc., *What is Roof Covering*, https://roofingexperts.com/roof-covering/ (last visited March 31, 2025).
[7] Hook Agency, *Roof Decking (When It Should Be Replaced, Types & More)*, Indy Roof & Restoration https://indyroofandrestoration.com/roof-decking/ (last visited March 31, 2025).
[8] Section 627.711, F.S.

Roof-to-wall Connections

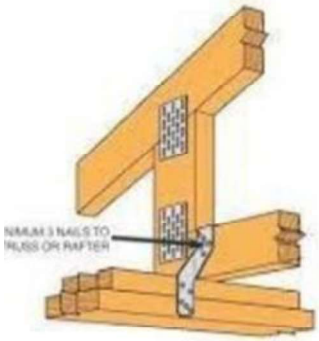
The roof-to-wall connection is the structural linkage between a building's roof and its walls. They are a critical aspect of wind mitigation and sometimes referred to as "hurricane straps."[9] Below are examples of different types of hurricane straps.[10]



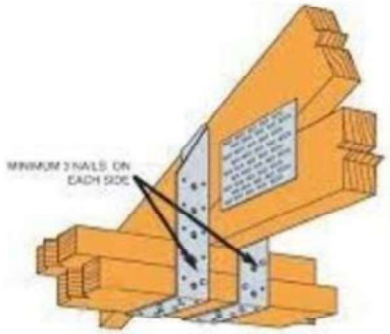
SINGLE WRAP



SIMPSON Strong-Tie®
SDWC Truss/Rafter-to-Top Plate
Installation - Cross Section



CLIP



DOUBLE WRAP

Canceling Roofing Contracts

Current law allows a residential property owner to cancel a contract to replace or repair a roof without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, as long as the contract was entered into because of events that caused a declaration of a state of emergency by the Governor.[11]

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[9] Megan Hall, Roof-to-wall Connectors: What are they and how they affect your Wind Mitigation Verification Form, True Home Inspections, April 11, 2023 https://www.truehomeinspects.com/blog/2023/3/15/kmwu3p5vzbf1eym9ezrd42farrb7r8#:~:text=They%20are%20designed%20to%20transfer%20the%20uplift%20forces,roof%20pitch%20and%20the%20spacing%20of%20the%20trusses. (last visited March 31, 2025); Howard Meeks, Types of Roof Wall connections, Ocoee Home Inspections, https://ocoeehomeinspections.com/types-of-roof-to-wall-connections/ (last visited March 31, 2024).

[10] *Id.*

[11] Section 489.147(6), F.S. The "official start date" is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a final permit has been issued, or a temporary repair to the roof covering or roof has been made in compliance with the Florida Building Code.

A contractor that enters into a contract to replace or repair the roof of a residential property during a declared state of emergency must include specific language in the contract that notifies the residential property owner that they may cancel the contract without penalty or obligation.[12] The language must be in bold type of not less than 18 points.[13]

III. Effect of Proposed Changes:

Section 1 of the bill expands the scope of work for licensed roofing contractors to include evaluation and enhancement of roof-to-wall connections for structures with wood roof decking as described in section 706 of the Building Code, Existing Building, 8th Edition (2023). Any enhancement must be:

- Done in conjunction with a roof covering replacement or repair; and
- Installed and inspected in accordance with the:
  - OIR uniform mitigation verification inspection form;
  - Building Code; or
  - Project specific engineering that exceeds the requirements of the Building Code or OIR inspection form.

Section 2 of the bill limits (to within 30 days) the time period that a residential property owner may cancel a contract, which was entered into because of an event causing a state of emergency as declared by the Governor, to replace or repair a roof without penalty or obligation. The bill also removes the requirement that the contract must be entered into *based on* events that are subject to the state of emergency.

Sections 3 – 9 of the bill are reenacted for the purpose of incorporating the amendments being made by the bill.

Section 10 provides that the bill shall take effect upon becoming law.

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.

[12] *Id.*
[13] *Id.*

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 sections 489.105 and 489.147 of the Florida Statutes.

The bill reenacts for the purpose of incorporating the amendments being made by the bill the following sections of the Florida Statutes: 489.107, 489.113, 489.117, 489.118, 489.126, 489.131, and 877.02.

IX. Additional Information:

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

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 63 - 112

and insert:

provided that any enhancement that was properly installed and inspected in accordance with the Office of Insurance Regulation uniform mitigation verification inspection form, the Florida Building Code, or project-specific engineering exceeding these requirements is done in conjunction with a roof covering replacement or repair ~~and any related work~~.

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Section 2. Subsection (6) of section 489.147, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

489.147 Prohibited property insurance practices; contract requirements.—

(6)(a) A residential property owner may cancel a contract to replace or repair a roof without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, if the contract was entered into within 180 days after ~~based on~~ events that are subject of a declaration of a state of emergency by the Governor and the residential property is located within the geographic area for which the declaration of the state of emergency applies. For the purposes of this subsection, the official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a final permit has been issued, or a temporary repair to the roof covering or roof has been made in compliance with the Florida Building Code.

(b) A contractor executing a contract during a declaration of a state of emergency to replace or repair a roof of a residential property must include or add as an attachment to the contract the following language, in bold type of not less than 14 ~~18~~ points, immediately before the space reserved for the signature of the residential property owner:

"You, the residential property owner, may cancel this contract without penalty or obligation within 10 days after the execution of the contract or by the official

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start date, whichever comes first, because this contract was entered into within 180 days after events resulting in the declaration of ~~during~~ a state of emergency by the Governor. The official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a ~~final~~ permit has been issued, or a temporary repair to the roof covering or roof system has been made in compliance with the Florida Building Code."

(c) The residential property owner must send the notice of cancellation by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

(7) A contractor executing a contract to replace or repair a roof of a residential property must include or add as an attachment to the contract the following language, in bold type of not less than 14 points, on the page reserved for the signature of the residential property owner:

"If the proposed work is related to an insurance claim, you, the residential property owner, should contact your insurance company to verify coverage for the proposed roofing work, including any claims, deductibles, and policy terms before signing this contract. By signing this contract, you acknowledge that you have been advised to contact your insurance provider regarding coverage and reimbursement of the

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proposed work.”

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

And the title is amended as follows:

Delete lines 8 - 12

and insert:

following a declared state of emergency; revising what constitutes an official start date; revising the notice that contractors must provide to residential property owners when executing such a contract; requiring a contractor executing certain contracts to attach a certain notice to the contract; reenacting ss. 489.107(4)(b),

By Senator McClain

9-01227-25 20251076__

A bill to be entitled

An act relating to roof contracting; amending s. 489.105, F.S.; revising the definition of the term "roofing contractor"; amending s. 489.147, F.S.; revising the circumstances under which residential property owners are authorized to cancel a roof repair or replacement contract without penalty or obligation following a declared state of emergency; providing applicability; revising what constitutes an official start date; revising the notice that contractors must provide to residential property owners when executing such a contract; reenacting ss. 489.107(4)(b), 489.113(2), 489.117(1)(a), (2)(a) and (b), and (4)(a), 489.118(1), 489.126(1), 489.131(10) and (11), and 877.02(2), F.S., relating to the Construction Industry Licensing Board, qualifications for practice and restrictions, registration and specialty contractors, certification of registered contractors and grandfathering provisions, moneys received by contractors, applicability, and solicitation of legal services or retainers therefor and penalty, respectively, to incorporate the amendment made to s. 489.105, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (e) of subsection (3) of section 489.105, Florida Statutes, is amended to read:

9-01227-25 20251076__

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the paragraphs of this subsection. For the purposes of regulation under this part, the term "demolish" applies only to demolition of steel tanks more than 50 feet in height; towers more than 50 feet in height; other structures more than 50 feet in height; and all buildings or residences. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(e) "Roofing contractor" means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, if not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof. The scope of work of a roofing contractor also includes all of the following and any related work: skylights; ~~and any related work,~~ required roof-deck attachments; ~~, and~~ any repair or replacement

of wood roof sheathing or fascia as needed during roof repair or replacement; and the evaluation and enhancement of roof-to-wall connections for structures with wood roof decking as described in section 706 of the Florida Building Code, Existing Building, 8th Edition (2023), provided that any enhancement that was properly installed and inspected in accordance with the Office of Insurance Regulation uniform mitigation verification inspection form, the Florida Building Code, or project-specific engineering exceeding these requirements is done in conjunction with a roof covering replacement or repair ~~and any related work~~.

Section 2. Subsection (6) of section 489.147, Florida Statutes, is amended to read:

489.147 Prohibited property insurance practices; contract requirements.—

(6)~~(a)~~ A residential property owner may cancel a contract to replace or repair a roof without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, if the contract was entered into within 30 days after ~~based on~~ events that are subject of a declaration of a state of emergency by the Governor.

(a) This subsection does not apply to any subsequent extension of a state of emergency which has been declared by the Governor for the same event.

(b) For the purposes of this subsection, the official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a ~~final~~ permit has been issued, or a temporary repair to the roof covering or roof has been made in compliance with the Florida Building Code.

(c)~~(b)~~ A contractor executing a contract during a declaration of a state of emergency to replace or repair a roof of a residential property must include or add as an attachment to the contract the following language, in bold type of not less than 14 ~~18~~ points, immediately before the space reserved for the signature of the residential property owner:

"You, the residential property owner, may cancel this contract without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, because this contract was entered into within 30 days after events resulting in the declaration of ~~during~~ a state of emergency by the Governor. The official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a final permit has been issued, or a temporary repair to the roof covering or roof system has been made in compliance with the Florida Building Code."

(d)~~(c)~~ The residential property owner must send the notice of cancellation by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

Section 3. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 489.107, Florida Statutes, is reenacted to read:

489.107 Construction Industry Licensing Board.—

(4) The board shall be divided into two divisions, Division I and Division II.

(b) Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the board; one of the members appointed pursuant to paragraph (2)(j); and one of the members appointed pursuant to paragraph (2)(k). Division II has jurisdiction over the regulation of contractors defined in s. 489.105(3)(d)-(p).

Section 4. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (2) of section 489.113, Florida Statutes, is reenacted to read:

489.113 Qualifications for practice; restrictions.—

(2) A person must be certified or registered in order to engage in the business of contracting in this state. However, for purposes of complying with the provisions of this chapter, a subcontractor who is not certified or registered may perform construction work under the supervision of a person who is certified or registered, provided that the work is within the scope of the supervising contractor's license, the supervising contractor is responsible for the work, and the subcontractor being supervised is not engaged in construction work that would require a license as a contractor under any of the categories listed in s. 489.105(3)(d)-(o). This subsection does not affect the application of any local construction licensing ordinances. To enforce this subsection:

(a) The department shall issue a cease and desist order to prohibit any person from engaging in the business of contracting who does not hold the required certification or registration for the work being performed under this part. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provision of such order.

(b) A county, municipality, or local licensing board created by special act may issue a cease and desist order to prohibit any person from engaging in the business of contracting who does not hold the required certification or registration for the work being performed under this part.

Section 5. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in references thereto, paragraph (a) of subsection (1), paragraphs (a) and (b) of subsection (2), and paragraph (a) of subsection (4) of section 489.117, Florida Statutes, are reenacted to read:

489.117 Registration; specialty contractors.—

(1)(a) A person engaged in the business of a contractor as defined in s. 489.105(3)(a)-(o) must be registered before engaging in business as a contractor in this state, unless he or she is certified. Except as provided in paragraph (2)(b), to be initially registered, the applicant must submit the required fee and file evidence of successful compliance with the local examination and licensing requirements, if any, in the area for which registration is desired. An examination is not required for registration.

(2)(a) Except as provided in paragraph (b), the board may

not issue a new registration after July 1, 1993, based on any certificate of competency or license for a category of contractor defined in s. 489.105(3)(a)-(o) which is issued by a municipal or county government that does not exercise disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in s. 489.131(7). For purposes of this subsection and s. 489.131(10), the board shall determine the adequacy of such disciplinary control by reviewing the local government's ability to process and investigate complaints and to take disciplinary action against locally licensed contractors.

(b) The board shall issue a registration to an eligible applicant to engage in the business of a contractor in a specified local jurisdiction, provided each of the following conditions are satisfied:

1. The applicant held, in any local jurisdiction in this state during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a category of contractor defined in s. 489.105(3)(a)-(o).

2. The applicant submits all of the following to the board:

a. Evidence of the certificate of registration or local license held by the applicant as required by subparagraph 1.

b. Evidence that the specified local jurisdiction does not have a license type available for the category of work for which the applicant was issued a certificate of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an e-mail or letter

from the office of the local building official or local building department stating that such license type is not available in that local jurisdiction.

c. Evidence that the applicant has submitted the required fee.

d. Evidence of compliance with the insurance and financial responsibility requirements of s. 489.115(5).

An examination is not required for an applicant seeking a registration under this paragraph.

(4)(a)1. A person whose job scope does not substantially correspond to either the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), or the job scope of one of the certified specialty contractor categories established by board rule, is not required to register with the board. A local government, as defined in s. 163.211, may not require a person to obtain a license, issued by the local government or the state, for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455(1), or the job scope of one of the certified specialty contractor categories established pursuant to s. 489.113(6). A local government may not require a state or local license to obtain a permit for such job scopes. For purposes of this section, job scopes for which a local government may not require a license include, but are not limited to, painting; flooring; cabinetry; interior remodeling when the scope of the project does not include a task for which a state license is required; driveway or tennis court installation; handyman services;

decorative stone, tile, marble, granite, or terrazzo installation; plastering; pressure washing; stuccoing; caulking; and canvas awning and ornamental iron installation.

2. A county that includes an area designated as an area of critical state concern under s. 380.05 may offer a license for any job scope which requires a contractor license under this part if the county imposed such a licensing requirement before January 1, 2021.

3. A local government may continue to offer a license for veneer, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories in height; or fence installation and erection if the local government imposed such a licensing requirement before January 1, 2021.

4. A local government may not require a license as a prerequisite to submit a bid for public works projects if the work to be performed does not require a license under general law.

Section 6. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (1) of section 489.118, Florida Statutes, is reenacted to read:

489.118 Certification of registered contractors; grandfathering provisions.—The board shall, upon receipt of a completed application and appropriate fee, issue a certificate in the appropriate category to any contractor registered under this part who makes application to the board and can show that he or she meets each of the following requirements:

(1) Currently holds a valid registered local license in one

of the contractor categories defined in s. 489.105(3)(a)-(p).

Section 7. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (1) of section 489.126, Florida Statutes, is reenacted to read:

489.126 Moneys received by contractors.—

(1) For purposes of this section, the term "contractor" includes all definitions as set forth in s. 489.105(3), and any person performing or contracting or promising to perform work described therein, without regard to the licensure of the person.

Section 8. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in references thereto, subsections (10) and (11) of section 489.131, Florida Statutes, are reenacted to read:

489.131 Applicability.—

(10) No municipal or county government may issue any certificate of competency or license for any contractor defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local government exercises disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in subsection (7). Each local board that licenses and disciplines contractors must have at least two consumer representatives on that board. If the board has seven or more members, at least three of those members must be consumer representatives. The consumer representative may be any resident of the local jurisdiction who is not, and has never been, a member or practitioner of a profession regulated by the board or a member

of any closely related profession.

(11) Any municipal or county government which enters or has in place a reciprocal agreement which accepts a certificate of competency or license issued by another municipal or county government in lieu of its own certificate of competency or license allowing contractors defined in s. 489.105(3)(a)-(o), shall file a certified copy of such agreement with the board not later than 60 days after July 1, 1993, or 30 days after the effective date of such agreement.

Section 9. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (2) of section 877.02, Florida Statutes, is reenacted to read:

877.02 Solicitation of legal services or retainers therefor; penalty.—

(2) It shall be unlawful for any person in the employ of or in any capacity attached to any hospital, sanitarium, police department, wrecker service or garage, prison or court, for a person authorized to furnish bail bonds, investigators, photographers, insurance or public adjusters, or for a general or other contractor as defined in s. 489.105 or other business providing sinkhole remediation services, to communicate directly or indirectly with any attorney or person acting on said attorney's behalf for the purpose of aiding, assisting, or abetting such attorney in the solicitation of legal business or the procurement through solicitation of a retainer, written or oral, or any agreement authorizing the attorney to perform or render legal services.

Section 10. This act shall take effect upon becoming a law.

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 Community Affairs

BILL:	SB 1002
INTRODUCER:	Senator Truenow
SUBJECT:	Utility Service Restrictions
DATE:	March 31, 2025
REVISED:	3/12/25

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	**Favorable**
2.	Schrader	Imhof	RI	**Pre-meeting**
3.			RC	

I. Summary:

SB 1002 expands the preemption over utility service restrictions to include boards, agencies, commissions, and authorities of counties and municipal corporations. Preempted entities cannot restrict or prohibit the types or fuel sources of energy produced, used, delivered, converted, or supplied by certain utilities.

The bill nullifies any existing charter, resolution, ordinance, rule, code, or policy from the included entities which conflict with this preemption and which existed before or on July 1, 2021.

The bill takes effect July 1, 2025.

II. Present Situation:

Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.[1] Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.[2] Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.[3]

[1] FLA. CONST. art. VIII, s. 1(f).
[2] FLA. CONST. art. VIII, s. 1(g).
[3] FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021(1), F.S.

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.[4]

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.[5] Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.[6] In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.[7]

In cases determining the validity of ordinances in violation of state preemption, the effect has been to find such ordinances null and void.[8] In one case, the court stated that implied preemption "is actually a decision by the courts to create preemption in the absence of an explicit legislative directive."[9] Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.[10] Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.[11]

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.[12] The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe and reliable manner and at fair prices.[13] In order to do so, the PSC exercises authority over utilities in one or more of

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[4] *See* James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009), https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/ (last visited Mar. 28, 2025).
[5] *See City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).
[6] *Mulligan*, 934 So. 2d at 1243.
[7] *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010). Examples of activities "expressly preempted to the state" include: operator use of commercial mobile radio services and electronic communications devices in motor vehicles, s. 316.0075, F.S.; regulation of the use of cameras for enforcing provisions of the Florida Uniform Traffic Control Law, s. 316.0076, F.S.; and, the adoption of standards and fines related to specified subject areas under the purview of the Department of Agriculture and Consumer Services, s. 570.07, F.S.
[8] *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami,* 812 So. 2d 504 (Fla. 3d DCA 2002).
[9] *Phantom of Clearwater, Inc.*, 894 So. 2d at 1019.
[10] *Id*.
[11] *Sarasota Alliance for Fair Elections, Inc.,* 28 So. 3d at 886.
[12] Section 350.001, F.S.
[13] *See* Florida Public Service Commission, *Florida Public Service Commission Homepage*, http://www.psc.state.fl.us (last visited Mar. 28, 2025).

the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.[14]

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid[15] and may order the addition or repair of infrastructure as necessary.[16] The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities[17] (called "public utilities" under ch. 366, F.S.).[18] However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, and bulk power supply operations and planning.[19] Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative's membership.

Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida

A municipal electric or gas utility is an electric or gas utility owned and operated by a municipality. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a "municipal utility," variations of this terminology and the concept of these types of utilities appear throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state's electric utility customers.[20] Florida also has 27 municipally-owned gas utilities and four special gas districts.[21]

Rural Electric Cooperatives in Florida

At present, Florida has 18 rural electric cooperatives, with 16 of these cooperatives being distribution cooperatives and two being generation and transmission cooperatives.[22] These cooperatives operate in 57 of Florida's 67 counties and have more than 2.7 million customers.[23] Florida rural electric cooperatives serve a large percentage of area, but have a low customer density. Specifically, Florida cooperatives serve approximately 10 percent of Florida's total electric utility customers, but their service territory covers 60 percent of Florida's total land

[14] Florida Public Service Commission, *About the PSC*, https://www.psc.state.fl.us/about (last visited Mar. 28, 2025).
[15] Section 366.04(5) and (6), F.S.
[16] Section 366.05(1) and (8), F.S.
[17] Section 366.05, F.S.
[18] Section 366.02(8), F.S.
[19] Florida Public Service Commission, *About the PSC*, *supra* note 14**Error! Bookmark not defined.**.
[20] Florida Municipal Electric Association, *About Us,* https://www.flpublicpower.com/about-us (last visited Mar. 28, 2025).
[21] Florida Public Service Commission, *2024 Facts and Figures of the Florida Utility Industry*, pg. 1 & 13, Apr. 2024 (available at: https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202024.pdf). A "special gas district" is a dependent or independent special district, set up pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a "special district" as "a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet."
[22] Florida Electric Cooperative Association, *Members*, https://feca.com/members/ (last visited Mar. 28, 2025).
[23] Florida Electric Cooperative Association, *Our History*, https://feca.com/our-history/ (last visited Mar 28, 2025).

mass. Each cooperative is governed by a board of cooperative members elected by the cooperative's membership.[24]

Preemption over Utility Service Restrictions

Section 366.032, F.S., provides that "a municipality, county, special district, development district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied" by the following:[25]

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Category I liquefied petroleum gas dealers, category II liquefied petroleum gas dispensers, or category III liquefied petroleum gas cylinder exchange operator as defined in s. 527.01, F.S.

Section 366.032(2), F.S., also prohibits (except to enforce the Florida Building Code and Florida Fire Prevention Code) a municipality, county, special district, development district, or other political subdivision of the state from restricting or prohibiting the use of an appliance using the fuels or energy types used, delivered, converted, or supplied by the entities above.

The section also provides that it acts retroactively to any provision that existed before its enactment in 2021.

III. Effect of Proposed Changes:

The bill amends s. 366.032, F.S., to expand the preemption over utility service restrictions to include boards, agencies, commissions, and authorities of counties and municipal corporations. Preempted entities cannot restrict or prohibit the types or fuel sources of energy produced, used, delivered, converted, or supplied by certain utilities.

The bill nullifies any existing charter, resolution, ordinance, rule, code, or policy from the included entities which conflict with this preemption and which existed before or on July 1, 2021.

The bill takes effect July 1, 2025.

[24] *Id.*
[25] To the extent of serving the customers they are authorized to serve.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate effect on public and cooperative utilities to the extent that it voids any restrictions or prohibitions imposed by preempted entities on the types or the fuel sources of energy production which a utility may use, deliver, convert, or supply to its customers.

C. Government Sector Impact:

The bill may have an indeterminate effect on municipal utilities to the extent that it voids any restrictions or prohibitions imposed by preempted entities on the types or the fuel sources of energy production which a utility may use, deliver, convert, or supply to its customers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 366.032 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Truenow

13-01855A-25 20251002__

A bill to be entitled

An act relating to utility service restrictions; amending s. 366.032, F.S.; including boards, agencies, commissions, and authorities of counties, municipal corporations, or other political subdivisions of the state with the entities preempted from taking certain actions that restrict, prohibit, or have the effect of restricting or prohibiting the types or fuel sources of energy produced, used, delivered, converted, or supplied by certain entities to serve customers; voiding existing specified documents and policies from governmental entities that are preempted by the act; providing an effective date.

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

Section 1. Subsections (1), (2), and (5) of section 366.032, Florida Statutes, are amended to read:

366.032 Preemption over utility service restrictions.—

(1) A municipality; a~~,~~ county; a~~,~~ special district; a board, an agency, a commission, or an authority of a county, a municipal corporation, or other political subdivision of the state; a~~,~~ community development district created pursuant to chapter 190;~~,~~ or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied by any of the following entities to serve customers

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that such entities are authorized to serve:

(a) A public utility or an electric utility as defined in this chapter.~~;~~

(b) An entity formed under s. 163.01 that generates, sells, or transmits electrical energy.~~;~~

(c) A natural gas utility as defined in s. 366.04(3)(c).~~;~~

(d) A natural gas transmission company as defined in s. 368.103.~~; or~~

(e) A Category I liquefied petroleum gas dealer, a~~ or~~ Category II liquefied petroleum gas dispenser, or a Category III liquefied petroleum gas cylinder exchange operator as defined in s. 527.01.

(2) Except to the extent necessary to enforce the Florida Building Code adopted pursuant to s. 553.73 or the Florida Fire Prevention Code adopted pursuant to s. 633.202, a municipality; a~~,~~ county; a~~,~~ special district; a board, an agency, a commission, or an authority of a county, a municipal corporation, or other political subdivision of the state; a~~,~~ community development district created pursuant to chapter 190;~~,~~ or other political subdivision of the state may not enact or enforce a resolution, an ordinance, a rule, a code, or a policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the use of an appliance, including a stove or grill, which uses the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the entities listed in subsection (1). As used in this subsection, the term “appliance” means a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code

provides specific requirements.

(5) Any charter, resolution, ordinance, rule, code, policy, or action of any municipality, county, special district, community development district created pursuant to chapter 190, or political subdivision, or any board, agency, commission, or authority of such governmental entity which ~~charter, resolution, ordinance, rule, code, policy, or action that~~ is preempted by this act and which ~~that~~ existed before or on July 1, 2021, is void.

Section 2. This act shall take effect July 1, 2025.

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 Criminal Justice

BILL:	SB 726
INTRODUCER:	Senator Ingoglia
SUBJECT:	False Reporting
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	**Favorable**
2.	Schrader	Imhof	RI	**Pre-meeting**
3.			RC	

I. Summary:

SB 726 amends s. 365.172, F.S., to require any person who misuses the 911 system to be liable for the costs of prosecution and investigation. Current law provides that specified misuse of the 911 systems is a first degree misdemeanor for a first offense.

The bill amends s. 837.05, F.S., to require any person who knowingly gives false information to law enforcement authorities concerning the alleged commission of any crime to be liable for the costs of prosecution and investigation. Additionally, the bill requires a person to be liable for restitution if the false report involves another person who sustained injury or property damage during the investigation stemming from such false report.

The bill takes effect on July 1, 2025.

II. Present Situation:

According to the Educator's School Safety Network, in the 2022-2023 school year, there were more than 446 false reports, or "swatting calls," of an active shooter within a school comprising 63.8% of all violent incidents, while 7.9% of all violent incidents were actual shootings at a school.[1] "Swatting" is false reporting an emergency to public safety by a person for the intent of getting a SWAT team response to a location where no emergency exists.[2]

Swatting is not the sole improper use of 911. For example, in January 2025, a Florida woman was arrested for overusing the 911 system. Authorities allege the woman called the county's 911

[1] Educator's School Safety Network, *Swatting Incidents in American Schools 2022-2023*, available at: https://eschoolsafety.org/swatting (last visited March 28, 2025).
[2] 911.gov, *Public Safety Information on "Swatting,"* available at: https://www.911.gov/assets/National_911_Program_Public_Safety_Information_Swatting_2015.pdf (last visited March 28, 2025).

dispatch line over 30 times in the previous year. In the event that immediately preceded her arrest, the woman called 911 for knee pain, stating her doctor wants her to get an x-ray. The defendant was aware that her pain did not constitute a medical emergency, but lacking the ability to get herself to the hospital, she called 911 for transport.[3]

911 Communications

The Emergency Communications Act provides legislative intent to establish and implement a statewide emergency communications and response capability using modern technologies and methods and to fund certain costs incurred by the counties associated with public safety emergency responses.[4] The Emergency Communications Act prohibits the misuse of the 911, E911,[5] and NG911[6] systems.[7]

Section 365.172(14), F.S., provides it is a first degree misdemeanor[8] for a person to:

- Access 911 for the purpose of making a false alarm or complaint or reporting false information that could result in the emergency response of any public safety agency;
- Knowingly use or attempt to use such service for a purpose other than obtaining public safety assistance; or
- Knowingly use or attempt to use such service in an effort to avoid any charge for service.

If the value of the service or the service charge exceeds $100, the person commits a third degree felony.[9,10]

Additionally, a person commits a third degree felony if he or she continues to engage in the unauthorized use of service after being convicted of unauthorized use of such service four times.[11]

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[3] Law & Crime, *"My knee hurts,"* Colin Kalmbacher (January 15, 2025), available at: https://lawandcrime.com/crime/my-knee-hurts-florida-woman-arrested-after-allegedly-calling-911-over-30-times-in-a-single-year/ (last visited March 24, 2025).
[4] Section 365.172(2)(a)-(b), F.S.
[5] "Enhanced 911" or "E911" means an enhanced 911 system or an enhanced 911 service that is an emergency telephone system or service that provides a subscriber with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on geographical location from which the call originated, or as otherwise provided in the state plan, and that provides for automatic number identification and automatic location-identification features. Section 365.172(3)(i), F.S.
[6] "Next Generation 911" or "NG911" means an Internet Protocol (IP)-based system composed of managed Emergency Services IP Networks, functional elements (applications), and databases that replicate traditional E911 features and functions and provide additional capabilities. The NG911 system is designed to provide access to emergency services from all connected communication sources and provide multimedia data capabilities for public safety answering points and other emergency service organizations. Section 365.172(3)(s), F.S.
[7] Section 365.172(14), F.S.
[8] A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine of up to $1,000. Sections 775.082 and 775.083, F.S.
[9] Section 365.172(14), F.S.
[10] Punishable as provided in ss. 775.082, 775.083, or 775.084, F.S. A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding $5,000.
[11] Section 365.172(14), F.S.

False Reports to Law Enforcement

Intentionally giving false information to a law enforcement officer is another form of false reporting. For instance, on January 31, 2025, a woman reported being battered by two neighbors, whom she alleged pushed, grabbed, and shoved her. Upon investigating the matter further and finding through interviews and surveillance that the incident never occurred, detectives charged the woman with filing a false report to law enforcement.[12]

Pursuant to s. 837.05, F.S., it is a first degree misdemeanor for a person to knowingly give false information to a law enforcement officer concerning the alleged commission of any crime.

It is a third degree felony if the person committing this offense has a previous conviction for such offense and the information given to the law enforcement officer was either communicated in writing, or communicated orally and the officer's account of that information is corroborated by:

- An audio recording or audio recording in a video of that information;
- A written or recorded statement made by the person who gave that information; or
- Another person who was present when that person gave that information to the officer and heard that information.

It is also a third degree felony for a person to knowingly give false information to a law enforcement officer concerning the alleged commission of a capital felony.[13]

FortifyFL

FortifyFL is a mobile suspicious activity reporting platform that allows school students and the community to anonymously relay information concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials.[14]

Section 943.082, F.S., provides that if, following an investigation, it is determined that a person knowingly submitted a false tip through FortifyFL, the IP address of the device on which the tip was submitted will be provided to law enforcement agencies for further investigation and the reporting party may be subject to the criminal penalties under s. 837.05, F.S., listed above.

In the 2024 Legislative Session, lawmakers passed HB 1473 to require that instruction on the use of FortifyFL is provided to students. The instruction is to be age and developmentally

[12] Gulf Coast News, *Naples Woman Accused of Making False Reports to Police*, (February 11, 2025), available at: https://www.gulfcoastnewsnow.com/article/naples-florida-woman-false-police-report/63757347 (last visited March 28, 2025).
[13] A capital felony most often refers to murder under s. 782.04, F.S., or sexual battery pursuant to s. 794.011, F.S., however there are several other offenses that may result in a capital felony such as drug trafficking offenses and offenses relating to weapons of mass destruction and destructive devices.
[14] Section 943.082(1), F.S.

appropriate and include the consequences for making a threat or false report as described in ss. 790.162[15] and 790.163, F.S.[16,17]

Federal Provisions

Under Title 18 U.S.C. 1038, also known as the false information and hoaxes law, it is illegal for a person to engage in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that it relates to certain criminal chapters of law such as crimes or threats involving biological or chemical weapons; crimes or threats involving guns, bombs, or explosives; or crimes affecting infrastructure.

A person who commits an offense under this federal law shall:
- Be fined or imprisoned for not more than 5 years, or both;
- If serious bodily injury results, be fined or imprisoned not more than 20 years, or both; and
- If death results, be fined or imprisoned for any number of years up to life, or both.

A person who commits this offense is also liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for such expenses. The court, in imposing a sentence, must order the defendant to reimburse any state or local government, or private not-for-profit organization that provides fire and rescue service, incurring expenses in any emergency or investigative response.

III. Effect of Proposed Changes:

The bill amends s. 365.172, F.S., to require any person who misuses the 911 system to be liable for the costs of prosecution and investigation. Current law provides that specified misuse of the 911 systems is a first degree misdemeanor for a first offense.

The bill amends s. 837.05, F.S., to require any person who knowingly gives false information to law enforcement authorities concerning the alleged commission of any crime to be liable for the costs of prosecution and investigation. Additionally, the bill requires a person to be liable for restitution if the false report involves another person who sustained injury or property damage during the investigation stemming from such false report.

[15] Section 790.162, F.S., provides it is unlawful for any person to threaten to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person. The offense is a second degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., generally not more than 15 years in state prison and a fine not exceeding $10,000.
[16] Section 790.163, F.S., provides it is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction, or concerning the use of firearms in a violent manner against a person or persons. The offense is a second degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., generally not more than 15 years in state prison and a fine not exceeding $10,000.
[17] Ch. 2024-155, Laws of.Fla.

The bill reenacts s. 943.082, F.S. to provide false tips made through FortifyFL may be subject to criminal penalties under s. 837.05, F.S., including the liability for the costs of prosecution and investigation stemming from such false tip.

The bill takes effect on July 1, 2025

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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 of the Florida Statutes: 365.172 and 837.05. This bill reenacts section 943.082 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Ingoglia

11-00303-25 2025726__

A bill to be entitled

An act relating to false reporting; amending s. 365.172, F.S.; providing that a person who misuses emergency communication systems is liable for the costs of prosecution and investigation; amending s. 837.05, F.S.; providing that a person who makes a false report to law enforcement authorities is liable for the costs of prosecution and investigation; providing that such persons are also liable for restitution if the false report involves another person who sustained injuries or property damage as a result of the false report; reenacting s. 943.082(2)(c), F.S., relating to the School Safety Awareness Program, to incorporate the amendment made to s. 837.05, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (14) of section 365.172, Florida Statutes, is amended to read:

365.172 Emergency communications.—

(14) MISUSE OF 911, E911, OR NG911 SYSTEM; PENALTY.—911, E911, and NG911 service must be used solely for emergency communications by the public. Any person who accesses the number 911 for the purpose of making a false alarm or complaint or reporting false information that could result in the emergency response of any public safety agency; any person who knowingly uses or attempts to use such service for a purpose other than

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obtaining public safety assistance; or any person who knowingly uses or attempts to use such service in an effort to avoid any charge for service, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. After being convicted of unauthorized use of such service four times, a person who continues to engage in such unauthorized use commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who violates this subsection is liable for the costs of prosecution and investigation under s. 938.27. In addition, if the value of the service or the service charge obtained in a manner prohibited by this subsection exceeds $100, the person committing the offense commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Subsections (3) and (4) are added to section 837.05, Florida Statutes, to read:

837.05 False reports to law enforcement authorities.—

(3) A person who violates this section is liable for the costs of prosecution and investigation under s. 938.27.

(4) A person who violates this section is liable for restitution under s. 775.089 if the false report involves another person who sustained injury or property damage during the investigation stemming from such false report.

Section 3. For the purpose of incorporating the amendment made by this act to section 837.05, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 943.082, Florida Statutes, is reenacted to read:

943.082 School Safety Awareness Program.—

(2) The reporting tool must notify the reporting party of

the following information:

(c) That if, following an investigation, it is determined that a person knowingly submitted a false tip through FortifyFL, the Internet protocol (IP) address of the device on which the tip was submitted will be provided to law enforcement agencies for further investigation and the reporting party may be subject to criminal penalties under s. 837.05. In all other circumstances, unless the reporting party has chosen to disclose his or her identity, the report will remain anonymous.

Section 4. This act shall take effect July 1, 2025.

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 408
INTRODUCER:	Senator Burgess
SUBJECT:	Thoroughbred Permitholders
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	Imhof	RI	**Pre-meeting**
2.			AEG	
3.			RC	

I. Summary:

SB 408 removes live racing requirements for thoroughbred permitholders.

The bill allows a thoroughbred permitholder that does not conduct live racing to retain the ability to apply for a slot machine and cardroom license.

The bill also exempts thoroughbred permitholders with a slot machine license from the thoroughbred horse racing purses and awards agreement requirements.

II. Present Situation:

Background

In general, gambling is illegal in Florida.[1] Chapter 849, F.S., prohibits keeping a gambling house,[2] running a lottery,[3] or the manufacture, sale, lease, play, or possession of slot machines.[4] However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel[5] wagering at licensed greyhound and horse tracks and jai alai frontons;[6]
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[7]

[1] *See* s. 849.08, F.S.
[2] *See* s. 849.01, F.S.
[3] *See* s. 849.09, F.S.
[4] *See* s. 849.16, F.S.
[5] Section 550.002(22), F.S., defines "pari-mutuel" as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.
[6] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.
[7] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.

- Cardrooms[8] at certain pari-mutuel facilities;[9]
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;[10]
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S, the Family Amusement Games Act;[11] and
- The following activities, if conducted as authorized under ch. 849, F.S., relating to Gambling, under specific and limited conditions:
  - Penny-ante games;[12]
  - Bingo;[13]
  - Charitable drawings;[14]
  - Game promotions (sweepstakes);[15] and
  - Bowling tournaments.[16]

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[17]

The 1968 State Constitution states that "[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . ." are prohibited.[18] A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.[19]

[8] Section 849.086(2)(c), F.S., defines "cardroom" to mean "a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility."
[9] *See* Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023* (Annual Report), at p. 15, at https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited March 31, 2025), which states that of 29 licensed permitholders, 26 operated at a pari-mutuel facility.
[10] Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.
[11] *See* s. 546.10, F.S.
[12] See s. 849.085, F.S.
[13] See s. 849.0931, F.S
[14] See s. 849.0935, F.S.
[15] Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[16] See s. 849.141, F.S.
[17] Section 550.1625(1), F.S., "…legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state." *See also, Solimena v. State,* 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), *review denied*, 412 So.2d 470, which states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right," citing *State ex rel. Mason v. Rose,* 122 Fla. 413, 165 So. 347 (1936).
[18] The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.
[19] The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

Pari-mutuel Wagering

Since approximately 1931, pari-mutuel wagering has been authorized in Florida for jai alai, greyhound racing, and horseracing. These activities are overseen and regulated[20] by the Division of Pari-Mutuel Wagering (division) at the Florida Gaming Control Commission (commission), which is housed within the Department of Legal Affairs, Office of the Attorney General.[21]

Live Racing Requirements

Currently, only thoroughbred permitholders are required to conduct live racing in order to operate other pari-mutuel gaming activities. Greyhound permitholders are prohibited from conducting live racing, and jai alai permitholders, harness horse racing permitholders, and quarter horse racing permitholders have the option to conduct live racing or games.[22]

A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games:[23]

- Retains its permit.
- Is a pari-mutuel facility as defined in s. 550.002(23), F.S.
- Is eligible, but not required, to be a guest track, and if the permitholder is a harness horse racing permitholder, is eligible to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305, F.S.
- Remains eligible for a cardroom license.

Pari-mutuel Wagering Permitting and Licensure

The Florida Pari-mutuel Wagering Act (act)[24] provides specific permitting and licensing requirements for the pari-mutuel industry.[25] Permitholders apply for an operating license annually to conduct pari-mutuel wagering activities.[26] Certain permitholders are also authorized to operate cardrooms[27] and slot machines at their facility.[28]

Currently, there are three pari-mutuel operating licenses that were issued for fiscal year 2024-2025 to conduct live thoroughbred racing performances. These licenses and their locations include:[29]

- Gulfstream Park Racing Association Inc., which operates at Gulfstream Park in Broward County.

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[20] From 1932 to 1969, Florida's pari-mutuel industry was regulated by the State Racing Commission. In 1970, the commission became a division within the Department of Business Regulation, which, in 1993, became the Department of Business and Professional Regulation (DBPR).
[21] *See* ss. 16.71-16.716, F.S.
[22] Section 550.01215, F.S.(1)(b)1., F.S.
[23] *Id.*
[24] *See* ch. 550, F.S.
[25] Section 550.054(1), F.S.
[26] Section 550.0115, F.S.
[27] Section 849.086, F.S.
[28] Section 551.104, F.S.
[29] Florida Gaming Control Commission, *Permit Holder Operating Licenses 2024-2025*, available at https://flgaming.gov/pmw/tracks-frontons/permitholder-operating-licenses-2024-2025/ (last visited March 31, 2025).

- Gulfstream Park Thoroughbred After Racing Program, Inc., which operates at Gulfstream Park in Broward County.
- Tampa Bay Downs, Inc., which operates at Tampa Bay Downs in Hillsborough County.

Slot Machine Licensing

An application for a license to conduct slot machine gaming may be approved by the commission only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution.[30] Currently, slot machines are only authorized in eight licensed pari-mutuel facilities located in Miami-Dade and Broward counties and on tribal property.[31]

Slot machine licenses are only allowed to be issued to licensed pari-mutuel permitholders, and slot machine gaming may be conducted only at the eligible facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities.[32]

As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, slot machine licensees that hold a thoroughbred permit, may conduct no fewer than a full schedule of live racing or games as defined in s. 550.002(10), F.S. A permitholder's responsibility to conduct live races or games shall be reduced by the number of races or games that could not be conducted due to the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the control of the permitholder.[33]

Cardroom Licensing

An application for a license to conduct cardroom gaming may be approved by the commission upon proof that the local government where the applicant for such license desires to conduct cardroom gaming has voted to approve such activity by a majority vote of the governing body of the municipality or the governing body of the county if the facility is not located in a municipality.[34]

Municipalities are authorized to prohibit the establishment of a cardroom on or after July 1, 2021, within their jurisdiction. This does not apply to a licensed pari-mutuel permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 in the municipality's jurisdiction or to a cardroom that was previously approved by the municipality.[35]

Only those persons holding a valid cardroom license issued by the commission may operate a cardroom. A cardroom license may only be issued to a licensed pari-mutuel permitholder, and an

[30] Section 551.104(2), F.S.
[31] Section 551.101, F.S.
[32] Section 551.104(3), F.S.
[33] Section 551.104(4)(c), F.S.
[34] Section 849.086(16)(a), F.S.
[35] Section 849.086(16)(b), F.S.

authorized cardroom may only be operated at the same facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities.[36]

A pari-mutuel permitholder, other than a converted quarter horse to thoroughbred permitholder or a purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering, may not be issued a license for the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021.[37]

In order for an initial cardroom license to be issued to a converted quarter horse to thoroughbred permitholder, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least a full schedule of live racing.[38]

In order for a cardroom license to be renewed by a thoroughbred permitholder, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year.[39]

Thoroughbred Purses and Awards

A slot machine license may not be issued, or renewed, to an applicant holding a permit to conduct pari-mutuel wagering meets of thoroughbred racing unless the applicant has on file with the commission a binding written agreement between the applicant and the:[40]

- Florida Horsemen's Benevolent and Protective Association, Inc., governing the payment of purses on live thoroughbred races conducted at the licensee's pari-mutuel facility.
- Florida Thoroughbred Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the licensee's pari-mutuel facility.

The agreements may direct the payment of such purses and awards from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses and awards are subject to the terms of ch. 550, F.S. All sums for breeders', stallion, and special racing awards are remitted monthly to the Florida Thoroughbred Breeders' Association, Inc., for the payment of awards subject to the administrative fee authorized in s. 550.2625(3), F.S.[41]

"Purse" means the cash portion of the prize for which a race or game is contested.[42] "Breeders' and stallions awards" means financial incentives paid to encourage the agricultural industry of

[36] Section 849.086(5)(a), F.S.
[37] Section 849.086(5)(c), F.S.
[38] *Id.*
[39] *Id.*
[40] Section 551.104(10)(a)1., F.S.
[41] *Id.*
[42] Section 550.002(28), F.S.

breeding racehorses in this state.[43] Current law provides that "the purse structure and the availability of breeder awards are important factors in attracting the entry of well-bred horses in racing meets in this state which in turn helps to produce maximum racing revenues for the state and the counties."[44] Each permitholder conducting a horserace meet is required to pay from the takeout withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.[45] Each horseracing permitholder conducting any thoroughbred race is required to pay a sum on all pari-mutuel pools conducted during any such race for the payment of breeders', stallion, or special racing awards.[46]

Slot Machine Gaming Locations and Operations

Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorized slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade counties, if approved by county referendum. The voters in Broward and Miami-Dade counties approved slot machine gaming. Slot machine gaming in the state, by authorized slot machine gaming licensees at specified pari-mutuel facility locations, is limited to Broward and Miami-Dade counties, and as authorized by federal law and the 2021 Gaming Compact, in the tribal gaming facilities of the Seminole Tribe located in Broward County, Collier County, Glades County, Hendry County, and Hillsborough County.

III. Effect of Proposed Changes:

Section 1 of the bill adds thoroughbred permitholders to the list of types of pari-mutuel wagering permit holders that may elect not to conduct live racing or games. The bill removes the requirements that thoroughbred permitholders must conduct live racing. This section of the bill provides that if such permitholder has been issued a slot machine license, that choosing to not conduct live racing will allow the facility where such permit is located to remain an eligible facility to have a slot machine license and is exempt from ss. 551.104(10), F.S.[47]

Section 2 of the bill removes the requirement for thoroughbred permitholders that apply for a slot machine license to have on file with the commission a binding written agreement between the applicant and the:

- Florida Horsemen's Benevolent and Protective Association, Inc., governing the payment of purses on live thoroughbred races conducted at the licensee's pari-mutuel facility.
- Florida Thoroughbred Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the licensee's pari-mutuel facility.

Section 3 of the bill provides an effective date of July 1, 2025.

[43] Section 550.002(2), F.S.
[44] Section 550.2625(1), F.S.
[45] *See* s. 550.2625(2)(a), F.S.
[46] *See* s. 550.2625(3), F.S.
[47] *See* s. 551.104(10), F.S., regarding purses, the requirement that a thoroughbred permitholder have a binding written agreement between the Florida Horsemen's Benevolent and Protective Association, Inc., and the Florida Thoroughbred Breeders' Association, Inc., respectively.

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:

Decoupling may displace families, eliminate jobs, and jeopardize 110,000 acres of horse farms. This could further degrade the horse breeding industry and thoroughbred racing in Florida. [48]

C. Government Sector Impact:

In Fiscal Year 2023-24 the commission expended approximately $640,000 in OPS dollars associated with occupational licensing and post-race specimen collection for the detection of impermissible substances in thoroughbred racing animals. The amount the commission would realize in the reduction of OPS expenditures would be dependent on the number of live racing performances reduced or eliminated by Florida Thoroughbred licensees.[49]

VI. Technical Deficiencies:

None.

[48] Florida Gaming Control Commission, *2025 Agency Analysis Legislative Bill Analysis* (February 6, 2025), available at https://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=36208 (last visited March 31, 2025).
[49] *Id*.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 550.01215 and 551.104 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.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (1) of section 550.01215, Florida Statutes, is amended to read:

550.01215 License application; periods of operation; license fees; bond.—

(1) Each permitholder shall annually, during the period between January 15 and February 4, file in writing with the

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commission its application for an operating license for a pari-mutuel facility for the conduct of pari-mutuel wagering during the next state fiscal year, including intertrack and simulcast race wagering. Each application for live performances must specify the number, dates, and starting times of all live performances that the permitholder intends to conduct. It must also specify which performances will be conducted as charity or scholarship performances.

(b)1. A greyhound permitholder may not conduct live racing. A jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games. A thoroughbred permitholder must conduct live racing pursuant to subparagraph 2. A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, ~~or~~ quarter horse racing permitholder, or thoroughbred permitholder pursuant to subparagraph 2. that does not conduct live racing or games retains its permit; is a pari-mutuel facility as defined in s. 550.002(23); if such permitholder has been issued a slot machine license, the facility where such permit is located remains an eligible facility as defined in s. 551.102(4), continues to be eligible for a slot machine license pursuant to s. 551.104(3), and is exempt from ss. 551.104(10) and 551.114(2) ~~ss. 551.104(4)(c) and (10) and 551.114(2)~~; is eligible, but not required, to be a guest track and, if the permitholder is a harness horse racing permitholder or a thoroughbred permitholder pursuant to subparagraph 2., to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and remains eligible for a cardroom license.

2. A thoroughbred permitholder who operates a slot machine facility or cardroom shall conduct a full schedule of live racing until such permitholder notifies the commission that it will no longer conduct live racing. Notice under this subparagraph is not valid unless it is delivered to the commission on or after July 1, 2028, and contains the date on which the permitholder will no longer conduct live racing, which may not be earlier than 4 years after the date of the notice.

3.~~2.~~ A permitholder or licensee may not conduct live greyhound racing or dogracing in connection with any wager for money or any other thing of value in the state. The commission may deny, suspend, or revoke any permit or license under this chapter if a permitholder or licensee conducts live greyhound racing or dogracing in violation of this subparagraph. In addition to, or in lieu of, denial, suspension, or revocation of such permit or license, the commission may impose a civil penalty of up to $5,000 against the permitholder or licensee for a violation of this subparagraph. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

Section 2. Paragraph (c) of subsection (3) of section 550.0951, Florida Statutes, is amended to read:

550.0951 Payment of daily license fee and taxes; penalties.—

(3) TAX ON HANDLE.—Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle," on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted

during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

(c)1. The tax on handle for intertrack wagering is 2.0 percent of the handle if the host track is a horse track, 3.3 percent if the host track is a harness track, 5.5 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder that conducted a full schedule of live racing the preceding fiscal year ~~currently conducting a live race meet~~. The tax on handle for intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent of the handle and 1.5 percent of the handle for intertrack wagering on rebroadcasts of simulcast harness horseraces. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

2. The tax on handle for intertrack wagers accepted by any dog track located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties, from any greyhound permitholder also located within such area or any dog track or jai alai fronton located as specified in s. 550.615(6) or (9), on races or games received from the same class of permitholder located within the same market area is 3.9 percent if the host facility is a greyhound permitholder and, if the host facility is a jai alai permitholder, the rate shall be 6.1

percent except that it shall be 2.3 percent on handle at such time as the total tax on intertrack handle paid to the commission by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the commission by the permitholder during the 1992-1993 state fiscal year.

Section 3. Paragraph (a) of subsection (10) of section 551.104, Florida Statutes, is amended to read:

551.104 License to conduct slot machine gaming.—

(10)(a)1. Until a thoroughbred permitholder is no longer conducting live racing pursuant to s. 550.01215(1)(b)2., a ~~no~~ slot machine license or renewal thereof may not ~~shall~~ be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of thoroughbred racing unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Horsemen's Benevolent and Protective Association, Inc., governing the payment of purses on live thoroughbred races conducted at the licensee's pari-mutuel facility. In addition, a ~~no~~ slot machine license or renewal thereof may not ~~shall~~ be issued to such an applicant unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Thoroughbred Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the licensee's pari-mutuel facility. The agreement governing purses and the agreement governing awards may direct the payment of such purses and awards from revenues generated by any wagering or gaming the applicant is authorized to conduct under ~~Florida~~ law. All purses

and awards are ~~shall be~~ subject to the terms of chapter 550. All sums for breeders', stallion, and special racing awards are ~~shall be~~ remitted monthly to the Florida Thoroughbred Breeders' Association, Inc., for the payment of awards subject to the administrative fee authorized in s. 550.2625(3).

2. A ~~No~~ slot machine license or renewal thereof may not ~~shall~~ be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under ~~Florida~~ law. All purses are ~~shall be~~ subject to the terms of chapter 550.

Section 4. Paragraph (c) of subsection (5) and paragraph (d) of subsection (13) of section 849.086, Florida Statutes, are amended to read:

849.086 Cardrooms authorized.—

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(c) Notwithstanding any other ~~provision of~~ law, a pari-mutuel permitholder, other than a permitholder issued a permit pursuant to s. 550.3345 or a purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering

approved pursuant to s. 550.054(15)(a), may not be issued a license for the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. In order for an initial cardroom license to be issued to a thoroughbred permitholder issued a permit pursuant to s. 550.3345, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least a full schedule of live racing. ~~In order for a cardroom license to be renewed by a thoroughbred permitholder, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year.~~

(13) TAXES AND OTHER PAYMENTS.—

(d)1. Each jai alai permitholder that conducts live performances and operates a cardroom facility shall use at least 4 percent of such permitholder’s cardroom monthly gross receipts to supplement jai alai prize money during the permitholder’s next ensuing pari-mutuel meet.

2. Until a thoroughbred permitholder is no longer conducting live racing pursuant to s. 550.01215(1)(b)2., each thoroughbred permitholder ~~or harness horse racing permitholder~~ that conducts live performances and operates a cardroom facility shall use at least 50 percent of such permitholder’s cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders’ awards during the

permitholder's next ensuing racing meet.

3. A ~~No~~ cardroom license or renewal thereof may not ~~shall~~ be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing and conducting live performances unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under ~~Florida~~ law. All purses are ~~shall be~~ subject to the terms of chapter 550.

Section 5. For the purpose of incorporating the amendment made by this act to section 550.01215, Florida Statutes, in a reference thereto, subsection (3) of section 550.3551, Florida Statutes, is reenacted to read:

550.3551 Transmission of racing and jai alai information; commingling of pari-mutuel pools.—

(3) Any horse track licensed under this chapter may receive broadcasts of horseraces conducted at other horse racetracks located outside this state at the racetrack enclosure of the licensee, if the horse track conducted a full schedule of live racing during the preceding state fiscal year, or if the horse track does not conduct live racing as authorized under s. 550.01215.

(a) All broadcasts of horseraces received from locations

outside this state must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.

(b) Wagers accepted at the horse track in this state may be, but are not required to be, included in the pari-mutuel pools of the out-of-state horse track that broadcasts the race. Notwithstanding any contrary provisions of this chapter, if the horse track in this state elects to include wagers accepted on such races in the pari-mutuel pools of the out-of-state horse track that broadcasts the race, from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track, the horse track in this state shall deduct as the takeout from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track a percentage equal to the percentage deducted from the amount wagered at the out-of-state racetrack as is authorized by the laws of the jurisdiction exercising regulatory authority over the out-of-state horse track.

(c) All forms of pari-mutuel wagering are allowed on races broadcast under this section, and all money wagered by patrons on such races shall be computed as part of the total amount of money wagered at each racing performance for purposes of taxation under ss. 550.0951, 550.09512, and 550.09515. Section 550.2625(2)(a), (b), and (c) does not apply to any money wagered on races broadcast under this section. Similarly, the takeout shall be increased by breaks and uncashed tickets for wagers on races broadcast under this section, notwithstanding any contrary provision of this chapter.

Section 6. For the purpose of incorporating the amendment made by this act to section 550.01215, Florida Statutes, in a reference thereto, subsection (2) of section 550.615, Florida Statutes, is reenacted to read:

550.615 Intertrack wagering.—

(2) Except as provided in subsection (1), a pari-mutuel permitholder that has met the applicable requirement for that permitholder to conduct live racing or games under s. 550.01215(1)(b), if any, for fiscal year 2020-2021 is qualified to, at any time, receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of permitholders licensed under this chapter.

Section 7. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in a reference thereto, subsection (5) of section 550.09515, Florida Statutes, is reenacted to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(5) Notwithstanding the provisions of s. 550.0951(3)(c), the tax on handle for intertrack wagering on rebroadcasts of simulcast horseraces is 2.4 percent of the handle; provided however, that if the guest track is a thoroughbred track located more than 35 miles from the host track, the host track shall pay a tax of .5 percent of the handle, and additionally the host track shall pay to the guest track 1.9 percent of the handle to be used by the guest track solely for purses. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

Section 8. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in a

reference thereto, paragraph (a) of subsection (3) of section 550.09511, Florida Statutes, is reenacted to read:

550.09511 Jai alai taxes; abandoned interest in a permit for nonpayment of taxes.—

(3)(a) Notwithstanding the provisions of subsection (2) and s. 550.0951(3)(c)1., any jai alai permitholder which is restricted under Florida law from operating live performances on a year-round basis is entitled to conduct wagering on live performances at a tax rate of 3.85 percent of live handle. Such permitholder is also entitled to conduct intertrack wagering as a host permitholder on live jai alai games at its fronton at a tax rate of 3.3 percent of handle at such time as the total tax on intertrack handle paid to the commission by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the former Division of Pari-mutuel Wagering by the permitholder during the 1992-1993 state fiscal year.

Section 9. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in a reference thereto, paragraph (a) of subsection (9) of section 550.6305, Florida Statutes, is reenacted to read:

550.6305 Intertrack wagering; guest track payments; accounting rules.—

(9) A host track that has contracted with an out-of-state horse track to broadcast live races conducted at such out-of-state horse track pursuant to s. 550.3551(5) may broadcast such out-of-state races to any guest track and accept wagers thereon in the same manner as is provided in s. 550.3551.

(a) For purposes of this section, “net proceeds” means the

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amount of takeout remaining after the payment of state taxes, purses required pursuant to s. 550.0951(3)(c)1., the cost to the permitholder required to be paid to the out-of-state horse track, and breeders' awards paid to the Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association, to be used as set forth in s. 550.625(2)(a) and (b).

Section 10. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to thoroughbred permitholders; amending s. 550.01215, F.S.; requiring certain thoroughbred permitholders to conduct a full schedule of live racing until such permitholders provide notice to the Florida Gaming Control Commission with certain information; providing that such notice is not valid unless it is delivered to the commission on or after a specified date; conforming provisions to changes made by the act; amending s. 550.0951, F.S.; revising the criteria for certain thoroughbred permitholders to pay the tax on handle for intertrack wagering; amending s. 551.104, F.S.; conforming provisions to changes made by the act; amending s. 849.086, F.S.; deleting certain criteria a thoroughbred permitholder must meet as part of its pari-mutuel annual license application

in order to have its cardroom license renewed; conforming provisions to changes made by the act; reenacting ss. 550.3551(3) and 550.615(2), F.S., relating to the transmission of racing and jai alai information and commingling of pari-mutuel pools and intertrack wagering, respectively, to incorporate the amendment made to s. 550.01215, F.S., in references thereto; reenacting ss. 550.09515(5), 550.09511(3)(a), and 550.6305(9)(a), F.S., relating to thoroughbred horse taxes and abandoned interest in a permit for nonpayment of taxes; jai alai taxes and abandoned interest in a permit for nonpayment of taxes; and intertrack wagering, guest track payments, and accounting rules, respectively, to incorporate the amendment made to s. 550.0951, F.S., in references thereto; providing an effective date.

By Senator Burgess

23-00639A-25 2025408__

A bill to be entitled

An act relating to thoroughbred permitholders; amending s. 550.01215, F.S.; removing a requirement that a thoroughbred permitholder must conduct live racing; amending s. 551.104, F.S.; removing certain slot machine gaming licensure requirements for thoroughbred permitholders who are slot machine licensees; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 550.01215, Florida Statutes, is amended to read:

550.01215 License application; periods of operation; license fees; bond.—

(1) Each permitholder shall annually, during the period between January 15 and February 4, file in writing with the commission its application for an operating license for a pari-mutuel facility for the conduct of pari-mutuel wagering during the next state fiscal year, including intertrack and simulcast race wagering. Each application for live performances must specify the number, dates, and starting times of all live performances that the permitholder intends to conduct. It must also specify which performances will be conducted as charity or scholarship performances.

(b)1. A greyhound permitholder may not conduct live racing. A jai alai permitholder, thoroughbred permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games. ~~A thoroughbred~~

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

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~~permitholder must conduct live racing.~~ A greyhound permitholder, jai alai permitholder, thoroughbred permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games retains its permit; is a pari-mutuel facility as defined in s. 550.002(23); if such permitholder has been issued a slot machine license, the facility where such permit is located remains an eligible facility as defined in s. 551.102(4), continues to be eligible for a slot machine license pursuant to s. 551.104(3), and is exempt from ss. 551.104(10) ~~ss. 551.104(4)(c) and (10)~~ and 551.114(2); is eligible, but not required, to be a guest track and, if the permitholder is a harness horse racing permitholder, to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and remains eligible for a cardroom license.

2. A permitholder or licensee may not conduct live greyhound racing or dogracing in connection with any wager for money or any other thing of value in the state. The commission may deny, suspend, or revoke any permit or license under this chapter if a permitholder or licensee conducts live greyhound racing or dogracing in violation of this subparagraph. In addition to, or in lieu of, denial, suspension, or revocation of such permit or license, the commission may impose a civil penalty of up to $5,000 against the permitholder or licensee for a violation of this subparagraph. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

Section 2. Paragraphs (d) through (j) of subsection (4) of section 551.104, Florida Statutes, are redesignated as

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paragraphs (c) through (i), respectively, and paragraph (c) of subsection (4) and paragraph (a) of subsection (10) of that section are amended, to read:

551.104 License to conduct slot machine gaming.—

(4) As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, the slot machine licensee shall:

~~(c) If a thoroughbred permitholder, conduct no fewer than a full schedule of live racing or games as defined in s. 550.002(10). A permitholder's responsibility to conduct live races or games shall be reduced by the number of races or games that could not be conducted due to the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the control of the permitholder.~~

(10)(a)~~1. No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of thoroughbred racing unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Horsemen's Benevolent and Protective Association, Inc., governing the payment of purses on live thoroughbred races conducted at the licensee's pari-mutuel facility. In addition, no slot machine license or renewal thereof shall be issued to such an applicant unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Thoroughbred Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the licensee's pari-mutuel facility. The agreement governing purses and the agreement~~

~~governing awards may direct the payment of such purses and awards from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses and awards shall be subject to the terms of chapter 550. All sums for breeders', stallion, and special racing awards shall be remitted monthly to the Florida Thoroughbred Breeders' Association, Inc., for the payment of awards subject to the administrative fee authorized in s. 550.2625(3).~~

~~2.~~ No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.

Section 3. This act shall take effect July 1, 2025.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Fiscal Policy, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Committee on Health and Human Services
Commerce and Tourism
Criminal Justice
Regulated Industries
Rules

JOINT COMMITTEES:
Joint Committee on Public Counsel Oversight
Joint Legislative Budget Commission

SENATOR JOE GRUTERS
22nd District

March 31, 2025

Chair Jennifer Bradley
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Chair Bradley,

I would like to request an excused absence from the Regulated Industries Committee meeting scheduled on Tuesday, April 1st due to a prior engagement.

Thank you for your consideration of this request.

Regards,

Joe Gruters

REPLY TO:
❒ 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
❒ 413 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: *www.flsenate.gov*

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore