

## Committee on Governmental Oversight And Accountability

### **CS/SB 146 — Ex-Offenders/Licensing and Employment**

by Criminal Justice Committee, and Senators Smith, Lynn, Dockery, Hill, Bullard, Siplin, Joyner, and Braynon

This bill creates the “Jim King Keep Florida Working Act,” which requires state agencies and regulatory boards to submit to the Governor and certain legislative officers a report that outlines current disqualifying policies on the employment or licensure of ex-offenders and possible alternatives that are compatible with protecting public safety. The bill also provides that a state agency may not deny an application for a license, permit, certificate, or employment based solely on the applicant’s lack of civil rights.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 116-0*

## Committee on Governmental Oversight And Accountability

### **CS/SB 444 — Scrutinized Companies**

by Community Affairs Committee and Senators Bogdanoff and Benacquisto

This bill prohibits a company on the Scrutinized Companies with Activities in Sudan List or on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of \$1 million or more. The bill provides an exception to the prohibition under specified circumstances.

The bill requires a company to certify that it is not on either list before it submits a bid or proposal for or enters into or renews such a contract. Any such contract entered into or renewed on or after July 1, 2011, must contain a provision that allows for termination of the contract if the company is found to have submitted a false certification.

The bill provides a process through which an agency or local government that makes a determination of false certification must provide notice to the company, and through which the company may respond to and challenge the determination. The bill also requires the agency or local government to bring a civil action if the company does not disprove the determination of false certification within a specified time, and specifies penalties for a company that a court determines has made a false certification. Only the agency or local governmental entity that is a party to the contract is authorized to bring such a civil action.

The bill also:

- Specifies that the section of law created by the bill preempts any ordinance or rule or any agency or local governmental entity involving public contracts for goods or services of \$1 million or more with a company engaged in scrutinized business operations.
- Requires the Department of Management Services to submit a written notice describing the section to the Attorney General of the United States within 30 days after July 1, 2011.
- Provides that the section becomes inoperative on the date that federal law ceases to authorize the states to adopt and enforce the contracting prohibitions of the type provided for in the section.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 37-0; House 118-0*

## Committee on Governmental Oversight And Accountability

### **SB 898 — Executive Office of the Governor**

by Senator Bennett

This bill removes subsection (8) of section 14.31, Florida Statutes, which abolishes the Florida Faith-based and Community-based Advisory Council on June 30, 2011, unless the council is reviewed and saved from repeal by the Legislature. Therefore, the council will not expire and will have perpetual existence.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 118-0*

## Committee on Governmental Oversight And Accountability

### **CS/CS/CS/HB's 993 and 7239 — Rulemaking**

by Rules and Calendar Subcommittee, Government Operations Subcommittee, Rulemaking and Regulation Subcommittee, Reps. K. Roberson and Gaetz (CS/CS/SB 1382 by Governmental Oversight and Accountability Committee, Budget Committee, and Senator Bennett)

This bill amends agency rulemaking procedures under the Administrative Procedure Act, and revises various provisions to align with legislative ratification requirements enacted in 2010.

The bill also does the following:

- Requires agencies to include in each notice of rulemaking whether the proposed rule requires legislative ratification;
- Expressly includes legislative ratification in the description of factors controlling when an adopted rule takes effect;
- Resolves a timing conflict created by Chapter 2010-279, L.O.F., by restoring certain time deadlines to the pre-2010 provisions;
- Exempts emergency rulemaking, rules adopting federal standards, rules adjusting certain tolls, and rules implementing the 2011 Student Success Act from the requirements to prepare a statement of estimated regulatory costs and submission for legislative ratification;
- Provides a procedure for agencies to withdraw rules prior to becoming effective if the rule is invalidated by a final order or is timely submitted to the Legislature but not ratified in the regular session;
- Excludes from the ratification requirement the triennial update of the Florida Building Code and the triennial update of the Florida Fire Prevention Code;
- Creates a one-time process requiring all agencies to undertake a comprehensive review of the economic impact of their respective rules effective on or before November 16, 2010;
- Shifts the burden of proof in certain administrative proceedings to the nonapplicant third party petitioner;
- Permits the Legislature to conduct an internet-based public survey about the impact of regulations.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 35-3; House 79-36*

## Committee on Governmental Oversight And Accountability

### **CS/CS/SB 1128 — Local Government Retirement Plans**

by Budget Committee, Governmental Oversight and Accountability Committee, and Senators Ring, Lynn, and Flores

This bill increases the transparency of local pension plan data, and specifies other actions to address the sustainability of local pension plans. The bill does the following:

- Local plans' actuarial reports are required to include the present value of all benefits using a standard rate of return, to promote comparisons between plans;
- DMS is required to post on their website a five-year history of each plan's funded ratio, and local plans are required to link to this DMS website;
- Actuarial or cash surpluses in a local plan may not be used outside the plan;
- Local plans may not reduce contributions required to fund normal cost;
- For all local plans, accrued sick or annual leave may not be included in calculations of retirement benefits; overtime may be included, but is capped at 300 hours;
- With approval of the members, firefighter and police plans are allowed to increase member contributions without increasing member benefits;
- The bill changes the date in 1939 by which local law plans are deemed to be in compliance with Chapters 175 and 185;
- The bill creates a Task Force on Public Employee Disability Presumptions to study and make recommendations on statutory disability presumptions;
- The Department of Management Services is required to create a plan for providing standardized ratings for the financial strength of all local government defined benefit plans in Florida, and provide recommendations to the Legislature in January 2012.

If approved by the Governor, these provisions take effect July 1, 2011

*Vote: Senate 33-4; House 80-35*

## Committee on Governmental Oversight And Accountability

### **CS/SB 1970 — Public Records/OPPAGA**

by Governmental Oversight and Accountability Committee and Senator Thrasher

The Auditor General, of which the Office of Program Policy Analysis and Government Accountability (OPPAGA) was a unit, has a public-records exemption for audit workpapers and notes.

Because chapter 2011-34, Laws of Florida, established OPPAGA as an entity separate from the Auditor General, this bill creates a public-records exemption for work papers held by OPPAGA which relate to an authorized project or a research product. The exemption applies to work papers held by OPPAGA before, on, or after the effective date of the exemption.

These provisions were approved by the Governor and took effect May 5, 2011.

*Vote: Senate 39-0; House 110-6*

## Committee on Governmental Oversight And Accountability

### **HB 7155 — State Financial Matters**

by Governmental Operations Subcommittee and Rep. Patronis (CS/SB 1182 by Senator Ring)

This bill authorizes the State Board of Administration to invest the assets of government entities in the Local Government Surplus Funds Trust Fund upon the completion of enrollment materials supplied by the Board; a separate trust agreement is no longer needed to grant the Board the ability to invest the funds. The bill further provides that when there is a trust agreement the investments are only subject to the limitations or restrictions of the trust agreement. The bill also makes clarifying changes and corrects cross-references.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 38-0; House 117-1*

## Committee on Governmental Oversight And Accountability

### **CS/HB 7223 — OGSR/Competitive Solicitations**

by State Affairs Committee, Governmental Operations Subcommittee, and Representative Patronis (CS/SB 2090 by Governmental Oversight and Accountability Committee)

This bill is the result of Open Government Sunset Reviews by the Governmental Oversight and Accountability Committee of public-records and -meetings exemptions pertaining to competitive procurement solicitations.

Agency procurements of commodities or contractual services exceeding \$30,000 are governed by statute and rule and require one of the following three types of competitive solicitations to be used, unless otherwise authorized by law: invitation to bid (ITB), request for proposals (RFP), or invitation to negotiate (ITN).

Current law provides general public-records and -meetings exemptions associated with competitive solicitations. Sealed bids, proposals, or replies in response to an ITB, RFP, or ITN are exempt from public-records requirements until a time certain. In addition, a meeting at which a negotiation with a vendor is conducted pursuant to an ITN is exempt from public-meetings requirements. A complete recording must be made of the exempt meeting. The recording is exempt from public-records requirements until a time certain.

This bill reenacts the exemptions, and:

- Expands the public-records exemption by extending the exemption for sealed bids and proposals from 10 days to 30 days.
- Expands the public-meetings exemption to include any portion of a meeting at which a vendor makes an oral presentation or a vendor answers questions as part of a competitive solicitation, and any portion of a team meeting at which negotiation strategies are discussed.
- Expands the public-records exemption for recordings of exempt meetings to comport with the public-records exemption for sealed bids, proposals, or replies. It extends the public-records exemption from 20 days to 30 days, and expands the public-records exemption by including those records presented by a vendor at a closed meeting.

The bill also extends the repeal date for the exemptions to October 2, 2016, and provides a public necessity statement as required by the State Constitution.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 113-0*

## Committee on Governmental Oversight And Accountability

### **HB 7225 — OGSR/SBA Alternative Investments**

by Governmental Operations Subcommittee and Representative Patronis (SB 2174 by Governmental Oversight and Accountability Committee)

This bill is the result of an Open Government Sunset Review of the public-records exemption for proprietary confidential business information held by the State Board of Administration regarding alternative investments. The exemption expires 10 years after the termination of the alternative investment.

This bill:

- Reenacts the exemption.
- Revises the definition of what does not constitute proprietary confidential business information.
- Requires the State Board of Administration to maintain a list and a description of the records covered by any verified, written declaration made by a proprietor.

If approved by the Governor, these provisions take effect October 1, 2011.

*Vote: Senate 34-2; House 114-1*