

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1874

INTRODUCER: Senator Hutson

SUBJECT: Fees/Office of Financial Regulation/Financial Technology Sandbox Applications

DATE: February 7, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Pre-meeting
2.			BI	
3.			AP	

I. Summary:

SB 1870 (2020), which is linked to this bill, creates the Financial Technology Sandbox within the Office of Financial Regulation. The Financial Technology Sandbox is intended to allow financial technology innovators to test innovative financial products or services in a supervised, flexible regulatory sandbox, using waivers of specified general law and corresponding rule requirements under defined conditions.

SB 1874 requires payment of an application fee as provided in the license provision being waived for purposes of the Financial Technology Sandbox. Current law requires that specified individuals who are involved with the innovative financial product or service submit live-scan fingerprints in order for the Florida Department of Law Enforcement to conduct a background check. Under this bill, the costs of fingerprint processing, including the cost of retaining the fingerprints, will be borne by the person subject to the background check.

This bill has no fiscal impact on state government or local governments and may increase costs on the private sector relating to the costs of fingerprint processing and retention.

This bill takes effect on the same date that SB 1870 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. At this point, SB 1870 takes effect July 1, 2020.

II. Present Situation:

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.¹ For purposes of this requirement, a “fee” is any charge or payment

¹ Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.

required by law, including any fee or charge for services and fees or costs for licenses and to “raise” a fee or tax means to:²

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.³

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.⁴

SB 1870 (2020), which is linked to this bill, creates the Financial Technology Sandbox within the Office of Financial Regulation. The Financial Technology Sandbox is intended to allow financial technology innovators to test innovative financial products or services in a supervised, flexible regulatory sandbox, using waivers of specified general law and corresponding rule requirements under defined conditions.

III. Effect of Proposed Changes:

The bill requires payment of an application fee as provided in the license provision being waived for purposes of the Financial Technology Sandbox. Current law requires that specified individuals who are involved with the innovative financial product or service submit live-scan fingerprints in order for the Florida Department of Law Enforcement to conduct a background check. Under the bill, the costs of fingerprint processing, including the cost of retaining the fingerprints, will be borne by the person subject to the background check.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

² Fla. Const. art. VII, s. 19(d).

³ Fla. Const. art. VII, s. 19(e).

⁴ Fla. Const. art. VII s. 19(c).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. To the extent that the costs of fingerprint processing and retention are borne by the applicants for the first time, the bill appears to implicate Art. VII, s. 19 of the Florida Constitution. If these costs are borne by the applicants under current law, then the constitutional requirements are not applicable.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Applicants of the Financial Technology Sandbox will be required to pay the costs for fingerprint processing and retention. It is unclear whether this is a new burden placed on the persons seeking to participate in activities regulated by the Office of Financial Regulation.

B. Private Sector Impact:

The bill increases the costs on the private sector to the extent the Financial Technology Sandbox applicants bear the costs associated with fingerprint processing and retention.

C. Government Sector Impact:

This bill is not expected to impact state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 559.952 of the Florida Statutes, as created by SB 1870.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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