

1 A bill to be entitled
2 An act relating to quasi-public entities; creating s.
3 20.059, F.S.; providing definitions; requiring the
4 Governor to specify affiliated departments for certain
5 quasi-public entities by a certain date; providing
6 requirements for the affiliated department; providing
7 requirements for a general law creating a quasi-public
8 entity; requiring a quasi-public entity to contract
9 with an independent entity that meets certain
10 requirements to conduct a cost-benefit analysis;
11 requiring the completion of a cost-benefit analysis at
12 certain intervals; requiring a quasi-public entity to
13 submit a cost-benefit analysis and an annual report
14 that includes certain information to the Governor, the
15 Legislature, and its affiliated department by a
16 certain date; requiring a quasi-public entity to
17 maintain a publicly accessible website that includes
18 certain information; prohibiting an employee of a
19 quasi-public entity from receiving annual compensation
20 in excess of a certain amount; prohibiting a person
21 who is employed by more than one quasi-public entity
22 from receiving cumulative annual compensation in
23 excess of a certain amount; prohibiting a quasi-public
24 entity from using public funds to retain a lobbyist;
25 authorizing certain employees of a quasi-public entity

26 | to register as a lobbyist and represent the quasi-
27 | public entity; prohibiting a quasi-public entity from
28 | creating certain separate entities; requiring that
29 | meetings of a quasi-public entity's governing body or
30 | any committee thereof be video recorded and the video
31 | recording be maintained for a specified duration;
32 | prohibiting an executive director or similar officer
33 | of a quasi-public entity from certain involvement with
34 | the entity's governing body; amending s. 215.985,
35 | F.S.; defining the term "quasi-public entity";
36 | requiring the Department of Management Services to
37 | provide certain information relating to quasi-public
38 | entity employees or officers on a website; requiring
39 | such information to be searchable in a certain manner;
40 | requiring a quasi-public entity to post and update
41 | certain information on the secure contract tracking
42 | system established and maintained by the Chief
43 | Financial Officer; requiring a quasi-public entity to
44 | redact certain information; providing that the Chief
45 | Financial Officer, the Department of Financial
46 | Services, and officers, employees, and contractors
47 | thereof are not responsible for redacting, and are not
48 | liable for the failure to redact, certain information
49 | posted on the secure contract tracking system by a
50 | quasi-public entity; providing that the posting of

51 certain information does not supersede the duty of a
 52 quasi-public entity to respond to certain requests or
 53 subpoenas; providing that certain actions by the Chief
 54 Financial Officer do not supersede the duty of a
 55 quasi-public entity to provide certain records upon
 56 request; revising and providing definitions; providing
 57 an effective date.

58

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

60

61 Section 1. Section 20.059, Florida Statutes, is created to
 62 read:

63 20.059 Quasi-public entities.-

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

65 (a) "Cost-benefit analysis" means an analysis of the
 66 structure, programs, activities, and functions of a quasi-public
 67 entity with the goal of determining whether it would be more
 68 efficient or cost-effective to maintain the quasi-public entity
 69 or transfer its duties and functions to a state agency and
 70 dissolve the quasi-public entity. A cost-benefit analysis
 71 includes the following:

72 1. A detailed description of the quasi-public entity's
 73 programs and activities, the goals and objectives of each
 74 program and activity, the problem or need that each program and
 75 activity was created to address, and the expected benefits of

76 each program and activity.

77 2. Revenues and costs of programs and activities using
78 data from the previous 3 fiscal years, including the source of
79 the quasi-public entity's funding.

80 3. An analysis of the performance of the quasi-public
81 entity, including:

82 a. A description of the specific performance measures or
83 standards that the quasi-public entity must meet to ensure
84 adequate performance.

85 b. An evaluation of whether the quasi-public entity's
86 performance measures or standards are relevant, useful, and
87 sufficient to evaluate the reasonableness of the costs of its
88 programs and activities.

89 c. The performance of the quasi-public entity's programs
90 and activities based on existing performance measures or
91 standards using data from the previous 3 fiscal years.

92 d. Factors that have contributed to any failure to achieve
93 the quasi-public entity's performance standards, including an
94 explanation of why the standard was not achieved and any efforts
95 the quasi-public entity has made to address the failure.

96 4. A review of the delivery of services by the quasi-
97 public entity, including alternative methods of providing the
98 services, such as insourcing or privatization, that would reduce
99 costs, improve performance, and enhance accountability.

100 5. A comparison of similar services provided by state

101 agencies, including similarities and differences in services,
102 relative costs and efficiencies, and the possibilities for
103 consolidating services.

104 6. A copy of any operational audit conducted by the quasi-
105 public entity, or conducted on the entity's behalf, in the 3
106 years before the cost-benefit analysis being conducted.

107 7. An analysis of the goals achieved by, and the
108 advantages and disadvantages of, allowing the quasi-public
109 entity to:

110 a. Continue in its current form.

111 b. Be dissolved and have its duties and functions
112 transferred to a department.

113 8. An analysis documenting the direct and indirect
114 specific baseline costs, savings, efficiencies of scale, and
115 qualitative and quantitative benefits involved in or resulting
116 from each of the following scenarios:

117 a. Maintaining the quasi-public entity in its current
118 form; or

119 b. Transferring the quasi-public entity's duties and
120 functions to a department and dissolving the quasi-public
121 entity.

122 9. The extent to which the quasi-public entity's goals and
123 objectives have been achieved and whether the situation or issue
124 that necessitated the creation of the quasi-public entity still
125 exists.

126 (b) "Governmental entity" means a state, regional, county,
 127 municipal, or special district entity, or any other political
 128 subdivision whether executive, judicial, or legislative,
 129 including, but not limited to, a department, a division, a
 130 bureau, a commission, an authority, a district, or an agency
 131 thereof or a public school, a Florida College System
 132 institution, a state university, or an associated board.

133 (c) "Operational audit" has the same meaning as in s.
 134 11.45(1).

135 (d) "Quasi-public entity" means an entity, other than a
 136 governmental entity, established by general law, regardless of
 137 form, for a public purpose or to effectuate a government
 138 program, and that is not under the direct control of a
 139 governmental entity. The term does not include a citizen support
 140 organization or a direct-support organization. For purposes of
 141 this paragraph, the term "direct control" means the ability to
 142 plan, direct, coordinate, and execute the powers, duties,
 143 functions, and responsibilities of a quasi-public entity,
 144 including the ability to control, supervise, and manage the
 145 quasi-public entity's daily operations. The term does not
 146 include the appointment of public officials or private persons
 147 to the governing body, regardless of appointment method, and
 148 does not include the approval of a plan of operations by a
 149 governmental entity.

150 (2) (a) For a quasi-public entity created by general law

151 before July 1, 2021, the Governor must specify a department with
152 which the quasi-public entity will be affiliated, unless a
153 department is already specified by general law, no later than
154 December 31, 2021. The affiliated department, whether specified
155 by the Governor or in law, shall serve in an advisory capacity
156 to the governing body of the affiliated quasi-public entity. The
157 head of the affiliated department shall review the activities of
158 the affiliated quasi-public entity at least annually and shall
159 recommend appropriate statutory changes to the Legislature, as
160 necessary, to ensure the most efficient and cost-effective
161 operation.

162 (b) For a quasi-public entity created by general law on or
163 after July 1, 2021, the general law creating the quasi-public
164 entity shall:

165 1. Specify a department with which the quasi-public entity
166 will be affiliated. The affiliated department shall serve in an
167 advisory capacity to the governing body of the affiliated quasi-
168 public entity. The head of the affiliated department shall
169 review the activities of the affiliated quasi-public entity at
170 least annually and shall recommend appropriate statutory changes
171 to the Legislature, as necessary, to ensure the most efficient
172 and cost-effective operation.

173 2. State that the creation of the quasi-public entity is
174 repealed on June 30 of the 7th year after enactment, unless
175 reviewed and saved from repeal through reenactment by the

176 Legislature. Unless otherwise provided by general law, the
177 repeal of a quasi-public entity shall transfer all assets of,
178 and all property owned by, the quasi-public entity to the state
179 after payment of or other resolution of the indebtedness of the
180 preexisting quasi-public entity.

181 (3) Each quasi-public entity shall contract with an
182 independent entity to conduct a cost-benefit analysis of the
183 quasi-public entity. The independent entity must have at least 5
184 years of experience conducting comparable analyses of
185 organizations that are similar in function to the quasi-public
186 entity under review, must conduct the analysis in accordance
187 with applicable industry best practices, and may not have any
188 affiliation or financial involvement with the reviewed quasi-
189 public entity.

190 (a) A quasi-public entity created in law:

191 1. Before July 1, 2000, shall have a cost-benefit analysis
192 completed no later than August 1, 2023, and every 10 years
193 thereafter.

194 2. On or after July 1, 2000, but before July 1, 2021,
195 shall have a cost-benefit analysis completed no later than
196 August 1, 2024, and every 10 years thereafter.

197 3. On or after July 1, 2021, shall have a cost-benefit
198 analysis completed by August 1 of the 10th year following its
199 creation and every 10 years thereafter.

200 (b) Each quasi-public entity shall submit the cost-benefit

201 analysis to the Governor, the President of the Senate, the
202 Speaker of the House of Representatives, and its affiliated
203 department by September 15 of the year in which such analysis is
204 due.

205 (4) By September 15 of each year, each quasi-public entity
206 shall submit a report to the Governor, the President of the
207 Senate, the Speaker of the House of Representatives, and its
208 affiliated department that includes all of the following
209 information:

210 (a) The name, mailing address, physical address, telephone
211 number, and website address of the quasi-public entity.

212 (b) The statutory authority creating the quasi-public
213 entity.

214 (c) A description of the quasi-public entity's mission.

215 (d) A description of the plans of the quasi-public entity
216 for the next 3 fiscal years.

217 (e) A copy of the quasi-public entity's code of ethics.

218 (f) If the quasi-public entity is a corporation not-for-
219 profit, a copy of the entity's most recent federal Internal
220 Revenue Service Return of Organization Exempt from Income Tax
221 Form (Form 990).

222 (g) If the quasi-public entity is organized as a
223 corporation, a copy of all of the following:

224 1. Corporate governance framework and structure, including
225 a description of each committee along with its membership and

226 jurisdiction.

227 2. Policies and practices of the corporation's significant
228 committees, including any compensation committee.

229 3. Policies and practices for directing senior management.

230 4. Processes by which the board, its committees, and
231 senior management ensure an appropriate amount of oversight over
232 the corporation's activities.

233 (h) If the quasi-public entity has created an entity of
234 any type with which it is affiliated, the following information
235 must be included for each such affiliated entity:

236 1. The name, mailing address, physical address, telephone
237 number, and website address of the affiliated entity.

238 2. The statutory authority creating, or authorizing the
239 creation of, the affiliated entity, if any.

240 3. A description of the affiliated entity's mission.

241 4. If the affiliated entity is a corporation, a copy of
242 all of the information described in paragraph (g).

243 5. If the affiliated entity is a corporation not-for-
244 profit, a copy of the entity's most recent federal Internal
245 Revenue Service Return of Organization Exempt from Income Tax
246 Form (Form 990).

247 (5) Each quasi-public entity shall maintain a publicly
248 accessible website. The website must include the following:

249 (a) The report required pursuant to subsection (4).

250 (b) The most recently approved operating budget, including

251 expenditures itemized in a similar manner to those reported in
252 the federal Internal Revenue Service Return of Organization
253 Exempt from Income Tax Form (Form 990), which must be maintained
254 on the website for 2 years.

255 (c) Position title and annual salary or rate of pay for
256 each regularly established position.

257 (d) A link to any state audit or report of the entity's
258 operations.

259 (e) A link to any program or activity descriptions for
260 which funds may be expended.

261 (f) All meeting notices for meetings of the entity's
262 governing body, which must be maintained on the website for 2
263 years.

264 (g) The official minutes of each meeting of the entity's
265 governing body, which must be posted no later than 7 days after
266 the date of the meeting in which the minutes are approved.

267 (6) An employee of a quasi-public entity may not receive
268 annual compensation earned or awarded, whether paid or accrued,
269 regardless of contingency, in excess of 150 percent of the
270 annual compensation paid to the head or executive director of
271 its affiliated department, as applicable. A person who is
272 employed by more than one quasi-public entity may not receive
273 cumulative annual compensation in excess of such amount. If the
274 quasi-public entities with which such person is employed are
275 affiliated with different departments, such person may not

276 receive cumulative annual compensation in excess of 150 percent
277 of the annual compensation paid to the highest-paid head or
278 executive director of the affiliated departments, as applicable.

279 (7) A quasi-public entity may not use public funds to
280 retain a lobbyist to represent the entity before the legislative
281 or executive branch. However, a full-time employee of the quasi-
282 public entity may register as a lobbyist and represent the
283 entity before the legislative or executive branch. Except as a
284 full-time employee, a person may not accept public funds from a
285 quasi-public entity for lobbying.

286 (8) Unless specifically authorized by law, a quasi-public
287 entity created on or after July 1, 2021, may not create an
288 entity separate from itself, including a citizen support
289 organization or a direct-support organization.

290 (9) Any meeting of a quasi-public entity's governing body
291 or any committee thereof must be video recorded and the video
292 recording must be maintained for at least 2 years.

293 (10) The executive director of a quasi-public entity, or
294 an officer with responsibilities similar to that of an executive
295 director, may not recommend or otherwise be involved in the
296 selection, appointment, or retention of any member of the
297 entity's governing body.

298 Section 2. Paragraph (d) of subsection (2) of section
299 215.985, Florida Statutes, is redesignated as paragraph (e), a
300 new paragraph (d) is added to that subsection, and subsections

301 (6) and (14) of that section are amended, to read:

302 215.985 Transparency in government spending.—

303 (2) As used in this section, the term:

304 (d) "Quasi-public entity" has the same meaning as provided
 305 in s. 20.059.

306 (6) The Department of Management Services shall establish
 307 and maintain a website that provides current information
 308 relating to each employee or officer of a state agency, a state
 309 university, a Florida College System institution, a quasi-public
 310 entity, or the State Board of Administration, regardless of the
 311 appropriation category from which the person is paid.

312 (a) For each employee or officer, the information must
 313 include, at a minimum, his or her:

- 314 1. Name and salary or hourly rate of pay.
- 315 2. Position number, class code, and class title.
- 316 3. Employing agency or quasi-public entity and budget
 317 entity.

318 (b) The information must be searchable by state agency,
 319 state university, Florida College System institution, quasi-
 320 public entity, and the State Board of Administration, and by
 321 employee name, salary range, or class code and must be
 322 downloadable in a format that allows offline analysis.

323 (14) The Chief Financial Officer shall establish and
 324 maintain a secure contract tracking system available for viewing
 325 and downloading by the public through a secure website. The

326 Chief Financial Officer shall use appropriate Internet security
 327 measures to ensure that no person has the ability to alter or
 328 modify records available on the website.

329 (a) Within 30 calendar days after executing a contract,
 330 each state and quasi-public entity shall post the following
 331 information relating to the contract on the contract tracking
 332 system:

- 333 1. The names of the contracting entities.
- 334 2. The procurement method.
- 335 3. The contract beginning and ending dates.
- 336 4. The nature or type of the commodities or services
 337 purchased.
- 338 5. Applicable contract unit prices and deliverables.
- 339 6. Total compensation to be paid or received under the
 340 contract.
- 341 7. All payments made to the contractor to date.
- 342 8. Applicable contract performance measures.
- 343 9. If a competitive solicitation was not used to procure
 344 the goods or services, the justification of such action,
 345 including citation to a statutory exemption or exception from
 346 competitive solicitation, if any.
- 347 10. Electronic copies of the contract and procurement
 348 documents that have been redacted to exclude confidential or
 349 exempt information.

350 (b) Within 30 calendar days after an amendment to an

351 existing contract, the state entity or quasi-public entity that
352 is a party to the contract must update the information described
353 in paragraph (a) in the contract tracking system. An amendment
354 to a contract includes, but is not limited to, a renewal,
355 termination, or extension of the contract or a modification of
356 the terms of the contract.

357 (c) By January 1, 2014, each state and quasi-public entity
358 shall post to the contract tracking system the information
359 required in paragraph (a) for each existing contract that was
360 executed before July 1, 2013, with payment from state funds made
361 after June 30, 2013.

362 (d)1. Records made available on the contract tracking
363 system may not reveal information made confidential or exempt by
364 law.

365 2. Each state and quasi-public entity that is a party to a
366 contract must redact confidential or exempt information from the
367 contract and procurement documents before posting an electronic
368 copy on the contract tracking system. If a state entity or
369 quasi-public entity that is a party to the contract becomes
370 aware that an electronic copy of a contract or a procurement
371 document has been posted but has not been properly redacted, the
372 state entity or quasi-public entity must immediately notify the
373 Chief Financial Officer and must immediately remove the contract
374 or procurement document from the contract tracking system.
375 Within 7 business days, the state entity or quasi-public entity

376 must post a properly redacted copy of the contract or
377 procurement document on the contract tracking system.

378 3.a. If a party to a contract, or an authorized
379 representative of a party to a contract, discovers that an
380 electronic copy of a contract or procurement document has been
381 posted to the contract tracking system but has not been properly
382 redacted, the party or representative may request the state
383 entity or quasi-public entity that is a party to the contract to
384 redact the confidential or exempt information. Upon receipt of
385 the request, the state entity or quasi-public entity shall
386 redact the confidential or exempt information.

387 b. A request to redact confidential or exempt information
388 must be made in writing and delivered by mail, facsimile,
389 electronic transmission, or in person to the state entity or
390 quasi-public entity that is a party to the contract. The request
391 must identify the specific document, the page numbers that
392 include the confidential or exempt information, the information
393 that is confidential or exempt, and the applicable statutory
394 exemption. A fee may not be charged for a redaction made
395 pursuant to the request.

396 c. A party to a contract may petition the circuit court
397 for an order directing compliance with this paragraph.

398 4. The contract tracking system shall display a notice of
399 the right of an affected party to request redaction of
400 confidential or exempt information contained on the system.

401 5.a. The Chief Financial Officer, the Department of
402 Financial Services, or an officer, employee, or contractor
403 thereof, is not responsible for redacting confidential or exempt
404 information from an electronic copy of a contract or procurement
405 document posted by another state entity or quasi-public entity
406 on the system.

407 b. The Chief Financial Officer, the Department of
408 Financial Services, or an officer, employee, or contractor
409 thereof, is not liable for the failure of a state entity or
410 quasi-public entity to redact the confidential or exempt
411 information.

412 (e)1. The posting of information on the contract tracking
413 system or the provision of contract information on a website for
414 public viewing and downloading does not supersede the duty of a
415 state entity or quasi-public entity to respond to a public
416 records request or subpoena for the information.

417 2. A request for a copy of a contract or procurement
418 document or certified copy of a contract or procurement document
419 shall be made to the state entity or quasi-public entity that is
420 party to the contract. The request may not be made to the Chief
421 Financial Officer, the Department of Financial Services, or an
422 officer, employee, or contractor thereof, unless the Chief
423 Financial Officer or the department is a party to the contract.

424 3. A subpoena for a copy of a contract or procurement
425 document or certified copy of a contract or procurement document

426 must be served on the state entity or quasi-public entity that
427 is a party to the contract and that maintains the original
428 documents. The Chief Financial Officer, the Department of
429 Financial Services, or an officer, employee, or contractor
430 thereof, may not be served a subpoena for those records unless
431 the Chief Financial Officer or the department is a party to the
432 contract.

433 (f) The Chief Financial Officer may regulate and prohibit
434 the posting of records that could facilitate identity theft or
435 fraud, such as signatures; compromise or reveal an agency
436 investigation; reveal the identity of undercover personnel;
437 reveal proprietary business information or trade secrets; reveal
438 an individual's medical information; or reveal another record or
439 information that the Chief Financial Officer believes may
440 jeopardize the health, safety, or welfare of the public.
441 However, such action by the Chief Financial Officer does not
442 supersede the duty of a state entity or quasi-public entity to
443 provide a copy of a public record upon request.

444 (g) The Chief Financial Officer may adopt rules to
445 administer this subsection.

446 (h) For purposes of this subsection, the term:

447 1. "Procurement document" means any document or material
448 provided to the public or any vendor as part of a formal
449 competitive solicitation of goods or services undertaken by a
450 state entity or quasi-public entity, and a document or material

451 submitted in response to a formal competitive solicitation by
452 any vendor who is awarded the resulting contract.

453 2. "Quasi-public entity" has the same meaning as provided
454 in s. 20.059.

455 ~~3.2.~~ "State entity" means an official, officer,
456 commission, board, authority, council, committee, or department
457 of the executive branch of state government; a state attorney,
458 public defender, criminal conflict and civil regional counsel,
459 capital collateral regional counsel, and the Justice
460 Administrative Commission; the Public Service Commission; and
461 any part of the judicial branch of state government.

462 (i) In lieu of posting in the contract tracking system
463 administered by the Chief Financial Officer, the Department of
464 Legal Affairs and the Department of Agriculture and Consumer
465 Services may post the information described in paragraphs (a)
466 through (c) to its own agency-managed website. The data posted
467 on the agency-managed website must be downloadable in a format
468 that allows offline analysis.

469 (j) The requirement under paragraphs (a) through (c) that
470 each agency post information and documentation relating to
471 contracts on the tracking system does not apply to any record
472 that could reveal attorney work product or strategy.

473 Section 3. This act shall take effect July 1, 2021.