

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 or state
5 universities for certain quasi-public entities by a
6 certain date; providing requirements for the
7 affiliated department or state university; providing
8 requirements for a statute creating or establishing a
9 quasi-public entity; requiring a quasi-public entity
10 to contract with an independent entity that meets
11 certain requirements to conduct a cost-benefit
12 analysis; requiring the completion of a cost-benefit
13 analysis at certain intervals; requiring a quasi-
14 public entity to submit a cost-benefit analysis and an
15 annual report that includes certain information to the
16 Governor, the Legislature, and its affiliated
17 department or state university by a certain date;
18 requiring a quasi-public entity to maintain a publicly
19 accessible website that includes certain information;
20 prohibiting a quasi-public entity from using public
21 funds to retain a lobbyist; authorizing certain
22 employees of a quasi-public entity to register as a
23 lobbyist and represent the quasi-public entity;
24 prohibiting a quasi-public entity from creating
25 certain separate entities; requiring that meetings of

26 | a quasi-public entity's governing body be video
27 | recorded and the video recording be maintained for a
28 | specified duration; prohibiting an executive director
29 | or similar officer of a quasi-public entity from
30 | certain involvement with the entity's governing body;
31 | requiring the Auditor General to compile a list of
32 | quasi-public entities and provide such list to the
33 | Governor, the Legislature, and the Legislative
34 | Auditing Committee by a certain date; requiring such
35 | list to be available on a specified website; amending
36 | s. 215.985, F.S.; defining the term "quasi-public
37 | entity"; requiring quasi-public entities to provide an
38 | annual report that includes certain information to the
39 | Department of Management Services by a certain date;
40 | requiring the report to be verified by specified
41 | persons; requiring the department to annually include
42 | certain information on its website by a certain date;
43 | requiring a quasi-public entity to post and update
44 | certain information on the secure contract tracking
45 | system established and maintained by the Chief
46 | Financial Officer; requiring a quasi-public entity to
47 | redact certain information; providing that the Chief
48 | Financial Officer, the Department of Financial
49 | Services, and officers, employees, and contractors
50 | thereof are not responsible for redacting, and are not

51 | liable for the failure to redact, certain information
 52 | posted on the secure contract tracking system by a
 53 | quasi-public entity; providing that the posting of
 54 | certain information does not supersede the duty of a
 55 | quasi-public entity to respond to certain requests or
 56 | subpoenas; providing that certain actions by the Chief
 57 | Financial Officer do not supersede the duty of a
 58 | quasi-public entity to provide certain records upon
 59 | request; revising and providing definitions; providing
 60 | an effective date.

61 |

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

63 |

64 | Section 1. Section 20.059, Florida Statutes, is created to
 65 | read:

66 | 20.059 Quasi-public entities.—

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

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

75 | 1. A detailed description of the quasi-public entity's

76 programs and activities, the goals and objectives of each
77 program and activity, the problem or need that each program and
78 activity was created to address, and the expected benefits of
79 each program and activity.

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

83 3. An analysis of the performance of the quasi-public
84 entity, including:

85 a. A description of the specific performance measures or
86 standards that the quasi-public entity must meet to ensure
87 adequate performance.

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

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

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

99 4. A review of the delivery of services by the quasi-
100 public entity, including alternative methods of providing the

101 services, such as insourcing or privatization, that would reduce
102 costs, improve performance, and enhance accountability.

103 5. A comparison of similar services provided by state
104 agencies, including similarities and differences in services,
105 relative costs and efficiencies, and the possibilities for
106 consolidating services.

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

110 7. An analysis of the goals achieved by, and the
111 advantages and disadvantages of, allowing the quasi-public
112 entity to:

113 a. Continue in its current form.

114 b. Be dissolved and have its duties and functions
115 transferred to a department.

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

120 a. Maintaining the quasi-public entity in its current
121 form; or

122 b. Transferring the quasi-public entity's duties and
123 functions to a department and dissolving the quasi-public
124 entity.

125 9. The extent to which the quasi-public entity's goals and

126 objectives have been achieved and whether the situation or issue
127 that necessitated the creation of the quasi-public entity still
128 exists.

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

136 (c) "Operational audit" has the same meaning as in s.
137 11.45(1).

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

151 governing body, regardless of appointment method, and does not
152 include the approval of a plan of operations by a governmental
153 entity.

154 (2) (a) For a quasi-public entity created or established by
155 statute before July 1, 2021, the Governor must specify a
156 department or state university with which the quasi-public
157 entity will be affiliated, unless a department or state
158 university is already specified by statute, no later than
159 December 31, 2021. The affiliated department or state
160 university, whether specified by the Governor or in statute,
161 shall serve in an advisory capacity to the governing body of the
162 affiliated quasi-public entity. The head of the affiliated
163 department or state university shall review the activities of
164 the affiliated quasi-public entity at least annually and shall
165 recommend appropriate statutory changes to the Legislature, as
166 necessary, to ensure the most efficient and cost-effective
167 operation.

168 (b) For a quasi-public entity created or established by
169 statute on or after July 1, 2021, the statute creating the
170 quasi-public entity shall:

171 1. Specify a department or state university with which the
172 quasi-public entity will be affiliated. The affiliated
173 department or state university shall serve in an advisory
174 capacity to the governing body of the affiliated quasi-public
175 entity. The head of the affiliated department or state

176 university shall review the activities of the affiliated quasi-
177 public entity at least annually and shall recommend appropriate
178 statutory changes to the Legislature, as necessary, to ensure
179 the most efficient and cost-effective operation.

180 2. State that the creation of the quasi-public entity is
181 repealed on June 30 of the 7th year after enactment, unless
182 reviewed and saved from repeal through reenactment by the
183 Legislature. Unless otherwise provided by general law, the
184 repeal of a quasi-public entity shall transfer all assets of,
185 and all property owned by, the quasi-public entity to the state
186 after payment of or other resolution of the indebtedness of the
187 preexisting quasi-public entity.

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

197 (a) A quasi-public entity created or established by
198 statute:

199 1. Before July 1, 2000, shall have a cost-benefit analysis
200 completed no later than August 1, 2023, and every 10 years

201 thereafter.

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

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

208 (b) Each quasi-public entity shall submit the cost-benefit
209 analysis to the Governor, the President of the Senate, the
210 Speaker of the House of Representatives, and its affiliated
211 department or state university by September 15 of the year in
212 which such analysis is due.

213 (4) Beginning September 15, 2022, and each September 15
214 thereafter, each quasi-public entity shall submit a report to
215 the Governor, the President of the Senate, the Speaker of the
216 House of Representatives, and its affiliated department or state
217 university that includes all of the following information:

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

220 (b) The statutory authority creating the quasi-public
221 entity.

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

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

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

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

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

232 1. Corporate governance framework and structure, including
233 a description of each committee along with its membership and
234 jurisdiction.

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

237 3. Policies and practices for directing senior management.

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

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

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

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

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

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

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

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

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

258 (b) The most recently approved operating budget, including
259 expenditures itemized in a similar manner to those reported in
260 the federal Internal Revenue Service Return of Organization
261 Exempt from Income Tax Form (Form 990), which must be maintained
262 on the website for 2 years.

263 (c) A link to any state audit or report of the entity's
264 operations.

265 (d) A link to any program or activity descriptions for
266 which funds may be expended.

267 (e) All meeting notices for meetings of the entity's
268 governing body, which must be maintained on the website for 2
269 years.

270 (f) The official minutes of each meeting of the entity's
271 governing body, which must be posted no later than 7 days after
272 the date of the meeting in which the minutes are approved.

273 (6) A quasi-public entity may not use public funds to
274 retain a lobbyist to represent the entity before the legislative
275 or executive branch. However, a full-time employee of the quasi-

276 public entity may register as a lobbyist and represent the
277 entity before the legislative or executive branch. Except as a
278 full-time employee, a person may not accept public funds from a
279 quasi-public entity for lobbying.

280 (7) Unless specifically authorized by statute, a quasi-
281 public entity may not create an entity separate from itself,
282 including a citizen support organization or a direct-support
283 organization.

284 (8) Any meeting of a quasi-public entity's governing body
285 must be video recorded and the video recording must be
286 maintained for at least 2 years.

287 (9) The executive director of a quasi-public entity, or an
288 officer with responsibilities similar to that of an executive
289 director, may not recommend or otherwise be involved in the
290 selection, appointment, or retention of any member of the
291 entity's governing body.

292 (10) By October 1, 2021, the Auditor General shall compile
293 a list of the quasi-public entities subject to this section and
294 provide such list to the Governor, the President of the Senate,
295 the Speaker of the House of Representatives, and the Legislative
296 Auditing Committee. The list must be available on the Auditor
297 General's website for review by the public.

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

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

314 a.1. Name and salary or hourly rate of pay.

315 b.2. Position number, class code, and class title.

316 c.3. Employing agency and budget entity.

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

322 (b)1. A quasi-public entity must submit to the Department
 323 of Management Services by December 31 of each year a report that
 324 includes the name, position, and all compensation earned or
 325 awarded, whether paid or accrued, regardless of contingency, to

326 each director, board member, chief executive officer, chief
327 financial officer, chief operating officer, or other person
328 performing equivalent functions. The report must be verified as
329 provided in s. 92.525 by the chief executive officer or chief
330 financial officer of the quasi-public entity.

331 2. Beginning February 1, 2022, and each February 1
332 thereafter, the Department of Management Services shall include
333 the information reported in subparagraph 1. on the website
334 established under paragraph (a).

335 (14) The Chief Financial Officer shall establish and
336 maintain a secure contract tracking system available for viewing
337 and downloading by the public through a secure website. The
338 Chief Financial Officer shall use appropriate Internet security
339 measures to ensure that no person has the ability to alter or
340 modify records available on the website.

341 (a) Within 30 calendar days after executing a contract,
342 each state and quasi-public entity shall post the following
343 information relating to the contract on the contract tracking
344 system:

- 345 1. The names of the contracting entities.
- 346 2. The procurement method.
- 347 3. The contract beginning and ending dates.
- 348 4. The nature or type of the commodities or services
349 purchased.
- 350 5. Applicable contract unit prices and deliverables.

351 6. Total compensation to be paid or received under the
352 contract.

353 7. All payments made to the contractor to date.

354 8. Applicable contract performance measures.

355 9. If a competitive solicitation was not used to procure
356 the goods or services, the justification of such action,
357 including citation to a statutory exemption or exception from
358 competitive solicitation, if any.

359 10. Electronic copies of the contract and procurement
360 documents that have been redacted to exclude confidential or
361 exempt information.

362 (b) Within 30 calendar days after an amendment to an
363 existing contract, the state entity or quasi-public entity that
364 is a party to the contract must update the information described
365 in paragraph (a) in the contract tracking system. An amendment
366 to a contract includes, but is not limited to, a renewal,
367 termination, or extension of the contract or a modification of
368 the terms of the contract.

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

374 (d)1. Records made available on the contract tracking
375 system may not reveal information made confidential or exempt by

376 law.

377 2. Each state and quasi-public entity that is a party to a
378 contract must redact confidential or exempt information from the
379 contract and procurement documents before posting an electronic
380 copy on the contract tracking system. If a state entity or
381 quasi-public entity that is a party to the contract becomes
382 aware that an electronic copy of a contract or a procurement
383 document has been posted but has not been properly redacted, the
384 state entity or quasi-public entity must immediately notify the
385 Chief Financial Officer and must immediately remove the contract
386 or procurement document from the contract tracking system.
387 Within 7 business days, the state entity or quasi-public entity
388 must post a properly redacted copy of the contract or
389 procurement document on the contract tracking system.

390 3.a. If a party to a contract, or an authorized
391 representative of a party to a contract, discovers that an
392 electronic copy of a contract or procurement document has been
393 posted to the contract tracking system but has not been properly
394 redacted, the party or representative may request the state
395 entity or quasi-public entity that is a party to the contract to
396 redact the confidential or exempt information. Upon receipt of
397 the request, the state entity or quasi-public entity shall
398 redact the confidential or exempt information.

399 b. A request to redact confidential or exempt information
400 must be made in writing and delivered by mail, facsimile,

401 | electronic transmission, or in person to the state entity or
402 | quasi-public entity that is a party to the contract. The request
403 | must identify the specific document, the page numbers that
404 | include the confidential or exempt information, the information
405 | that is confidential or exempt, and the applicable statutory
406 | exemption. A fee may not be charged for a redaction made
407 | pursuant to the request.

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

410 | 4. The contract tracking system shall display a notice of
411 | the right of an affected party to request redaction of
412 | confidential or exempt information contained on the system.

413 | 5.a. The Chief Financial Officer, the Department of
414 | Financial Services, or an officer, employee, or contractor
415 | thereof, is not responsible for redacting confidential or exempt
416 | information from an electronic copy of a contract or procurement
417 | document posted by another state entity or quasi-public entity
418 | on the system.

419 | b. The Chief Financial Officer, the Department of
420 | Financial Services, or an officer, employee, or contractor
421 | thereof, is not liable for the failure of a state entity or
422 | quasi-public entity to redact the confidential or exempt
423 | information.

424 | (e)1. The posting of information on the contract tracking
425 | system or the provision of contract information on a website for

426 public viewing and downloading does not supersede the duty of a
427 state entity or quasi-public entity to respond to a public
428 records request or subpoena for the information.

429 2. A request for a copy of a contract or procurement
430 document or certified copy of a contract or procurement document
431 shall be made to the state entity or quasi-public entity that is
432 party to the contract. The request may not be made to the Chief
433 Financial Officer, the Department of Financial Services, or an
434 officer, employee, or contractor thereof, unless the Chief
435 Financial Officer or the department is a party to the contract.

436 3. A subpoena for a copy of a contract or procurement
437 document or certified copy of a contract or procurement document
438 must be served on the state entity or quasi-public entity that
439 is a party to the contract and that maintains the original
440 documents. The Chief Financial Officer, the Department of
441 Financial Services, or an officer, employee, or contractor
442 thereof, may not be served a subpoena for those records unless
443 the Chief Financial Officer or the department is a party to the
444 contract.

445 (f) The Chief Financial Officer may regulate and prohibit
446 the posting of records that could facilitate identity theft or
447 fraud, such as signatures; compromise or reveal an agency
448 investigation; reveal the identity of undercover personnel;
449 reveal proprietary business information or trade secrets; reveal
450 an individual's medical information; or reveal another record or

451 information that the Chief Financial Officer believes may
 452 jeopardize the health, safety, or welfare of the public.
 453 However, such action by the Chief Financial Officer does not
 454 supersede the duty of a state entity or quasi-public entity to
 455 provide a copy of a public record upon request.

456 (g) The Chief Financial Officer may adopt rules to
 457 administer this subsection.

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

459 1. "Procurement document" means any document or material
 460 provided to the public or any vendor as part of a formal
 461 competitive solicitation of goods or services undertaken by a
 462 state entity or quasi-public entity, and a document or material
 463 submitted in response to a formal competitive solicitation by
 464 any vendor who is awarded the resulting contract.

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

467 ~~3.2.~~ "State entity" means an official, officer,
 468 commission, board, authority, council, committee, or department
 469 of the executive branch of state government; a state attorney,
 470 public defender, criminal conflict and civil regional counsel,
 471 capital collateral regional counsel, and the Justice
 472 Administrative Commission; the Public Service Commission; and
 473 any part of the judicial branch of state government.

474 (i) In lieu of posting in the contract tracking system
 475 administered by the Chief Financial Officer, the Department of

476 | Legal Affairs and the Department of Agriculture and Consumer
477 | Services may post the information described in paragraphs (a)
478 | through (c) to its own agency-managed website. The data posted
479 | on the agency-managed website must be downloadable in a format
480 | that allows offline analysis.

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

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