

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 Appropriations

BILL: CS/CS/SB 1570

INTRODUCER: Appropriations Committee; Governmental Oversight and Accountability Committee; and Senator Rodriguez

SUBJECT: Quasi-public Entities

DATE: April 18, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2. <u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1570 creates section 20.059, Florida Statutes, relating to quasi-public entities. The bill provides definitions, requirements, and responsibilities for quasi-public entities.

The bill defines “quasi-public entity” to mean an entity with statewide application, other than a governmental entity, established by law, regardless of form, for a public purpose or to effectuate a government program, and is not under the direct control of a governmental entity. The term does not include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or entity created under sections 627.311 or 627.351, Florida Statutes; a research institute of the state university system; or an entity licensed as a health care facility under chapter 395, Florida Statutes.

The bill requires the Governor to designate a department with which each quasi-public entity will be affiliated and the requirements of the affiliated department.

The bill requires each quasi-public entity to submit an annual report, on September 15, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and its affiliated department.

The bill requires a quasi-public entity to include additional specified information if the entity is organized as a corporation or has created an affiliated entity.

The bill requires each quasi-public entity to maintain a publicly available website with certain content.

A quasi-public entity is prohibited from using public funds to retain a lobbyist to represent the entity before the legislative or executive branch. However, a full-time employee of the entity may register as a lobbyist to provide such representation.

The bill prohibits a quasi-public entity from creating an entity separate from itself, including a citizen support organization or a direct-support organization.

The bill requires any meeting of a quasi-public entity to be video recorded. Additionally, the bill prohibits the executive director or an officer with similar responsibilities from recommending or being involved with the selection, appointment or retention of any member of the quasi-public entity's governing body.

The bill requires each quasi-public entity to post certain information on the Department of Financial Services contracting tracking system within 30 days after executing a contract.

The bill directs the Auditor General to compile a list of quasi-public entities subject to the bill and submit the list to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee by October 1, 2021. Furthermore, the Auditor General is required to make the list available on its website for public review.

The bill directs the Legislative Auditing Committee to establish procedures for annual selection of random samples of five of the identified quasi-public entities to undergo an operational audit by the Auditor General. Quasi-public entities who had operational audits completed within the preceding four years or who are subject to a statutorily-required operational audit are not included in the random sample.

The bill requires each quasi-public entity to post certain information on the Department of Financial Services contracting system within 30 days after executing a contract.

The bill requires the Department of Management Services (DMS) to include quasi-public entities on its Florida Has a Right to Know website. Further, the information included on the DMS website is required to be searchable by the term "quasi-public entity" and downloadable in a format that allows offline analysis.

The bill has an indeterminate fiscal impact to state revenues and funds. (*See V. Fiscal Impact Statement.*)

The bill takes effect July 1, 2021.

II. Present Situation:

Quasi-Public Entity

The term “quasi-public entity” is not defined in Florida Statutes. Quasi-public entities are generally considered a hybrid of private and public organizations, organized and established in law to provide and promote a public purpose by administering a governmental function of state government.¹ A quasi-public entity is typically appropriated funds from the state in order to accomplish the public purpose of its contract.

The table below is not intended to be a comprehensive list of entities but are examples of quasi-public entities:

Entity	Statute	Date of Creation
Correctional Work Programs Corporation	s. 946.504, F.S.	1983 (Ch. 83-209, L.O.F.)
Florida Independent Living Council	s. 413.395, F.S.	1988 (Ch. 88-214, L.O.F.)
Florida Birth-Related Neurological Injury Compensation Association	s. 766.315(1)(a), F.S.	1988 (Ch. 88-1, L.O.F.)
Inland Protection Financing Corporation	s. 376.3071, F.S.	1989 (Ch. 16-159, L.O.F.)
One Church, One Child of Florida Corporation	s. 409.1755, F.S.	1990 (Ch. 90-306, L.O.F.)
Florida Healthy Kids Corporation	s. 624.91(5), F.S.	1990 (Ch. 90-199, L.O.F.)
Enterprise Florida	s. 288.901(1), F.S.	1992 (Ch. 92-277, L.O.F.)
Sunshine State One-Call of Florida, Inc. (Sunshine 811)	s. 556.103, F.S.	1993 (Ch. 93-240, L.O.F.)
Florida Export Finance Corporation	s. 288.773, F.S.	1993 (Ch. 93-187, L.O.F.)
Florida Development Finance Corporation	s. 288.9604, F.S.	1993 (Ch. 93-187, L.O.F.)
CareerSource Florida, Inc.	s. 445.004, F.S.	1994 (Ch. 94-232, L.O.F.)
Assistive Technology Advisory Council	s. 413.407, F.S.	1994 (Ch. 94-324, L.O.F.)
Florida Engineers Management Corporation	s. 471.038, F.S.	1997 (Ch. 97-312, L.O.F.)
Florida Workers' Compensation Insurance Guaranty Association Guaranty Association, Inc.	s. 631.911, F.S.	1997 (Ch. 97-262, L.O.F.)
Ounce of Prevention Fund of Florida	s. 409.153, F.S.	1998 (Ch. 98-175, L.O.F.)
Tobacco Settlement Financing Corporation	s. 215.56005, F.S.	2000 (Ch. 2000-128, L.O.F.)
Florida Association of Drug Court Professionals	s. 397.334(7)(a), F.S.	2001 (Ch. 2001-48, L.O.F.)
Florida Mobile Home Relocation Corporation	s. 723.0611, F.S.	2001 (Ch. 2001-227, L.O.F.)
Florida Health Choices, Inc.	s. 408.910, F.S.	2002 (Ch. 2008-32, L.O.F.)
Florida Education Fund, Inc.	s. 1009.70, F.S.	2002 (Ch. 2002-387, L.O.F.)
Scripps Florida Funding Corporation	s. 288.955, F.S.	2003 (Ch. 2003-420, L.O.F.)
Florida Clerks of Court Operations Corporation	s. 28.35(1)(a), F.S.	2003 (Ch. 2003-402, L.O.F.)
Florida Public Health Institute, Inc.	s. 381.98, F.S.	2004 (Ch. 2004-2, L.O.F.)
Public Cord Blood Tissue Bank	s. 381.06015, F.S.	2005 (Ch. 2005-305, L.O.F.)
Florida Opportunity Fund	s. 288.9624, F.S.	2007 (Ch. 2007-189, L.O.F.)
Institute for Commercialization of Florida Technology	s. 288.9625, F.S.	2013 (Ch. 2013-120, L.O.F.)
Florida is for Veterans, Inc.	s. 295.21, F.S.	2014 (Ch. 2014-1, L.O.F.)

Citizen Support and Direct Support Organizations

A citizen support organization (CSO) is an organization that is a Florida corporation not-for-profit incorporated under the provisions of ch. 617, F.S., and is authorized by Florida law to exist

¹ *McClung-Gagne v. Harbour City Volunteer Ambulance Squad, Inc.*, 721 So.2d 799 (Fla. App. 1 Dist., 1998)

as a citizen-support organization to benefit or provide assistance to a governmental entity.² A CSO is organized and operated to: conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, or real or personal property; and make expenditures for the benefit of the intergovernmental programs of their affiliated department or agency.

A direct support organization (DSO) is an organization that is a Florida corporation not-for-profit incorporated under the provisions of ch. 617, F.S., and is authorized by Florida law to exist as a direct-support organization to benefit or provide assistance to a governmental entity.³

Section 20.058, F.S., establishes that by August 1st of each year, each CSO and DSO must submit the following information to their affiliated department or agency:

- The name, mailing address, telephone number, and website address of the CSO;
- The statutory authority or executive order pursuant to which the organization was created;
- A brief description of the mission, and results obtained by, the organization;
- A brief description of the plans of the organization for the next three years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

By August 15th of each year, the appropriate agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by each organization.⁴

Transparency in Government Spending & the Contract Tracking System

Section 215.985, F.S., is referred to as the Transparency Government Act (the Act). The Act requires the Chief Financial Officer (CFO) to establish and maintain a secure contract tracking system available for viewing and downloading by the public through a secure website. The Department of Financial Services (DFS) maintains and updates the contract tracking system. The tracking system contains contracts, grant awards, and amendments to contracts.

Within 30 days after executing a contract, each state entity is required to post the following information relating to the contract on the contract tracking system:

- The names of the contracting entities;
- The procurement method;
- The contract beginning and ending dates;
- The nature or type of commodities or services purchased;
- Applicable contract unit prices and deliverables;
- Total compensation to be paid or received under the contract;
- All payments made to the contractor to date;
- Applicable contract performance measures;

² Section 20.2551, F.S.

³ Section 16.618, F.S.

⁴ Section 20.058, F.S.

- If a competitive solicitation was not used to procure the goods and services, the justification of the action, including citation to a statutory exemption from competitive solicitation if any;⁵ and
- Electronic copies of the contract and procurement documents that have been redacted to exclude confidential information or exempt information.

Within 30 calendar days after an amendment to an existing contract, the state entity that is a party to the contract must update the information on the contract tracking system.

State entities are required to redact confidential or exempt information from the contract and procurement documents before posting an electronic copy on the contract tracking system. If a state entity becomes aware that an electronic copy of a contract or procurement document has been posted but has not been properly redacted, the state entity must notify the CFO and remove the documents from the contract tracking system.⁶ Consequently, the state entity has seven business days to post a properly redacted copy of the contract or procurement document on the contract tracking system. Request to redact confidential and exempt information must be made in writing, and delivered by mail, facsimile, electronic transmission, or in person to the state entity. The CFO is not responsible for redacting confidential and exempt information posted by a state entity on the system and is not liable for the failure of the state entity to post the information.

This section establishes the posting of information on the contract tracking system does not supersede the duty of the state entity to respond to a public records request or subpoena for the information. A request for a copy of a contract or procurement document must be made to the state entity. A subpoena for a copy of a contract or procurement document must be served on the quasi-public entity.

This section authorizes the CFO to regulate and prohibit the posting of records that could facilitate identity theft or fraud; however, such action by the CFO does not supersede the duty of a state entity to provide a copy of a public record upon request.

Florida Accountability Contract Tracking System (FACTS)

The Department of Financial Services' Division of Accounting and Auditing maintains FACTS. FACTS is a searchable consumer-friendly online system developed to make the government contracting process in Florida more transparent through the creation of a statewide contract reporting system. FACTS contains images, financial information and audit findings of all grant and contract documents, including purchase orders.⁷

⁵ Section 215.985(14)(a), F.S.

⁶ Section 215.985(14)(d), F.S.

⁷ Department of Financial Services, Division of Accounting and Auditing, *FACTS Project*, <https://www.myfloridacfo.com/division/aa/factsreporting/> (last visited Apr. 7, 2021)

Joint Legislative Auditing Committee

The Joint Legislative Auditing Committee (committee), established by the Joint Rules of the Florida Legislature, was created in law in 1967.⁸ The committee's membership is comprised of five to seven members appointed from each legislative house and its responsibilities are designed to provide continuous oversight of government operations, in part, through the auditing and review activities of the Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA).⁹

The committee may direct either the Auditor General or the OPPAGA to conduct an audit, review, or examination of any entity or record as specified in s. 11.45(3), F.S. This includes state agencies, counties, municipalities, special districts, district school boards, charter schools, numerous other government organizations, as well as nongovernmental agencies, corporations, and persons that have received any appropriation made by the Legislature.¹⁰

The committee is authorized to investigate any matter within the scope of an audit, review, or examination, and is granted subpoena power in connection with such investigations, and may conduct hearings as necessary. Under s. 11.42(2), F.S., the committee is responsible for appointing the Auditor General when there is a vacancy. Such appointment is subject to confirmation by both houses of the Legislature.¹¹

Florida Auditor General

The Auditor General is the independent auditor for the State of Florida and is appointed by and serves at the pleasure of the Legislature. The Auditor General provides unbiased, timely and relevant information that the Legislature, citizens of Florida, public entities and other stakeholders can use to promote government accountability and stewardship and improve government operations. Article III, Section 2 of the Florida Constitution reads, in part, “[T]he legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.” Section 11.42, F.S., designates the constitutional auditor as the Auditor General, and s. 11.42 through s. 11.47, F.S., sets forth the general authority and duties of the Auditor General. Independently and in accordance with applicable professional standards, the Auditor General:

- Conducts financial audits of the accounts and records of State government, State universities, State colleges, and school districts.
- Conducts operational and performance audits of public programs, activities, and functions and information technology systems.
- Adopts rules, in consultation with the Florida Board of Accountancy, for audits performed by independent certified public accountants of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for-profit organizations.

⁸ During 2011, the Legislature passed a reform package that included revisions to laws and joint rules related to Joint Legislative Auditing Committee. Chapter 2011-34, Laws of Florida, repealed the statutory creation of JLAC.

⁹ Online Sunshine, *Historical Committees, Joint Legislative Auditing Committee*, http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=about.cfm&Directory=committees/joint/Jcla/&Tab=committees (last visited Apr. 14, 2021).

¹⁰ *Id.*

¹¹ *Id.*

- Conducts reviews of audit reports of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for-profit organizations.
- Conducts examinations of school districts' and other entities' records to evaluate compliance with State requirements governing the Florida Education Finance Program student enrollment and student transportation funding allocations.
- Conducts quality assessment reviews of the internal audits performed by state agency offices of inspectors general.¹²

Pursuant to s. 11.45(8), F.S., the Auditor General, in consultation with the Board of Accountancy, adopts rules for the form and conduct of all financial audits performed by independent certified public accountants pursuant to ss. 215.981, 218.39, 1001.453, 1002.395, 1004.28, and 1004.70, F.S. The rules for audits of local governmental entities, charter schools, charter technical career centers, and district school boards must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergencies Act as stated in s. 218.501, F.S.¹³

Operational Audit Requirements under Section 11.45, F.S.

Section 11.45(1)(i), F.S., defines operational audit to mean an audit whose purpose is to evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.¹⁴

Each year, the Florida Auditor General issues over 200 reports related to operational, financial, and federal award audits and attestation examination engagements of state and local governmental entities.¹⁵ Audit findings and recommendations are used to help correct errors, strengthen controls and reduce risk.¹⁶

Entity Audit Filing Requirements¹⁷

Under ss. 215.97(2)(a) and 215.97(8)(a), F.S., referred to as the Florida Single Audit Act, each nonprofit and for-profit non-state entity that expends a total amount of state financial assistance

¹² Florida Auditor General, *About the Florida Auditor General*, <https://flauditor.gov/pages/aboutus.html> (last visited Apr. 7, 2021).

¹³ Florida Auditor General, *Rules of the Auditor General*, <https://flauditor.gov/pages/rules.html>, (last visited Apr. 7, 2021).

¹⁴ Section 11.45(1)(i), F.S.

¹⁵ Florida Auditor General, *Our Annual Report*, <https://flauditor.gov/pages/aboutus.html> (last visited Apr. 7, 2021).

¹⁶ Florida Auditor General, *Guide to Audits*, https://flauditor.gov/pages/pdf_files/audit%20guide%20pamphlet.pdf (last visited Apr. 7, 2021).

¹⁷ Florida Auditor General, *Filing Requirements*, https://flauditor.gov/pages/filing_requirements_npfp.html (last visited Apr. 7, 2021).

equal to or in excess of \$500,000 in any fiscal year prior to July 1, 2016, and \$750,000 in any fiscal year on or subsequent to July 1, 2016, is required to have an audit for that fiscal year.

Pursuant to Section 10.657(2), Rules of the Auditor General, each entity required to submit an audit report under s. 215.97, F.S., must provide both a paper and an electronic copy (elements of which are described in Section 10.656, Rules of the Auditor General) along with the required submittal checklist.

Under Florida law, certain other nonprofit organizations are required to have an audit each year.¹⁸ Section 10.740, Rules of the Auditor General, requires each of these entities to provide both a paper and an electronic copy (elements that are described in Section 10.730, Rules of the Auditor General) of the audit along with the required submittal checklist.

Annual financial audits of state agency direct-support organizations (DSO) and citizen support organizations (CSO) are required for each entity with annual expenditures of \$100,000.¹⁹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and shall be submitted within nine months after the end of the fiscal year to the Auditor General and the state agency responsible for creation, administration, or approval of the DSO or the CSO.²⁰

III. Effect of Proposed Changes:

Section 1 creates s. 20.059, F.S., to outline the definitions, requirements, and responsibilities of quasi-public entities.

This section provides the following definitions: the term “governmental entity” is defined to mean:

A state, regional, county, municipal or special district entity, or any other political subdivision, whether executive, judicial, or legislative, including, but not limited to, a department, a division, a bureau, a commission, an authority, a district, or an agency thereof or a public school, a Florida College System institution a state university, or an associated board.

The term “operational audit” has the same meaning as in s. 11.45(1), F.S., which means:

An audit whose purpose is to evaluate management’s performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules,

¹⁸ See ss. 215.981(1), 288.906(1)(h), 288.955(14)(g), 288.1226(7), 1001.453(4), 1002.395(6)(m), 1004.28(5) and 1004.70(6), Florida Statutes.

¹⁹ Section 215.981(1), F.S.

²⁰ Section 215.981(1), F.S., applies to state agency direct-support and citizen-support organizations created, approved or administered by a state agency, other than a university, community college or district school board. See Florida Auditor General, *Rules of the Auditor General, Chapter 10.700, Audits of Certain Nonprofit Organizations (Effective June 30, 2020)* https://flauditor.gov/pages/pdf_files/10_700.pdf (last visited Apr. 7, 2021).

contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.

The term "quasi-public entity" is defined to mean:

An entity with statewide application, other than a governmental entity, established by law, regardless of form, for a public purpose or to effectuate a government program, and is not under the direct control of a governmental entity. The term does not include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or entity created under ss. 627.311 or 627.351, F.S.; a research institute of the state university system; or an entity licensed as a health care facility under ch. 395, F.S.

The term "direct control" is defined to mean:

For purposes of this paragraph, the term "direct control" means the ability to plan, direct, coordinate, and execute the powers, duties, functions, and responsibilities of a quasi-public entity, including the ability to control, supervise, and manage the quasi-public entity's daily operations. The term does not include the appointment of public officials or private persons to the governing body, regardless of appointment method, and does not include the approval of a plan of operation by a governmental entity.

This section provides that for a quasi-public entity created in law before July 1, 2021, the Governor must specify a department with which the quasi-public entity will be affiliated, unless a department is already specified in law, no later than December 31, 2021. For quasi-public entities created in law on or after July 1, 2021, the law creating the quasi-public entity must specify a department with which the quasi-public entity will be affiliated. The affiliated departments, whether specified by the Governor or in law, shall serve in an advisory capacity to the governing body of the affiliated quasi-public entity. The head of the affiliated department must review the activities of the affiliated quasi-public entity at least annually and recommend appropriate statutory changes to the Legislature, as necessary, to ensure the most efficient and cost-effective operation.

This section provides that by September 15 of each year, each quasi-public entity is required to submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and its affiliated department. The report is required to have the following:

- The name, mailing address, physical address, telephone number, and website address of the quasi-public entity;
- The statutory authority creating the quasi-public entity;
- A description of the quasi-public entity's mission;

- A description of the quasi-public entity's plans for the next three fiscal years;
- A copy of the quasi-public entity's code of ethics; and
- If the quasi-public entity is a corporation not for profit, a copy of the entity's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax Form (Form 990).

If the quasi-public entity is organized as a corporation, the bill requires the following be provided:

- The corporate governance framework and structure;
- The policies and practices of the corporation's significant committees;
- The policies and practices for directing senior management; and
- Processes by which the board, its committees, and senior management ensure an appropriate amount of oversight over its activities.

If the quasi-public entity has created an entity of any type with which it is affiliated, the following information must be included for each such affiliated entity: the name, mailing address, physical address, telephone number, and website address; the statutory authority creating or authorizing the creation of the affiliated entity; and a description of the affiliated entity's mission. If the affiliated entity is a corporation, it must provide all the required information for a corporation as set forth above. If the affiliated entity is a corporation not for profit, it must provide a copy of the entity's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax Form (Form 990).

This section requires each quasi-public entity to maintain a publicly accessible website. The website must include:

- The annual report;
- The most recently approved operating budget, maintained on the website for two years;
- The position title and annual salary or rate of pay for each regularly established position;
- A link to any state audit or report of the entity's operations;
- A link to any program or activity descriptions for which funds are expended;
- All meeting notices for meetings of the governing body, which must be on the website for two years; and
- The official minutes of each meeting of the governing body, which must be posted no later than seven days after the meeting.

This section provides that a quasi-public entity may not use public funds to retain a lobbyist to represent the quasi-public entity before the legislative or executive branch. A full-time employee of the quasi-public entity may register as a lobbyist and represent the entity before the legislative or executive branch. Except as a full-time employee, a person may not accept public funds from a quasi-public entity for lobbying.

This section provides a quasi-public entity may not create an entity separate from itself, including a citizen support or a direct-support organization.

Any meeting of the quasi-public entity's governing body must be video recorded. The executive director of a quasi-public entity, or an officer with similar responsibilities, may not recommend

or be involved in the selection, appointment, or retention of any member of the entity's governing body.

This section requires the Auditor General to compile a list of quasi-public entities and provide the list to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee. The Auditor General must make the list available on its website for public review.

The Legislative Auditing Committee is required to establish procedures for an annual selection of random sampling of five of the quasi-public entities, identified on the Auditor General's published list, to undergo an operational audit by the Auditor General. A quasi-public entity that had an operational audit completed within the preceding four years or that is otherwise subject to a statutorily required operational audit is excluded from the random sample.

Section 2 re-designates and revises s. 215.985, F.S., to require the Department of Management Services to include quasi-public entities on its Florida Has a Right to Know website. The information must include, at a minimum, the following for each employee or officer:

- Name and salary or hourly rate of pay;
- Position number, class code, and class title; and
- Employing agency or quasi-public entity and budget entity.

Further, the information contained on the Florida Has a Right to Know website is required to be searchable by the term "quasi-public entity" and downloadable in a format that allows offline analysis.

This section amends s. 215.985, F.S., to make each quasi-public entity subject to the DFS reporting requirements for the contract tracking system.

This section redefines the definition of the term "procurement document" in s. 215.985(14), F.S., to include a quasi-public entity.

This section defines the term "quasi-public entity" to mean:

An entity with statewide application, other than a governmental entity, established by law, regardless of form, for a public purpose or to effectuate a government program, and is not under the direct control of a governmental entity. The term does not include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or entity created under s. 627.311 or s. 627.351, F.S.; a research institute of the state university system; or an entity licensed as a health care facility under ch. 395, F.S.

Section 3 provides the bill takes effect July 1, 2021.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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 Auditor General is required to select an annual random sample of five quasi-public entities to undergo an operational audit. If selected, a quasi-public entity may incur additional workload. If not already maintained, quasi-public entities may incur additional costs related to maintaining a publicly accessible website as required by the bill.

Quasi-public entities will also experience additional workload in completing the required annual report and meeting the posting requirements on the contract tracking system.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact to state revenues and funds. The Executive Office of the Governor may incur additional workload by designating affiliate departments to the quasi-public entities (QPE). The affiliated departments may incur additional workload serving in an advisory role to the QPEs. The QPEs are required to enter certain information into the Department of Financial Services' (DFS) contract tracking system. The impact to the DFS's Division of Accounting and Auditing, Florida Accountability Contract Tracking System (FACTS) is estimated at \$69,721 for

development and programming costs to add the quasi-entities to FACTS,²¹ which can be absorbed within existing resources.²²

The Department of Management Services (DMS) manages the Florida Has a Right to Know website. The DMS is required to add QPEs under the website's search parameters. The DMS may experience minimal impact for development and programming costs to include QPEs in the Florida Has a Right to Know website, which can be absorbed within existing resources.

VI. Technical Deficiencies:

In Section 2 of the bill, which amends s. 215.985, F.S., quasi-public entities are defined, for the purposes of that section, as having the same meaning as provided in the newly created s. 20.059, F.S. However, later provisions of the section define the term differently for the purposes of subsection (14). If the intent is to define quasi-public entities consistently, the definitions should be revised.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 215.985 of the Florida Statutes.

This bill creates section 20.059 of the 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/CS by Appropriations on April 15, 2021:

The committee substitute:

- Clarifies that a quasi-public entity (QPE) is defined as an entity with statewide application, other than a governmental entity, established by law, regardless of form, for a public purpose or to effectuate a government program, and is not under the direct control of a governmental entity. The term does not include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or entity created under ss. 627.311 or 627.351, F.S.; a research institute of the state university system; or an entity licensed as a health care facility under ch. 395, F.S. Defines “direct control” for purposes of the definition.

²¹ Email from Meredith Stansfield, Director of Legislative and Cabinet Affairs, Department of Financial Services to Michelle Sanders, Legislative Analyst, Senate Appropriations Subcommittee on Agriculture, Environment, and General Government (Apr. 8, 2021) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government)

²² Conversation with Chase Mitchell, Office of Legislative and Cabinet Affairs, Department of Financial Services (Apr. 8, 2021)

- Removes language requiring QPEs to have operational audits conducted by the Auditor General every three years.
- Directs the Auditor General to compile a list of QPEs subject to the bill and submit the list to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee by October 1, 2021, and requires the Auditor General to make the list available on its website for public review.
- Directs the Legislative Auditing Committee to establish procedures for an annual selection of random samples of five of the identified QPEs for purposes of an operational audit by the Auditor General. Clarifies QPEs who had operational audits completed within the preceding four years or are subject to statutorily-required operational audit are not included in the random sample.
- Requires the Department of Management Services (DMS) to include QPEs on its Florida Has a Right to Know website. Further, the information included on the DMS website is required to be searchable by the term “quasi-public entity” and downloadable in a format that allows offline analysis.

CS by Governmental Oversight and Accountability on March 24, 2021:

The CS:

- Requires the Governor to specify a department with which a quasi-public entity created in law before July 1, 2021, will be affiliated, unless a department is specified in law. For a quasi-public entity created in law on or after July 1, 2021, the law creating the quasi-public entity shall specify a department with which the quasi-public entity will be affiliated.
- Requires each quasi-public entity to have an operational audit completed by the Auditor General at least once every three years.
- Removes a provision providing a repeal date for quasi-public entities unless they are reviewed and saved by the Legislature.
- Removes a provision requiring each quasi-public entity having to contract with an independent entity to conduct a cost-benefit analysis.
- Removes a provision providing salary and compensation limits for employees of quasi-public entities.

B. Amendments:

None.