

**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.)

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

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BILL: SB 1570

INTRODUCER: Senator Rodriguez

SUBJECT: Quasi-public Entities

DATE: March 16, 2021

REVISED: 03/23/21

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	<u></u>	<u></u>	<u>AP</u>	<u></u>
3.	<u></u>	<u></u>	<u>RC</u>	<u></u>

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**I. Summary:**

SB 1570 creates s. 20.059, F.S., 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 established by general law, regardless of form, for a public purpose or to effectuate a government program and which is not directly controlled by a governmental entity. The term does not include a citizen support organization or a direct-support organization.”

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 provides the repeal dates of quasi-public entities unless they are reviewed and saved by the Legislature.

The bill requires each quasi-public entity to contract with an independent entity - as selected from a list comprised by The Office of Program Policy Analysis and Government Accountability (OPPAGA) - to conduct a cost-benefit analysis. The bill provides certain standards for the cost-benefit analysis including but not limited to an analysis of the advantages of, and disadvantages of, allowing the quasi-public entity to continue in its current form or be dissolved and have its duties transferred to a department.

The bill requires quasi-public entities to submit a cost-benefit analysis to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and its affiliated department. The initial cost-benefit analysis due date is based upon the year the quasi-public entity was created and subsequent cost-benefit analyses are due on September 15 every 10 years thereafter.

The bill also 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.

The bill provides salary and compensation limits for employees of quasi-public entities. 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 provides for the repeal of any such entity in existence prior to July 1, 2021.

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 departments affiliated with the quasi-public entities will incur additional workload.

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 a private and public organization, organized and established in law to provide and promote a public purpose by administering a governmental function of state government.<sup>1</sup> 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:

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

Entity	Statute	Date of Creation
The Commission for the Transportation Disadvantaged	S. 427.012, F.S.	1979(Ch. 79-180, L.O.F.)
Florida Housing Finance Corporation	S. 420.504, F.S.	1980 (Ch. 80-161, L.O.F.)
Correctional Work Programs Corporation	S. 946.504, F.S.	1983 (Ch. 83-209, L.O.F.)
Local Health Councils (11)	S. 408.033(1)(a), F.S.	1987 (Ch. 87-92, 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.)
Citizens Property Insurance Corporation	S. 627.351(6), F.S.	2002 (Ch. 2002-240, L.O.F.)
Florida Education Fund, Inc.	S. 1009.70, F.S.	2002 (Ch. 2002-387, L.O.F.)
H. Lee Moffitt Cancer Center and Research, Inc.	S. 1004.43, F.S.	2002 (Ch. 2002-837, 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 Institute for Human and Machine Cognition, Inc.	S. 1004.447, F.S.	2003 (Ch. 2003-294, 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.)
Triumph Gulf Coast, Inc.	S. 288.8013, F.S.	2017 (Ch. 2017-64, L.O.F.)

### The Office of Program Policy Analysis and Government Accountability

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is the research arm of the Legislature. The OPPAGA was created by the Legislature in 1994 to help improve the performance and accountability of state government. The OPPAGA provides data, evaluative research, and objective analyses to assist legislative budget and policy deliberations. The OPPAGA conducts research as directed by state law, the presiding officers, or the Joint Legislative Auditing Committee.<sup>2</sup> The OPPAGA provides a variety of research services such as performance evaluations and policy reviews of government programs, research and technical

<sup>2</sup> The Office of Program Policy Analysis and Government Accountability, *See About OPPAGA*, available at <https://oppaga.fl.gov/About>, (last visited March 11, 2021)

assistance to legislators and legislative committees, and government program summaries containing descriptive and evaluative information on all major state programs.

### **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 Chapter 617, Florida Statutes, and is authorized by Florida law to exist as a citizen-support organization to benefit or provide assistance to a governmental entity.<sup>3</sup> 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 Chapter 617, Florida Statutes, and is authorized by Florida law to exist as a direct-support organization to benefit or provide assistance to a governmental entity.<sup>4</sup>

Section 20.058, F.S., establishes that by August 1 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 resulted 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 15 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<sup>5</sup>.

### **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:

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<sup>3</sup> Section 20.2551, F.S.

<sup>4</sup> Section 16.618, F.S.

<sup>5</sup> Section 20.058, F.S.

- 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;
- 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.<sup>6</sup>; 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.<sup>7</sup> 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 that 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 establishes that the CFO regulating and prohibiting the posting of records that could facilitate identity theft or fraud does not supersede the duty of a state entity to provide a copy of a public record upon request.

### III. Effect of Proposed Changes:

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

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<sup>6</sup> Section 215.985(14)(a), F.S.

<sup>7</sup> Section 215.985(14)(d), F.S.

This section provides the following definitions: the term “cost-benefit analysis” is defined to mean:

An analysis conducted by an independent entity of the current structure of a quasi-public entity and its relationship to state government with the goal of determining whether it would be more efficient or cost-effective to maintain the quasi-public entity or transfer its functions to a state agency and dissolve the entity.

The term “governmental entity” is defined to mean:

A state, regional, county, municipal, special district, or 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, 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 established by general law, regardless of form, for a public purpose or to effectuate a government programs and which is not directly controlled by a governmental entity. The term does not include a citizen support organization or a direct-support organization.

This section provides that for each quasi-public entity created in law before July 1, 2000, the Governor must specify, unless already specified in law, the department with which the quasi-public entity will be affiliated no later than December 31, 2021. The affiliated department – 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 is required to review the activities of the affiliated quasi-public entity on an annual basis and recommend statutory changes as necessary, to ensure the most efficient and cost-effective operation. The quasi-public entity is repealed on June 30, 2025, unless reviewed and saved by the Legislature.

For each quasi-public entity created in law on or after July 1, 2000, but before July 1, 2021, the Governor must specify the department with which the quasi-public entity is to be affiliated with – unless otherwise provided in law - by December 31, 2021. The affiliated department will have an advisory capacity to the governing body of the affiliated quasi-public entity. The quasi-public entity is repealed on June 30, 2026, unless reviewed and saved by the Legislature.

For each quasi-public entity created in law on or after July 1, 2021, the law creating the quasi-public entity must specify the department with which the quasi-public entity will be affiliated. The affiliated department serves in an advisory capacity to the governing body of the affiliated quasi-public entity. The head of the affiliated department is required to review the activities of the affiliated quasi-public entity on an annual basis and recommend statutory changes to ensure the most efficient and cost-effective operation. The quasi-public entity is repealed on June 30<sup>th</sup> of the 7<sup>th</sup> year after enactment, unless reviewed and saved by the Legislature.

This section requires each quasi-public entity to contract with an independent entity to conduct a cost-benefit analysis. The OPPAGA is required to generate list of independent entities qualified to perform cost-benefit analysis, and the quasi-public entity must select an entity from this list.

A quasi-public entity created before July 1, 2000, is required to have the analysis completed no later than August 1, 2023, and every 10 years thereafter. A quasi-public entity created on or after July 1, 2000, but before July 1, 2021, is required to have the analysis completed no later than August 1, 2024, and every 10 years thereafter. A quasi-public entity created on or after July 1, 2021, is required to have the analysis completed by August 1 of the 10<sup>th</sup> year following its creation and every 10 years thereafter. The quasi-public entity is required to submit the cost-benefit analysis to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the affiliated department by September 15 of the year in which the analysis is due.

This section outlines the requirements of the cost-benefits analysis. The cost-benefit analysis is required to have:

- A detailed description of the quasi-public entity’s activities;
- An analysis of the quasi-public entity’s current performance, based on existing performance metrics;
- An analysis of the goals achieved by, and the advantages and disadvantages of, allowing the quasi-public entity to either continue in its current form, or be dissolved and have its duties and functions transferred to a department;
- An analysis documenting the direct and indirect specific baseline costs, savings, efficiencies of scale, and qualitative and quantitative benefits involved in or resulting from each of the following scenarios: maintaining the quasi-public entity in its current form, or transferring its duties and functions to a department and dissolving the quasi-public entity;
- A description of the specific accountability and transparency measures by which the quasi-public entity must abide;
- A description of the specific performance standards, if any, that the quasi-public entity must meet to ensure adequate performance; and
- An operational audit.

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 3 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 2 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 salary caps for a quasi-public entity's employees. An employee of the quasi-public entity may not receive an annual salary, including base pay or base pay combined



with incentives, in excess of 150 percent of the annual salary paid to the head of its affiliated department from state-appropriated funds, including federal funds.

A person who is employed by more than one quasi-public entity may not receive a cumulative annual salary in excess of the 150 percent cap. If such a person is employed by quasi-public entities with different affiliated departments, such employee may not receive a cumulative annual salary in excess of 150 percent cap to the highest paid head of the affiliated departments.

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 that a quasi-public entity may not create an entity separate from itself, including a citizen support or a direct-support organization. Any such entity in existence before July 1, 2021, may continue in existence but is repealed on the same date as the creating quasi-public entity unless reviewed and saved from repeal through reenactment by the Legislature.

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.

**Section 2** 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 established by general law, regardless of form, for a public purpose or to effectuate a government programs and which is not directly controlled by a governmental entity. The term does not include a citizen support organization or a direct-support organization.

**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:**

Article III, section 6, of the State Constitution provides, in pertinent part, that “[n]o law shall be revised or amended by reference to its title only. Laws to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a subsection.” The bill does not appear to meet the constitutional full text requirements as it fails to set forth each statute to be amended, showing the changes in context and providing fair and adequate notice. The Legislature may want to consider an amendment to cure this deficiency.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Quasi-public entities will incur additional costs associated with contracting with an independent entity to conduct a cost-benefit analysis. 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 Executive Office of the Governor will incur additional workload by designating affiliate departments to the quasi-public entities. The affiliated departments will incur additional workload in serving in an advisory capacity to the quasi-public entities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 20.059 of the Florida Statutes.

This bill substantially amends section 215.985 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.