

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Willhite offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 220-342 and insert:

5 (6) If an employee is represented by a labor organization
6 as defined in s. 447.02(1), the employer must follow the
7 requisite procedures enumerated in the collective bargaining
8 agreement before terminating, suspending, or demoting the
9 employee for refusing to comply with a COVID-19 vaccination
10 mandate.

11 (7) Notwithstanding s. 120.74(4) and (5), the Department
12 of Health, the Department of Legal Affairs, and the Department
13 of Economic Opportunity are authorized, and all conditions are

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14 deemed met, to adopt emergency rules pursuant to s. 120.54(4)
15 and this section. Such rulemaking must occur initially by filing
16 emergency rules within 15 days after the effective date of this
17 act. An employer COVID-19 vaccination mandate is deemed invalid
18 until the Department of Health files its emergency rules or 15
19 days after the effective date of this act, whichever occurs
20 first.

21 (a) The Department of Health shall adopt emergency rules
22 to specify requirements for the frequency and methods of testing
23 which may be used by employers, to establish standards for
24 competent medical evidence that the employee has immunity to
25 COVID-19, to specify circumstances that are considered an
26 anticipated pregnancy, and to create the following:

27 1. A form for use by a physician, a physician assistant,
28 or an advanced practice registered nurse to document an
29 exemption based on medical reasons, including, but not limited
30 to, pregnancy or anticipated pregnancy.

31 2. A form for use by an employee to document an exemption
32 based on religious reasons.

33 3. A form for use by an employee to document an exemption
34 based on COVID-19 immunity. Such form must include the
35 laboratory criteria for proof of immunity for the virus that
36 causes COVID-19.

37 4. A form for use by an employee to document an exemption
38 based on periodic testing. Such form must include the required

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39 frequency of testing and acceptable tests that may be used.

40 5. A form for use by an employee to document an exemption
41 based on employer-provided personal protective equipment.

42 (b) The Department of Economic Opportunity shall adopt
43 emergency rules to implement subsection (5).

44 (c) The Department of Legal Affairs shall adopt emergency
45 rules to implement subsections (3) and (4), including
46 prescribing the complaint and notification processes and
47 specifying the functional equivalent of termination.

48
49 Notwithstanding s. 120.54(4)(c), emergency rules adopted
50 pursuant to this subsection remain in effect until replaced by
51 rules adopted under regular rulemaking. The Department of
52 Health, the Department of Legal Affairs, and the Department of
53 Economic Opportunity shall begin rulemaking under s. 120.54(2)
54 and (3) immediately after filing the emergency rules.

55 (8) An employer may not impose a policy that prohibits an
56 employee from choosing to receive a COVID-19 vaccination.

57 (9) This section expires June 1, 2023.

58 Section 2. Section 381.00319, Florida Statutes, is created
59 to read:

60 381.00319 Prohibition on COVID-19 vaccination mandates for
61 students.—

62 (1) For purposes of this section, the term:

63 (a) "COVID-19" has the same meaning as in s. 381.00317(1).

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64 (b) "Educational institution" has the same meaning as in
65 s. 112.0441(1).

66 (c) "Parent" has the same meaning as in s. 1000.21(5).

67 (2) Notwithstanding any other law to the contrary, an
68 educational institution or elected or appointed local official
69 may not impose a COVID-19 vaccination mandate for any student.

70 (3) A parent of a student, a student who is an emancipated
71 minor, or a student who is 18 years of age or older may bring an
72 action against the educational institution to obtain a
73 declaratory judgment that an act or practice violates this
74 section and to seek injunctive relief. A prevailing parent or
75 student, as applicable, must be awarded reasonable attorney fees
76 and court costs.

77 (4) This section expires June 1, 2023.

78 Section 3. Section 112.0441, Florida Statutes, is created
79 to read:

80 112.0441 Prohibition on public employee COVID-19
81 vaccination mandates.-

82 (1) For purposes of this section, the term:

83 (a) "COVID-19" has the same meaning as in s. 381.00317(1).

84 (b) "Educational institution" means an institution under
85 the control of a district school board; a charter school; a
86 state university; a developmental research school; a Florida
87 College System institution; the Florida School for the Deaf and
88 the Blind; and the Florida Virtual School.

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89 (c) "Governmental entity" has the same meaning as in s.
90 768.38.

91 (2) (a) Notwithstanding any other law to the contrary, an
92 educational institution or a governmental entity may not impose
93 a COVID-19 vaccination mandate for any full-time, part-time, or
94 contract employee. Any existing ordinance, rule, or policy
95 imposing such mandate is null and void as of the effective date
96 of this act.

97 (b) An educational institution or a governmental entity
98 that imposes a COVID-19 vaccination mandate for any full-time,
99 part-time, or contract employee commits a violation of this
100 section for each employee subject to the employer's COVID-19
101 vaccination mandate. The Department of Health may impose a fine
102 not to exceed \$5,000 per violation. Fines collected pursuant to
103 this subsection must be deposited in the General Revenue Fund.

104 (3) (a) If an educational institution or a governmental
105 entity fails to comply with subsection (2) and terminates an
106 employee based on the employee's noncompliance with a COVID-19
107 vaccination mandate, the terminated employee may be eligible for
108 reemployment assistance under chapter 443 in addition to any
109 other remedy available to the employee.

110 (b) If an employee is terminated by an educational
111 institution or a governmental entity for refusing to comply with
112 any COVID-19 vaccination mandate:

113 1. Such refusal may not be deemed misconduct for the

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114 purpose of reemployment assistance under chapter 443.

115 2. Notwithstanding any provision of chapter 443, work is
116 not deemed suitable and benefits may not be denied under s.
117 443.101 to the terminated employee for refusing to accept new
118 work if the terminated employee is otherwise eligible and the
119 position requires compliance with a COVID-19 vaccination mandate
120 contrary to this section or s. 381.00317.

121 (4) If an employee is represented by an employee
122 organization as defined in s. 447.203(11), the employer must
123 follow the requisite procedures enumerated in the collective
124 bargaining agreement before terminating, suspending, or demoting
125 the employee for refusing to comply with a COVID-19 vaccination
126 mandate.

127 (5) Notwithstanding s. 120.74(4) and (5), the Department
128 of Health and the Department of Economic Opportunity are
129 authorized, and all conditions are deemed met, to adopt
130 emergency rules pursuant to s. 120.54(4) to implement this
131 section. Such rulemaking must occur initially by filing
132 emergency rules within 15 days after the effective date of this
133 act. Notwithstanding s. 120.54(4)(c), emergency rules adopted
134 pursuant to this subsection remain in effect until replaced by
135 rules adopted under regular rulemaking. The Department of Health
136 and the Department of Economic Opportunity shall begin
137 rulemaking under s. 120.54(2) and (3) immediately after filing
138 the emergency rules.

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139 (6) This section expires June 1, 2023.

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T I T L E A M E N D M E N T

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Remove lines 30-57 and insert:

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unlawfully terminated employee; requiring an employer

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to follow certain procedures before taking certain

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adverse action against certain employees; authorizing

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the Department of Health, the Department of Legal

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Affairs, and the Department of Economic Opportunity to

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adopt emergency rules for specified purposes;

151

specifying timeframes for the adoption of such rules;

152

invalidating private employer COVID-19 vaccination

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mandates for a specified timeframe; specifying

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requirements for the emergency rules; providing that

155

the emergency rules remain in effect until replaced;

156

prohibiting an employer from imposing a specified

157

policy; providing for expiration; creating s.

158

381.00319, F.S.; defining terms; prohibiting

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educational institutions and elected or appointed

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local officials from imposing COVID-19 vaccination

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mandates on students; providing a right of action to

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obtain a declaratory judgment and injunctive relief

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for violations; providing for attorney fees and court

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164 costs; providing for expiration; creating s. 112.0441,
165 F.S.; defining terms; prohibiting educational
166 institutions and governmental entities from imposing
167 COVID-19 vaccination mandates for any employees;
168 declaring null and void any ordinance, rule, or policy
169 that imposes such mandates; specifying what
170 constitutes a single violation; authorizing the
171 Department of Health to impose a fine per violation;
172 providing for deposit of fine proceeds in the General
173 Revenue Fund; specifying eligibility for reemployment
174 assistance for an unlawfully terminated employee;
175 requiring an employer to follow certain procedures
176 before taking certain adverse action against certain
177 employees;

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