

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Willhite offered the following:

Amendment (with title amendment)

Remove lines 220-342 and insert:

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

12 (7) Notwithstanding s. 120.74(4) and (5), the Department
13 of Health, the Department of Legal Affairs, and the Department
14 of Economic Opportunity are authorized, and all conditions are
15 deemed met, to adopt emergency rules pursuant to s. 120.54(4)
16 and this section. Such rulemaking must occur initially by filing

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17 emergency rules within 15 days after the effective date of this
18 act. An employer COVID-19 vaccination mandate is deemed invalid
19 until the Department of Health files its emergency rules or 15
20 days after the effective date of this act, whichever occurs
21 first.

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

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

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

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

38 4. A form for use by an employee to document an exemption
39 based on periodic testing. Such form must include the required
40 frequency of testing and acceptable tests that may be used.

41 5. A form for use by an employee to document an exemption

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42 based on employer-provided personal protective equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90 (c) "Governmental entity" has the same meaning as in s.
91 768.38.

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

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

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

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

114 1. Such refusal may not be deemed misconduct for the
115 purpose of reemployment assistance under chapter 443.

116 2. Notwithstanding any provision of chapter 443, work is

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

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

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

140 (6) This section expires June 1, 2023.
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143 **T I T L E A M E N D M E N T**
144 Remove lines 30-57 and insert:
145 unlawfully terminated employee; requiring an employer
146 to follow certain procedures before taking certain
147 adverse action against certain employees; authorizing
148 the Department of Health, the Department of Legal
149 Affairs, and the Department of Economic Opportunity to
150 adopt emergency rules for specified purposes;
151 specifying timeframes for the adoption of such rules;
152 invalidating private employer COVID-19 vaccination
153 mandates for a specified timeframe; specifying
154 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
159 educational institutions and elected or appointed
160 local officials from imposing COVID-19 vaccination
161 mandates on students; providing a right of action to
162 obtain a declaratory judgment and injunctive relief
163 for violations; providing for attorney fees and court
164 costs; providing for expiration; creating s. 112.0441,
165 F.S.; defining terms; prohibiting educational
166 institutions and governmental entities from imposing

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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;