

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 719 Practice of Veterinary Medicine

**SPONSOR(S):** Killebrew

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 722

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	13 Y, 0 N	Thompson	Anstead
2) Commerce Committee	15 Y, 0 N	Thompson	Hamon

### SUMMARY ANALYSIS

In Florida, the practice of “veterinary medicine” means the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease. Veterinarians are regulated by the Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) pursuant to ch. 474, F.S., relating to veterinary medical practice (practice act).

The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practice to protect public health and safety. The practice act provides requirements for licensure by examination, licensure of qualified out-of-state veterinarians by endorsement, premises permitting, prohibitions and penalties, and grounds for disciplinary action by the Board.

According to reports, a recent increase in household pet ownership has contributed to a shortage of veterinarians in the U.S.

The bill allows out-of-state veterinarians to perform dog or cat sterilization services, and routine preventative health services at the time of sterilization, under certain circumstances. Specifically, the bill exempts from the practice act veterinarians who:

- Hold an active license to practice veterinary medicine in another jurisdiction in the U.S.;
- Are in good standing in such jurisdiction; and
- Perform dog or cat sterilization services or routine preventative health services at the time of sterilization as an unpaid volunteer under responsible supervision of a veterinarian licensed in this state.

The bill specifies that the supervising licensed veterinarian is responsible for all acts performed under this provision by an out-of-state veterinarian acting under her or his responsible supervision.

The bill provides that an out-of-state veterinarian practicing pursuant to this provision is not eligible to apply for a premises permit.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### **Practice of Veterinary Medicine**

The practice of veterinary medicine is regulated by the Department of Business and Professional Regulation (DBPR) Board of Veterinary Medicine (Board).<sup>1</sup> The Board administers and enforces the provisions of ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practice to protect public health and safety.<sup>2</sup>

A veterinarian is a health practitioner licensed by the Board to engage in the practice of veterinary medicine in Florida,<sup>3</sup> which is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.<sup>4</sup>

Veterinary medicine includes, with respect to animals:<sup>5</sup>

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);<sup>6</sup> and
- Other branches or specialties of veterinary medicine.

##### **Licensure by Examination**

To become a licensed veterinarian, an applicant must:

- Graduate from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education (AVMAE); **or** from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World (AVMARVC) **and** obtain a certificate from the Education Commission for Foreign Veterinary Graduates (ECFVG) **or** the Program for the Assessment of Veterinary Education Equivalence (PAVE);
- Successfully complete the North American Veterinary Licensing Examination (NAVLE), or an examination determined by the board to be equivalent; and
- Successfully complete an examination of the laws and rules governing the practice of veterinary medicine in Florida.<sup>7</sup>

##### **Licensure by Endorsement**

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<sup>1</sup> See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the Board.

<sup>2</sup> S. 474.201, F.S.

<sup>3</sup> See s. 474.202(11), F.S.

<sup>4</sup> See s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.

<sup>5</sup> See s. 474.202(13), F.S. Section 474.202(1), F.S., which defines “animal” as “any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead.”

<sup>6</sup> The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. See <https://www.therio.org/page/HistoryTheriogenolog> (last visited Feb. 25, 2023).

<sup>7</sup> R. 61G18-11.002, F.A.C.

A person who is licensed in another state or country is eligible for a license by endorsement in Florida if they:<sup>8</sup>

- Successfully complete an examination of the laws and rules governing the practice of veterinary medicine in Florida; and
- Either:
  - Hold a valid license to practice veterinary medicine in another jurisdiction of the United States for the three years immediately preceding the application for licensure, provided that the requirements for licensure are equivalent to or more stringent than a Florida license; or
  - Have graduated from an AVMAE, or AVMARVC program with the required certificate, and have successfully completed an examination which is equivalent to or more stringent than the NAVLE.

DBPR may not issue a license by endorsement to any applicant who is under investigation in any state, territory, or the District of Columbia for an act which would constitute a violation of the practice act until the investigation is complete and disciplinary proceedings have been terminated.<sup>9</sup>

## Exemptions

The following entities are exempt from the practice act:<sup>10</sup>

- Veterinary aides, nurses, laboratory technicians, preceptors,<sup>11</sup> or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision<sup>12</sup> of a licensed veterinarian;
- Certain non-Florida licensed veterinarians who are consulting upon the request of a Florida-licensed veterinarian;
- Faculty veterinarians when they have assigned teaching duties at accredited<sup>13</sup> institutions;
- Certain graduate intern/resident veterinarians of accredited institutions;
- Certain students in a school or college of veterinary medicine who perform assigned duties by an instructor or work as preceptors;
- Certain doctors of veterinary medicine employed by a state agency or the U.S. Government;
- Persons or their employees caring for the persons' own animals, as well as certain part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks; and
- Certain entities or persons<sup>14</sup> that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods or techniques to diagnose or treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine.

## Premises Permit

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by DBPR.<sup>15</sup> Each person to whom a veterinary license or premises permit is issued must

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<sup>8</sup> S. 474.217(1), F.S.

<sup>9</sup> S. 474.217(2), F.S.

<sup>10</sup> See s. 474.203, F.S.

<sup>11</sup> A preceptor is a skilled practitioner or faculty member who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. See also <https://www.merriam-webster.com/dictionary/preceptor#medicalDictionary> (last visited Feb. 25, 2023).

<sup>12</sup> The term “responsible supervision” is defined in s. 474.202(10), F.S., as the “control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services” delegated to unlicensed personnel.

<sup>13</sup> Ss. 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates.

<sup>14</sup> See s. 474.203(6), F.S., which states that the exemption applies to “[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof. . . .”

<sup>15</sup> S. 474.215(1), F.S.

conspicuously display such document in her or his office, place of business, or place of employment in a permanent or mobile veterinary establishment or clinic.<sup>16</sup>

## Prohibitions and Penalties

The following licensure related activities are prohibited:<sup>17</sup>

- Leading the public to believe that a person is licensed to practice veterinary medicine, without holding a valid, active license.
- Using the name or title “veterinarian” when the person has not been licensed.
- Using the license of another veterinarian.
- Giving false or forged evidence to the Board to obtain a license.
- Using or attempting to use a veterinarian’s license which has been suspended or revoked.
- **Knowingly employing unlicensed persons in the practice of veterinary medicine.**
- Knowingly concealing information relative to violations of the practice act.
- Obtaining a license to practice veterinary medicine by fraudulent representation.
- **Practicing veterinary medicine without a license.**
- Selling or offering to sell fake veterinary diplomas and licenses.
- **Knowingly operating a veterinary establishment or premises without having a premises permit.**

Violations are a third degree felony, punishable by a maximum penalty of five years in prison,<sup>18</sup> a \$5,000 fine<sup>19</sup> and increased prison sentences<sup>20</sup> for habitual offenders.<sup>21</sup>

## Grounds for Disciplinary Action by the Board

The following acts are some of the grounds for which the Board may take disciplinary action:

- Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of veterinary medicine, including animal cruelty and state or federal drug laws.
- Violating any provision of the practice act or chapter 455, F.S., related to DBPR, a rule of the Board or department, or a lawful order of the Board or department or subpoena of the department.
- Being unable to practice safely due to illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition.
- Judicially determined mental incompetency.
- Knowingly maintaining a professional connection or association with persons in violation.
- Performing or prescribing unnecessary or unauthorized treatment.
- Attempting to restrict competition.
- Fraud, deceit, negligence, incompetency, or misconduct.
- Permitting or allowing another to use a veterinarian’s license to treat animals.
- Fraudulently issuing or using any false health certificate, vaccination certificate, test chart, or other blank form used in the practice of veterinary medicine relating to the presence or absence of animal disease or transporting animals or issuing any false certificate relating to the sale of products of animal origin for human consumption.
- Practicing at a location for which a valid premises permit has not been issued.
- Refusing to allow department inspections during regular business hours.
- Ordering, prescribing, or making available medicinal drugs or drugs<sup>22</sup> or controlled substances<sup>23</sup> for use other than for the specific treatment of animal patients for which there is a documented veterinary client patient relationship (VCPR) and without:

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<sup>16</sup> S. 474.216, F.S.

<sup>17</sup> S. 474.213, F.S.

<sup>18</sup> S. 775.082, F.S.

<sup>19</sup> S. 775.083, F.S.

<sup>20</sup> S. 775.084, F.S.

<sup>21</sup> S. 474.213(2), F.S.

- Having sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, which means that the veterinarian is personally acquainted with the keeping and caring of the animal and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept;
- Being available to provide for follow-up care and treatment in case of adverse reactions or failure of the regimen of therapy; and
- Maintaining records which document patient visits, diagnosis, treatment, and other relevant information required under the practice act.<sup>24</sup>
- Providing, prescribing, ordering, or making available for human use medicinal drugs or drugs as defined in ch. 465, F.S., controlled substances as defined in ch. 893, F.S., or any material, chemical, or substance used exclusively for animal treatment.
- Failing to report to the department any person the licensee knows to be in violation of the practice act.
- Violating any of the requirements of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Comprehensive Drug Abuse Prevention and Control Act of 1970, more commonly known as the Comprehensive Drug Abuse Prevention and Control Act; or chapter 893, F.S.
- Prescribing or dispensing a legend drug as defined in chapter 499, F.S., including any controlled substance, inappropriately or in excessive or inappropriate quantities.
- Practicing or offering to practice beyond the scope permitted by law.
- Knowingly delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them.
- Presigning blank prescription forms.
- Failing to give the owner of a patient, before dispensing any drug, a written prescription when requested.

When the board finds any applicant or veterinarian guilty of the grounds for disciplinary action, it may enter an order imposing one or more of the following penalties:<sup>25</sup>

- Denial of certification for examination or licensure.
- Revocation or suspension of a license.
- Administrative fine up to \$5,000 for each offense.
- Issuance of a reprimand.
- Probation, including continuing education or work under the supervision of another veterinarian.
- Restricting the authorized scope of practice.
- Imposition of costs of the investigation and prosecution.
- Remedial education.

### **Limited Service Practice**

A “limited-service veterinary medical practice” means offering or providing limited types of veterinary services for a limited time at any location that has a primary purpose other than providing veterinary medical service at a permanent or mobile establishment. Such practice must provide veterinary medical services for privately owned animals that do not reside at that location.<sup>26</sup> Such practice must obtain a permit and must register each location where a limited service clinic is held. A licensed veterinarian must supervise the limited practice.<sup>27</sup>

<sup>22</sup> S. 465.003(8), F.S.

<sup>23</sup> S. 893.02(4), F.S.

<sup>24</sup> S. 474.214(1)(y), F.S.

<sup>25</sup> S. 474.214(2), F.S.

<sup>26</sup> S. 474.202(6), F.S.

<sup>27</sup> S. 474.215(7)-(8), F.S.

The board establishes minimum standards for the operation of limited service veterinary medical practices.<sup>28</sup> The board has authorized by rule such practices to perform microchipping,<sup>29</sup> vaccinations, immunizations, and parasitic control.<sup>30</sup>

## Medical Records

Veterinarians are prohibited from discussing a patient's medical condition with anyone except the client, except for a few exceptions, such as upon the issuance of a subpoena and for research. Section 474.2165(4), F.S., prohibits veterinary patient medical records from being furnished to any person other than the client, the client's legal representative or other veterinarians involved in the care or treatment of the patient, except in certain circumstances. This also applies to discussing the medical condition of a patient, which may include information from a microchip implant.<sup>31</sup>

## Immediate Supervision

The practice act defines "immediate supervision" to mean that a "licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided."<sup>32</sup>

Veterinary tasks requiring immediate supervision include:<sup>33</sup>

- Administering anesthesia and tranquilization by a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian.
- Administering certain vaccinations by a veterinary aide, nurse, technician, intern or other employee of a licensed veterinarian which is not specifically prohibited.

The following tasks may be performed without the licensed veterinarian on the premises:<sup>34</sup>

- Administering medication and treatment, excluding vaccinations, as directed by the licensed veterinarian; and
- Obtaining samples and the performance of those diagnostic tests, including radiographs, directed by the licensed veterinarian.

Current law provides that only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.<sup>35</sup> The Board recognizes that the following diseases are communicable to humans and are of public health significance, and that only a veterinarian may immunize or treat an animal for these diseases:<sup>36</sup>

- Brucellosis.
- Tuberculosis.
- Rabies.
- Equine Encephalomyelitis.

## Sterilization of Dogs and Cats

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<sup>28</sup> S. 474.215(7), F.S.

<sup>29</sup> A microchip is a small, electronic chip enclosed in a glass cylinder which is injected under the skin of a pet. When a chip is scanned, it transmits the pet's identification number, which is used in the manufacturer's microchip registry to find the owner. American Veterinary Medical Association, *Microchipping of Animals FAQ*, <https://www.avma.org/microchipping-animals-faq> (last visited Dec. 19, 2019).

<sup>30</sup> R. 61G18-15.007(1), F.A.C.

<sup>31</sup> S. 474.2165, F.S.

<sup>32</sup> S. 4764.202(5), F.S.

<sup>33</sup> R. 61G18-17.005, F.A.C.

<sup>34</sup> *Id.*

<sup>35</sup> S. 474.203(5)(a), F.S.

<sup>36</sup> R. 61G18-17.006, F.A.C.

According to the Humane Society of the United States, the average lifespan of sterilized dogs and cats is longer than the lifespan of those not. A University of Georgia study,<sup>37</sup> based on the medical records of more than 70,000 animal patients, found that the life expectancy of neutered male dogs was almost 14 percent longer and that of spayed female dogs was 26 percent longer. The average age of death of intact dogs was eight years versus a significantly older nine years for altered dogs.<sup>38</sup>

According to the American Society for the Prevention of Cruelty to Animals (ASPCA), six million companion animals enter U.S. animal shelters nationwide every year. Of those, approximately half are dogs and the other half are cats. The ASPCA estimates that the number of dogs and cats entering U.S. shelters annually has declined from approximately seven million in 2011. The biggest decline was in dogs (from 3.9 million to 3.1 million).<sup>39</sup>

According to the American Veterinary Medical Association (AVMA), dogs and cats that are not intended for breeding are routinely neutered via elective gonadectomy (spay or spaying for females; castration for males; and neuter or neutering for males or for both sexes).<sup>40</sup>

Gonadectomy achieves sterilization, thereby preventing reproduction, and removes the production source of sexual hormones that may cause undesired mating behaviors in dogs and cats. This benefits society by reducing overpopulation through non-lethal means and mitigating behaviors that may damage the human-animal bond and contribute to abandonment and relinquishment to shelters and other humane organizations.<sup>41</sup>

The Legislature has declared it to be the public policy of the state that every feasible means be used to reduce the incidence of birth of unneeded and unwanted puppies and kittens. In furtherance of this policy, employees, agents, or contractors of animal shelters, humane organizations, or animal control agencies operated by a humane organization or by a county, municipality, or other incorporated political subdivision are required to either:<sup>42</sup>

- Have all dogs and cats sterilized by a licensed veterinarian before relinquishing custody of the animal; or
- Enter into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity.

Employees, agents, or contractors of animal shelters, humane organizations, or animal control agencies operated by a humane organization or by a county, municipality, or other incorporated political subdivision, may not perform microchipping procedures on cats and dogs unless they are a veterinarian or a veterinarian is supervising the procedure.<sup>43</sup>

## Veterinarian Shortage

According to a survey conducted by the American Pet Products Association (APPA), 70 percent of U.S. households, or about 90.5 million families, own a pet. This is an increase from 56 percent of U.S. households in 1988, and 67 percent in 2019.<sup>44</sup> As a result, experts say there is a shortage of

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<sup>37</sup> Jessica Hoffman, Kate Creevy, Daniel Promislow, *Reproductive Capability Is Associated with Lifespan and Cause of Death in Companion Dogs*, (Apr. 17, 2013), Plos One, <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0061082> (last visited Feb. 25, 2023).

<sup>38</sup> Humane Society of the United States, *Why you should spay/neuter your pet*, <https://www.humanesociety.org/resources/why-you-should-spayneuter-your-pet> (last visited Feb. 25, 2023).

<sup>39</sup> American Society for the Prevention of Cruelty to Animals, *Pet Statistics*, <https://www.asPCA.org/helping-people-pets/shelter-intake-and-surrender/pet-statistics> (last visited Feb. 25, 2023).

<sup>40</sup> American Veterinary Medical Association, *Elective spaying and neutering of pets*, <https://www.avma.org/resources-tools/animal-health-and-welfare/elective-spaying-and-neutering-pets> (last visited Feb. 25, 2023).

<sup>41</sup> *Id.*

<sup>42</sup> S. 823.15, F.S.

<sup>43</sup> Ss. 474.202(5), 823.15, F.S.

<sup>44</sup> Insurance Information Institute, *Facts + Statistics: Pet Ownership and Insurance*, <https://www.iii.org/fact-statistic/facts-statistics-pet-ownership-and-insurance#:~:text=Seventy%20percent%20of%20U.S.%20households,and%2067%20percent%20in%202019>. (last visited Feb. 25, 2023).

veterinarians in the U.S., which is expected to result in the need for approximately 15,000 veterinarians by the year 2030.<sup>45</sup>

A study from Banfield Pet Hospital reveals an estimated 75 million pets in the U.S. may not have access to the veterinary care they need by 2030, with an important factor being a critical shortage of veterinarians.<sup>46</sup>

According to the Association of Veterinary Technician Educators, there also appears to be a shortage of veterinary **technicians**. Despite only requiring two years of schooling or less in some states, half of them leave the profession within five years.<sup>47</sup>

For Fiscal Year 2021-2022, there were 12,360 actively licensed veterinarians in Florida.<sup>48</sup>

### **Effect of Proposed Changes**

The bill provides that the practice act does not apply to a veterinarian who holds an active license to practice veterinary medicine in another jurisdiction in the United States and is in good standing in such jurisdiction and who performs dog or cat sterilization services or routine preventative health services at the time of sterilization as an unpaid volunteer under responsible supervision of a veterinarian licensed in this state.

The bill specifies that the supervising licensed veterinarian is responsible for all acts performed under this provision by an out-of-state veterinarian acting under her or his responsible supervision.

The bill provides that an out-of-state veterinarian practicing pursuant to this provision is not eligible to apply for a premises permit.

#### **B. SECTION DIRECTORY:**

Section 1: amends s. 474.203, F.S.; exempting certain out-of-state veterinarians who provide specified services under the responsible supervision of a veterinarian licensed in this state from certain regulations governing veterinary medical practice; providing that the supervising licensed veterinarian is responsible for such services; specifying that such out-of-state veterinarians are ineligible for a premises permit.

Section 2: provides an effective date of July 1, 2023.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

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<sup>45</sup> Spectrum News 13, *Mobile 'ElleVet' clinic helps relieve veterinarian shortage*, <https://www.mynews13.com/fl/orlando/news/2023/02/03/the-ellevet-project-#:~:text=E2%80%9420Experts%20say%20there's%20a%20shortage,States%20may%20not%20get%20care>. (last visited Feb. 25, 2023).

<sup>46</sup> Banfield Pet Hospital, *75 million pets may not have access to veterinary care by 2030*, *New Banfield® study finds*, <https://www.banfield.com/en/about-banfield/newsroom/press-releases/2020/75-million-pets-may-not-have-access-to-veterinary> (last visited Feb. 25, 2023).

<sup>47</sup> CNN, *Covid-19 pandemic magnifies workforce crisis in veterinary field*, <https://www.cnn.com/2021/06/20/us/vet-tech-shortage-burnout/index.html> (last visited Feb. 25, 2023).

<sup>48</sup> Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2021-2022*, <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf> (last visited Feb. 25, 2023).



2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce the uncontrolled breeding of dogs and cats in the state, the associated risks to the health of humans and animals, and the expense to the community as a public nuisance and public health hazard.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES