

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [HB 1445](#)

TITLE: Public Officers and Employees

SPONSOR(S): Mayfield

COMPANION BILL: [SB 1760](#) (Grall)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Government Operations](#)

17 Y, 0 N



[State Affairs](#)

SUMMARY

Effect of the Bill:

The bill establishes residency and citizenship requirements for certain public officers and employees. Additionally, the bill defines the term “office” for purposes of the dual office-holding prohibition in the State Constitution.

Fiscal or Economic Impact:

None.

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ANALYSIS

EFFECT OF THE BILL:

Residency Requirements

The bill requires the following individuals to be United States citizens and Florida residents:

- Members of [commissions](#).
- Members of [boards of trustees](#).
- Members of the [Board of Governors](#).
- Members of [licensing boards](#).
- Members of governing boards or the chief executives of statewide entities created or established by law for a public purpose or to effectuate a government program and that is not under the direct control of a governmental entity (sometimes referred to as [quasi-public entities](#)).
- Any other person appointed to state office. (Section [1](#))

Additionally, the bill requires the following individuals to be U.S. citizens, Florida residents, *and* reside in the county where their [executive department](#) is headquartered:

- Secretaries of executive branch departments.
- Executive directors of executive branch departments.
- Chief administrative officers of government entities housed under an executive branch department for administrative purposes. (Section [1](#))

Dual Office-holding

The bill defines the term “office” for purposes of the State Constitution’s prohibition on holding multiple public offices simultaneously. Under the bill, an “office” is any position in state, county, or municipal government that:

- Exercises sovereign government power.
- Requires the exercise of independent governmental authority, which is performed in an official capacity and is not based solely on a contractual or employment relationship.
- Has a prescribed tenure.
- Exists independently of the individual holding the position. (Section [2](#))

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The bill provides a non-exhaustive list of positions included within the definition of “office,” which includes, but is not limited to:

- The Governor, Lieutenant Governor, Cabinet members, and state legislators.
- County commissioners, sheriffs, tax collectors, supervisors of elections, property appraisers, and clerks of the circuit court.
- Members of the Board of Governors, university boards of trustees, and district school board members.
- Local government administrators, attorneys, and emergency management directors.
- Members of governmental boards or commissions with decision making authority.
- Board members of Citizens Property Insurance Corporation, Florida Housing Finance Corporation, and Florida Healthy Kids Corporation. (Section [2](#))

The bill exempts ex officio¹ designations and employment positions from the definition of “office.” The bill defines “employment” to mean a relationship with a state, county, or municipal government where an individual does not exercise in his or her own right any sovereign power or any prescribed individual authority of a governmental nature. (Section [2](#))

The effective date of the bill is July 1, 2025. (Section [3](#))

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Residency Requirements](#)

A residency requirement is a mandate that certain public officers—elected and, in some cases, appointed—be residents of the area they serve or the area in which they work. Current law places specific residency requirements on the following public officers in Florida:

- Governor.²
- Lieutenant Governor.³
- Cabinet members (Attorney General, Chief Financial Officer, and Commissioner of Agriculture).⁴
- State legislators.⁵
- State attorneys.⁶
- Public defenders.⁷
- County commissioners.⁸
- School board members.⁹
- Judges (supreme court justices, district court of appeal judges, and circuit court judges).¹⁰

¹ A person serving in an ex officio capacity serves “by virtue or because of an office.” Blacks Law Dictionary (12th ed. 2024).

² The Governor must be a state resident for seven years and an elector before being elected. [Art. IV, s. 5\(b\), FLA. CONST.](#)

³ The Lieutenant Governor must be a state resident for seven years and an elector before being elected. *Id.*

⁴ Cabinet members must be state residents for seven years and an elector before being elected. *Id.*

⁵ State legislators must be residents of the district from which they are elected, be an elector in the district from which they were elected, and have resided in Florida for at least two years prior to being elected. [Art. III, s. 15\(c\), FLA. CONST.](#)

⁶ State attorneys must be an elector of the state and reside in the territorial jurisdiction of the circuit in which they serve upon taking office. [Art. V, s. 17, FLA. CONST.](#); see also Florida Division of Elections, [FAQ – Candidates](#) (last visited Feb. 25, 2025).

⁷ Public defenders must be an elector of the state and reside in the territorial jurisdiction of the circuit in which they serve upon taking office. [Art. V, s. 18, FLA. CONST.](#); see also Florida Division of Elections, [FAQ – Candidates](#) (last visited Feb. 25, 2025).

⁸ County commissioners must be residents of the district from which they are elected at the time of election. [Art. VIII, s 1\(e\), FLA. CONST.](#); see also Florida Division of Elections Opinion 94-04; *State v. Grassi*, 532 So.2d 1055 (Fla. 1988).

⁹ A school board member must be a resident of the district school board member residence area and be an elector in the district in which he or she serves at the time of qualifying. Ss. [1001.34](#) and [1001.36, F.S.](#); see also Florida Division of Elections Opinion 94-04.

¹⁰ Judges must reside in the territorial jurisdiction of the court they serve and be an elector of the state at the time of assuming office. [Art. V, s. 8, FLA. CONST.](#); see also *Advisory Opinion to the Governor*, 192 So. 2d 757 (Fla. 1966).

All candidates for state and county public office, except candidates for judicial office, must subscribe to an oath affirming they are qualified electors of their county at the time of qualifying for public office.¹¹ In order to be a qualified elector, one must be a U.S. citizen and a resident of the state as well as the county in which he or she registers to vote.¹² The Division of Elections within the Department of State has opined that, unless otherwise provided by the State Constitution, statute, or court ruling, the qualifications one must possess for public office, including residency, are determined as of the commencement of the term of office.¹³ Accordingly, county constitutional officers¹⁴ must be residents of the jurisdiction they serve at the time of assuming office.

Commissions

A “commission” is “a body created by specific statutory enactment within a department,¹⁵ the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.”¹⁶ Commissions play an essential role, serving as regulatory oversight bodies across various policy areas. These entities are typically responsible for rulemaking, licensing, adjudicating disputes, or enforcing regulations.

Boards of Trustees

A “board of trustees” is a “board created by specific statutory enactment and appointed to function adjunctively to a department, the Governor, or the Executive Office of the Governor to administer public property or a public program.”¹⁷ While these entities may function within an executive department or under the Governor’s authority, they often operate with a degree of autonomy, making policy decisions and managing public programs in alignment with statutory mandates. Florida college boards of trustees have to reside in the service delivery area of the college,¹⁸ while university boards of trustees do not have to reside in the state.¹⁹

Board of Governors

The State University System of Florida consists of 12 public universities,²⁰ each governed by an individual board of trustees.²¹ The Board of Governors (BOG) is responsible for overseeing, regulating, and managing the entire State University System.²² Through its authority, the BOG ensures affordable access to higher education, promotes articulation with other educational institutions, and upholds fiscal responsibility and accountability across Florida’s public universities.²³ The BOG consists of 17 members, 14 of which are “citizens” appointed by the Governor, subject to Senate confirmation.²⁴ The commissioner of education, the chair of the advisory council of faculty senates, and the president of the Florida student association are also members.²⁵

Licensing Boards

A “licensing board” is “a board authorized to grant and revoke licenses to engage in regulated occupations.”²⁶ The boards are typically established to oversee and enforce standards within various professions, ensuring that practitioners meet the requisite qualifications and that those practitioners adhere to established ethical and

¹¹ S. [99.021\(1\)\(a\)1, F.S.](#) Note candidates for municipal office are not explicitly required by this statute to reside within the municipality in which they are running for office. Instead, residency requirements for municipal offices are typically established on a local level. See *Nichols v. State*, 177 So.2d 467 (Fla. 1965); *Marina v. Leahy*, 578 So.2d 382 (Fla. 3rd DCA 1991); Florida Division of Elections Opinion 94-04.

¹² S. [97.041\(1\)\(a\), F.S.](#)

¹³ Florida Division of Elections Opinion 94-04.

¹⁴ The term “county constitutional officers” includes sheriffs, tax collectors, property appraisers, supervisors of elections, and clerks of circuit courts. [Art. VIII, s. 1\(d\), FLA. CONST.](#)

¹⁵ “Department” means the principal administrative unit within the executive branch of state government. S. [20.03\(8\), F.S.](#)

¹⁶ S. [20.03\(4\), F.S.](#)

¹⁷ S. [20.03\(2\), F.S.](#) The definition specifically exempts boards created under ch. [253, F.S.](#), relating to public lands and property.

¹⁸ [Art. IX, s. 8\(c\), FLA. CONST.](#)

¹⁹ S. [1001.71\(1\), F.S.](#)

²⁰ S. [1000.21\(9\), F.S.](#); see also State University System, [Universities](#) (last visited Feb. 26, 2025).

²¹ [Art. IX, s. 7\(b\), FLA. CONST.](#); s. [1001.71, F.S.](#)

²² See [art. IX, s. 7\(d\), FLA. CONST.](#)

²³ S. [20.155\(4\)\(b\), F.S.](#)

²⁴ [Art. IX, s. 7\(d\), FLA. CONST.](#); see also s. [1001.70, F.S.](#)

²⁵ [Art. IX, s. 7\(d\), FLA. CONST.](#)

²⁶ S. [20.03\(9\), F.S.](#)

professional guidelines. The boards are commonly composed of professionals licensed in the respective fields and members of the public who represent consumer interests.

Quasi-public Entities

Throughout the Florida Statutes, entities have been established that are neither entirely governmental in nature nor entirely private, but possess traits from both the public and private sectors. These entities are often referred to as quasi-public entities (QPEs). The reasons for their establishment in law vary from entity to entity. Some are independent entities created to advance certain policy goals. For example, the Florida Housing Finance Corporation was created to finance or refinance housing and related facilities.²⁷ Others, like the Florida Healthy Kids Corporation²⁸ and Citizens Property Insurance Corporation,²⁹ are created to administer government programs or to achieve a particular outcome in the state or in a community.

Just as the purposes of these QPEs vary, so too do their structures. For example, some are nonprofit corporations established completely independent of government and others are for-profit corporations funded through methods that allow the entity to be entirely self-sufficient. The governing bodies of QPEs, usually a board of directors or board of trustees, vary, too. The membership of these boards ranges from government officials and political appointees to private sector representatives and board-elected members.

Executive Departments

Florida's executive branch structure is set forth in the State Constitution and further refined by statute. The State Constitution provides that "[a]ll functions of the executive branch of state government [must] be allotted to among not more than twenty-five departments," excluding those explicitly created or authorized by the Constitution.³⁰ A "department" is the principal administrative unit within the executive branch of state government.³¹ Each department is headed by a secretary³² appointed by the Governor or an executive director³³ appointed by the Governor and Cabinet or a board.³⁴ Additionally, some departments house subunits that function independently of their parent department.³⁵ These department heads and administrative officers play a critical role in policy implementation, program administration, and regulatory enforcement.

Dual Office-holding

The State Constitution prohibits individuals from holding multiple public offices simultaneously and applies to public offices in state, county, and municipal government.³⁶ The provision applies to both elected and appointed offices, ensuring that no single individual accumulates multiple governmental roles that could create a conflict of interest.³⁷ Neither the State Constitution nor the Legislature has defined the term "office," leaving the court to establish its meaning through case law. Florida courts have interpreted the term "office" in opposition to the term "employment," with the latter not being subject to prohibition on dual office-holding. An "office," the courts have held, refers to a position that exercises sovereign power, has a legally prescribed tenure, and is established by law rather than by contract.³⁸ An "employment," by contrast, "does not comprehend a delegation of any part of the sovereign authority [of government]."³⁹ Positions such as department heads, members of governing boards, and

²⁷ S. [420.504\(1\), F.S.](#)

²⁸ Florida Healthy Kids Corporation aims to improve children's health by providing comprehensive and affordable health insurance coverage. S. [624.91\(2\)\(a\), F.S.](#)

²⁹ Citizens Property Insurance Corporation was created to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. S. [627.351\(6\)\(a\)1, F.S.](#)

³⁰ [Art. IV, s. 6, FLA. CONST.](#)

³¹ S. [20.03\(8\), F.S.](#)

³² See s. [20.03\(12\), F.S.](#)

³³ See s. [20.03\(10\), F.S.](#)

³⁴ For example, the executive director of the State Board of Administration is appointed by a majority vote of the Board of Trustees comprised of the Governor, the Chief Financial Officer, and the Attorney General. The Governor must vote on the prevailing side. S. [215.441, F.S.](#)

³⁵ For example, the Division of Administrative Hearings is housed with the Department of Management Services but is not subject to the department's control, supervision, or direction. S. [120.65\(1\), F.S.](#)

³⁶ [Art. II, s. 5\(a\), FLA. CONST.](#)

³⁷ *Bath Club, Inc. v. Dade County*, 394 So. 2d 110 (Fla. 1981); see also *Blackburn v. Brorein*, 70 So. 2d 293 (Fla. 1954).

³⁸ *State ex rel. Holloway v. Sheats*, 83 So. 508 (Fla. 1919); *State ex rel. Clyatt v. Hocker*, 22 So. 721 (Fla. 1897).

³⁹ *State ex rel. Holloway v. Sheats*, 83 So. 508 (Fla. 1919).

elected officials have typically been considered offices, while positions like assistants, deputy clerks, and administrative employees have typically been classified as public employees.⁴⁰

Despite the general prohibition, Florida courts have recognized an ex officio exception that allows an individual to perform additional official duties if those duties are assigned by legislative designation to the office itself rather than to the individual holding it, provided that the additional duties are consistent with those already exercised.⁴¹ For example, county commissioners and school board members may also serve ex officio on a property appraisal adjustment board if the law assigns this responsibility to their office rather than to the individual, as their additional duties are consistent with their existing responsibilities. Additionally, the State Constitution explicitly exempts certain roles, such as notaries public, military officers, and members of advisory bodies from the dual office-holding prohibition.⁴²

OTHER RESOURCES:

[2018 Office of the Attorney General – An Informational Pamphlet on Florida’s Dual Office-Holding Prohibition](#)

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Government Operations Subcommittee State Affairs Committee	17 Y, 0 N	3/11/2025	Toliver	Villa

⁴⁰ See Office of the Attorney General, [Dual Office-holding](#) (last visited Feb. 26, 2025).

⁴¹ *Bath Club, Inc. v. Dade County*, 394 So. 2d 110 (Fla. 1981).

⁴² Members of a constitutional revision commission and taxation and budget reform commission are also exempt. [Art. II, s. 5\(a\), Fla. Const.](#)