

Tab 1	CS/SB 34 by JU, Torres ; (Similar to H 06517) Relief of Robert Alan Smith by Orange County						
797914	A	S	RCS	GO, Torres	Delete L.70 - 73:	04/02 12:20 PM	
Tab 2	SB 342 by Lee ; (Similar to H 00281) Public Records/Voters and Voter Registration						
Tab 3	SB 358 by Stargel ; (Similar to CS/H 00539) Health Insurance Coverage for Enteral Formulas						
Tab 4	CS/SB 600 by IT, Gibson (CO-INTRODUCERS) Bean ; (Identical to CS/H 00591) Public Records/Meter-derived Data and Billing Information						
Tab 5	SB 742 by Braynon ; (Similar to H 01381) Designation of Eligible Telecommunications Carriers						
Tab 6	SB 746 by Wright ; (Identical to H 00635) Public Records/Judicial Assistants						
Tab 7	CS/SB 838 by CF, Powell ; (Similar to H 00363) Public Records/Mental Health Treatment and Services						
Tab 8	SB 1306 by Book (CO-INTRODUCERS) Pizzo ; (Similar to H 01359) Women's Suffrage Centennial Commemoration Committee						
Tab 9	CS/SB 1428 by EE, Perry (CO-INTRODUCERS) Baxley ; (Identical to CS/H 00533) Disposition of Surplus Funds by Candidates						
Tab 10	SB 1612 by Baxley ; (Identical to H 06055) Prison Industry Programs						
Tab 11	SB 7080 by HP ; Public Records and Meetings/Interstate Medical Licensure Compact						
114866	D	S	RCS	GO, Harrell	Delete everything after	04/02 12:20 PM	
Tab 12	SPB 7098 by GO ; Death Benefits						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Hooper, Chair
Senator Rader, Vice Chair

MEETING DATE: Tuesday, April 2, 2019
TIME: 10:00 a.m.—12:00 noon
PLACE: 301 Senate Building

MEMBERS: Senator Hooper, Chair; Senator Rader, Vice Chair; Senators Albritton, Bean, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 34 Judiciary / Torres (Similar H 6517)	Relief of Robert Alan Smith by Orange County; Providing for the relief of Robert Alan Smith by Orange County; providing for an appropriation to compensate Mr. Smith for injuries and damages he sustained as a result of the negligence of an employee of Orange County, etc. SM JU 03/11/2019 Fav/CS GO 04/02/2019 Fav/CS RC	Fav/CS Yeas 5 Nays 0
2	SB 342 Lee (Similar H 281)	Public Records/Voters and Voter Registration; Providing an exemption from public records requirements for information concerning preregistered voter registration applicants who are minors; providing for future legislative review and repeal; providing for retroactive application; providing a statement of public necessity, etc. EE 03/20/2019 Favorable GO 04/02/2019 Favorable RC	Favorable Yeas 5 Nays 0
3	SB 358 Stargel (Similar CS/H 539)	Health Insurance Coverage for Enteral Formulas; Revising criteria for the required coverage of enteral formulas under specified health insurance policies; requiring the state group insurance program to provide coverage for certain enteral formulas and amino-acid-based elemental formulas, etc. BI 03/18/2019 Favorable GO 04/02/2019 Favorable AP	Favorable Yeas 5 Nays 0
4	CS/SB 600 Innovation, Industry, and Technology / Gibson (Identical CS/H 591)	Public Records/Meter-derived Data and Billing Information; Exempting from public records requirements customer meter-derived data and billing information in increments of less than one billing cycle which is held by certain utilities; providing a statement of public necessity, etc. IT 03/06/2019 Fav/CS GO 04/02/2019 Favorable RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Tuesday, April 2, 2019, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 742 Braynon (Similar H 1381)	Designation of Eligible Telecommunications Carriers; Including certain commercial mobile radio service providers within the definition of the term "eligible telecommunications carrier"; authorizing the Public Service Commission to designate any commercial mobile radio service provider as an eligible telecommunications carrier for the limited purpose of providing Lifeline service; deleting a provision requiring carriers to allow subscribers to demonstrate continued eligibility for Lifeline service under certain conditions, etc. IT 03/19/2019 Favorable GO 04/02/2019 Favorable RC	Favorable Yeas 5 Nays 0
6	SB 746 Wright (Identical H 635)	Public Records/Judicial Assistants; Providing an exemption from public records requirements for certain identifying and location information of current and former judicial assistants and their spouses and children; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. JU 03/04/2019 Favorable GO 04/02/2019 Favorable RC	Favorable Yeas 5 Nays 0
7	CS/SB 838 Children, Families, and Elder Affairs / Powell (Similar H 363, Compare CS/H 361, S 1418)	Public Records/Mental Health Treatment and Services; Providing an exemption from public records requirements for petitions for voluntary and involuntary admission for mental health treatment, court orders, related records, and personal identifying information regarding persons seeking mental health treatment and services; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CF 03/11/2019 Fav/CS GO 04/02/2019 Favorable RC	Favorable Yeas 5 Nays 0
8	SB 1306 Book (Similar H 1359)	Women's Suffrage Centennial Commemoration Committee; Creating the committee adjunct to the Department of State; prescribing duties of the committee in order to ensure a suitable statewide observance of the centennial of women's suffrage; requiring the Division of Historical Resources of the department to provide administrative and staff support, etc. GO 04/02/2019 Favorable ATD AP	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
 Tuesday, April 2, 2019, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 1428 Ethics and Elections / Perry (Identical CS/H 533)	Disposition of Surplus Funds by Candidates; Prohibiting a candidate, or the candidate's spouse, parent, child, or sibling, from serving as a principal of a charitable organization that receives surplus funds or from receiving a direct financial benefit from such organization in exchange for the donation of surplus funds, etc. EE 03/20/2019 Fav/CS GO 04/02/2019 Favorable RC	Favorable Yeas 5 Nays 0
10	SB 1612 Baxley (Identical H 6055)	Prison Industry Programs; Removing provisions that provide a limitation on the total sales by a specified corporation of certain products offered for purchase to a state agency, etc. CJ 03/25/2019 Favorable GO 04/02/2019 Favorable RC	Favorable Yeas 5 Nays 0
11	SB 7080 Health Policy (Linked S 7078)	Public Records and Meetings/Interstate Medical Licensure Compact; Providing an exemption from public records requirements for certain information held by the Department of Health, the Board of Medicine, or the Board of Osteopathic Medicine pursuant to the Interstate Medical Licensure Compact; providing an exemption from public records requirements for recordings, minutes, and records generated during the closed portions of such meetings; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. GO 04/02/2019 Fav/CS AP	Fav/CS Yeas 5 Nays 0
Consideration of proposed bill:			
12	SPB 7098	Death Benefits; Amending provisions relating to death benefits for law enforcement, correctional, and correctional probation officers and for firefighters, respectively; revising the payment amounts of death benefits; establishing a death benefit for emergency medical technicians and paramedics to conform to s. 31, Art. X of the State Constitution; specifying eligibility and payment amounts for such death benefits, etc.	Submitted and Reported Favorably as Committee Bill Yeas 5 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Tuesday, April 2, 2019, 10:00 a.m.—12:00 noon

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Investment Advisory Council			
13	Jones, Peter D. (Clearwater)	12/12/2020	Recommend Confirm Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Other Related Meeting Documents			



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location
302 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

March 6, 2019

DATE	COMM	ACTION
03/06/19	SM	Report Submitted
03/11/19	JU	Fav/CS
04/02/19	GO	Fav/CS
	RC	

The Honorable Bill Galvano
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/CS/SB 34** – Governmental Oversight and Accountability Committee;
Judiciary Committee and Senator Torres
HB 6517 – Representative McClure
Relief of Robert A. Smith

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF \$750,000 FROM ORANGE COUNTY FOR INJURIES AND DAMAGES SUFFERED BY MR. ROBERT A. SMITH, WHICH WERE PARTIALLY DUE TO THE NEGLIGENT OPERATION OF AN ORANGE COUNTY VAN.

CURRENT STATUS:

On February 10, 2017, Ms. Ashley Istler, serving as Senate special master, held a de novo hearing on a previous version of this bill (SB 300). After the hearing, Ms. Istler issued a report containing findings of fact and conclusions of law and concluded that the amount remaining to be paid from the verdict was reasonable. In SB 300 (2017), that amount was \$2,813,536.09 and the associated report is attached as an addendum to this report.

Since that time, the Senate President has reassigned the claim to the undersigned to review records and determine whether any changes have occurred since the hearing that, if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

Since the initial hearing, the undersigned has not received information that would have significantly altered the outcome of the underlying report.

However, updated information provides that the parties have reached a settlement in the amount of \$750,000, as opposed to the \$2,813,536.09 requested in SB 300 (2017) and SB 54 (2018).

OUTSTANDING COSTS
AND LIENS:

Claimant's counsel has confirmed the following outstanding costs and liens:

- Legal \$72,198.20
- Department of Veterans Affairs \$181,560.01
- Center for Medicare and Medicaid Benefits \$19,948.66
- Florida Medicaid Casualty Recovery Program \$42,147.35
- Florida Department of Education \$1,954.44

RECOMMENDED
AMENDMENTS:

A correction to the spelling of Mr. Smith's name is recommended. The bill currently reflects a spelling of "Allan" while submitted documents show the middle name spelled as "Alan."

The undersigned also recommends removing the intent language related to extinguishment or waiver of related liens. Intent language would not require the action to occur. Additionally, state and federal liens are involved in this matter and the State does not have the ability to extinguish or waive a federal lien.

Two amendments are attached to this report. The first amendment (357324) only corrects Mr. Smith's middle name. The second amendment (939218) corrects Mr. Smith's middle name and removes the intent language related to extinguishment or waiver of liens.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

CS/CS by Governmental Oversight and Accountability on April 2, 2019:

The CS clarifies that it is the intent of the Legislature that the state liens related to Mr. Smith's medical care are waived or extinguished.

CS by Judiciary on March 11, 2019:

The CS corrects the spelling of Mr. Smith's middle name. It has only one "l," not two.



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location
515 Knott Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5198

DATE	COMM	ACTION
1/10/18	SM	Favorable
	JU	
	GO	
	RC	

January 10, 2018

The Honorable Joe Negron
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 54** – Senators Torres and Stewart
HB 6517 – by Representative Cortes
Relief of Robert Allan Smith by Orange County

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM IN THE AMOUNT OF \$2,813,536 AGAINST ORANGE COUNTY FOR INJURIES AND DAMAGES SUFFERED BY MR. SMITH WHEN THE MOTORCYCLE HE WAS DRIVING WAS STRUCK BY AN ORANGE COUNTY VEHICLE ON SEPTEMBER 7, 2006.

FINDINGS OF FACT:

This claim arises out of a motor vehicle crash involving a motorcycle and a county-owned van which occurred on September 7, 2006, in Orlando, Florida, at the intersection of DePauw Avenue and Orlando Street. The intersection has a stop sign posted for vehicles traveling on Orlando Street. There is no stop sign on DePauw Avenue, which is a residential cross-street. The speed limit on both streets is 25 miles per hour.

The Accident

The accident occurred at approximately 1:43 p.m. Mr. Smith was driving his motorcycle from his residence on DePauw Avenue northbound toward Orlando Street. While at the same

time, an Orange County employee, Mr. Godden, was traveling westbound on Orlando Street toward DePauw Avenue. Upon approaching DePauw Avenue, Mr. Godden stopped at the stop sign and looked to the left and to the right on DePauw Avenue. Mr. Smith testified that he visibly saw the van slow down as it approached the stop sign and, therefore, believed that it was safe to travel through the intersection. Mr. Godden proceeded from the stop sign into the intersection and the front of the van collided with the right side of the motorcycle.

At the time of the accident there were two properly parked vehicles on DePauw Avenue; these cars may have obstructed the view of Mr. Godden and Mr. Smith, and possibly caused Mr. Smith to travel down the center of the lane on DePauw Avenue.

The crash was witnessed primarily by one individual, Mr. Dean. Mr. Dean was outside in close proximity to the accident, but his sight of the impact was obstructed by a large tree. Mr. Dean testified that he witnessed the motorcycle traveling northbound on DePauw Avenue and the van stopped on Orlando Street. Mr. Dean testified that he watched as the van proceeded straight into the intersection and witnessed Mr. Smith attempt to avoid the van by swerving into the left side of the road. While his vision was obstructed, Mr. Dean heard the sound of the impact.

The van hit Mr. Smith on the right side, causing his right leg to be partially torn from his body. On impact, Mr. Smith was not ejected from the motorcycle, but rather, remained on the motorcycle. The force of the impact shifted the motorcycle to the left, and the left peg of the motorcycle was damaged and the motorcycle continued forward until it made impact with a curb. Upon impact with the curb, Mr. Smith was ejected from the motorcycle and landed in the grass between the sidewalk and the curb.

Mr. Smith suffered extensive injuries including:

- A right leg above-the-knee amputation;
- A left leg dislocation and fracture;
- Lacerations on his face and right hand;
- A broken pelvis and sacrum; and
- Damage to his rectum and internal organs.

Mr. Smith has incurred over \$550,000 in medical bills, along with the cost of purchasing and maintaining his prosthetic leg. He continues to suffer the effects of his injuries with recurring infections in his leg. Having no health insurance, Mr. Smith's medical bills have been paid by Medicaid or the Department of Veteran Affairs. There are outstanding liens against any award Mr. Smith receives.¹

At the time of the accident, Mr. Smith was a motorcycle mechanic at Harley Davidson. Since the accident, Mr. Smith received a bachelor's degree in computer design. In August of 2017, Mr. Smith obtained employment doing graphic design work.

Traffic Citation

Mr. Godden was cited with a violation of s. 316.123(2), F.S., for failure to yield at a stop sign. A violation of which is a noncriminal infraction, punishable as a moving violation. The citation, however, was subsequently dismissed.

Civil Suit

The case was first tried in November of 2011, but a mistrial was declared because of issues relating to the jury. The case was retried in July of 2012, and the jury returned a verdict in favor of Mr. Smith for damages totaling \$4,814,785.37.

However, the jury found Mr. Smith to be comparatively negligent. Mr. Smith was found to be 33 percent at fault and Mr. Godden to be 67 percent at fault for the accident, so the damages were reduced accordingly. The verdict amount was also reduced due to collateral sources, which left a net verdict of \$2,913,536.09.

Section 768.28, F.S., limits the amount of damages that can be collected from a local government as a result of its negligence or the negligence of its employees. Funds in excess of this limit may only be paid upon approval of a claim bill by the Legislature. Thus, Mr. Smith will not receive the full amount of the judgement unless the Legislature approves this claim bill authorizing the additional payment.

¹ The Department of Veteran Affairs has a lien in the amount of \$181,560.04 and Medicaid has a lien in the amount of \$42,147.35. Both of which would be satisfied from any award passed by the Legislature.

CLAIMANT'S ARGUMENTS:

Mr. Smith argues that Orange County is liable for the negligence of its employee, Mr. Godden, when he failed to yield at a stop sign in violation of s. 316.123(2), F.S.

RESPONDENT'S ARGUMENTS:

Orange County argues that Mr. Smith was driving his motorcycle at speeds in excess of the posted speed limit. Therefore, Orange County argues that the claim bill should be denied because Mr. Smith's comparative fault for the accident was greater than Mr. Godden's.

CONCLUSIONS OF LAW:

The claim bill hearing was a *de novo* proceeding to determine whether Orange County is liable in negligence for damages suffered by the Claimant, and, if so, whether the amount of the claim is reasonable. This report is based on evidence presented to the Special Master prior to, during, and after the hearing.

In a negligence action, a plaintiff bears the burden of proof to establish the four elements of negligence: duty, breach, causation, and damages. *Charron v. Birge*, 37 So. 3d 292, 296 (Fla. 5th DCA 2010).

Mr. Godden, as an operator of a motor vehicle, had a reasonable duty of care to operate his vehicle at all times with proper care. A motorist's duty to use reasonable care includes a responsibility to enter intersections only upon a determination that it is safe to do so under the prevailing conditions. *Williams v. Davis*, 974 So. 2d 1052, 63 (Fla. 2007).

Section 316.23, F.S. requires drivers after having stopped at a stop sign to yield the right-of-way to any vehicle which is approaching so closely as to constitute an immediate hazard during the time when the driver is moving across or within the intersection. While a violation of a statute governing motor vehicles does not constitute negligence per se, it does constitute prima facie evidence of negligence. *Gudath v. Culp Lumber Co.*, 81 So. 2d 742, 53 (Fla. 1955).

Where a statute governing motor vehicles prohibits specific conduct that likely will cause harm to others and the same conduct is alleged in a civil action as negligent conduct causing injury to another, the statute becomes a minimum standard of care as to that conduct, and a violation of such constitutes some evidence of negligence. *Estate of Wallace v. Fisher*, 567 So. 2d 505 (Fla. 5th DCA 1990).

Mr. Godden was acting within the course and scope of his employment with Orange County at the time of the accident. Orange County, as the employer of Mr. Godden, is liable for his negligent actions. See *Mercury Motors Express v. Smith*, 393 So. 2d 545, 549 (Fla. 1981).

Based on a preponderance of the evidence, it is established that Mr. Godden breached his duty to exercise reasonable care by failing to yield the right-of-way after having stopped at the stop sign in violation of s. 316.123(2), F.S. Mr. Godden by accelerating into the intersection before making sure it was safe to proceed breached his duty of care.

Mr. Smith's extensive injuries, including the loss of his right leg, were a natural and direct consequence of Mr. Godden's negligence. See *Railway Exp. Agency v. Brabham*, 62 So. 2d 713 (Fla. 1952). The accident would not have occurred but for Mr. Godden's negligence.

As a result of Mr. Godden's negligence, Mr. Smith suffered bodily injury and resulting pain and suffering, impairment, disability, mental anguish, and loss of earnings.

Collateral Sources

Under s. 768.76, F.S., damages owed by a tortfeasor can be reduced by the amount of collateral sources which have been paid to compensate the claimant. In this case, the jury's award was reduced by \$55,638 due to past Social Security Disability Income benefits and by \$325,865.58 due to amounts received by the Florida Department of Education, Medicaid, and the Veteran's Administration.

Comparative Negligence

Section 768.81, F.S., Florida's comparative negligence statute, applies to this case because both Mr. Godden and Mr. Smith were at fault in the accident.

Mr. Godden's Negligence

A stop sign that is established and maintained by lawful authority at an intersection of a street represents a proclamation of danger and imposes upon the motorist the duty to stop and look before proceeding into the intersection. *Tooley v. Marquillies*, 79 So. 2d 421, 22 (Fla. 1955).

The proximate cause of the accident was Mr. Godden's negligence in proceeding into the intersection in front of Mr. Smith's approaching motorcycle at such a time where it may have been impossible for Mr. Smith to avoid the collision.

Mr. Smith's Negligence

Mr. Smith as an operator of a motor vehicle also has the duty to exercise reasonable care. Such duty includes a responsibility to enter intersections only upon a determination that it is safe to do so under the prevailing conditions.

Williams v. Davis, 974 So. 2d 1052, 63 (Fla. 2007).

The verdict amount after the reduction of collateral sources and the reduction of \$84,720 in future medical expenses which was agreed to by the parties is \$4,348,561.79. This adjusted verdict amount was further reduced due to the jury's assessment of comparative negligence against Mr. Smith. The jury in the civil suit found Mr. Godden 67 percent at fault and Mr. Smith 33 percent at fault. Therefore, the net verdict is \$2,913,536.09.

Orange County has paid the \$100,000 statutory cap on liability. Mr. Smith requests that the remaining sum of \$2,813,536.09 be approved in this claim bill.

After consideration of all the facts presented in this case, I conclude that the amount of this claim bill is appropriate.

LEGISLATIVE HISTORY:

A claim bill for the relief of Mr. Smith was first filed for the 2017 Legislative Session. The Senate Bill, CS/SB 300, died in the Senate Committee on Community Affairs, and the House Bill, CS/HB 6509, died in Messages.

ATTORNEY FEES:

Mr. Smith's attorney has agreed to limit his fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), F.S.

FISCAL IMPACT:

Orange County at the time of the accident maintained a self-insured retention in the amount of \$1,000,000 with a \$10,000,000 excess liability policy. Orange County has stated that if the county is required to pay out any amount of this claim bill, there will be adverse impacts to the county's financial position as the funds would come from charge backs to various departments and, thereby, restrict each department's ability to provide services and conduct programs.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 54 (2018) be reported FAVORABLY.

Respectfully submitted,

Ashley Istler
Senate Special Master

cc: Secretary of the Senate



797914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2019	.	
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The Committee on Governmental Oversight and Accountability
(Torres) recommended the following:

Senate Amendment

Delete lines 70 - 73
and insert:
Section 3. It is the intent of the Legislature that the lien
interests of the State of Florida relating to the claim of
Robert Alan Smith for the treatment and care of Robert Alan
Smith, excluding the federal portion of any liens, are hereby
waived or extinguished.

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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.)

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

BILL: SB 342

INTRODUCER: Senator Lee

SUBJECT: Public Records/Voters and Voter Registration

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 342 amends s. 97.0585(1), F.S., which contains several public records exemptions for voter registration information.

Current law holds confidential and exempt all declinations to register to vote, information relating to the location a person registered to vote, and the person's social security number, driver's license number, and Florida identification number. The bill continues the confidential and exempt status of this information if the information was obtained for the purpose of voter registration.

The bill makes all information concerning 16- and 17-year-olds who preregister to vote confidential and exempt from public inspection and copying requirements until they reach the age of 18. The bill provides for repeal of the exemption on October 2, 2024, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

This bill takes effect July 1, 2019.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

In addition to the State Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that it is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person and that providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory

¹ FLA. CONST., Art. I, s. 24(a).

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also, see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” as “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., Art. I, s. 24(c).

¹⁰ *Id.*

¹¹ *Id.*

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSRA).

The OGSRA prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSRA provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁷ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.¹⁸

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSRA does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSRA process is currently being followed; however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ FLA. CONST., Art. I, s. 24(c).

¹⁸ Section 119.15(7), F.S.

Public Record Exemption for Voter Registration Information

Current law provides a public record exemption for certain information held by an agency¹⁹ for purposes of voter registration.²⁰ Specifically, the following information is confidential and exempt from public record requirements:

- All declinations to register to vote made pursuant to ss. 97.057 and 97.058, F.S.
- Information relating to the place where a person registered to vote or where a person updated a voter registration.
- The social security number, driver's license number, and Florida identification number of a voter registration applicant or voter.

In addition, the signature of a voter registration applicant or a voter is exempt from copying requirements.²¹

Voter Pre-Registration for Minors

An individual may register to vote in accordance with Florida law if he or she is at least 18 years old, a United States citizen, a legal resident of Florida, and a legal resident of the county in which he or she seeks to register.²² However, individuals who are otherwise qualified to register to vote but are not yet 18 may pre-register to vote on or after the individual's 16th birthday.²³

Publication of Voter Information

Since 1998 when the State first began compiling all 67 counties' "official" voter registration lists into a unified statewide voter registration database,²⁴ anyone has been able to request an electronic copy of every Florida voters' non-exempt information.²⁵ The rise of the Internet has enabled publication of this information for literally the entire world to see at little to no cost, thereby giving rise to serious personal privacy issues.

¹⁹ Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

²⁰ Section 97.0585, F.S.

²¹ Section 97.0585(2), F.S.

²² Section 97.041(a)(a), F.S.

²³ Section 97.041(1)(b), F.S.

²⁴ Ch. 97-13, ss. 39, 56, LAWS OF FLA. (effective January 1, 1998).

²⁵ In 2001, the Legislature sought to adopt a much more restrictive public records scheme similar to the one proposed in the original bill, in connection with a then-newly-authorized statewide voter registration database. Ch. 2001-40, s. 70-72, LAWS OF FLA. (codified at s. 98.0979, F.S. (2002)). Three years later, a Leon County circuit court judge struck the statute down void ab initio on procedural grounds, finding that it was adopted in a general elections bill without the requisite statement of public necessity in violation of Art. I, s. 24 of the Florida Constitution —the effect being that the statute never existed or was never on the books. See *Cable News Network, et al. v. Florida Dep't of State*, Case No. 2004 CA 001259 (2nd Jud. Cir., July 1, 2004) (Final Declaratory Summary Judgment). The Legislature repealed the statute the following year. See, Ch. 2005-278, s. 55, LAWS OF FLA.; Ch. 2005-277, s. 77, LAWS OF FLA.

At least one web site²⁶ that contains commercial or sponsored links, provides extensive details about every registered and pre-registered voter in the State — including the voter’s name, date of birth, residence address, mailing address, voter ID number, when the person registered to vote, what political party the person is affiliated with, the voter’s telephone number, e-mail address, race, precinct number, as well as other information about district races in which the person is eligible to vote. This information can be accessed by voter’s name, birth date, or address.

III. Effect of Proposed Changes:

The bill amends s. 97.0585(1), F.S., relating to several public records exemptions for voter registration information.

Primarily, the bill makes confidential and exempt from public inspection and copying requirements all information concerning 16- and 17-year-olds who have preregistered to vote until they reach the age of 18.

This exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2024, unless reviewed and saved from repeal by the Legislature.

The bill also places a qualification on the current and new exemptions from public records disclosure requirements that the information, to be confidential and exempt, must have been obtained for the purpose of voter registration.

The bill also provides a statement of public necessity as required by the State Constitution. The public necessity statement identifies that minors are more vulnerable members of society, and the widespread release of their information may be used to solicit, harass, stalk, or intimidate them. It states that the release of their information may reduce the likelihood of preregistration, which hinders the administration of a program designed to encourage greater participation in the democratic process.

This bill will take effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. 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.

²⁶ See <http://flvoters.com/> (last visited on March 19, 2019).

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c) of Article I of the State Constitution requires a two-thirds vote of the members present and voting for passage of a newly created or expanded public-records or public-meetings exemption. Therefore, this bill requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates or expands an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemptions.

This public necessity statement provides that disclosure of information held by an agency concerning preregistered voter registration applicants who are 16 or 17 years of age could be misused to solicit, harass, stalk, or intimidate such individuals, and without such protection, a minor may be less likely to take advantage of preregistering to vote.

Breadth of Exemption

Section 24(c) of Article I of the State Constitution requires a public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law.

SB 342 expands the public record exemption to include all information concerning preregistered voter registration applicants who are 16 or 17 years of age which is held by an agency and obtained for the purpose of voter registration.

Generally, the exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may adversely impact commercial web sites and businesses that profit from sharing Florida voter registration data. However, since the bill only protects the information of minors before they become age-eligible to vote, the fiscal impact, if any, is unclear. Additionally, the private sector will be subject to the cost, to the extent imposed, associated with the agency making redactions in response to public records request.

C. Government Sector Impact:

The bill may have a fiscal impact on agencies relating to the training and redaction of the confidential and exempt information. However, the costs are likely minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 97.0585 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.

By Senator Lee

20-00625-19

2019342__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 97.0585, F.S., and reenacting subsection (3), relating
 4 to a public records exemption for information
 5 regarding voters and voter registration; providing an
 6 exemption from public records requirements for
 7 information concerning preregistered voter
 8 registration applicants who are minors; providing for
 9 future legislative review and repeal; providing for
 10 retroactive application; providing a statement of
 11 public necessity; providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (1) of section 97.0585, Florida
 16 Statutes, is amended, and subsection (3) of that section is
 17 reenacted, to read:
 18 97.0585 Public records exemption; information regarding
 19 voters and voter registration; confidentiality.—
 20 (1) The following information held by an agency, as defined
 21 in s. 119.011, and obtained for the purpose of voter
 22 registration is confidential and exempt from s. 119.07(1) and s.
 23 24(a), Art. I of the State Constitution and may be used only for
 24 purposes of voter registration:
 25 (a) All declinations to register to vote made pursuant to
 26 ss. 97.057 and 97.058.
 27 (b) Information relating to the place where a person
 28 registered to vote or where a person updated a voter
 29 registration.

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

20-00625-19

2019342__

30 (c) The social security number, driver license number, and
 31 Florida identification number of a voter registration applicant
 32 or voter.
 33 (d) All information concerning preregistered voter
 34 registration applicants who are 16 or 17 years of age. This
 35 paragraph is subject to the Open Government Sunset Review Act in
 36 accordance with s. 119.15 and shall stand repealed on October 2,
 37 2024, unless reviewed and saved from repeal through reenactment
 38 by the Legislature.
 39 (3) This section applies to information held by an agency
 40 before, on, or after the effective date of this exemption.
 41 Section 2. The Legislature finds that it is a public
 42 necessity that all information concerning preregistered voter
 43 registration applicants who are 16 or 17 years of age which is
 44 held by an agency and obtained for the purpose of voter
 45 registration be confidential and exempt from public records
 46 requirements and be used only for purposes related to voter
 47 registration. Information concerning preregistered 16-year-old
 48 and 17-year-old voter registration applicants could be misused
 49 if released. Minors are more vulnerable members of society, and
 50 the widespread release of information acquired through
 51 preregistration activities may be used to solicit, harass,
 52 stalk, or intimidate them. Without such protection, a minor may
 53 be less likely to take advantage of preregistering to vote, thus
 54 hindering the effective and efficient administration of a
 55 program that otherwise encourages greater participation in the
 56 democratic process.
 57 Section 3. This act shall take effect July 1, 2019.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 20, 2019

I respectfully request that **Senate Bill #342**, relating to Public Records/ Voter and Voter Information, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19

Meeting Date

342

Bill Number (if applicable)

Topic Public Records/Voters

Amendment Barcode (if applicable)

Name Irish Neely

Job Title Board Member

Address 2024 Shangri La Lane

Phone 850 322 3317

Street

Tally FL 32303

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing League Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19

Meeting Date

342

Bill Number (if applicable)

Topic VOTER INFORMATION

Amendment Barcode (if applicable)

Name DAVID RAMBA

Job Title

Address 120 S. MONROE

Phone 850 443 4444

Street

TAMPAHSEE

FL

State

32301

Zip

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing FLORIDA SUPERVISORS OF ELECTIONS

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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.)

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

BILL: SB 358

INTRODUCER: Senator Stargel

SUBJECT: Health Insurance Coverage for Enteral Formulas

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 358 requires the state group insurance program to cover prescription and nonprescription enteral formulas and amino-acid-based elemental formulas, regardless of the method of delivery or intake, for home use when ordered or prescribed by a licensed physician as medically necessary for the treatment of eosinophilic disorders, food protein-induced enterocolitis syndrome, inherited diseases of amino acid, organic acid, carbohydrate, or fat metabolism as well as malabsorption originating from congenital defects present at birth or acquired during the neonatal period. There are no annual dollar limits or age restrictions on such coverage.

Currently, Florida law requires coverage for the treatment of inherited diseases of amino acid, organic acid, carbohydrate, or fat metabolism, as well as malabsorption originating from congenital defects present at birth or acquired during the neonatal period. Coverage for inherited diseases of amino acids and organic acids must include food products modified to be low-protein in an amount not to exceed \$2,500 annually for any insured individual, through the age of 24.

Enteral formula can be a life-saving and life-sustaining food for individuals that are unable to obtain adequate nutrition due to certain disorders. Enteral feeding can be achieved by oral intake or by tube. The costs of such formula can be significant and present a real financial hardship for families if they need to cover the expense of medical foods, and there can be medical consequences for children who require a specialized formula if that formula is no longer available to them for financial reasons.

The bill is expected to increase costs paid by the State Group Insurance Program by \$2.9 million annually.

The bill takes effect on July 1, 2019, but is not applicable until January 1, 2020.

II. Present Situation:

Enteral Formulas

Enteral formulas are medical foods¹ used to replace or supplement the nutrition of patients unable to consume sufficient nutrients through a normal oral diet. Enteral feeding can be achieved by oral intake or by tube. Enteral feeding by tube refers to a tube or catheter that delivers nutrients beyond the oral cavity directly into the stomach or small intestine. These enteral feedings should not be confused with parenteral (or intravenous) nutrient formulations.²

Amino-acid-based formulas or elemental formulas are made of the simplest compositional units, and are easily digestible. Amino-acid-based formulas provide nutrition to those who suffer from malabsorptive and maldigestive medical conditions ranging from food protein allergies or gastroesophageal reflux to cerebral palsy or cystic fibrosis. The National Institute of Allergy and Infectious Diseases estimates 6 to 8 percent of children under the age of three suffer from general food allergies.³

Enteral Formulas for the Treatment of Specific Diseases

Many conditions are associated with digestive deficiency or malabsorption, such as patients who rely on tube feeding for nutrition. Nutrition support therapy using enteral formulas and medical foods plays an important role in treating a host of conditions. Formulas are used for oral or tube feedings. Physicians typically order these formulas only as a treatment of last resort after attempting other specialized formulas

Eosinophilic Disorders

These disorders are the result of a disorder of the immune system. Eosinophilic gastrointestinal disorders (EGIDs) are rare chronic diseases in which white blood cells, known as eosinophils, infiltrate the gastrointestinal tract and increase in number in the blood in reaction to food.⁴ Eosinophil-associated diseases are chronic and require long-term management. The symptoms may be debilitating, and may greatly impact a patient's quality of life. Treatment varies by the type of EGID and can include enteral formulas.⁵ Eosinophilic esophagitis (EE) is a chronic disorder of the digestive system in which large numbers of a particular type of white blood cell (called eosinophils) are present in the esophagus. Some children who have eosinophilic

¹ A medical food, as defined in section 5(b)(3) of the Orphan Drug Act (21 U.S.C. 360ee(b)(3)), is "a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation."

² U.S. Department of Health and Human Services Food and Drug Administration, *Food Guidance*, (May 2016) <https://www.fda.gov/downloads/food/guidanceregulation/guidancedocumentsregulatoryinformation/ucm500094.pdf> (last viewed Mar. 13, 2019).

³ See "Food Allergy, An Overview," National Institute of Allergy and Infectious Diseases, Publication No. 07-5518 (July 2007), available at <http://www.niaid.nih.gov/publications/pdf/foodallergy.pdf> (last visited on April 9, 2008).

⁴ International Foundation for Functional Gastrointestinal Disorders (IFFGD). Eosinophilic Gastroenteritis. Updated 17 January 2013; accessed 8 March 2016: <http://www.iffgd.org/site/gi-disorders/other/gastroenteritis> (last viewed Mar. 13, 2019)

⁵ International Foundation for Gastrointestinal Disorders (IFFGD), available at <https://iffgd.org/other-disorders/eosinophilic-gastroenteritis.html> (last viewed Mar. 13, 2019).

esophagitis (EE) or EGID are highly allergic to certain foods and susceptible to recurrent episodes of the disorders.⁶ The nutritional quality of the foods they are permitted to eat is too limited to meet the needs for normal growth. As such, they remain dependent on specialized formulas to meet their nutritional requirements. For eosinophilic colitis, elemental diets and enteral formulas have been found to provide symptomatic relief for many patients.

Amino Acid and Organic Acid Metabolism Disorders and Other Disorders

Amino acid and organic acid metabolism disorders are genetic diseases that affect a body's metabolism or ability to change food into energy. These disorders result from the body's inability to break down or use specific amino acids, ketones, proteins, vitamins, or carbohydrates, leading to a buildup of toxic chemicals and a shortage of other vital chemicals essential to normal body functioning. Phenylketonuria (PKU) is a disorder of amino acid metabolism that causes a clinical syndrome of intellectual disability with cognitive and behavioral abnormalities caused by elevated serum phenylalanine. The primary cause is deficient phenylalanine hydroxylase activity and treatment is lifelong dietary phenylalanine restriction.⁷ Untreated, these disorders may lead to brain, heart, liver or kidney damage, eye problems or vision loss, osteoporosis, intellectual or developmental disabilities, coma, seizures, or death. Infants are most often diagnosed with these disorders, through prenatal⁸ or newborn screenings; early diagnosis is essential to prevent damage caused by these disorders, and most patients will require lifelong management of their condition.⁹ Patients must eliminate and avoid certain foods, often including those high in protein, and many rely on enteral elemental or disease-specific formulas to meet their nutritional needs.

Food protein-induced enterocolitis syndrome is a rare type of food allergy that affects the gastrointestinal tract. It is a non-immunoglobulin E (IgE)-mediated gastrointestinal food hypersensitivity that manifests as profuse, repetitive vomiting, leading to dehydration and lethargy in the acute setting, or weight loss and failure to thrive in a chronic form. This disease primarily affects infants.¹⁰ Reactions typically occur 2 or more hours after ingesting certain foods.¹¹

Because of a lack of adequate pancreatic digestive enzymes, patients with exocrine pancreatic insufficiency have clinical symptoms related to malabsorption of fat. Exocrine pancreatic insufficiency is associated with diseases and conditions that affect the pancreas, including

⁶ OLR Research Report, Insurance Coverage for Specialized Formula, 2012, available at <https://www.cga.ct.gov/2012/rpt/2012-R-0304.htm> (last viewed Mar. 13, 2019).

⁷ Merck Manual, PKU, available at <https://www.merckmanuals.com/professional/pediatrics/inherited-disorders-of-metabolism/phenylketonuria-pku> (last viewed Mar. 13, 2019). Incidence rate is about 1/10,000 births among Caucasians.

⁸ For example, phenylketonuria (PKU) and lipidoses. See Merck Manual, Consumer Version available at <https://www.merckmanuals.com/home/children-s-health-issues/hereditary-metabolic-disorders/disorders-of-amino-acid-metabolism> (last viewed Mar. 13, 2019).

⁹ Merck Manual, Phenylketonuria (PKU), available at <https://www.merckmanuals.com/home/children-s-health-issues/hereditary-metabolic-disorders/phenylketonuria-pku> (last viewed Mar. 13, 2019).

¹⁰ UpToDate, Food protein-induced enterocolitis syndrome, available at <https://www.uptodate.com/contents/food-protein-induced> (last viewed Mar. 13, 2019).

¹¹ *Id.*

hereditary conditions, such as cystic fibrosis, or acquired conditions, such as chronic pancreatitis. For many of these patients, enteral nutrition is necessary to avoid malnourishment.¹²

Insurance Coverage, Costs, and Demand for Enteral Formulas

In 2013, an estimated 189,036 pediatric patients and 248,846 adult patients were receiving home enteral nutrition.¹³ One study in the United States reported the cost of home enteral nutrition, including feeds, supplies, and care, and one hospitalization stay range from \$5,000 to \$50,000. This cost is likely to have increased in recent years, although it is generally difficult to obtain expenditure information due to differences in insurance coverage and reimbursement.¹⁴

In the United States, approximately 11 percent of patients with cystic fibrosis (approximately 3300 individuals) required supplemental enteral nutrition in 2014.¹⁵ The direct costs of a new treatment for cystic fibrosis associated with enteral nutrition can range from \$80 to \$200 daily, considering the cost of the formula, tube-feeding supplies, and oral pancreatic enzymes. The costs of formula to sustain a patient with phenylketonuria (PKU) is approximately \$86 per can and the can may only last for 4 days. Some of these formulas are required during an individual's entire lifespan.¹⁶

The availability and amount of insurance coverage, however, varies greatly among the states. In the United States, some studies estimate that 21 states mandate coverage for some type of elemental formula or coverage for specific conditions.¹⁷ Another study indicated that 38 states have enacted legislation that requires insurers to provide coverage for medical foods for at least PKU; over a third of these states require coverage for all inborn errors of metabolism.¹⁸ States generally provide coverage beyond age 18.¹⁹

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations (HMOs), and other risk-bearing entities.²⁰ The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the agency.²¹

¹² American Health and Drug Benefits, Is adequate nutrition cost-effective? (Mar. 15, 2019) available at <http://www.ahdbonline.com/issues/2018/may-2018-vol-11-no-3/2574-is-adequate-nutrition-cost-effective> (last viewed Mar. 13, 2019).

¹³ Nutr Clin Pract. 2017 Dec; 32(6):799-805.

¹⁴ [Nutrients](#). 2018 Feb; 10(2): 214.

¹⁵ Cystic Fibrosis Foundation. Patient Registry: 2014 Annual Data Report.

www.cff.org/2014_CFF_Annual_Data_Report_to_the_Center_Directors.pdf/. Accessed April 27, 2018.

¹⁶ Correspondence from Department of Health, September 7, 2017 (on file with Senate Banking and Insurance Committee).

¹⁷ Approximately 20 states have enacted legislation mandating coverage for elemental formula, which is used to treat eosinophilic associated disorders, available at <https://apfed.org/> (last viewed Mar. 12, 2019).

¹⁸ Mol Genet Meta. 2012 September; 107(1-2):3-9.

¹⁹ *Id.*

²⁰ Section 20.121(3)(a), F.S.

²¹ Section 641.21(1), F.S.

Current Insurance coverage for Enteral Formulas

Florida law currently requires a mandated offering of coverage for prescription and nonprescription enteral formulas. Enteral feeding provides sustenance and nutrition to the patient directly through a tube into the stomach. Amino-acid-based formulas are covered under the current mandate in s. 627.42395, F.S., if delivered through the enteral tube as prescribed by a physician as medically necessary. There is an annual cap of \$2,500 to cover a specific list of conditions through the age of 24 for enteral feeding.

Coverage by the Women, Infants, and Children and Nutrition Program

The Women, Infants, and Children (WIC) and Nutrition program administered by the Department of Health covers a wide variety of formulas that are available with an approved medical diagnosis and for specific health care conditions. Formula approvals will be considered for one or more of the following qualifying medical conditions:

- Premature birth will be considered a qualifying medical condition for children under 12 months of age (adjusted age) to receive a premature formula.
- Low birth weight will be considered a qualifying medical condition for infants under 6 months of age (adjusted age) to receive a high calorie formula.
- Inborn errors of metabolism and metabolic disorders.
- GER or GERD only with an additional qualifying medical condition.
- Immune system disorders.²²

Division of State Group Insurance

Under the authority of s. 110.123, F.S., the Department of Management Services, through the Division of State Group Insurance (DSGI), administers the state group health insurance program (program) under a cafeteria plan consistent with section 125, Internal Revenue Code. To administer the state group health insurance program, the Department contracts with third party administrators for self-insured health plans, a fully insured health maintenance organization (HMO), and a pharmacy benefits manager (PBM) for the state employees' self-insured prescription drug program pursuant to s. 110.12315, F.S.

The state employees' self-insured prescription drug program has three cost-share categories for members: generic drugs, preferred brand name drugs (those brand name drugs on the preferred drug list), and non-preferred brand name drugs (those brand name drugs not on the preferred drug list). Contractually, the PBM for the state employees' self-insured prescription drug program updates the preferred drug list quarterly as brand drugs enter the market and as the PBM negotiates pricing, including rebates with manufacturers.

Generic drugs are the least expensive and have the lowest member cost share, preferred brand name drugs have the middle cost share, and non-preferred brand name drugs are the most expensive and have the highest member cost share. Generally, prescriptions written for a brand name drug, preferred or non-preferred, are substituted with a generic drug when available. If the

²² Florida Department of Health WIC Program Medical Documentation for Formula and Food, available at <http://www.floridahealth.gov/programs-and-services/wic/health-providers/documents/medical-documentation-formula-food.pdf> (last viewed Mar. 13, 2019).

prescribing provider states on the prescription that the brand name drug is “medically necessary” over the generic equivalent, the member will pay only the brand name (preferred or non-preferred) cost share. If the member requests the brand name drug over the generic equivalent, then the member will pay the brand name (preferred or non-preferred) cost share plus the difference between the cost of the generic drug and the brand name drug.

The program covers all federal legend drugs (open formulary) for covered medical conditions and employs very limited utilization review and clinical review for traditional or specialty prescription drugs. Specialty drugs are high-cost prescription medications used to treat complex, chronic conditions such as cancer, rheumatoid arthritis, and multiple sclerosis. Specialty drugs often require special handling (e.g., refrigeration during shipping) and administration (such as injection or infusion).

III. Effect of Proposed Changes:

Section 1 amends s. 627.42395, F.S., to revise the mandatory offer of coverage for prescription and nonprescription enteral formulas. The section clarifies that health insurance policies must make available coverage for prescription and nonprescription enteral formulas that are ordered or prescribed by physicians licensed pursuant to chs. 458 or 459, F.S., and specifies that coverage for inherited diseases of amino acid and organic acid metabolism must include food products modified to be low-protein, in an amount not to exceed \$2,500 annually per individual.

The bill requires the state group insurance program to provide the following coverage:

- Prescription and nonprescription enteral formulas and amino-acid-based elemental formulas, regardless of the method of delivery or intake, for home use which are prescribed by a physician licensed under ch. 458 or ch. 459, F.S., as medically necessary for the treatment of:
 - Eosinophilic disorders;
 - Food protein-induced enterocolitis syndrome;
 - Inherited diseases of amino acid, organic acid, carbohydrate, or fat metabolism, or
 - Malabsorption originating from congenital defects present at birth, acquired during the neonatal period, or diagnosed later in life.

The coverage requirement for the state group insurance program does not provide an annual dollar cap on benefits or an age cap on insured individuals.

Section 2 provides that the amendment to s. 627.42395, F.S., applies to health insurance policies and state group health insurance plans beginning on or after January 1, 2020.

Section 3 provides the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. 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:

None identified.

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

None.

B. Private Sector Impact:

Persons who are covered by the state group health insurance program, and who have from severe food allergies, eosinophilic disorders, and other conditions that require amino-acid-or elemental formulas will be subject to lower out of pocket costs for such formulas that are not currently covered or are subject to a \$2,500 annual limit or age 24 eligibility limit. The reduction in costs and increase in coverage may result in better health outcomes for affected individuals.

C. Government Sector Impact:

The Division of State Group Insurance contacted its pharmacy benefit manager, CVS/Caremark, its fully-insured health maintenance organization, and its third-party administrators for its self-insured plans. These vendors estimated the following fiscal impact of the bill:

- CVS: \$1,409,000 estimated annual average.
- Capital Health Plan: indeterminate.
- Florida Blue: \$360,000 annually.
- Aetna: \$789,993 annually.
- AvMed: \$104,028 annually.
- United Health Care: \$199,904 annually.

The fiscal impact on the State Group Insurance program is estimated to be \$2,862,925 annually. The estimated impacts by vendor vary based upon enrollment count and current utilization of enteral formulas.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.42395 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²³ Department of Management Services, *Analysis of SB 358* (Jan. 23, 2019) (on file with Senate Committee on Banking and Insurance).

By Senator Stargel

22-00607A-19

2019358__

A bill to be entitled

An act relating to health insurance coverage for enteral formulas; amending s. 627.42395, F.S.; revising criteria for the required coverage of enteral formulas under specified health insurance policies; requiring the state group insurance program to provide coverage for certain enteral formulas and amino-acid-based elemental formulas; making technical changes; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 627.42395, Florida Statutes, is amended to read:

627.42395 Coverage for certain prescription and nonprescription enteral formulas.—

(1) Notwithstanding any other ~~provision of~~ law, any health insurance policy delivered or issued for delivery, to any person in this state or any group, blanket, or franchise health insurance policy delivered or issued for delivery in this state ~~must shall~~ make available to the policyholder as part of the application, for an appropriate additional premium, coverage for prescription and nonprescription enteral formulas for home use which are ordered or physician prescribed by a physician licensed under chapter 458 or chapter 459 as medically necessary for the treatment of inherited diseases of amino acid, organic acid, carbohydrate, or fat metabolism as well as malabsorption originating from congenital defects present at birth or acquired during the neonatal period. Coverage for inherited diseases of

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00607A-19

2019358__

amino ~~acid acids~~ and organic acid metabolism must ~~acids shall~~ include food products modified to be low protein, in an amount not to exceed \$2,500 annually for any insured individual, through the age of 24. This ~~subsection~~ section applies to any person or family notwithstanding the existence of any preexisting condition.

(2) Notwithstanding subsection (1), the state group insurance program administered under s. 110.123 must provide coverage for prescription and nonprescription enteral formulas and amino-acid-based elemental formulas, regardless of the method of delivery or intake, for home use which are ordered or prescribed by a physician licensed under chapter 458 or chapter 459 as medically necessary for the treatment of:

(a) Eosinophilic disorders;

(b) Food protein-induced enterocolitis syndrome;

(c) Inherited diseases of amino acid, organic acid, carbohydrate, or fat metabolism; or

(d) Malabsorption originating from congenital defects present at birth, acquired during the neonatal period, or diagnosed later in life.

Section 2. The amendment to s. 627.42395, Florida Statutes, made by this act applies to health insurance policies and state group health insurance plans beginning on or after January 1, 2020.

Section 3. This act shall take effect July 1, 2019.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Education, *Chair*
Appropriations
Education
Ethics and Elections
Finance and Tax
Judiciary
Rules

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining

SENATOR KELLI STARGEL

22nd District

March 19, 2019

The Honorable Ed Hooper
Senate Committee on Government Oversight and Accountability, Chair
326 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Hooper:

I respectfully request that SB 358, related to *Health Insurance Coverage for Enteral Formulas*, be placed on the Government Oversight and Accountability meeting agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Joe McVaney/Staff Director
Tamra Redig/AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-19
Meeting Date

SB 358
Bill Number (if applicable)

Topic enteral formulas

Amendment Barcode (if applicable)

Name Stephanie Walls

Job Title _____

Address 7709 Conrad St.

Phone 813-997-2151

Wesley Chapel FL 33544
City State Zip

Email Sr00sterton@msn.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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.)

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

BILL: CS/SB 600

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Gibson and others

SUBJECT: Public Records/Meter-derived Data and Billing Information

DATE: April 1, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	Fav/CS
2.	Ponder	McVaney	GO	Favorable
3.			RC	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 600 amends s. 119.0713(5), F.S., to exempt from public disclosure and inspection requirements customer meter-derived data and billing information in increments of less than one billing cycle held by a utility owned or operated by a unit of local government. The bill provides legislative findings as to the public necessity for the exemption and the balancing of public and private harm.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded exemption for public records and public meetings. The bill creates a public meeting exemption, therefore it requires a two-thirds vote for final passage.

The bill takes effect July 1, 2019.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.² In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only Legislature may create an exemption to public records requirements by passing a general law by a two-thirds vote of each of the House and the Senate.⁹ The exemption must explicitly lay out the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰ A statutory exemption, which does not meet these two criteria, may be unconstitutional and may not be judicially saved.¹¹

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹² Records designated “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹³

Current Public Records Exemption for Specified Types of Information Held by a Utility Owned or Operated by a Unit of Local Government

Section 119.011, F.S., defines the term “utility” to mean a person or entity that provides electricity, natural gas, telecommunications, water, chilled water, reuse water, or wastewater.

Subsection 119.0713(5), F.S., exempts the following information held by a utility owned or operated by a unit of local government:

- Information related to the security of the technology, processes, or practices of a utility owned or operated by a unit of local government that are designed to protect the utility’s networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.
- Information related to the security of existing or proposed information technology systems or industrial control technology systems of a utility owned or operated by a unit of local government, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.

The exemption applies to such information before, on, or after the effective date of this exemption, March 24, 2016. The exemption is subject to the OGSR and stands repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

III. Effect of Proposed Changes:

Section 1 amends s. 119.0713(5), F.S., which currently exempts from public disclosure specified types of information held by a utility¹⁴ owned or operated by a unit of local government. The bill expands the current public records exemption to include customer meter-derived data and billing information in increments of less than one billing cycle.

declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹² If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹³ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁴ Section 119.011, F.S., defines the term “utility” to mean a person or entity that provides electricity, natural gas, telecommunications, water, chilled water, reuse water, or wastewater.

This section also delays the scheduled repeal of the public records exemptions for information held by a utility owned or operated by a unit of local government from October 2021 to October 2024.

Section 2 sets forth the required public necessity statement. The Legislature finds that it is a public necessity that customer meter-derived data and billing information in increments less than one billing cycle held by a utility that is owned or operated by a unit of local government be exempt from public records law requirements. The Legislature finds that safeguarding customer meter-derived data and billing information in increments of less than one billing cycle is of the utmost importance. Smart meters, which can record and transmit detailed data on a customer's use of utility services, present unique security concerns. These concerns were addressed in a report released in October 2010 by the United States Department of Energy titled "Data Access and Privacy Issues Related to Smart Grid Technologies."¹⁵ The report recommended that customer data be protected from release to third parties. This detailed customer data can be used to specifically identify minute-by-minute usage patterns, including the exact appliance or service being used. This information creates significant security issues for both businesses and homeowners.

Section 3 provides that the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. 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:

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded exemption for public records and public meetings. The bill creates a public meeting exemption, therefore it requires a two-thirds vote for final passage.

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding exemptions to the public records and public meetings requirements. This bill enacts new exemption; thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding exemptions to the public records and public meetings requirements to state with

¹⁵ Available at https://www.energy.gov/sites/prod/files/gcprod/documents/Broadband_Report_Data_Privacy_10_5.pdf (last accessed March 6, 2019).

specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemptions.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires exemptions to the public records and public meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect detailed customer data that can be used to specifically identify minute-by-minute usage patterns. The bill makes exempt meter-derived data and billing information in increments less than one billing cycle. The bill appears to be no broader than necessary to accomplish its stated purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will be subject to the cost associated with an agency making redactions in response to public records requests.

C. Government Sector Impact:

Utilities owned or operated by a unit of local government may incur additional costs associated with performing redactions of customer meter-derived data and billing information in increments of less than one billing cycle in response to public records requests. However, the cost is anticipated to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.0713 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Innovation, Industry, and Technology on March 6, 2019:

The committee substitute revises the findings of public necessity to more completely identify the risks to customers whose information might otherwise be disclosed.

- B. **Amendments:**

None.

By the Committee on Innovation, Industry, and Technology; and
Senators Gibson and Bean

580-02752-19

2019600c1

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.0713, F.S.; exempting from public records
4 requirements customer meter-derived data and billing
5 information in increments of less than one billing
6 cycle which is held by certain utilities; providing a
7 statement of public necessity; providing an effective
8 date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Subsection (5) of section 119.0713, Florida
13 Statutes, is amended to read:
14 119.0713 Local government agency exemptions from inspection
15 or copying of public records.—
16 (5) (a) The following information held by a utility owned or
17 operated by a unit of local government is exempt from s.
18 119.07(1) and s. 24(a), Art. I of the State Constitution:
19 1. Information related to the security of the technology,
20 processes, or practices of a utility owned or operated by a unit
21 of local government that are designed to protect the utility's
22 networks, computers, programs, and data from attack, damage, or
23 unauthorized access, which information, if disclosed, would
24 facilitate the alteration, disclosure, or destruction of such
25 data or information technology resources.
26 2. Information related to the security of existing or
27 proposed information technology systems or industrial control
28 technology systems of a utility owned or operated by a unit of
29 local government, which, if disclosed, would facilitate

Page 1 of 3

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580-02752-19

2019600c1

30 unauthorized access to, and alteration or destruction of, such
31 systems in a manner that would adversely impact the safe and
32 reliable operation of the systems and the utility.
33 3. Customer meter-derived data and billing information in
34 increments less than one billing cycle.
35 (b) This exemption applies to such information held by a
36 utility owned or operated by a unit of local government before,
37 on, or after the effective date of this exemption.
38 (c) This subsection is subject to the Open Government
39 Sunset Review Act in accordance with s. 119.15 and shall stand
40 repealed on October 2, ~~2024~~ 2021, unless reviewed and saved from
41 repeal through reenactment by the Legislature.
42 Section 2. (1) The Legislature finds that it is a public
43 necessity that customer meter-derived data and billing
44 information in increments less than one billing cycle held by a
45 utility that is owned or operated by a unit of local government
46 be exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
47 Article I of the State Constitution.
48 (2) The Legislature finds that safeguarding customer meter-
49 derived data and billing information in increments of less than
50 one billing cycle is of the utmost importance. Smart meters,
51 which can record and transmit detailed data on a customer's use
52 of utility services, present unique security concerns. These
53 concerns were addressed in a report released in October 2010 by
54 the United States Department of Energy titled "Data Access and
55 Privacy Issues Related to Smart Grid Technologies." The report
56 recommended that customer data be protected from release to
57 third parties. This detailed customer data can be used to
58 specifically identify minute-by-minute usage patterns, including

Page 2 of 3

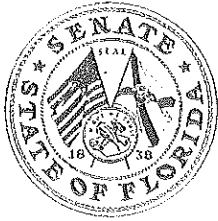
CODING: Words ~~stricken~~ are deletions; words underlined are additions.

580-02752-19

2019600c1

59 the exact appliance or service being used. This information
60 creates significant security issues for both businesses and
61 homeowners.

62 Section 3. This act shall take effect July 1, 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules, *Vice Chair*
Appropriations
Innovation, Industry, and Technology
Judiciary

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON

Minority Leader
6th District

March 6, 2019

Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability
330 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Chair Hooper:

I respectfully request that SB 600, relating to customer information of municipal utilities be placed on the next committee agenda.

SB 600 provides a public records exemption for customer utility usage data on a less than 30-day billing cycle as the data is in real-time and patterns can be identified as to when a customer is using their household utilities and when they are not. This signals when someone is home or not, or when a business is opened or closed, creating a security risk for the customer. The bill passed unanimously in the first committee of reference.

Thank you for your kind consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey Gibson".

Audrey Gibson
State Senator
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553
200 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-19

Meeting Date

600

Bill Number (if applicable)

Topic Public Records/Meter-derived Data and Billing Info

Amendment Barcode (if applicable)

Name Suzanne Goss

Job Title Government Relations Specialist

Address 21 W. Church St. Street

Phone 904-665-8331

Jacksonville FL 32202 City State Zip

Email gossSE@jea.com

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing JEA

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/2019

Meeting Date

600

Bill Number (if applicable)

Topic PUBLIC RECORDS / METAL-DERIVED DATA BILLING INFO

Amendment Barcode (if applicable)

Name KEVIN NOONAN

Job Title DIRECTOR, LEGISLATIVE AFFAIRS

Address 100 W. ANDERSON ST

Phone 407.466.1287

Street

ORLANDO

FL

32801

Email KNOONAN@OUC.COM

City

State

Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing ORLANDO UTILITIES COMMISSION

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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.)

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

BILL: SB 742

INTRODUCER: Senator Braynon

SUBJECT: Designation of Eligible Telecommunications Carriers

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 742 amends s. 364.10, F.S., relating to Lifeline services, to authorize the Public Service Commission to designate a commercial mobile radio service provider as an eligible telecommunications carrier, upon petition, for the limited purpose of providing Lifeline service. The section conforms to federal Lifeline service guidelines by:

- Requiring a subscriber to present proof of continued eligibility upon request of the eligible telecommunications carrier or the Federal Communications Commission, or its designee; and
- Revising the income eligibility test to 135 from 150 percent or less of federal poverty income guidelines.

The bill removes obsolete language, and makes technical and conforming changes.

The bill amends s. 364.107, F.S., to clarify that the information made confidential and exempt under this section may be released to the Federal Communications Commission or its designee for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

This bill takes effect upon becoming a law.

II. Present Situation:

In 1985, the Federal Communications Commission (FCC) created the Lifeline program to provide phone service discounts for qualifying low-income consumers as part of the federal Universal Service Program. The Lifeline program is one of four programs¹ supported by the

¹ The other three programs supported by the Universal Service Fund include: (i) the high cost support program (known also as the Connect America Fund) which allows eligible telecommunications carriers to receive support for providing discounted voice and broadband service to eligible customers; (ii) the schools and libraries support program, also known as the "E-Rate," provides telecommunication services, internet access and internal connections to eligible schools and libraries, and (iii) the

Universal Service Fund. The Lifeline program offers eligible low-income households a discount on either a wireline *or* wireless service to offset the costs of a telephone or broadband service plan. The funding is not provided directly to consumers. Instead, Lifeline providers – telecommunications companies known as “eligible telecommunications carriers” (ETCs) – receive monthly support disbursements from the Universal Service Fund, who in turn pass these discounts to the eligible consumers.

In accordance with s. 364.10, F.S., the Florida Public Service Commission (PSC) oversees the Lifeline program. The program also includes the involvement of the Department of Children and Families (DCF), Department of Education (DOE), the Office of Public Counsel (OPC), and other state agencies. In Florida, there are several ways to apply for Lifeline assistance. For example, consumers may apply directly with an ETC by providing documentation of participation in a qualifying program along with a Lifeline application.² Additionally, customers applying for Medicaid or Supplemental Nutrition Assistance Program (SNAP) through the DCF may use the electronic Lifeline Coordinated Enrollment Process to apply for Lifeline. Consumers may also enroll through the National School Lunch Program’s free lunch program through the DOE, or via income eligibility with the OPC.

Section 214(e) of the Telecommunications Act (the Act) provides that only common carriers designated as ETCs may receive disbursements from the Universal Service Fund. The Act directs state commissions to designate common carriers³ as ETCs.⁴ However, where state commissions do not have jurisdiction over a type of common carrier, the FCC determines ETC eligibility.⁵ The PSC provides ETC designation to wireline carriers, claiming jurisdiction under 47 CFR 54.201 and s. 364.10, F.S.⁶ However, the PSC is without jurisdiction to determine ETC eligibility for wireless telecommunications providers - defined by federal statute as a “commercial mobile radio service”(CMRS)⁷ providers - as s. 364.011, F.S., specifically exempts “wireless telecommunications” from the PSC’s jurisdiction. Thus, CMRS providers submit petition the FCC for ETC designation in Florida

On April 27, 2016, the FCC released an Order (Lifeline Order) reforming many aspects of the federal Lifeline program, including revising eligibility criteria.⁸ Prior to the Lifeline Order, to gain entry into the Lifeline program, a consumer was required to:

rural health care support program that allows rural health care providers to pay rates for telecommunications services similar to those of their urban counterparts, making telehealth services affordable, and also subsidizes internet access.

<https://www.fcc.gov/general/universal-service> (last visited March 26, 2019).

² <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Telecommunication/LifelineReport/2018.pdf> (last visited March 26, 2019).

³ The term “common carrier” or “carrier” means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier. 47 C.F.R. § 153(11).

⁴ 47 C.F.R. § 214(e)(1),(2).

⁵ 47 C.F.R. § 214(e).

⁶ See Order No. PSC-12-0500-PAA-TP, issued on September 28, 2012, *In re: Application for designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(2) of the Communications Act of 1934 for the limited purpose of receiving federal Universal Service Low Income support for providing Lifeline service to qualified households in its non-rural service territory, by Cox Florida Telecom, LP*.

⁷ 47.C.F.R. § 20.3 (2018).

⁸ *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C. Red. 3962, 4021 (2016).

- Have a household at or below 135% of the Federal Poverty Guidelines; or
- Receive benefits from: Medicaid, SNAP, Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program’s free lunch program; Temporary Assistance for Needy Families; or
- Meet additional eligibility criteria established by a state for its residents, provided that such state-specific criteria are based solely on income or other factors related to income.⁹

The Lifeline Order maintained the first method of qualification without revision – allowing consumers to qualify by demonstrating income of less than 135 percent of the federal poverty guidelines.¹⁰ Currently, Florida law specifies that the income eligibility test is “150% or less of the federal poverty income guidelines for Lifeline customers.”¹¹ The Lifeline Order removed the Low-Income Home Energy Assistance Program, National School Lunch Program’s free lunch program, and Temporary Assistance for Needy Families from default federal assistance eligibility.¹² The Lifeline Order also removed state-specific eligibility.¹³ The FCC determined that permitting states to develop tailored rules complicated the administration of Lifeline at a federal level.¹⁴ Thus, the Lifeline Order removed states’ flexibility to develop their own enrollment and eligibility processes for Lifeline.

Section 364.107, F.S., provides that “[p]ersonal identifying information of a participant in a telecommunications carrier’s Lifeline Assistance Plan under s. 364.10, F.S., held by the Public Service Commission is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.” This information may be released to the applicable telecommunications carrier for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

III. Effect of Proposed Changes:

Section 1 amends s. 364.10, F.S., on Lifeline services, to authorize the PSC to designate a CMRS provider as an ETC, upon petition, for the limited purpose of providing Lifeline service.

The bill further revises this section to conform to federal Lifeline program requirements by:

- Requiring a subscriber to present proof of continued eligibility upon request of the eligible telecommunications carrier or the FCC, or its designee;
- Revising the income eligibility test to 135 percent; and
- Removing the Department of Education as one of the listed entities that develops procedures to promote Lifeline participation.

The bill removes obsolete language, and makes technical and conforming changes.

⁹ 47 C.F.R § 54.409(a) (2016).

¹⁰ *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C. Rcd. 3962, 4031 (2016).

¹¹ Section 364.10(2)(a), F.S.

¹² *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C. Rcd. at 4029, 30.

¹³ *Id.* at 4038.

¹⁴ *Id.*

Section 2 amends s. 364.107, F.S., relating to public records exemptions, to clarify that the FCC or its designee may receive confidential and exempt information for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

Section 3 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CMRS providers and Lifeline customers may benefit from the PSC having jurisdiction over CMRS ETC. The process before the PSC, as opposed to the FCC, may be more efficient and streamlined; thereby possibly allowing Lifeline customers to receive service and CMRS providers to receive subsidies more quickly.

C. Government Sector Impact:

The PSC may incur costs associated with processing applications and determining ETC eligibility for CRMS providers..

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 364.10 and 364.107.

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.

By Senator Braynon

35-00780-19

2019742__

1 A bill to be entitled
 2 An act relating to designation of eligible
 3 telecommunications carriers; amending s. 364.10, F.S.;
 4 including certain commercial mobile radio service
 5 providers within the definition of the term "eligible
 6 telecommunications carrier"; authorizing the Public
 7 Service Commission to designate any commercial mobile
 8 radio service provider as an eligible
 9 telecommunications carrier for the limited purpose of
 10 providing Lifeline service; deleting a provision
 11 requiring carriers to allow subscribers to demonstrate
 12 continued eligibility for Lifeline service under
 13 certain conditions; requiring subscribers to furnish
 14 proof of eligibility upon request from the carrier or
 15 the Federal Communications Commission or its designee;
 16 revising the carriers that may provide Lifeline
 17 service; revising Lifeline service eligibility;
 18 deleting obsolete provisions; revising the entities
 19 with which the commission may exchange certain
 20 information; amending s. 364.107, F.S.; revising the
 21 entities to which certain information relating to
 22 Lifeline service eligibility may be released;
 23 providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Section 364.10, Florida Statutes, is amended to
 28 read:
 29 364.10 Lifeline service.—

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 (1) (a) An eligible telecommunications carrier must ~~shall~~
 31 provide a Lifeline Assistance Plan to qualified residential
 32 subscribers, as defined in the eligible telecommunications
 33 carrier's published schedules. For the purposes of this section,
 34 the term "eligible telecommunications carrier" means a
 35 telecommunications company, as defined by s. 364.02, which is
 36 designated as an eligible telecommunications carrier by the
 37 commission pursuant to 47 C.F.R. s. 54.201. Notwithstanding the
 38 provision of s. 364.011 which exempts certain commercial mobile
 39 radio service providers from commission oversight, the term
 40 "eligible telecommunications carrier" includes any commercial
 41 mobile radio service provider designated by the commission
 42 pursuant to 47 C.F.R. s. 54.201, and the commission, upon
 43 petition, may make such a designation only for the purpose of
 44 providing Lifeline service.

45 (b) An eligible telecommunications carrier must ~~shall~~ offer
 46 a consumer who applies for or receives Lifeline service the
 47 option of blocking all toll calls or, if technically capable,
 48 placing a limit on the number of toll calls a consumer can make.
 49 The eligible telecommunications carrier may not charge the
 50 consumer an administrative charge or other additional fee for
 51 blocking the service.

52 (c) An eligible telecommunications carrier may not collect
 53 a service deposit in order to initiate Lifeline service if the
 54 qualifying low-income consumer voluntarily elects toll blocking
 55 or toll limitation. If the qualifying low-income consumer elects
 56 not to place toll blocking on the line, an eligible
 57 telecommunications carrier may charge a service deposit.

58 (d) An eligible telecommunications carrier may not charge

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59 Lifeline subscribers a monthly number-portability charge.

60 (e)1. An eligible telecommunications carrier must notify a
61 Lifeline subscriber of impending termination of Lifeline service
62 if the company has a reasonable basis for believing that the
63 subscriber no longer qualifies for the service. Notification of
64 pending termination must be in the form of a letter that is
65 separate from the subscriber's bill.

66 2. ~~An eligible telecommunications carrier shall allow a~~
67 ~~subscriber 60 days following the date of the pending termination~~
68 ~~letter to demonstrate continued eligibility.~~ The subscriber must
69 present proof of continued eligibility upon request of the
70 eligible telecommunications carrier or the Federal
71 Communications Commission or its designee. An eligible
72 telecommunications carrier may transfer a subscriber off of
73 Lifeline service, pursuant to its tariff, if the subscriber
74 fails to demonstrate continued eligibility.

75 3. The commission shall establish procedures for such
76 notification and termination.

77 (f) An eligible telecommunications carrier must shall
78 timely credit a consumer's bill with the Lifeline Assistance
79 credit as soon as practicable, but no later than 60 days
80 following receipt of notice of eligibility from the Office of
81 Public Counsel or proof of eligibility from the consumer.

82 (2) (a) ~~Each local exchange telecommunications company that~~
83 ~~has more than 1 million access lines and that is designated as~~
84 ~~An eligible telecommunications carrier, including shall, and any~~
85 ~~commercial mobile radio service provider designated as an~~
86 ~~eligible telecommunications carrier pursuant to 47 U.S.C. s.~~
87 ~~214(e), may, upon filing a notice of election to do so with the~~

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88 ~~commission,~~ provide Lifeline service to any otherwise eligible
89 customer or potential customer who meets an income eligibility
90 test at ~~135~~ 150 percent or less of the federal poverty income
91 guidelines for Lifeline customers. ~~Such a test for eligibility~~
92 ~~must augment, rather than replace, the eligibility standards~~
93 ~~established by federal law and based on participation in certain~~
94 ~~low-income assistance programs. Each intrastate interexchange~~
95 ~~telecommunications company shall file or publish a schedule~~
96 ~~providing at a minimum the intrastate interexchange~~
97 ~~telecommunications company's current Lifeline benefits and~~
98 ~~exemptions to Lifeline customers who meet the income eligibility~~
99 ~~test set forth in this subsection.~~ The Office of Public Counsel
100 shall certify and maintain claims submitted by a customer for
101 eligibility under the income test authorized by this subsection.

102 (b) Each eligible telecommunications carrier subject to
103 this subsection must shall provide to each state and federal
104 agency providing benefits to persons eligible for Lifeline
105 service applications, brochures, pamphlets, or other materials
106 that inform the persons of their eligibility for Lifeline, and
107 each state agency providing the benefits shall furnish the
108 materials to affected persons at the time they apply for
109 benefits.

110 (c) An eligible telecommunications carrier may not
111 discontinue basic local telecommunications service to a
112 subscriber who receives Lifeline service because of nonpayment
113 by the subscriber of charges for nonbasic services billed by the
114 telecommunications company, including, but not limited to, long-
115 distance service. A subscriber who receives Lifeline service
116 must shall pay all applicable basic local telecommunications

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117 service fees, including the subscriber line charge, E-911,
118 telephone relay system charges, and applicable state and federal
119 taxes.

120 (d) An eligible telecommunications carrier may not refuse
121 to connect, reconnect, or provide Lifeline service because of
122 unpaid toll charges or nonbasic charges other than basic local
123 telecommunications service.

124 (e) An eligible telecommunications carrier may require that
125 payment arrangements be made for outstanding debt associated
126 with basic local telecommunications service, subscriber line
127 charges, E-911, telephone relay system charges, and applicable
128 state and federal taxes.

129 (f) An eligible telecommunications carrier may block a
130 Lifeline service subscriber's access to all long-distance
131 service, except for toll-free numbers, and may block the ability
132 to accept collect calls if when the subscriber owes an
133 outstanding amount for long-distance service or amounts
134 resulting from collect calls. However, the eligible
135 telecommunications carrier may not impose a charge for blocking
136 long-distance service. The eligible telecommunications carrier
137 shall remove the block at the request of the subscriber without
138 additional cost to the subscriber upon payment of the
139 outstanding amount. An eligible telecommunications carrier may
140 charge a service deposit before removing the block.

141 (g)1. ~~By December 31, 2010,~~ Each state agency that provides
142 benefits to persons eligible for Lifeline service shall
143 undertake, in cooperation with the Department of Children and
144 Families, ~~the Department of Education,~~ the commission, the
145 Office of Public Counsel, and telecommunications companies

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146 designated eligible telecommunications carriers providing
147 Lifeline services, the development of procedures to promote
148 Lifeline participation. The ~~department~~ departments, the
149 commission, and the Office of Public Counsel may exchange
150 sufficient information with the appropriate eligible
151 telecommunications carriers or the Federal Communications
152 Commission or its designee and any commercial mobile radio
153 service provider electing to provide Lifeline service under
154 paragraph (a), such as a person's name, date of birth, service
155 address, and telephone number, so that eligible customers ~~the~~
156 ~~carriers~~ can be enrolled ~~identify and enroll an eligible person~~
157 in the Lifeline and Link-Up programs. The information remains
158 confidential and exempt pursuant to s. 364.107 and may only be
159 used for purposes of determining eligibility and enrollment in
160 the Lifeline and Link-Up programs.

161 2. If any state agency determines that a person is eligible
162 for Lifeline services, the agency must ~~shall~~ immediately forward
163 the information to the commission to ensure that the person is
164 automatically enrolled in the program with the appropriate
165 eligible telecommunications carrier. The state agency shall
166 include an option for an eligible customer to choose not to
167 subscribe to the Lifeline service. The Public Service Commission
168 and the Department of Children and Families shall, ~~no later than~~
169 ~~December 31, 2007,~~ adopt rules creating procedures to
170 automatically enroll eligible customers in Lifeline service.

171 3. ~~By December 31, 2010,~~ The commission, the Department of
172 Children and Families, the Office of Public Counsel, and each
173 eligible telecommunications carrier offering Lifeline and Link-
174 Up services shall convene a Lifeline Workgroup to discuss how

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35-00780-19

2019742__

175 the eligible subscriber information in subparagraph 1. will be
176 shared, the obligations of each party with respect to the use of
177 that information, and the procedures to be implemented to
178 increase enrollment and verify eligibility in these programs.

179 (h) The commission shall report to the Governor, the
180 President of the Senate, and the Speaker of the House of
181 Representatives by December 31 each year on the number of
182 customers who are subscribing to Lifeline service and the
183 effectiveness of any procedures to promote participation.

184 (i) The commission may undertake appropriate measures to
185 inform low-income consumers of the availability of the Lifeline
186 and Link-Up programs.

187 (j) The commission shall adopt rules to administer this
188 section.

189 Section 2. Subsection (2) of section 364.107, Florida
190 Statutes, is amended to read:

191 364.107 Public records exemption; Lifeline Assistance Plan
192 participants.-

193 (2) Information made confidential and exempt under
194 subsection (1) may be released to the applicable
195 telecommunications carrier or to the Federal Communications
196 Commission or its designee for purposes directly connected with
197 eligibility for, verification related to, or auditing of a
198 Lifeline Assistance Plan.

199 Section 3. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 20, 2019

I respectfully request that **Senate Bill # 742**, relating to *Designation of Eligible Telecommunications Carriers; Including certain commercial mobile radio service providers within the definition of the term "eligible telecommunications carrier"; authorizing the Public Service Commission to designate any commercial mobile radio service provider as an eligible telecommunications carrier for the limited purpose of providing Lifeline service; deleting a provision requiring carriers to allow subscribers to demonstrate continued eligibility for Lifeline service under certain conditions, etc.*, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Oscar Braynon II".

Senator Oscar Braynon II
Florida Senate, District 35

CC. Joe McVaney
Tamra Redig

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19

Meeting Date

742

Bill Number (if applicable)

n/a

Topic Designation of Eligible Telecommunications Carriers

Amendment Barcode (if applicable)

Name Joanna Bonfanti (Bon-fawn-tea)

Job Title Government Affairs

Address 215 S. Monroe St., Suite 601

Phone 850-521-1980

Street

Tallahassee

FL

32301

Email jbonfanti@gunster.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing @ Link Wireless

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19

Meeting Date

742

Bill Number (if applicable)

n/a

Topic Designation of Eligible Telecommunications Carriers

Amendment Barcode (if applicable)

Name Paul Turner

Job Title President

Address 499 E. Sheridan St. #400

Street

Phone 954-328-3765

Dania Beach

City

FL

State

33004

Zip

Email paul@guardiantlddings.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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.)

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

BILL: SB 746

INTRODUCER: Senator Wright

SUBJECT: Public Records/Judicial Assistants

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 746 amends s. 119.071(4)(d)2.e., F.S., which contains public records exemptions for home addresses and various other information identifying specified court personnel.

The bill makes exempt from public disclosure requirements the following information relating to current or former judicial assistants to justices and judges:

- The judicial assistant’s address, date of birth, and telephone number.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of the judicial assistant’s spouse and children.
- The names and locations of schools and day care facilities attended by the judicial assistant’s children.

The bill provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption and expands other public records exemptions, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill takes effect July 1, 2019.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business

¹ FLA. CONST., art. I, s. 24(a).

of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the public necessity justifying the

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST., art. I, s. 24(c).

exemption.¹¹ An exemption serves an identifiable purpose if it meets one of the following statutory purposes, the Legislature finds that the purpose of the exemption outweighs open government policy, *and* the purpose cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹²
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹³ or
- It protects trade or business secrets.

Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. Additionally, a bill enacting an exemption may not contain other substantive provisions¹⁴ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹⁵

When creating or expanding a public records exemption, the Legislature may provide that a record is "confidential and exempt" or "exempt."¹⁶ Records designated as "confidential and exempt" may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as 'exempt' may be released at the discretion of the records custodian under certain circumstances.¹⁷

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁸ with specified exceptions.¹⁹ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²⁰ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.²¹

¹¹ *Id.*

¹² Section 119.15(6)(b)1., F.S.

¹³ Section 119.15(6)(b)2., F.S.

¹⁴ The bill may, however, contain multiple exemptions that relate to one subject.

¹⁵ FLA. CONST., art. I, s. 24(c).

¹⁶ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁷ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁸ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹⁹ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

²⁰ Section 119.15(3), F.S.

²¹ Section 119.15(6)(b), F.S. In examining an exemption, the Review Act asks the Legislature to carefully question the purpose and necessity of reenacting the exemption, and specifically requires that the Legislature consider the following questions:

General Public Records Exemptions for State Agency Personnel

There are three general public records exemptions that apply to all state agency personnel: disclosure of an employee's (1) social security number, (2) medical information, and (3) personal identifying information of dependent children who are insured by an agency group insurance plan.²²

(1) Social Security Numbers

Social security numbers of all current and former agency personnel are confidential and exempt when held by the employing agency.²³ An employing agency may only release social security numbers for the following reasons:

- It is required by law.
- A receiving government agency needs the social security number to perform its duties.
- The employee consents to disclose his or her social security number.²⁴

In addition, there is a general exemption for social security numbers which applies to the public that makes social security numbers confidential and exempt.²⁵ This exemption applies to any agency that holds anyone's social security number, including those belonging to the personnel of that agency. This exemption, however, permits the agency to disclose social security numbers of agency personnel in order to administer health or retirement benefits.²⁶

(2) Medical Information

An agency employee's medical information is also exempt from public disclosure if the medical information could identify the employee. This exemption applies to prospective, current and former employees.²⁷

(3) Personal Identifying Information

The personal identifying information of a dependent child of an agency employee who is insured by an agency group insurance plan is exempt from public disclosure. This exemption applies to the children of current and former employees and is also retroactively applied.²⁸

-
- What specific records or meetings are affected by the exemption?
 - Whom does the exemption uniquely affect, as opposed to the general public?
 - What is the identifiable public purpose or goal of the exemption?
 - Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
 - Is the record or meeting protected by another exemption?
 - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²² Section 119.071(4)(a) and (b), F.S.

²³ Section 119.071(4)(a)1., F.S.

²⁴ Section 119.071(4)(a)1., F.S.

²⁵ Section 119.071(5)(a)5., F.S.

²⁶ Section 119.071(5)(a)5.f. and g., F.S.

²⁷ Section 119.071(4)(b)1., F.S.

²⁸ Section 119.071(4)(b)2., F.S.

Public Records Exemptions for Enumerated Personnel

Provisions in s. 119.071(4)(d), F.S., make exempt from public disclosure the personal identification and location information of enumerated agency personnel, their spouses and their children. The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency which holds the employee's information.²⁹ Additionally, all of these exemptions have retroactive application.³⁰

Justices and Judges

In Florida, the justices of the Supreme Court and the judges in Florida's five District Courts of Appeal, 20 Circuit Courts, and 67 County Courts adjudicate all legal matters and oversee the legal profession.³¹ Additionally, all judges and justices preside over matters that may be emotionally charged, from a trial, appeal, or other type of review of a criminal proceeding to dependency and other domestic or family law matters.³²

In 1991, the Legislature enacted a public records exemption for current justices and judges and their families.³³ Because public necessity statements were not required for public records exemptions prior to the adoption of Article I, section 24, Florida Constitution, there is no public necessity statement explaining why the exemption was created.

In 2012, the Legislature expanded this exemption to include the dates of birth of the enumerated personnel as well as their family members.³⁴ The public necessity statement provided that dates of birth can be used to perpetrate fraud and that releasing dates of birth can cause great financial harm to an individual. In addition, the Legislature expanded the exemption to include former justices and judges as well as their families. The public necessity statement for this expansion indicated that justices and judges as well as their family members can be targets of revenge and that risk continues after justices and judges complete their public service.³⁵

In 2017, the Legislature expanded this exemption to also exempt from disclosure the names of the justices' or judges' spouses and children.³⁶

Judicial Assistants

Judicial assistants are assigned to justices or judges to provide administrative, secretarial and clerical support and to complete tasks of high responsibility. At the trial court level in particular, the judicial assistant is generally responsible for: maintaining the judge's professional and personal calendar; coordinating with attorneys to schedule hearings and trials; prepare orders, notices, and other correspondence; and preparing financial disclosures and travel vouchers. Most

²⁹ Section 119.071(4)(d)3., F.S.

³⁰ Section 119.071(4)(d)4., F.S.

³¹ FLA CONST. art V. *See also* Florida Courts, <http://www.flcourts.org/florida-courts> (last visited Feb. 24, 2019).

³² FLA CONST. art V., ss. 3.(b), 4.(b), 5.(b), 6.(b) (setting out the jurisdiction of the supreme court, district courts of appeal, circuit courts, and county courts, respectively); ss. 26.012, 34.01, F.S. (setting out the jurisdiction of the circuitry and county courts, respectively).

³³ Ch. 91-149, Laws of Fla.

³⁴ Ch. 2012-149, Laws of Fla.

³⁵ Ch. 2012-149, Laws of Fla.

³⁶ Ch. 2017-66, Laws of Fla.

significantly, trial court level judicial assistants interact “with attorneys and litigants and their family members to resolve problems such as scheduling conflicts or other case-related issues.”³⁷

Based on this type of interaction, several trial court judicial assistants have reported that attorneys, litigants, or a litigant’s family members have held the judicial assistant responsible for an adverse decision made by the judge. These judicial assistants reported instances of a litigant or litigant’s family members showing up at the judicial assistant’s home, contacting the judicial assistant on his or her personal cell phone, making threats against the judicial assistant, or naming the judicial assistant in a civil law suit.³⁸

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(4)(d)2.e., F.S. to make certain information regarding judicial assistants exempt from public disclosure requirements. The following information for current or former judicial assistants will be exempt:

- The judicial assistant’s address, date of birth, and telephone number.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of the judicial assistant’s spouse and children.
- The names and locations of schools and day care facilities attended by the judicial assistant’s children.

Section 1 also provides that the exemptions in s. 119.071(4)(d)2.e., F.S., are subject to the Open Government Sunset Review Act, and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 sets out the public necessity statement for expanding the foregoing exemption to judicial assistants. The public necessity statement provides that, because judicial assistants and their family members are at risk as targets of revenge or fraud by disgruntled litigants who know the judicial assistants’ names, the personal information of former and current judicial assistants and their family members should be exempt from public disclosure.

Section 3 provides that the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. 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.

³⁷Florida State Courts System Class Specification, Class Title: Judicial Assistant – Circuit Court, *Examples of Work Performed*, available at <https://www.flcourts.org/content/download/217825/1972896/Judicial-Assistant-Circuit-Court-508.pdf>.

³⁸ See Judicial Assistants Association of Florida, *JA Threats* (2019) (on file with Senate Judiciary Committee).

B. Public Records/Open Meetings Issues:***Vote Requirement***

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. The bill expands an existing exemption. Therefore, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates or expands an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemptions.

Breadth of Exemption

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The public necessity statement notes that judicial assistants can create ill will with litigants through the course of their work, and having their personal identifying information available publicly puts them at risk for acts of revenge. For these reasons, the exemptions do not appear broader than necessary to accomplish the stated purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071, 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.

By Senator Wright

14-01023-19

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for certain identifying and
 5 location information of current and former judicial
 6 assistants and their spouses and children; providing
 7 for future legislative review and repeal of the
 8 exemption; providing a statement of public necessity;
 9 providing an effective date.

10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraph (d) of subsection (4) of section
 13 119.071, Florida Statutes, is amended to read:

14 119.071 General exemptions from inspection or copying of
 15 public records.—
 16 (4) AGENCY PERSONNEL INFORMATION.—
 17 (d)1. For purposes of this paragraph, the term "telephone
 18 numbers" includes home telephone numbers, personal cellular
 19 telephone numbers, personal pager telephone numbers, and
 20 telephone numbers associated with personal communications
 21 devices.
 22 2.a. The home addresses, telephone numbers, dates of birth,
 23 and photographs of active or former sworn or civilian law
 24 enforcement personnel, including correctional and correctional
 25 probation officers, personnel of the Department of Children and
 26 Families whose duties include the investigation of abuse,
 27 neglect, exploitation, fraud, theft, or other criminal
 28 activities, personnel of the Department of Health whose duties
 29

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30 are to support the investigation of child abuse or neglect, and
 31 personnel of the Department of Revenue or local governments
 32 whose responsibilities include revenue collection and
 33 enforcement or child support enforcement; the names, home
 34 addresses, telephone numbers, photographs, dates of birth, and
 35 places of employment of the spouses and children of such
 36 personnel; and the names and locations of schools and day care
 37 facilities attended by the children of such personnel are exempt
 38 from s. 119.07(1) and s. 24(a), Art. I of the State
 39 Constitution. This sub-subparagraph is subject to the Open
 40 Government Sunset Review Act in accordance with s. 119.15 and
 41 shall stand repealed on October 2, 2022, unless reviewed and
 42 saved from repeal through reenactment by the Legislature.

43 b. The home addresses, telephone numbers, dates of birth,
 44 and photographs of current or former nonsworn investigative
 45 personnel of the Department of Financial Services whose duties
 46 include the investigation of fraud, theft, workers' compensation
 47 coverage requirements and compliance, other related criminal
 48 activities, or state regulatory requirement violations; the
 49 names, home addresses, telephone numbers, dates of birth, and
 50 places of employment of the spouses and children of such
 51 personnel; and the names and locations of schools and day care
 52 facilities attended by the children of such personnel are exempt
 53 from s. 119.07(1) and s. 24(a), Art. I of the State
 54 Constitution. This sub-subparagraph is subject to the Open
 55 Government Sunset Review Act in accordance with s. 119.15 and
 56 shall stand repealed on October 2, 2021, unless reviewed and
 57 saved from repeal through reenactment by the Legislature.

58 c. The home addresses, telephone numbers, dates of birth,

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59 and photographs of current or former nonsworn investigative
 60 personnel of the Office of Financial Regulation's Bureau of
 61 Financial Investigations whose duties include the investigation
 62 of fraud, theft, other related criminal activities, or state
 63 regulatory requirement violations; the names, home addresses,
 64 telephone numbers, dates of birth, and places of employment of
 65 the spouses and children of such personnel; and the names and
 66 locations of schools and day care facilities attended by the
 67 children of such personnel are exempt from s. 119.07(1) and s.
 68 24(a), Art. I of the State Constitution. This sub-subparagraph
 69 is subject to the Open Government Sunset Review Act in
 70 accordance with s. 119.15 and shall stand repealed on October 2,
 71 2022, unless reviewed and saved from repeal through reenactment
 72 by the Legislature.

73 d. The home addresses, telephone numbers, dates of birth,
 74 and photographs of current or former firefighters certified in
 75 compliance with s. 633.408; the names, home addresses, telephone
 76 numbers, photographs, dates of birth, and places of employment
 77 of the spouses and children of such firefighters; and the names
 78 and locations of schools and day care facilities attended by the
 79 children of such firefighters are exempt from s. 119.07(1) and
 80 s. 24(a), Art. I of the State Constitution. This sub-
 81 subparagraph is subject to the Open Government Sunset Review Act
 82 in accordance with s. 119.15, and shall stand repealed on
 83 October 2, 2022, unless reviewed and saved from repeal through
 84 reenactment by the Legislature.

85 e. The home addresses, dates of birth, and telephone
 86 numbers of current or former justices of the Supreme Court,
 87 district court of appeal judges, circuit court judges, ~~and~~

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88 county court judges, and judicial assistants; the names, home
 89 addresses, telephone numbers, dates of birth, and places of
 90 employment of the spouses and children of current or former
 91 justices, ~~and~~ judges, and judicial assistants; and the names and
 92 locations of schools and day care facilities attended by the
 93 children of current or former justices, ~~and~~ judges, and judicial
 94 assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of
 95 the State Constitution. This sub-subparagraph is subject to the
 96 Open Government Sunset Review Act in accordance with s. 119.15
 97 and shall stand repealed on October 2, 2024 ~~2022~~, unless
 98 reviewed and saved from repeal through reenactment by the
 99 Legislature.

100 f. The home addresses, telephone numbers, dates of birth,
 101 and photographs of current or former state attorneys, assistant
 102 state attorneys, statewide prosecutors, or assistant statewide
 103 prosecutors; the names, home addresses, telephone numbers,
 104 photographs, dates of birth, and places of employment of the
 105 spouses and children of current or former state attorneys,
 106 assistant state attorneys, statewide prosecutors, or assistant
 107 statewide prosecutors; and the names and locations of schools
 108 and day care facilities attended by the children of current or
 109 former state attorneys, assistant state attorneys, statewide
 110 prosecutors, or assistant statewide prosecutors are exempt from
 111 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

112 g. The home addresses, dates of birth, and telephone
 113 numbers of general magistrates, special magistrates, judges of
 114 compensation claims, administrative law judges of the Division
 115 of Administrative Hearings, and child support enforcement
 116 hearing officers; the names, home addresses, telephone numbers,

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117 dates of birth, and places of employment of the spouses and
 118 children of general magistrates, special magistrates, judges of
 119 compensation claims, administrative law judges of the Division
 120 of Administrative Hearings, and child support enforcement
 121 hearing officers; and the names and locations of schools and day
 122 care facilities attended by the children of general magistrates,
 123 special magistrates, judges of compensation claims,
 124 administrative law judges of the Division of Administrative
 125 Hearings, and child support enforcement hearing officers are
 126 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 127 Constitution. This sub-subparagraph is subject to the Open
 128 Government Sunset Review Act in accordance with s. 119.15 and
 129 shall stand repealed on October 2, 2022, unless reviewed and
 130 saved from repeal through reenactment by the Legislature.

131 h. The home addresses, telephone numbers, dates of birth,
 132 and photographs of current or former human resource, labor
 133 relations, or employee relations directors, assistant directors,
 134 managers, or assistant managers of any local government agency
 135 or water management district whose duties include hiring and
 136 firing employees, labor contract negotiation, administration, or
 137 other personnel-related duties; the names, home addresses,
 138 telephone numbers, dates of birth, and places of employment of
 139 the spouses and children of such personnel; and the names and
 140 locations of schools and day care facilities attended by the
 141 children of such personnel are exempt from s. 119.07(1) and s.
 142 24(a), Art. I of the State Constitution.

143 i. The home addresses, telephone numbers, dates of birth,
 144 and photographs of current or former code enforcement officers;
 145 the names, home addresses, telephone numbers, dates of birth,

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146 and places of employment of the spouses and children of such
 147 personnel; and the names and locations of schools and day care
 148 facilities attended by the children of such personnel are exempt
 149 from s. 119.07(1) and s. 24(a), Art. I of the State
 150 Constitution.

151 j. The home addresses, telephone numbers, places of
 152 employment, dates of birth, and photographs of current or former
 153 guardians ad litem, as defined in s. 39.820; the names, home
 154 addresses, telephone numbers, dates of birth, and places of
 155 employment of the spouses and children of such persons; and the
 156 names and locations of schools and day care facilities attended
 157 by the children of such persons are exempt from s. 119.07(1) and
 158 s. 24(a), Art. I of the State Constitution. This sub-
 159 subparagraph is subject to the Open Government Sunset Review Act
 160 in accordance with s. 119.15 and shall stand repealed on October
 161 2, 2022, unless reviewed and saved from repeal through
 162 reenactment by the Legislature.

163 k. The home addresses, telephone numbers, dates of birth,
 164 and photographs of current or former juvenile probation
 165 officers, juvenile probation supervisors, detention
 166 superintendents, assistant detention superintendents, juvenile
 167 justice detention officers I and II, juvenile justice detention
 168 officer supervisors, juvenile justice residential officers,
 169 juvenile justice residential officer supervisors I and II,
 170 juvenile justice counselors, juvenile justice counselor
 171 supervisors, human services counselor administrators, senior
 172 human services counselor administrators, rehabilitation
 173 therapists, and social services counselors of the Department of
 174 Juvenile Justice; the names, home addresses, telephone numbers,

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 175 dates of birth, and places of employment of spouses and children
 176 of such personnel; and the names and locations of schools and
 177 day care facilities attended by the children of such personnel
 178 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 179 Constitution.

180 l. The home addresses, telephone numbers, dates of birth,
 181 and photographs of current or former public defenders, assistant
 182 public defenders, criminal conflict and civil regional counsel,
 183 and assistant criminal conflict and civil regional counsel; the
 184 names, home addresses, telephone numbers, dates of birth, and
 185 places of employment of the spouses and children of current or
 186 former public defenders, assistant public defenders, criminal
 187 conflict and civil regional counsel, and assistant criminal
 188 conflict and civil regional counsel; and the names and locations
 189 of schools and day care facilities attended by the children of
 190 current or former public defenders, assistant public defenders,
 191 criminal conflict and civil regional counsel, and assistant
 192 criminal conflict and civil regional counsel are exempt from s.
 193 119.07(1) and s. 24(a), Art. I of the State Constitution.

194 m. The home addresses, telephone numbers, dates of birth,
 195 and photographs of current or former investigators or inspectors
 196 of the Department of Business and Professional Regulation; the
 197 names, home addresses, telephone numbers, dates of birth, and
 198 places of employment of the spouses and children of such current
 199 or former investigators and inspectors; and the names and
 200 locations of schools and day care facilities attended by the
 201 children of such current or former investigators and inspectors
 202 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 203 Constitution. This sub-subparagraph is subject to the Open

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 204 Government Sunset Review Act in accordance with s. 119.15 and
 205 shall stand repealed on October 2, 2022, unless reviewed and
 206 saved from repeal through reenactment by the Legislature.

207 n. The home addresses, telephone numbers, and dates of
 208 birth of county tax collectors; the names, home addresses,
 209 telephone numbers, dates of birth, and places of employment of
 210 the spouses and children of such tax collectors; and the names
 211 and locations of schools and day care facilities attended by the
 212 children of such tax collectors are exempt from s. 119.07(1) and
 213 s. 24(a), Art. I of the State Constitution. This sub-
 214 subparagraph is subject to the Open Government Sunset Review Act
 215 in accordance with s. 119.15 and shall stand repealed on October
 216 2, 2022, unless reviewed and saved from repeal through
 217 reenactment by the Legislature.

218 o. The home addresses, telephone numbers, dates of birth,
 219 and photographs of current or former personnel of the Department
 220 of Health whose duties include, or result in, the determination
 221 or adjudication of eligibility for social security disability
 222 benefits, the investigation or prosecution of complaints filed
 223 against health care practitioners, or the inspection of health
 224 care practitioners or health care facilities licensed by the
 225 Department of Health; the names, home addresses, telephone
 226 numbers, dates of birth, and places of employment of the spouses
 227 and children of such personnel; and the names and locations of
 228 schools and day care facilities attended by the children of such
 229 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 230 the State Constitution. This sub-subparagraph is subject to the
 231 Open Government Sunset Review Act in accordance with s. 119.15
 232 and shall stand repealed on October 2, 2019, unless reviewed and

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233 saved from repeal through reenactment by the Legislature.
 234 p. The home addresses, telephone numbers, dates of birth,
 235 and photographs of current or former impaired practitioner
 236 consultants who are retained by an agency or current or former
 237 employees of an impaired practitioner consultant whose duties
 238 result in a determination of a person's skill and safety to
 239 practice a licensed profession; the names, home addresses,
 240 telephone numbers, dates of birth, and places of employment of
 241 the spouses and children of such consultants or their employees;
 242 and the names and locations of schools and day care facilities
 243 attended by the children of such consultants or employees are
 244 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 245 Constitution. This sub-subparagraph is subject to the Open
 246 Government Sunset Review Act in accordance with s. 119.15 and
 247 shall stand repealed on October 2, 2020, unless reviewed and
 248 saved from repeal through reenactment by the Legislature.
 249 q. The home addresses, telephone numbers, dates of birth,
 250 and photographs of current or former emergency medical
 251 technicians or paramedics certified under chapter 401; the
 252 names, home addresses, telephone numbers, dates of birth, and
 253 places of employment of the spouses and children of such
 254 emergency medical technicians or paramedics; and the names and
 255 locations of schools and day care facilities attended by the
 256 children of such emergency medical technicians or paramedics are
 257 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 258 Constitution. This sub-subparagraph is subject to the Open
 259 Government Sunset Review Act in accordance with s. 119.15 and
 260 shall stand repealed on October 2, 2021, unless reviewed and
 261 saved from repeal through reenactment by the Legislature.

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262 r. The home addresses, telephone numbers, dates of birth,
 263 and photographs of current or former personnel employed in an
 264 agency's office of inspector general or internal audit
 265 department whose duties include auditing or investigating waste,
 266 fraud, abuse, theft, exploitation, or other activities that
 267 could lead to criminal prosecution or administrative discipline;
 268 the names, home addresses, telephone numbers, dates of birth,
 269 and places of employment of spouses and children of such
 270 personnel; and the names and locations of schools and day care
 271 facilities attended by the children of such personnel are exempt
 272 from s. 119.07(1) and s. 24(a), Art. I of the State
 273 Constitution. This sub-subparagraph is subject to the Open
 274 Government Sunset Review Act in accordance with s. 119.15 and
 275 shall stand repealed on October 2, 2021, unless reviewed and
 276 saved from repeal through reenactment by the Legislature.
 277 s. The home addresses, telephone numbers, dates of birth,
 278 and photographs of current or former directors, managers,
 279 supervisors, nurses, and clinical employees of an addiction
 280 treatment facility; the home addresses, telephone numbers,
 281 photographs, dates of birth, and places of employment of the
 282 spouses and children of such personnel; and the names and
 283 locations of schools and day care facilities attended by the
 284 children of such personnel are exempt from s. 119.07(1) and s.
 285 24(a), Art. I of the State Constitution. For purposes of this
 286 sub-subparagraph, the term "addiction treatment facility" means
 287 a county government, or agency thereof, that is licensed
 288 pursuant to s. 397.401 and provides substance abuse prevention,
 289 intervention, or clinical treatment, including any licensed
 290 service component described in s. 397.311(26). This sub-

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291 subparagraph is subject to the Open Government Sunset Review Act
292 in accordance with s. 119.15 and shall stand repealed on October
293 2, 2023, unless reviewed and saved from repeal through
294 reenactment by the Legislature.

295 t. The home addresses, telephone numbers, dates of birth,
296 and photographs of current or former directors, managers,
297 supervisors, and clinical employees of a child advocacy center
298 that meets the standards of s. 39.3035(1) and fulfills the
299 screening requirement of s. 39.3035(2), and the members of a
300 child protection team as described in s. 39.303 whose duties
301 include supporting the investigation of child abuse or sexual
302 abuse, child abandonment, child neglect, and child exploitation
303 or to provide services as part of a multidisciplinary case
304 review team; the names, home addresses, telephone numbers,
305 photographs, dates of birth, and places of employment of the
306 spouses and children of such personnel and members; and the
307 names and locations of schools and day care facilities attended
308 by the children of such personnel and members are exempt from s.
309 119.07(1) and s. 24(a), Art. I of the State Constitution. This
310 sub-subparagraph is subject to the Open Government Sunset Review
311 Act in accordance with s. 119.15 and shall stand repealed on
312 October 2, 2023, unless reviewed and saved from repeal through
313 reenactment by the Legislature.

314 3. An agency that is the custodian of the information
315 specified in subparagraph 2. and that is not the employer of the
316 officer, employee, justice, judge, or other person specified in
317 subparagraph 2. shall maintain the exempt status of that
318 information only if the officer, employee, justice, judge, other
319 person, or employing agency of the designated employee submits a

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320 written request for maintenance of the exemption to the
321 custodial agency.

322 4. The exemptions in this paragraph apply to information
323 held by an agency before, on, or after the effective date of the
324 exemption.

325 Section 2. The Legislature finds that it is a public
326 necessity that the home addresses, dates of birth, and telephone
327 numbers of current or former judicial assistants; the names,
328 home addresses, telephone numbers, dates of birth, and places of
329 employment of the spouses and children of such judicial
330 assistants; and the names and locations of schools and day care
331 facilities attended by the children of such judicial assistants
332 be made exempt from s. 119.07(1), Florida Statutes, and s.
333 24(a), Article I of the State Constitution. Such identifying and
334 location information can be used as a tool to perpetuate fraud
335 against an individual and to acquire sensitive personal,
336 financial, medical, and familial information, the release of
337 which could cause great financial harm to the individual. In the
338 course of assisting in making rulings, entering judgments,
339 imposing sentences, or reviewing cases, judicial assistants
340 frequently do not create good will with litigants, the accused,
341 the convicted, and their associates and families, thus making
342 the judicial assistants, and their spouses and children, targets
343 for acts of revenge. This risk continues after judicial
344 assistants complete their public service. Disgruntled
345 individuals may wait to commit an act of revenge until the
346 employment of a judicial assistant ends. If such identifying and
347 location information were released, the safety of current or
348 former judicial assistants and their spouses and children could

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349 be seriously jeopardized. For these reasons, the Legislature
350 finds that it is a public necessity that such information be
351 made exempt from public records requirements.

352 Section 3. This act shall take effect July 1, 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT
14th District

February 7, 2019

The Honorable Ed Hooper
326, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 746 – Public Records/Judicial Assistants

Dear Chairman Hooper:

Senate Bill 746, relating to Public Records/Judicial Assistants has been referred to the Committee on Governmental Oversight and Accountability. I am requesting your consideration on placing SB 746 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

Tom A. Wright, District 14

cc: Joe McVaney, Staff Director of the Committee on Governmental Oversight and Accountability
Tamra Redig, Administrative Assistant of the Committee on Governmental Oversight and Accountability

REPLY TO:

- 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19
Meeting Date

746

Bill Number (if applicable)

Topic Public Records Exemption / Judicial Assistants

Amendment Barcode (if applicable)

Name Alison Dudley

Job Title President, AB Dudley and Associates

Address P.O. Box 428

Phone 850 / 559-1139

Street

Tall

FL

32302

Email alison@dudleyandassociates.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Judicial Assistants Association of Florida

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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.)

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

BILL: CS/SB 838

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Powell

SUBJECT: Public Records/Mental Health Treatment and Services

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Fav/CS
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 838 creates new exemptions from the public records inspection and access requirements of Art. 1, s. 24(a) of the State Constitution and s. 119.07(1), F.S. This bill makes confidential and exempt pleadings, orders, and personal identifying information on a docket relating to Baker Act proceedings. The information may be disclosed upon request to certain persons involved in the proceedings, certain agencies, or when directed by the court.

The bill provides that the exemptions are subject to the Open Government Sunset Review Act, and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.

Because the bill creates a public records exemption, the State Constitution requires passage by a two-thirds vote in each house of the Legislature.

The bill takes effect on July 1, 2019.

II. Present Situation:

Public Records Law

The Florida Constitution provides the public the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act. The Public Records Act states:

[I]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or the method of transmission.⁵ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁶ A violation of the Public Records Act may result in civil or criminal liability.⁷

Only the Legislature may create an exemption to public records requirements.⁸ An exemption must pass by a two-thirds vote of the House and the Senate.⁹ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰ A statutory

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S.

Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Section 119.01(1), F.S.

⁵ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁸ FLA. CONST., art. I, s. 24(c).

⁹ *Id.*

¹⁰ *Id.*

exemption that does not meet these criteria may be unconstitutional and may not be judicially saved.¹¹

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹² Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹³

The Baker Act

The Legislature adopted the Florida Mental Health Act, also known as The Baker Act, in 1971.¹⁴ It is designed to help people receive treatment who are suffering with mental, emotional, and behavioral disorders. Baker Act proceedings provide people with emergency services, sometimes through temporary detention, to obtain a mental health evaluation and treatment. The treatment may be voluntary or involuntary. The Baker Act requires that programs offer comprehensive services to people who need intensive short-term treatment and continued treatment to aid in their recovery. The Baker Act also provides protections and rights for people examined or treated for mental illness. Legal procedures are established for mental health examination and treatment, including voluntary admission, involuntary admission, involuntary inpatient treatment, and involuntary outpatient treatment.

Confidentiality of Records under the Baker Act

The concern has been expressed that while “clinical records”¹⁵ under the Baker Act are designated and maintained as confidential by the clerk of the court, it is not clear whether other Baker Act records are open to the public for review.¹⁶ There appears to be a difference of opinion among various clerks of court as to what is and what is not exempt from disclosure. If the petitions, orders, and identifying information in this bill were all classified as confidential and

¹¹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹² If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹³ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁴ Chapter 71-131, s. 1, Laws of Fla. The Baker Act is contained in Part I of chapter 394, Florida Statutes.

¹⁵ Section 394.4615, F.S., states that “[a] clinical record is confidential and exempt from the provisions of s. 119.07(1).” The Judicial Administration Rules also provide for the confidentiality of clinical records under the Baker Act. Fla. R. Jud. Admin. 2.420(d)(1)(B)(viii).

¹⁶ Section 394.455(3), F.S. Clinical records are defined as being all parts of the record required to be maintained, including medical records, progress notes, charts, admission and discharge data, and other information recorded by the facility that pertains to the patient’s hospitalization or treatment. In lay terms, this is often characterized as records requiring a medical signature.

exempt, then there would be uniformity among the clerks of the court in administering these provisions statewide.

III. Effect of Proposed Changes:

Section 1 creates s. 394.464, F.S., to provide that all petitions for voluntary and involuntary admission for mental health treatment, court orders, and related records filed with or by a court under Part I of Section 397, F.S., are confidential and exempt from s. 119.071(1), F.S., and s. 24(a), Art. I of the State Constitution. The pleadings and other documents may be disclosed by the clerk of court, upon request, to certain persons or agencies, such as the petitioner, the respondent and their legal representatives, as well as the Department of Corrections and Department of Children and Families. The bill provides that records made confidential and exempt from public disclosure can be submitted by the clerk of the court to the Florida Department of Law Enforcement as required by s. 790.065, F.S.¹⁷

The bill provides that the newly created public records exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides for retroactive application of the public records exemption.

Section 2 provides a statement of public necessity as required by the State Constitution.¹⁸ The bill provides that making petitions and court records filed under the Baker Act confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution protects a person's personal health information and sensitive personal information which, if released, could cause unwarranted damage to the person's reputation. Additionally, the knowledge that such information could be disclosed could have a chilling effect on the willingness of individuals to seek treatment.

Section 3 provides that the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the State Constitution may apply because clerks of the court may incur additional costs relating to redacting information made confidential and exempt under this bill. However, an exemption may apply based on the limited fiscal impact that is anticipated to be incurred.

¹⁷ Section 790.065, F.S., concerns the sale and delivery of firearms. Clerks of the court are required to transfer the records of certain impaired people to FDLE.

¹⁸ FLA. CONST. art. I, s. 24(c).

B. Public Records/Open Meetings Issues:***Vote Requirement***

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding exemptions to the public records and public meetings requirements. Because the bill creates a public records exemption, the State Constitution requires passage by a two-thirds vote in each house of the Legislature.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding exemptions to the public records and public meetings requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. The stated purpose of the law is to protect from dissemination to the public the contents of a person's mental health records filed with or by a court or placed on a docket and the personal identifying information, as mental health is an intensely private matter and the public stigma associated with a mental health condition may cause some persons to in need to avoid seeking treatment, and such information could damage the reputation of the person and their family. The bill makes confidential and exempt the petitions for voluntary and involuntary admission for mental health treatment and related court orders and records filed with or by a court under part 1 of ch. 394, F.S. The exemption does not appear to be broader than necessary to accomplish the stated purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:***Separation of Powers***

The judicial branch is not subject to the Public Records Act. Florida Rule of Judicial Administration 2.420(c)(7), however, provides that records made confidential by Florida law shall be confidential, with the burden of having such documents treated as confidential within a court file upon the filing party. Additionally, the judicial branch may adopt the public records exemptions passed by the Legislature.

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

None.

B. Private Sector Impact:

The private sector will be subject to the cost associated with an agency making redactions in response to public records requests.

C. Government Sector Impact:

Clerks of court may incur additional costs associated with training court personnel and performing more redactions of personal identifying information from dockets. It is anticipated that these costs will be absorbed within the existing resources of the offices of the clerks of court.

VI. Technical Deficiencies:

The bill, on line 27, incorrectly references s. 119.071(1), F.S., instead of s. 119.07(1), F.S., which relates to the inspection and copying of public records.

The Office of the State Attorney is not included in the listing of individuals and entities to whom the clerk of court may disclose the confidential and exempt information. The Legislature may want to consider adding the Office of the State Attorney to this list as the state attorney for the circuit in which the patient is located represents the state as the “real party of interest” in a Baker Act proceeding.¹⁹

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 394.464 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.)

CS by Children, Families, and Elder Affairs on March 11, 2019:

The CS provides an effective date of July 1, 2019.

¹⁹ Section. 364.467, F.S.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Children, Families, and Elder Affairs; and
Senator Powell

586-02926-19

2019838c1

1 A bill to be entitled
2 An act relating to public records; creating s.
3 394.464, F.S.; providing an exemption from public
4 records requirements for petitions for voluntary and
5 involuntary admission for mental health treatment,
6 court orders, related records, and personal
7 identifying information regarding persons seeking
8 mental health treatment and services; providing
9 exceptions authorizing the release of such petitions,
10 orders, records, and identifying information to
11 certain persons and entities; providing applicability;
12 prohibiting a clerk of court from publishing personal
13 identifying information on a court docket or in a
14 publicly accessible file; providing for retroactive
15 application; providing for future legislative review
16 and repeal of the exemption; providing a statement of
17 public necessity; providing an effective date.
18
19 Be It Enacted by the Legislature of the State of Florida:
20
21 Section 1. Section 394.464, Florida Statutes, is created to
22 read:
23 394.464 Court records; confidentiality.-
24 (1) All petitions for voluntary and involuntary admission
25 for mental health treatment, court orders, and related records
26 that are filed with or by a court under this part are
27 confidential and exempt from s. 119.071(1) and s. 24(a), Art. I
28 of the State Constitution. Pleadings and other documents made
29 confidential and exempt by this section may be disclosed by the

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586-02926-19

2019838c1

30 clerk of the court, upon request, to any of the following:
31 (a) The petitioner.
32 (b) The petitioner's attorney.
33 (c) The respondent.
34 (d) The respondent's attorney.
35 (e) The respondent's guardian or guardian advocate, if
36 applicable.
37 (f) In the case of a minor respondent, the respondent's
38 parent, guardian, legal custodian, or guardian advocate.
39 (g) The respondent's treating health care practitioner.
40 (h) The respondent's health care surrogate or proxy.
41 (i) The Department of Children and Families, without
42 charge.
43 (j) The Department of Corrections, without charge, if the
44 respondent is committed or is to be returned to the custody of
45 the Department of Corrections from the Department of Children
46 and Families.
47 (k) A person or entity authorized to view records upon a
48 court order for good cause. In determining if there is good
49 cause for the disclosure of records, the court must weigh the
50 person or entity's need for the information against potential
51 harm to the respondent from the disclosure.
52 (2) This section does not preclude the clerk of the court
53 from submitting the information required by s. 790.065 to the
54 Department of Law Enforcement.
55 (3) The clerk of the court may not publish personal
56 identifying information on a court docket or in a publicly
57 accessible file.
58 (4) A person or entity receiving information pursuant to

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586-02926-19

2019838c1

59 this section shall maintain that information as confidential and
 60 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 61 Constitution.

62 (5) The exemption under this section applies to all
 63 documents filed with a court before, on, or after July 1, 2019.

64 (6) This section is subject to the Open Government Sunset
 65 Review Act in accordance with s. 119.15 and shall stand repealed
 66 on October 2, 2024, unless reviewed and saved from repeal
 67 through reenactment by the Legislature.

68 Section 2. The Legislature finds that it is a public
 69 necessity that petitions for voluntary and involuntary admission
 70 for mental health treatment and related court orders and records
 71 that are filed with or by a court under part I of chapter 394,
 72 Florida Statutes, and the personal identifying information of a
 73 person seeking mental health treatment published on a court
 74 docket and maintained by the clerk of the court under part I of
 75 chapter 394, Florida Statutes, be made confidential and exempt
 76 from disclosure under s. 119.07(1), Florida Statutes, and s.
 77 24(a), Article I of the State Constitution. The mental health of
 78 a person, including a minor, is a medical condition, which
 79 should be protected from dissemination to the public. A person's
 80 mental health is also an intensely private matter. The public
 81 stigma associated with a mental health condition may cause
 82 persons in need of treatment to avoid seeking treatment and
 83 related services if the record of such condition is accessible
 84 to the public. Without treatment, a person's condition may
 85 worsen, the person may harm himself or herself or others, and
 86 the person may become a financial burden on the state. The
 87 content of such records or personal identifying information

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586-02926-19

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88 should not be made public merely because they are filed with or
 89 by a court or placed on a docket. Making such petitions, orders,
 90 records, and identifying information confidential and exempt
 91 from disclosure will protect such persons from the release of
 92 sensitive, personal information which could damage their and
 93 their families' reputations. The publication of personal
 94 identifying information on a physical or virtual docket,
 95 regardless of whether any other record is published, defeats the
 96 purpose of protections otherwise provided. Further, the
 97 knowledge that such sensitive, personal information is subject
 98 to disclosure could have a chilling effect on a person's
 99 willingness to seek out and comply with mental health treatment
 100 services.

101 Section 3. This act shall take effect July 1, 2019.

Page 4 of 4

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The Florida Senate

Committee Agenda Request

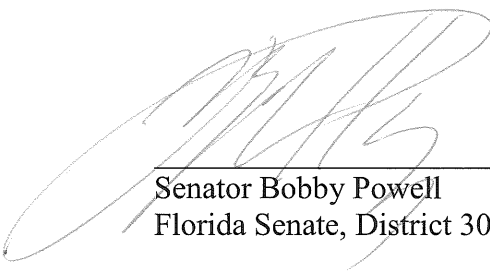
To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 11, 2019

I respectfully request that **Senate Bill #838**, relating to Public Records/Mental Health Treatment and Services, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.



Senator Bobby Powell
Florida Senate, District 30

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19
Meeting Date

838
Bill Number (if applicable)

Topic Confidentiality of Baker Act records

Amendment Barcode (if applicable)

Name Nancy Daniels

Job Title Legislative Consultant

Address 103 N. Gadsden St.

Phone 850 488-6850

Tallahassee FL 32301
City State Zip

Email ndaniels@flpda.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.2.19

838

Meeting Date

Bill Number (if applicable)

Topic Public Records/Mental Health Treatment

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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.)

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

BILL: SB 1306

INTRODUCER: Senators Book and Pizzo

SUBJECT: Women's Suffrage Centennial Commemoration Committee

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	<u> </u>	<u> </u>	<u>ATD</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 1306 creates a 16 member Women's Suffrage Centennial Commemoration Committee for the purpose of ensuring a suitable statewide observance of the centennial of women's suffrage in 2020. The committee may establish a youth working group to advise and provide recommendations to the committee in fulfilling its duties. The committee is created adjunct to the Department of State and, except as otherwise provided in the bill, must operate in a manner consistent with s. 20.052, F.S.

The bill provides for the expiration of the section on December 31, 2020.

The Department of State will incur costs associated with supporting the committee, including the costs of per diem and travel by the committee members.

The bill takes effect July 1, 2019.

II. Present Situation:

Committee under Section 20.052, F.S.

"Committee" is defined to mean an "advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem."¹ The existence of an advisory body terminates upon the completion of its assignment.²

Section 20.052, F.S., provides that an advisory body created by specific statutory enactment as an adjunct to an executive agency must be established, evaluated, or maintained in accordance

¹ Section 20.03(8), F.S.

² *Id.*

with certain requirements.³ The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.⁴ Unless an exemption is otherwise specifically provided by law, all meetings of an advisory body are public meetings under s. 286.011, F.S.⁵

Section 119.011(2) defines “agency” as

[A]ny state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

The committee functions as part of the Department of State and qualifies as an “agency” as set forth in s. 119.011(2), F.S. Accordingly, the commission is subject to the requirements of ch. 119, F.S. Within 30 days of the abolishment of the commission, pursuant to s. 20.052(1)(4)(d), F.S., the Department of State is charged with storing the committee’s records appropriately and reclaiming any property assigned to the commission.

Women’s Suffrage

After decades of activism, women were granted the right to vote when the Nineteenth Amendment was ratified on August 18, 1920.⁶ The nineteenth amendment declares that “[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have the power to enforce this article by appropriate legislation.” The year 2020 brings the 100th anniversary of women’s suffrage in the United States. Projects and events throughout the United States are underway to commemorate this historic milestone.⁷

III. Effect of Proposed Changes:

Section 1 establishes the Women’s Suffrage Centennial Commemoration Committee adjunct to the Department of State. The purpose of the committee is to ensure a suitable statewide observance of the centennial of women’s suffrage in 2020.

The committee is to be composed of 16 members, to include:

- The chair of the committee, appointed by the Governor;
- The Secretary of State, or his or her designee;
- The director of the Division of Historical Resources of the Department of State;
- Two members of the Senate, appointed by the President of the Senate;

³ Section 20.052(1), F.S.

⁴ Section 20.052(1)(b), F.S.

⁵ Section 20.052(1)(c), F.S.

⁶ See Certification of the Adoption of the Nineteenth Amendment to the Constitution, 41 Stat. 1823 (1920).

⁷ See <http://www.suffragettes2020.com/> (last visited March 21, 2019).

- Two members of the House of Representatives, appointed by the Speaker of the House of Representatives;
- A women's history scholar from a postsecondary educational institution in this state, appointed by the Governor;
- A member of the Florida Historical Commission, appointed by the Governor;
- Two members of the Florida Commission on the Status of Women, appointed by the Governor;
- A member of the Florida Women's Hall of Fame, appointed by the Governor;
- A representative of the League of Women Voters of Florida, appointed by the Governor;
- A historian, appointed by the Governor; and
- Two citizen members, appointed by the Governor.

The appointed members of the committee serve at the pleasure of the appointing authority, and any vacancies must be filled as the initial appointment was made. The committee is directed to meet as often as it deems necessary to fulfill the duties prescribed in this section.

The committee, in ensuring a suitable statewide observance of the centennial of the passage and ratification of the Nineteenth Amendment to the United States Constitution, is charged with the following duties:

- Advise on the development of programs and activities appropriate to commemorate the centennial of women's suffrage, and encourage development of such programs and activities to ensure that the commemoration results in a positive legacy and has long-term benefits.
- Facilitate the observance of women's suffrage-related activities throughout the state.
- Encourage civic, historical, educational, economic, and other organizations throughout the state to organize and participate in activities to expand the understanding and appreciation of women's suffrage while also recognizing the racial disparities that interfered with the exercise of the right to vote by women of color upon the enfranchisement of women.
- Coordinate and facilitate the public distribution of scholarly research, publication, and interpretation of women's suffrage.
- Coordinate with the Department of Education regarding the manner in which the centennial of women's suffrage will be commemorated in the state's public secondary schools.
- Assist the Department of State in developing a statewide public awareness campaign on the centennial of women's suffrage through such means as, but not limited to, public service announcements, outdoor advertising, and a website.
- Encourage local organizations and nonprofit organizations to further the commemoration of the centennial of women's suffrage.

The bill permits the committee to establish a youth working group to advise and provide recommendations to the committee. Members of the youth working group must serve on a volunteer basis, be Florida residents, be between the ages of 15 and 30 years of age, identify as women, and demonstrate an interest in history. Members of the youth working group are to be appointed by the chair of the committee, upon review of applications.

The bill provides that the Division of Historical Resources of the Department of State shall provide administrative and staff support for the committee.

Section 2 provides that this section expires December 31, 2020.

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. However, any meetings of the committee are public meetings open to the public.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Historical Resources of the Department of State, as the agency providing administrative staff and support for the committee, will incur costs associated with supporting the committee, including per diem and reimbursement for travel expenses to committee members pursuant to s. 20.052(4)(d), F.S.

VI. Technical Deficiencies:

Line 19 states the committee is "a committee as defined in s. 20.03(8), F.S." In that statute, a committee is an advisory body that exists for up to one year in not created by statutory enactment or up to 3 years if created by statutory enactment. In this bill, the committee is created without specific statutory enactment and should be limited to an existence of one year if created

consistent with s. 20.03(8), F.S. This bill provides for the committee to be in existence for approximately 1½ years; thus, exceeding the statutory one-year period. The Legislature may want to consider establishing the committee via specific statutory enactment to provide for a longer life span, up to 3 years.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill does not amend 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.

By Senators Book and Pizzo

32-01658C-19

20191306__

A bill to be entitled

An act relating to the Women's Suffrage Centennial Commemoration Committee; creating the committee adjunct to the Department of State; providing for the purpose of the committee; specifying the composition of the committee and requirements of committee members; prescribing duties of the committee in order to ensure a suitable statewide observance of the centennial of women's suffrage; providing for the establishment of a youth working group; requiring the Division of Historical Resources of the department to provide administrative and staff support; providing for expiration of the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The Women's Suffrage Centennial Commemoration Committee, a committee as defined in s. 20.03(8), Florida Statutes, is created adjunct to the Department of State for the express purpose of ensuring a suitable statewide observance of the centennial of women's suffrage in 2020. Except as otherwise provided in this section, the committee shall operate in a manner consistent with s. 20.052, Florida Statutes.

(2) The committee is composed of the following members:

(a) The chair of the committee, appointed by the Governor.

(b) The Secretary of State, or his or her designee.

(c) The director of the Division of Historical Resources of the Department of State.

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32-01658C-19

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(d) Two members of the Senate, appointed by the President of the Senate.

(e) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(f) A women's history scholar from a postsecondary educational institution in this state, appointed by the Governor.

(g) A member of the Florida Historical Commission, appointed by the Governor.

(h) Two members of the Florida Commission on the Status of Women, appointed by the Governor.

(i) A member of the Florida Women's Hall of Fame, appointed by the Governor.

(j) A representative of the League of Women Voters of Florida, appointed by the Governor.

(k) A historian, appointed by the Governor.

(l) Two citizen members, appointed by the Governor.

(3) Appointed members of the committee shall serve at the pleasure of the appointing authority and any vacancies shall be filled in the same manner as the initial appointment. The committee may meet as often as it deems necessary to fulfill the duties prescribed in this section.

(4) In ensuring a suitable statewide observance of the centennial of the passage and ratification of the Nineteenth Amendment to the United States Constitution, the committee has the following duties:

(a) Advise on the development of programs and activities appropriate to commemorate the centennial of women's suffrage, and encourage the development of such programs and activities to

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

32-01658C-19 20191306__

59 ensure that the commemoration results in a positive legacy and
60 has long-term benefits.

61 (b) Facilitate the observance of women's suffrage-related
62 activities throughout the state.

63 (c) Encourage civic, historical, educational, economic, and
64 other organizations throughout the state to organize and
65 participate in activities to expand the understanding and
66 appreciation of women's suffrage while also recognizing the
67 racial disparities that interfered with the exercise of the
68 right to vote by women of color upon the enfranchisement of
69 women.

70 (d) Coordinate and facilitate the public distribution of
71 scholarly research, publication, and interpretation of women's
72 suffrage.

73 (e) Coordinate with the Department of Education regarding
74 the manner in which the centennial of women's suffrage will be
75 commemorated in the state's public secondary schools.

76 (f) Assist the Department of State in developing a
77 statewide public awareness campaign on the centennial of women's
78 suffrage through such means as, but not limited to, public
79 service announcements, outdoor advertising, and a website.

80 (g) Encourage local organizations and nonprofit
81 organizations to further the commemoration of the centennial of
82 women's suffrage.

83 (5) The committee may establish a youth working group to
84 advise and provide recommendations to the committee in
85 fulfilling its duties and responsibilities. Members of the youth
86 working group shall serve on a volunteer basis and must be
87 residents of this state between 15 and 30 years of age who

Page 3 of 4

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32-01658C-19 20191306__

88 identify as women and demonstrate an interest in history. The
89 chair of the committee shall appoint members of the working
90 group upon review of applications.

91 (6) The Division of Historical Resources of the Department
92 of State shall provide administrative and staff support for the
93 committee.

94 (7) This section expires December 31, 2020.

95 Section 2. This act shall take effect July 1, 2019.

Page 4 of 4

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human
Services
Health Policy
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR LAUREN BOOK

32nd District

March 6, 2019

Chair Ed Hooper
Committee on Governmental Oversight and Accountability
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Hooper:

I respectfully request that **SB 1306—Women's Suffrage Centennial Commemoration Committee** be placed on the agenda for the next Committee on Governmental Oversight and Accountability meeting.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Senate District 32

Cc: Joe McVaney, Staff Director
Tamra Redig, Administrative Assistant

REPLY TO:

- 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- 202 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

330 Knott Building
Page 2

THE FLORIDA SENATE

APPEARANCE RECORD

4-2-19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1306

Meeting Date

Bill Number (if applicable)

Topic Women's Suffrage Committee

Amendment Barcode (if applicable)

Name Bob Harris

Job Title

Address 2618 Centennial Place

Phone 222-0720

Street

Tallahassee FL 32308

Email bharris@lawfla.com

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19

Meeting Date

1306

Bill Number (if applicable)

Topic Women's Suffrage Centennial

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board Member

Address 2024 Shangri La Lane

Phone 850 322 3317

Street

Tally

FL

State

32303

Zip

Email

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing League Women Voters

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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.)

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

BILL: CS/SB 1428

INTRODUCER: Ethics and Elections Committee and Senator Perry and others

SUBJECT: Disposition of Surplus Funds by Candidates

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Roberts</u>	<u>EE</u>	Fav/CS
2.	<u>Hackett</u>	<u>McVane</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1428 amends s. 106.141, F.S., regarding the disposition of surplus funds by candidates following elections. The bill places a limitation on the current charitable option for the disposition of surplus campaign funds. It prohibits a candidate, the candidate's spouse, parent, child, and sibling from being a principal of the 501(c)(3) organization to which surplus funds are donated, or receiving compensation, such as earnings, tips, or paid employment, from the organization in exchange for such donation.

The bill takes effect July 1, 2019.

II. Present Situation:

A candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated or elected to office must dispose of surplus funds in his or her campaign account within 90 days and file a termination report reflecting the disposition of all remaining funds.¹ Florida law generally provides former candidates with 7 nonexclusive options for disposing of surplus funds:²

¹ Section 106.141, F.S.

² Sections 106.11(5) and 106.141(4)(a), F.S. Successful candidates have the additional option to transfer a certain amount of the surplus funds to an "office account," to be used for "legitimate expenses in connection with the candidate's public office." Section 106.141(5), F.S. Candidates receiving public campaign financing must return *all* excess funds to the State General Revenue Fund after paying for any items for which the campaign was liable before withdrawing, becoming unopposed, or being eliminated or elected. Section 106.141(4)(b), F.S.

- Return funds *pro rata* to contributors;
- Give the funds as a charitable donation;
- Rebate up to \$25,000 to the candidate's political party;
- Deposit funds to General Revenue Fund of State (candidates for state office) or local political subdivision (local candidates);
- Purchase "thank you" advertising for up to 75 days;
- Pay for items obligated before the candidate withdrew, became unopposed, or was eliminated or elected; and
- Pay for necessary expenses to close down the campaign office and prepare final reports.

The statutory language for the charitable donation option authorizes candidates to:

Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the requirements of s. 501(c)(3) of the Internal Revenue Code.³

Thus, the only limitation is that funds must be given to a 501(c)(3) organization(s).

III. Effect of Proposed Changes:

Section 1 provides that, for charitable donations involving surplus campaign funds, the candidate, and the candidate's spouse, parent, child, or sibling, may not:

- Be a principal of the 501(c)(3) organization; or
- Receive a direct benefit in the form of compensation, such as earnings, stipend, tips, or paid employment, from the organization in exchange for such donation.

The term "principal" is not defined in state law. However, for federal tax purposes, a "principal officer" of a 501(c)(3) corporation is "a person who has ultimate responsibility for implementing the decisions of the organization's governing body, or for supervising the management, administration, or operation of the organization."⁴ The first restriction on being a principal is based on the *position* held within the charity, such as a member of the board of directors.

The second restriction prohibits a *quid pro quo* arrangement: something of monetary value in exchange for the donation.

Any candidate who violates these restrictions commits a first-degree misdemeanor and may be subject to additional administrative penalties.

Section 2 provides that the bill takes effect July 1, 2019.

³ Section 106.141(4)(a)2., F.S.

⁴ <https://www.irs.gov/charities-non-profits/exempt-organizations-annual-reporting-requirements-form-990-parts-i-v-reporting-compensation-of-principal-officers>

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares 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:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 106.141 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on March 20, 2019:

Narrows the scope of the restriction regarding candidates donating surplus campaign funds to certain charitable organizations.

- B. **Amendments:**

None.

By the Committee on Ethics and Elections; and Senators Perry and Baxley

582-03290-19

20191428c1

A bill to be entitled

An act relating to the disposition of surplus funds by candidates; amending s. 106.141, F.S.; prohibiting a candidate, or the candidate's spouse, parent, child, or sibling, from serving as a principal of a charitable organization that receives surplus funds or from receiving a direct financial benefit from such organization in exchange for the donation of surplus funds; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (4) of section 106.141, Florida Statutes, is amended to read:

106.141 Disposition of surplus funds by candidates.—

(4) (a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.

2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code. If a donation is made to any charitable organization, the candidate, or the candidate's spouse, parent, child, or sibling, may not be a principal of the organization, and he or she may not receive a direct benefit in the form of compensation, such as any earnings, stipend, tips, or paid employment, from the

Page 1 of 2

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582-03290-19

20191428c1

organization in exchange for such donation.

3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.

4. Give the funds that have not been spent or obligated:

a. In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or

b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

Section 2. This act shall take effect July 1, 2019.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 21, 2019

I respectfully request that **Senate Bill #1428**, relating to Disposition of Surplus Funds by Candidates, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19

Meeting Date

1428

Bill Number (if applicable)

Topic Disposition Surplus Funds

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board member

Address 2024 Shangri La Lane

Phone 850 322 3317

Street

Tally

FL

State

32303

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing League Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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.)

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

BILL: SB 1612

INTRODUCER: Senator Baxley

SUBJECT: Prison Industry Programs

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1612 amends s. 287.095, F.S., to remove the legislatively imposed cap on the amount of non-inmate made goods that may be provided by the Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) to its customers. The current cap for non-inmate made products is no more than two percent of total sales of the corporation.

The bill does not appear to have an impact on government revenues as PRIDE does not receive state funding or contribute to state revenues. However, PRIDE will likely experience a positive fiscal impact as it will no longer be required to maintain and audit records to verify compliance with the two percent cap.

The bill is effective July 1, 2019.

II. Present Situation:

PRIDE - Background

PRIDE was incorporated in December 1981 and was formally established by the Legislature in 1983 to act as a private not-for-profit corporation¹ operating correctional work programs in Florida's prisons.² The final transfer of correctional work programs was completed in July 1984.³

¹ Section 946.503(1), F.S., defines "corporation" for this chapter to mean the private nonprofit corporation established pursuant to s. 946.504(1), F.S., or a private nonprofit corporation whose sole member is the private nonprofit corporation established pursuant to s. 946.504(1), F.S., and at least 51 percent of the board of which contains members of the board of directors of the private nonprofit corporation established pursuant to s. 946.504(1), F.S., to carry out this part.

² Sections 946.501 and 946.502, F.S.; Ch. 83-209, L.O.F.

³ PRIDE Enterprises, *Annual Report 2017*, p. 29, available at https://www.pride-enterprises.org/Themes/PrideDefault/MediaContent/About/2017%20Annual%20Report/2017_Annual_Report.pdf (last visited March 17, 2019)(hereinafter cited as "Annual Report").

PRIDE does not receive funding from the Legislature and is supported by the earnings that it generates from the sale of its products and services.⁴

A correctional work program is defined to mean any program presently a part of the prison industries program operated by the Department of Corrections (DOC) or any other correctional work program carried on at any state correctional facility presently or in the future.⁵ The DOC is required to lease buildings and land to PRIDE to operate these correctional work programs.⁶

PRIDE currently operates 35 different work programs in 21 prison correctional facilities.⁷ These programs serve an average of 3,000 inmates a year, including 3,117 inmates in 2017.⁸ The inmates of these programs produce over 3,000 unique products, such as janitorial products, metal products, seating, and office and detention furniture.⁹ PRIDE manufactures and sells products to all levels of government as well as nonstate and private entities.¹⁰

PRIDE reports that it provides a number of “pass through”¹¹ items— or “contractually allied”¹² products, which are provided on a complementary basis together with PRIDE manufactured products. For example, PRIDE manufactures cleaning supplies such as floor waxes, hand soap, glass cleaners and the like.¹³ For clients that purchase PRIDE’s cleaning supplies, PRIDE provides allied items such as plastic bags, mops, and trash containers.¹⁴ PRIDE places a small mark-up on the complementary or allied products and these items are shipped together with the PRIDE produced products, allowing it to serve as a single source for its customers. PRIDE reports that the two percent cap restricts them from being able to pass through these allied items in a sufficient amount.¹⁵

Cap on Non-Inmate Made Goods

Section 287.095, F.S., provides, in part, that all products offered for purchase to a state agency by PRIDE must be produced primarily by inmate labor. PRIDE is able to provide products that are not made by inmates when those products are “contractually allied” to products made by

⁴ *Id.*

⁵ Section 946.503(2), F.S. However, the term does not include any program authorized by s. 945.091, F.S. (extension of the limits on confinement, specifically work release), or s. 946.40, F.S. (use of prisoners in public works).

⁶ Section 946.504, F.S.

⁷ PRIDE Enterprises, *Company Overview*, available at <https://www.pride-enterprises.org/content.aspx?page=CompanyOverview>; See also The PRIDE Enterprises, *PRIDE locations*, February 2, 2019, available at <https://www.pride-enterprises.org/content.aspx?page=Locations> (all sites last visited on March 17, 2019).

⁸ Annual Report, p. 19.

⁹ PRIDE Enterprises, *PRIDE Enterprises Company Profile*, January 2019 (on file with the Senate Criminal Justice Committee).

¹⁰ Annual Report, p. 23.

¹¹ PRIDE Enterprises, *SB 1612, HB 6055 Prison Industry Programs Repealer Bill, Explanation of Repealer Bill* (on file with the Senate Criminal Justice Committee).

¹² See Section 287.095, F.S.

¹³ *Supra* note 11.

¹⁴ *Id.*

¹⁵ *Id.*

inmates and offered by PRIDE.¹⁶ However, PRIDE may not offer these non-inmate made products in an amount that exceeds two percent of the total sales of the corporation in any year.¹⁷

Prison Industry Enhancement Program

The Prison Industry Enhancement Program (PIE) allows for inmate-produced goods to enter into interstate commerce if produced under a Prison Industry Enhancement Certification Program (PIECP)¹⁸ designated authority.¹⁹ PRIDE is the PIECP certificate holder for the state of Florida, which allows inmates assigned to these PRIDE industries to have the opportunity to earn wages comparable to those paid to free-world workers in the locality of the prison industry. As proscribed by law and discussed below, authorized deductions from wages are required and give inmates the opportunity to pay restitution to victims and to provide support for their families.²⁰

PRIDE is authorized to operate or contract with the private sector for substantial involvement in a PIE program that includes, but is not limited to, contracts for the operation of a direct private sector business within a prison and the hiring of inmates. Any contract authorized must be in compliance with federal law governing inmate work programs and must not result in the significant displacement of employed workers in the community.²¹

PRIDE is authorized to deposit and withdraw funds from the Prison Industries Trust Fund (Trust Fund). Deposits to the fund are generated through a 50 percent withholding on all PIE inmate wages.²² The Trust Fund must consist of moneys authorized to be deducted pursuant to 18 U.S.C. s. 1761(c), and the applicable federal guidelines, to be appropriated by the Legislature, and moneys deposited by PRIDE to manage and operate correctional work programs.²³

The appropriated funds must be used by PRIDE for purposes of construction or renovation of its facilities or for the expansion or establishment of correctional work programs or for PIE programs.²⁴ Further, the funds must be deposited in the State Treasury and may only be paid out on warrants drawn by the Chief Financial Officer upon receipt of an authorized corporate resolution. PRIDE is required to maintain all necessary records and accounts relative to such

¹⁶ Section 287.095(3), F.S.

¹⁷ *Id.*

¹⁸ The Bureau of Justice Assistance provides that the PIECP is “an effective inmate employment program that enables prisoners to repay their debt to society, reduce incarceration costs, and prepare for release with improved work prospects. In the process, PIECP supports victims’ families, decreases recidivism, generates products and tax income for local economies, and uses free-market principles and private-sector participation to improve efficiency in the corrections industry.” See Bureau of Justice Assistance, *PIECP Program Brief*, August 2018, available at https://www.bja.gov/Publications/PIECP-Program-Brief_2018.pdf (last visited on March 17, 2019).

¹⁹ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Program Brief, p. 1, March 2004, available at <https://www.ncjrs.gov/pdffiles1/bja/203483.pdf>; See also The PRIDE Enterprises, *Governing Laws*, available at <https://www.pride-enterprises.org/content.aspx?page=GoverningLaws#StatutoryMissions> (all sites last visited on March 17, 2019).

²⁰ *Id.* In 2018, inmate workers contributed over \$112,000 to the State Crime Compensation Fund and paid over \$110,000 toward court-ordered restitution and family support.

²¹ Section 946.523(1), F.S.

²² PRIDE Enterprises, *Governing Laws*, available at <https://www.pride-enterprises.org/content.aspx?page=GoverningLaws#StatutoryMissions> (last visited on March 17, 2019).

²³ Section 946.522(1), F.S.

²⁴ Such programs are authorized under s. 946.523, F.S.

funds.²⁵ Any balance in the trust fund at the end of any fiscal year must remain in the trust fund at the end of that year and will be available for carrying out the purposes of the trust fund.²⁶

Other Statutory Requirements Placed on PRIDE

An inmate may be employed by PRIDE or by any other private entity operating on the grounds of a correctional institution during the last 24 months of the inmate's imprisonment.²⁷ PRIDE is required to establish a compensation plan that provides for a specific amount to be paid to the DOC to be credited to an account for an inmate performing labor and a portion to be used to make any court-ordered payments, including restitution to the victim. Additionally, a specific amount must be paid to the Trust Fund.²⁸

III. Effect of Proposed Changes:

The bill amends s. 287.095, F.S., to remove the restriction that the value of non-inmate made products offered by PRIDE may not exceed two percent of PRIDE's total sales in any year.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds, nor does it reduce the authority of counties or municipalities to raise revenue. Likewise, it does reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

²⁵ Section 946.522(2), F.S.

²⁶ Section 946.522(3), F.S.

²⁷ Section 946.513(1), F.S.

²⁸ Section 946.512, F.S.

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

None.

B. Private Sector Impact:

The bill removes the statutorily imposed cap for the percentage of overall non-inmate goods allowing PRIDE to provide allied products without the additional costs of maintaining and auditing records to verify compliance. This will likely result in a positive fiscal impact on PRIDE.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.095 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.

By Senator Baxley

12-01309-19

20191612__

1 A bill to be entitled

2 An act relating to prison industry programs; amending
3 s. 287.095, F.S.; removing provisions that provide a
4 limitation on the total sales by a specified
5 corporation of certain products offered for purchase
6 to a state agency; providing an effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Subsection (3) of section 287.095, Florida
11 Statutes, is amended to read:

12 287.095 Department of Corrections; prison industry
13 programs.—

14 (3) All products offered for purchase to a state agency by
15 the corporation organized under chapter 946 shall be produced in
16 majority part by inmate labor, except for products not made by
17 inmates which products are contractually allied to products made
18 by inmates which are offered by the corporation, ~~provided the~~
19 ~~value of the products not made by inmates do not exceed 2~~
20 ~~percent of the total sales of the corporation in any year.~~
21

Section 2. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

March 25, 2019

The Honorable Chairman Ed Hooper
326 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Hooper,

I would like to request SB 1612 Prison Industry Program be heard in the next Governmental Oversight and Accountability Committee meeting.

This bill removes the 2% restriction that hampers PRIDE the ability to “pass through” products which are for the convenience of the customer. The 2% requirement was put into law in the late 1980’s and the types of business needs have changed since then.

PRIDE builds modular furniture at its plant using inmate labor, but cannot manufacture the lighting and wires due to the certification requirements of such products. However, wiring and lighting products are essential to marketing of the modular furniture. Same is the case for the janitorial and cleaning supplies, there are plastic bags, mops, trash containers, floor mats, paper towels and the like that PRIDE purchases to accommodate their customer’s needs to accompany the floor cleaning products, floor waxes, and the like.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Joe McVaney, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.2.19

1612

Meeting Date

Bill Number (if applicable)

Topic Prison Industry Programs

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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.)

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

BILL: CS/SB 7080

INTRODUCER: Governmental Oversight and Accountability Committee and Health Policy Committee

SUBJECT: Public Records and Meetings/Interstate Medical Licensure Compact

DATE: April 2, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Lloyd</u>	<u>Brown</u>		HP Submitted as Committee Bill
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7080 exempts from public record inspection and copying requirements the personal identifying information of a physician, other than the physician's name, licensure status, or licensure number, obtained from the coordinated information system under the Interstate Medical Licensure Compact, as defined in s. 456.4501, F.S.,¹ and held by the Department of Health or the board (the Board of Medicine or the Board of Osteopathic Medicine).² This information is not exempt from public records requirements if the state originally reporting the information to the coordinated information system authorizes disclosure of such information by law.

The bill exempts from public meeting requirements a meeting or a portion of the meeting of the Interstate Medical Licensure Commission established under the Interstate Medical Licensure Compact. The exemption applies when matters are specifically exempted from disclosure by state or federal law are discussed. The recordings, minutes, and records generated from those meetings are also exempt from requirements to disclose such public records.

The bill takes effect on the same date that SB 7078 or similar legislation takes effect. SB 7078, the substantive bill authorizing Florida's participation in the Interstate Medical Licensure Compact, is effective on July 1, 2019.

¹ Section 456.4501, F.S., is created in SPB 7078 and establishes the state's participation in the Interstate Medical Licensure Compact and the coordinated information system.

² Section 456.001, F.S.

The bill provides for the repeal of the exemption on October 2, 2024, unless reviewed and reenacted by the Legislature. It also provides statements of public necessity for the public records and public meetings exemptions as required by the State Constitution.

Because the bill creates a new public records exemption, a two-thirds vote of the members present and voting in each house of the Legislature is required for final passage.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.³

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.⁴ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is the duty of each agency.⁵

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁶ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁷ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁸

³ FLA. CONST. art. 1, s. 24(a).

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Chapter 119.01(1), F.S.

⁶ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁷ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁸ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person's right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁹ A violation of the Public Records Act may result in civil or criminal liability.¹⁰

Only the Legislature may create an exemption to public records requirements.¹¹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹² Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹³ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹⁴

When creating or expanding a public records exemption, the Legislature may provide that a record is 'confidential and exempt' or 'exempt.'¹⁵ Records designated as 'confidential and exempt' may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as 'exempt' may be released at the discretion of the records custodian under certain circumstances.¹⁶

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁷ with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.²⁰

⁹ Section 119.07(1)(a), F.S.

¹⁰ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Id.*

¹³ The bill may, however, contain multiple exemptions that relate to one subject.

¹⁴ FLA. CONST., art. I, s. 24(c)

¹⁵ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁶ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁷ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

Open Meetings Law

The State Constitution provides that the public has a right to access governmental meetings.²¹ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.²² This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.²³

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”²⁴ or the “Sunshine Law,”²⁵ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²⁶ The board or commission must provide the public reasonable notice of such meetings.²⁷ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²⁸ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁹ Failure to abide by public meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.³⁰ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.³¹

The Legislature may create an exemption to public meetings requirements by passing a general law by at least a two-thirds vote of both the Senate and the House of Representatives.³² The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.³³ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³⁴

²¹ FLA CONST., art. I, s. 24(b).

²² *Id.*

²³ FLA CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

²⁴ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

²⁵ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

²⁶ Section 286.011(1)-(2), F.S.

²⁷ *Id.*

²⁸ Section 286.011(6), F.S.

²⁹ Section 286.011(2), F.S.

³⁰ Section 286.011(1), F.S.

³¹ Section 286.011(3), F.S.

³² FLA CONST., art. I, s. 24(c).

³³ *Id.*

³⁴ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption.

The following are general exemptions from the requirement that all meetings of any state agency or authority be open to the public:

- That portion of a meeting that would reveal a security or fire safety system plan; and
- Any portion of a team meeting at which negotiation strategies are discussed.³⁵

Practitioner Profiles

Pursuant to s. 456.041, F.S., the Department of Health (DOH) operates a database of Florida's health care practitioners, which includes physicians. The practitioner profile database is online and searchable.³⁶ The profile may include information that is public record and relates to the practitioner's profession.³⁷ Practitioners and the DOH are required to update profiles.³⁸ Information exempt from public disclosure and submitted by another governmental entity that the DOH uses for practitioner profiles continues to maintain its exempt status.³⁹

Interstate Medical Licensure Compact and Commission

Interstate Medical Licensure Compact

The Interstate Medical Licensure Compact (Compact) provides an expedited pathway for medical and osteopathic physicians to qualify to practice medicine across state lines within a licensure compact. Currently, 24 states and one territory which cover 31 medical and osteopathic boards participate in the Compact, and, as of February 2019, six other states have active legislation to join the Compact.^{40, 41}

Approximately 80 percent of physicians meet the eligibility guidelines for licensure through the Compact.⁴² The providers' applications are expedited by using the information previously submitted in their state of principal licensure (SPL). The physician can then seek expedited licensure in member states after a fresh background check is completed.

Interstate Medical Licensure Compact Commission

The Interstate Medical Licensure Compact Commission (Commission) is created in Section 11 of the Compact and serves as the administrative arm of the Compact and the member states. Each member state has two voting representatives on the Commission and, if the state has separate regulatory boards for allopathic and osteopathic, then the representation is split between the two boards.⁴³

The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

³⁵ Section 286.0113, F.S.

³⁶ Section 456.041(8), F.S.; Department of Health Practitioner Profile Search, <https://apps.mqa.doh.state.fl.us/MQASearchServices/HealthCareProviders/PractitionerProfileSearch> (last visited Mar. 12, 2019).

³⁷ Section 456.041(7), F.S.

³⁸ Section 456.042, F.S.

³⁹ Section 456.046, F.S.

⁴⁰ Interstate Medical Licensure Compact, *The IMLC*, <https://imlcc.org/> (last visited Mar. 8, 2019).

⁴¹ Interstate Medical Licensure Compact, Draft Executive Committee Meeting Minutes (February 5, 2019), <https://imlcc.org/wp-content/uploads/2019/02/2019-IMLC-Executive-Committee-Minutes-February-5-2019-DRAFT.pdf> (last visited Mar. 8, 2019).

⁴² Interstate Medical Licensure Compact, *The IMLC*, <https://imlcc.org/> (last visited Mar. 7, 2019).

⁴³ Interstate Medical Licensure Compact, Section 11, (d), p. 11, <https://imlcc.org/wp-content/uploads/2018/04/IMLC-Compact-Law.pdf> (last visited Mar. 8, 2019).

The Commission meets at least once per calendar year in a publicly noticed meeting. The Compact also creates an Executive Committee which may act on behalf of the Commission, with the exception of rulemaking. Information, rules, and minutes of the Commission and the Executive Committee, with the exception of those areas that may be closed to the public, are available to the public for inspection.⁴⁴

All or a portion of a Commission meeting may be closed to the public if a topic is likely to involve certain matters, based on a two-thirds vote of those Commission members present at the meeting. The areas covered by a closed meeting are:

- Personnel matters;
- Matters specifically exempted from disclosure by federal law;
- Trade secrets, commercial, or financial information that is privileged or confidential;
- Information that involves accusing a person of a crime or that formally censures a person;
- Information of a personal nature where disclosure would clearly constitute an unwarranted invasion of personal privacy;
- Investigative records compiled for law enforcement purposes; or
- Information that specifically relates to the Commission's participation in a civil action or other legal proceeding.⁴⁵

III. Effect of Proposed Changes:

Section 1 creates s. 456.4502, F.S., to make a physician's personal identifying information, other than the physician's name, licensure status, or licensure number, obtained from the IMLC's coordinated information system, as defined in s. 456.4501, F.S., and held by the DOH or the boards exempt from public disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The personal identifying information is exempt from public disclosure unless the state that originally reported the information to the coordinated information system authorizes the disclosure of such information. Under such circumstances, the information may only be disclosed to the extent permitted by the reporting state's law.

The bill also creates an exemption from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution for a meeting or any portion of a meeting of the Commission may be closed if it has determined by a two-thirds vote of the Commission members present that an open meeting would likely:

- Relate solely to the internal personnel practices and procedures of the commission;
- Discuss matters exempted from disclosure by federal statute;
- Discuss trade secrets, commercial, or financial information that is privileged or confidential;
- Involve accusing a person of a crime or that formally censures a person;
- Discuss information of a personal nature where disclosure would clearly constitute an unwarranted invasion of personal privacy;
- Discuss investigative records compiled for law enforcement purposes; or
- Relate specifically to participation in a civil action or other legal proceeding.

⁴⁴ Interstate Medical Licensure Compact, Section 11(d), pg. 13, <https://imlcc.org/wp-content/uploads/2018/04/IMLC-Compact-Law.pdf> (last visited Mar. 8, 2019).

⁴⁵ See *Interstate Medical Licensure Compact*, Section 11(h), pp. 12-13, <https://imlcc.org/wp-content/uploads/2018/04/IMLC-Compact-Law.pdf> (last visited Mar. 8, 2019).

Recordings, minutes, and records generated during an exempt meeting are exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

These exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides, as required by the State Constitution, a statement of public necessity which provides that protection of the specified information is required under the Compact which the state must adopt in order to become a member state and a party to the Compact. Without the public records exemption, the state would be unable to effectively and efficiently function as a member of the Compact.

Additionally, the bill provides a statement of public necessity, as required by the Florida Constitution, for protecting any meeting or portion of a meeting of the Commission at which matters specifically exempted from disclosure by federal or state statute are discussed. These meetings or portions of meetings would be exempted from s. 286.011, F.S., and s. 24(b), Art. I. of the State Constitution. Without the public meeting exemption, the state will be prohibited from becoming a party to the Compact.

The bill includes a statement of public necessity by the Legislature that the recordings, minutes, and records generated during an exempt meeting of the Commission are exempt pursuant to s. 464.0096, F.S., and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. Release of such information would negate the public meeting exemption.

Section 3 provides that the bill takes effect on the same date as SB 7078 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, Section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records or public meeting exemption. This bill creates a public records exemption and a public meeting exemption, therefore, it requires a two-thirds vote.

Public Necessity Statement

Article I, Section 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public records or public meeting exemption. This bill creates a new public records exemption and a new public meeting exemption. Section 2 includes a public necessity statement that supports the exemptions.

Breadth of the Exemption

Article I, s. 24(c) of the State Constitution requires exemptions to the public records and public meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. It is not clear if the public records exemption is broader than necessary to accomplish the purposes outlined in the public necessity statement. The exemption covers a physician's personal identifying information (excluding a physician's name, licensure status and license number) that is otherwise exempt in the physician's home state. In the context of the compact, it is not clear what information would be considered "personal identifying information" for purposes of this exemption. Personal identifying information is used throughout Florida statutes and is not defined. It is not clear if a state would consider a physician's business address, certifications, or level of education to be personal identifying information. State laws are also subject to change, so it is not clear if this exemption is limited to state laws as currently enacted or in the future. Therefore, the breadth of the exemption is subject to change depending on when or how the DOH and the boards interpret the laws of the physician's home state.

It is also unclear if the public meetings exemption is broader than necessary to accomplish the purposes outlined in the public necessity statement. The bill provides instances during which a public meeting may be closed. Some of those matters are already exempted under Florida's public meetings exemptions.⁴⁶ In addition, the bill provides that the Commission has the authority to vote on when it will close a meeting, so it is not clear exactly which meetings or portions of meetings will be closed. The bill provides the Commission with authority to close a meeting or a portion of a meeting by a two-thirds vote. This could be considered an overly broad exemption. Additionally, one of the seven reasons enumerated upon which the Commission may vote to close a meeting is when the meeting would likely involve a discussion of personal information that would constitute a clearly unwarranted invasion of personal privacy. This may conflict with Article 1, section 23, of the State Constitution which provides:

Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

⁴⁶ Meetings with attorneys on pending litigation are exempt under s. 286.011(8), F.S. Competitive solicitations team meetings and some negotiations are exempt under s. 286.0113(2), F.S. Meetings to determine if there is probable cause to find that a practitioner is subject to discipline are closed until 10 days after probable cause has been found pursuant to s. 456.073(4), F.S. These exemptions are provided as examples and not an exhaustive list of relevant public meetings exemptions.

Courts will look to the Legislature to balance these competing interests.⁴⁷

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will be subject to the cost, to the extent imposed, associated with the agency making redactions in response to public records request.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on DOH and the boards involved with the administration of the Compact as it relates to training and redaction of exempt information. However, these costs are likely to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

VIII. None. Statutes Affected:

This bill creates section 456.4502 of the Florida Statutes.

⁴⁷ See *Campus Communications, Inc. v. Earnhardt*, 821 So. 2d 388, 402-403 (Fla. 5th DCA 2002) (“Thus our function here has not been to weigh these two constitutional rights with respect to autopsy photographs and determine whether the right that helps ensure an open government freely accessible by every citizen is more significant or profound than the right that preserves individual liberty and privacy. Rather, our function has been to determine whether the Legislature has declared that the latter prevails over the former in a manner that is consistent with the constitutional provisions that bestow upon it the power to do so.”); see also *Wallace v. Guzman*, 687 So. 2d 1351, 1354 (Fla. 3d DCA 1997) (noting “[t]he [L]egislature has balanced the private/public rights by creating the various exemptions from public disclosure contained in section 119.07, Florida Statutes (1995).”).

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on April 2, 2019:

The Committee Substitute clarifies that the exemption applies to the *personal* identifying information of a physician and fixes a number of scrivener errors to make the bill more readable.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2019	.	
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The Committee on Governmental Oversight and Accountability
(Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 456.4502, Florida Statutes, is created
to read:

456.4502 Interstate Medical Licensure Compact; public
records and meetings exemptions.-

(1) A physician's personal identifying information, other
than the physician's name, licensure status, or licensure



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11 number, obtained from the coordinated information system in
12 Section 8 of the Interstate Medical Licensure Compact and held
13 by the department or the board is exempt from s. 119.07(1) and
14 s. 24(a), Art. I of the State Constitution, unless the state
15 that originally reported the information to the coordinated
16 information system authorizes the disclosure of such information
17 by law. If disclosure is so authorized, information may be
18 disclosed only to the extent authorized by law by the reporting
19 state.

20 (2) (a) Under Section 11 of the Interstate Medical Licensure
21 Compact, a meeting or a portion of a meeting of the Interstate
22 Medical Licensure Compact Commission established may be closed
23 if it has been determined by a two-thirds vote of commissioners
24 who are present that an open meeting would likely:

25 1. Relate solely to the internal personnel practices and
26 procedures of the commission;

27 2. Discuss matters specifically exempted from disclosure by
28 federal statute;

29 3. Discuss trade secrets or commercial or financial
30 information that is privileged or confidential;

31 4. Involve accusing a person of a crime, or formally
32 censuring a person;

33 5. Discuss information of a personal nature, if disclosure
34 would constitute a clearly unwarranted invasion of personal
35 privacy;

36 6. Discuss investigative records compiled for law
37 enforcement purposes; or

38 7. Relate specifically to participation in a civil action
39 or another legal proceeding.



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40 (b) In keeping with the intent of the Interstate Medical
41 Licensure Compact, recordings, minutes, and records generated
42 during an exempt proceeding are exempt in accordance with s.
43 119.07(1) and s. 24(a), Art. I of the State Constitution.

44 (3) This section is subject to the Open Government Sunset
45 Review Act in accordance with s. 119.15 and shall stand repealed
46 on October 2, 2024, unless reviewed and saved from repeal
47 through reenactment by the Legislature.

48 Section 2. (1) The Legislature finds that it is a public
49 necessity that a physician's personal identifying information,
50 other than the physician's name, licensure status, or licensure
51 number, obtained from the coordinated information system, as
52 defined in Section 5 of the Interstate Medical Licensure
53 Compact, as enacted in this state by s. 456.4501, Florida
54 Statutes, and held by the Department of Health and the
55 regulatory boards of the respective professions be exempt from
56 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
57 State Constitution. Protection of such personal identifying
58 information is required under the Interstate Medical Licensure
59 Compact, which this state must adopt in order to become a member
60 state and a party to the compact. Without the public records
61 agreement, this state will be unable to effectively and
62 efficiently implement and administer the Interstate Medical
63 Licensure Compact.

64 (2) (a) The Legislature finds that it is a public necessity
65 that any meeting of the Interstate Medical Licensure Compact
66 Commission held as provided in that section in which matters
67 specifically exempted from disclosure by federal or state law
68 are discussed be made exempt from s. 286.011, Florida Statutes,



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69 and s. 24(b), Article I of the State Constitution.

70 (b) The Interstate Medical Licensure Compact requires the
71 closure of any meeting, or any portion of a meeting, of the
72 Interstate Medical Licensure Compact Commission if two-thirds of
73 the Commission members determine that certain sensitive and
74 confidential subject matters may arise during the meeting and
75 that the meeting should be closed to the public. In the absence
76 of a public meeting exemption, this state would be prohibited
77 from becoming a member state of the compact.

78 (3) The Legislature also finds that it is a public
79 necessity that the recordings, minutes, and records generated
80 during a meeting are exempt pursuant to s. 456.4502, Florida
81 Statutes, and s. 24, Article I of the State Constitution.
82 Release of such information would negate the value of the public
83 meeting exemption. As such, the Legislature finds that the
84 public records exemption is a public necessity.

85 Section 3. This act shall take effect on the same date that
86 SB 7078 or similar legislation takes effect, if such legislation
87 is adopted in the same legislative session or an extension
88 thereof and becomes a law.

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

91 And the title is amended as follows:

92 Delete everything before the enacting clause
93 and insert:

94 A bill to be entitled
95 An act relating to public records and meetings;
96 creating s. 456.4502, F.S.; providing an exemption
97 from public records requirements for certain



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98 information held by the Department of Health, the
99 Board of Medicine, or the Board of Osteopathic
100 Medicine pursuant to the Interstate Medical Licensure
101 Compact; providing an exemption from public meeting
102 requirements for certain meetings of the Interstate
103 Medical Licensure Commission; providing an exemption
104 from public records requirements for recordings,
105 minutes, and records generated during the closed
106 portions of such meetings; providing for future
107 legislative review and repeal of the exemptions;
108 providing a statement of public necessity; providing a
109 contingent effective date.

By the Committee on Health Policy

588-03194-19

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A bill to be entitled

An act relating to public records and meetings; creating s. 456.4502; providing an exemption from public records requirements for certain information held by the Department of Health, the Board of Medicine, or the Board of Osteopathic Medicine pursuant to the Interstate Medical Licensure Compact; providing an exemption from public meeting requirements for certain meetings of the Interstate Medical Licensure Commission; providing an exemption from public records requirements for recordings, minutes, and records generated during the closed portions of such meetings; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 456.4502, Florida Statutes, is created to read:

456.4502 Interstate Medical Licensure Compact; public records and meetings exemptions.-

(1) A physician's identifying information, other than the physician's name, licensure status, or licensure number, obtained from the coordinated information system in Section 8 of the Interstate Medical Licensure Compact and held by the department or the board is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless the state that

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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originally reported the information to the coordinated information system authorizes the disclosure of such information by law. If disclosure is so authorized, information may be disclosed only to the extent authorized by law by the reporting state.

(2) (a) Under Section 11 of the Interstate Medical Licensure Compact, a meeting or a portion of a meeting of the Interstate Medical Licensure Compact Commission established may be closed if it has been determined by a two-thirds vote of commissioners who are present that an open meeting would likely:

1. Relate solely to the internal personnel practices and procedures of the commission;

2. Discuss matters specifically exempted from disclosure by federal statute;

3. Discuss trade secrets or commercial or financial information that is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Discuss information of a personal nature, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Discuss investigative records compiled for law enforcement purposes; or

7. Relate specifically to participation in a civil action or another legal proceeding.

(b) In keeping with the intent of Interstate Medical Licensure Compact, recordings, minutes, and records generated during an exempt proceeding are exempt in accordance with s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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59 (3) This section is subject to the Open Government Sunset
 60 Review Act in accordance with s. 119.15 and shall stand repealed
 61 on October 2, 2024, unless reviewed and saved from repeal
 62 through reenactment by the Legislature.

63 Section 2. (1) The Legislature finds that it is a public
 64 necessity that a physician's personal identifying information,
 65 other than the physician's name, licensure status, or licensure
 66 number, obtained from the coordinated information system, as
 67 defined in Section 5 of the Interstate Medical Licensure
 68 Compact, as enacted in this state by s. 456.4501, Florida
 69 Statutes, and held by the Department of Health and the
 70 regulatory boards of the respective professions be exempt from
 71 s. 119.07(1), Florida Statutes and s. 24, Article I of the State
 72 Constitution. Protection of such personal identifying
 73 information is required under the Interstate Medical Licensure
 74 Compact, which this state must adopt in order to become a member
 75 state and a party to the compact. Without the public records
 76 agreement, this state will be unable to effectively and
 77 efficiently implement and administer the Interstate Medical
 78 Licensure Compact.

79 (2)(a) The Legislature finds that it is a public necessity
 80 that any meeting of the Interstate Medical Licensure Compact
 81 Commission held as provided in that section in which matters
 82 specifically exempted from disclosure by federal or state law
 83 are discussed be made exempt from s. 286.011, Florida Statutes,
 84 and s. 24(b), Article I of the State Constitution.

85 (b) The Interstate Medical Licensure Compact requires the
 86 closure of any meeting, or any portion of a meeting, of the
 87 Interstate Medical Licensure Compact Commission if two-thirds of

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88 the Commission members determine that certain sensitive and
 89 confidential subject matters may arise during the meeting and
 90 that the meeting should be closed to the public. In the absence
 91 of a public meeting exemption, this state would be prohibited
 92 from becoming a member state of the compact.

93 (3) The Legislature also finds that it is a public
 94 necessity that the recordings, minutes, and records generated
 95 during a meeting that is exempt pursuant to s. 456.4502, Florida
 96 Statutes, and s. 24 of the State Constitution. Release of such
 97 information would negate the value of the public meeting
 98 exemption. As such, the Legislature finds that the public
 99 records exemption is a public necessity.

100 Section 3. This act shall take effect on the same date that
 101 SB 7078 or similar legislation takes effect, if such legislation
 102 is adopted in the same legislative session or an extension
 103 thereof and becomes a law.

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.)

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

BILL: SPB 7098

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Death Benefits

DATE: April 2, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McVaney</u>	<u>McVaney</u>	_____	GO Submitted as Comm. Bill/Fav

I. Summary:

SPB 7098 implements Amendment 7 to the State Constitution, which was approved by the voters in November 2018 to require the payment of death benefits to the survivors of certain first responders, Florida National Guard members, and members of the United States Armed Forces. Current law provides various death benefits to many, but not all, of the first responders, Florida National Guard members, and members of the U.S. Armed Forces who are eligible for benefits under Amendment 7. Therefore, the Legislature must expand some of the current death benefits to comply with the requirements of Amendment 7.

The proposed bill expands the death benefits currently provided to Florida National Guard members on state active duty, firefighters, and law enforcement, correctional, and correctional probation officers and sets the amount of the benefits as follows:

- \$75,000 when an eligible firefighter, Florida National Guard member, or law enforcement, correctional, or correctional probation officer is accidentally killed or receives accidental bodily injury that results in the loss of the individual's life.
- \$75,000 when an eligible firefighter or law enforcement, correctional, or correctional probation officer is accidentally killed in the above manner and meets additional requirements, such as the accidental death occurs as a result of the response to an emergency.
- \$225,000 when an eligible firefighter, Florida National Guard member, or law enforcement, correctional, or correctional probation officer is unlawfully and intentionally killed or dies as a result of such unlawful and intentional act while engaged in the performance of official duties.

The proposed bill also provides these benefits to paramedics and emergency medical technicians and removes the annual Consumer Price Index adjustment of the benefit amounts.

The proposed bill creates a new death benefit of \$75,000 for members of the U.S. Armed Forces, including Florida National Guard members, who are killed while on federal active duty and engaged in performing official duties. Other members of the U.S. Armed Forces who are killed

while on active duty but not engaged in the performance of their official duties are entitled to a \$25,000 death benefit.

The proposed bill expands death benefits for certain educational expenses of surviving spouses and children by providing them to firefighters, law enforcement officers, correctional officers, correctional probation officers, and Florida National Guard members who are accidentally killed or receive accidental bodily injury resulting in loss of life. These benefits for educational expenses are also provided to paramedics and emergency medical technicians, as well as Florida National Guard members who are killed while on federal active duty and U.S. Armed Forces members who are killed while on active duty.

The proposed bill appears to have an indeterminate fiscal impact on the state and local governments. The proposed bill includes a continuing appropriation from the General Revenue Fund to pay for any monetary benefits related to deceased members of the U.S. Armed Forces.

The proposed bill takes effect July 1, 2019.

II. Present Situation:

Constitutional Requirements

Amendment 7 created Article X, s. 31 of the State Constitution to require a death benefit to be paid by the employing agency and the state to waive certain education expenses when a law enforcement officer, correctional officer, correctional probation officer, firefighter, paramedic, emergency medical technician or a member of the Florida National Guard, while engaged in the performance of official duties, is killed accidentally, unlawfully and intentionally, or during active duty. The surviving child or children and spouse are eligible to benefit from the waiver of educational expenses while obtaining a career certificate, an undergraduate education, or a postgraduate education.

In addition, the State Constitution requires a death benefit to be paid from the General Revenue Fund and the state to waive certain education expenses when a member of the United States Armed Forces, including a Florida National Guard member on federal active duty, is killed accidentally, unlawfully and intentionally killed, or during active duty. The surviving child or children and spouse are eligible to benefit from the waiver of educational expenses while obtaining a career certificate, an undergraduate education, or a postgraduate education.

To be eligible for the benefits under the State Constitution, the law enforcement officer, correctional officer, correctional probation officer, firefighter, paramedic, and emergency medical technician must be employed by the state or any of its subdivisions at the time of death. For a member of the military to be eligible, the member must have been a resident of the state or his or her duty post must have been within the state at the time of death.

The constitutional provision takes effect July 1, 2019.

Statutorily-Authorized Death Benefits

State law provides a variety of death benefits for public employees. The current statutory benefits may be associated with supplemental benefits provided under chapter 112, F.S., death benefits provided under state and local government retirement systems, emergency responder death benefits administered by the Department of Legal Affairs, and workers compensation.

Supplemental Benefits Under Chapter 112, Florida Statutes

Law Enforcement Officers, Correctional Officers, Correctional Probation Officers, and Firefighters

Sections 112.19 and 112.191, F.S., provide death benefits, including a monetary payment, waiver of educational costs, and health insurance premiums, to surviving family members of law enforcement officers, correctional officers, correctional probation officers, and firefighters killed under certain circumstances.

In 2002, the monetary payment was adjusted statutorily to \$50,000 and has been adjusted annually by the growth in the Consumer Price Index. The benefit for law enforcement officers, correctional officers, and correctional probation officers is set by rules adopted by the Department of Legal Affairs. The benefit for firefighters is set by rules adopted the Department of Financial Services. The benefits for Fiscal Year 2018-2019¹ are shown in the table below.

Fiscal Year	Department of Legal Affairs			Department of Financial Services		
	Accident	Enhanced Accident	Intentional/Unlawful	Accident	Enhanced Accident	Intentional/Unlawful
2018-19	\$65,641.62	\$65,641.62	\$197,875.61	\$69,801.94	\$69,801.94	\$194,470.19

The educational benefits are provided to the following public employees:

- A law enforcement officer, correctional officer, and correctional probation officer killed accidentally or as a result of accidental injuries and the accidental death occurs:
 - As a result of the officer’s response to fresh pursuit;
 - As a result of the officer’s response to what is reasonably believed to be an emergency;
 - At the scene of a traffic accident to which the officer has responded; or
 - While the officer is enforcing what is reasonably believed to be a traffic law or ordinance.
- A firefighter killed accidentally or as a result of accidental injuries and the accidental death occurs:
 - As a result of the firefighter’s response to what is reasonably believed to be an emergency involving the protection of life or property; or
 - As a result of the firefighter’s participation in a training exercise.
- A law enforcement officer, correctional officer, correctional probation officer, or firefighter who is unlawfully and intentionally killed or is injured by an unlawful and intentional act of another person and dies as a result of the injury.

¹ Rules 2A-8.005 and 69A-64.005, Florida Administrative Code.

The educational benefit is granted to the surviving children and spouse of the deceased employee. This benefit is a waiver, by the state educational institution, of the tuition and fees associated with attaining a career certificate, an undergraduate education, or a postgraduate education. An eligible child may use the waiver until the child's 25th birthday. An eligible spouse may use the waiver until the 10th anniversary of the employee's death.

Florida National Guard

Section 250.34(4), F.S., provides that a Florida National Guard member who is killed or who dies due to injuries received while on active state duty qualifies for the same benefits provided to law enforcement officers under s. 112.19, F.S. However, when the federal government activates a Florida National Guard member for active duty and the member dies in the line of duty while on active federal duty, the death benefit is determined by federal law and is paid by the federal government. There are no state benefits provided if the member dies while on federal active duty.

Death Benefits for U.S. Armed Forces Members

Survivors of active duty members of the U.S. Armed Forces receive certain payments or benefits regardless of whether the in-service death is due to combat, accident, or disease, including:²

- Burial benefits, which may include a gravesite in any VA national cemetery with available space, perpetual care of the grave at no cost to the family, a government headstone or marker, Presidential Memorial Certificate, and a U.S. burial flag;
- Dependency and indemnity compensation for a surviving spouse and dependent children; and
- Life insurance.

Florida provides postsecondary scholarships for dependent children and surviving spouses who have not remarried and meet certain eligibility requirements, including requirements that the deceased service member was a resident of the state for one year immediately preceding the death and that the spouse applied for benefits within five years after the service member's death. The scholarships are distributed on a first-come, first-served basis by the Department of Education and are funded by general revenue. None of the other benefits provided for members of the U.S. Armed Forces are paid from general revenue.

Florida Retirement System Death Benefits

The Florida Retirement System (FRS) provides death benefits for members who are killed in the line of duty.³ Employers participating in the FRS include state agencies, counties, cities, special districts, school boards, and state universities and colleges. The surviving spouse of a member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the rest of the spouse's life, or, if the

² Off. Pub. Aff. Media Rel., Deaths on Active Duty – Survivor Benefits, DEP'T VETERANS AFF., Jan. 2009, available at https://www.va.gov/opa/publications/factsheets/fs_survivor_benefits.pdf; U.S. Dep't. of Veterans Aff., Veterans Benefits Administration – Dependents and Survivors' Benefits, DEP'T VETERANS AFF., Oct. 2018, available at <https://benefits.va.gov/benefits/factsheets.asp#BM6> (last visited March 30, 2019).

³ Sections 121.091(7), and 121.591(4), F.S.

member had a vested retirement benefit, the spouse could elect to receive the member's retirement benefit.⁴ If the member was not married, benefits are paid to the surviving children.⁵ If the member dies in the line of duty and was a member of the Special Risk Class,⁶ which includes firefighters, law enforcement officers, correctional officers, correctional probation officers, paramedics and emergency medical technicians, the surviving spouse or children are entitled to an additional one-half of the member's monthly salary.⁷ As such, the death benefit provided under the FRS for those members equals 100 percent of the member's salary.

Emergency Responder Death Benefits

Section 960.194, F.S., allows the Department of Legal Affairs to award up to \$50,000 to the surviving family members of a law enforcement officer, firefighter, paramedic, or emergency medical technician who, as a result of a crime, is killed answering a call for service in the line of duty.

III. Effect of Proposed Changes:

Section 1 reenacts and amends s. 112.19, F.S., to set the level of death benefits for law enforcement officers, correctional officers, and correctional probation officers. If the officer, while engaged in the performance of the officer's official duties, is accidentally killed or receives an accidental bodily injury which results in death, the death benefit is \$75,000. If the officer is accidentally killed under certain circumstances, an additional death benefit of \$75,000 is payable. If the officer, while engaged in the performance of the officer's official duties, is unlawfully and intentionally killed or dies as a result of an unlawful and intentional act, the death benefit is \$225,000. Because the statutorily-authorized death benefit amounts are no longer adjustable, the rulemaking authority of the Department of Legal Affairs is eliminated. The death benefits continue to be payable by the employer the same way such benefits are payable under current law. All monetary death benefits established in this section are payable by the employer, including the state, cities, counties, universities, colleges, school boards, and special districts.

Section 1 continues the education benefits currently afforded to survivors of law enforcement officers, correctional officers and correctional probation officers killed prior to July 1, 2019.

Section 2 reenacts and amends s. 112.191, F.S., to set the level of death benefits for firefighters. The benefits are expanded to include part-time firefighters. If the firefighter, while in the performance of the firefighter's official duties, is accidentally killed or receives an accidental bodily injury which results in death, the death benefit is \$75,000. If the firefighter is accidentally killed under certain circumstances, an additional death benefit of \$75,000 is payable. If the firefighter, while in the performance of the firefighter's official duties, is unlawfully and intentionally killed or dies as a result of an unlawful and intentional act, the death benefit is \$225,000. Because the statutorily-authorized death benefit amounts are no longer adjustable, the rulemaking authority of the Bureau of Crime Prevention and Training is eliminated. The death benefits continue to be payable by the employer the same way such benefits are payable under

⁴ Section 121.091(7)(d)1., F.S.

⁵ Section 121.091(7)(d)3., F.S.

⁶ Section 121.0515, F.S.

⁷ Section 121.091(7)(i), F.S.

current law. All monetary death benefits established in this section are payable by the employer, including the state, cities, counties, universities, colleges, school boards, and special districts.

Section 2 continues the education benefits currently afforded to survivors of firefighters killed prior to July 1, 2019.

Section 3 creates s. 112.1911, F.S., to set the level of death benefits for paramedics and emergency medical technicians (EMT). If the paramedic or EMT, while in the performance of official duties, is accidentally killed or receives an accidental bodily injury which results in death, the death benefit is \$75,000. If the paramedic or EMT is accidentally killed under certain circumstances, an additional death benefit of \$75,000 is payable. If the paramedic or EMT, while in the performance of official duties, is unlawfully and intentionally killed or dies as a result of an unlawful and intentional act, the death benefit is \$225,000. The death benefits are payable by the employer. All monetary death benefits established in this section are payable by the employer, including the state, cities, counties, universities, colleges, school boards, and special districts.

Section 4 creates s. 112.1912, F.S., to establish educational benefits for children and spouses of first responders killed in the line of duty on or after July 1, 2019. The benefits are similar to the benefits currently provided under ss. 112.19 and 112.191, F.S. However, the eligibility for benefits is expanded to include any first responders accidentally killed while engaged in the performance of their official duties and paramedics and EMTs killed while engaged in the performance of their duties. The educational benefits established in this section are funded through waivers by the educational institutions attended by the eligible survivors.

Section 5 amends s. 250.34, F.S., to establish a \$75,000 death benefit for a member of the Florida National Guard who is killed accidentally or receives accidental bodily injury resulting in death, while on state active duty and engaged in official duties. A death benefit of \$225,000 is granted if the member is killed unlawfully and intentionally while on state active duty and engaged in official duties. The section also makes the survivors of the members of the Florida National Guard killed in these circumstances eligible for the educational benefits provided in s. 112.1912, F.S., created by section 4 of this bill. The monetary benefits established by this section are payable by the state.

Section 6 reenacts and amends s. 295.01, F.S., to clarify that a person using benefits under this provision is not eligible to use benefits under s. 295.061, F.S., created in section 7 of this act. The eligible child or spouse is permitted to elect to use either the scholarship or the waiver of tuition and fees to seek education benefits.

Section 7 creates s. 295.061, F.S., to provide death benefits to members of the U.S. Armed Forces who are either residents of the State of Florida or whose duty station is located in Florida. If the service member is killed while on active duty and engaged in official duties, the death benefit is \$75,000, payable by the state. If the service member is killed while on active duty but under other circumstances, the death benefit is \$25,000, payable by the state.

This section also established an educational benefit for survivors of service members killed while on active duty. The benefits are mirror the benefits provided pursuant to s. 112.1912, F.S, created in section 4 of this bill.

Section 8 provides that the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill implements constitutional provisions requiring government entities to pay death benefits for certain first responders employed by government entities and killed while engaged in the performance of their official duties.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The overall impact on state and local government expenditures is indeterminate.

The state and local governments may incur additional costs for the monetary death benefits granted to the surviving family members of first responders killed while engaged in the performance of their official duties. These benefits are paid by the employers of the employee.

The state may incur additional costs for the monetary death benefits granted to the surviving family members of a member of the U.S. Armed Forces killed while on active duty. These benefits are paid from the General Revenue Fund.

State universities and colleges will forego tuition and fee revenues associated with the waivers granted by the state to children and spouses of emergency medical technicians, paramedics, and eligible members of the U.S. Armed Forces killed while on active duty.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.19, 112.191, 250.34, and 295.01 of the Florida Statutes.

This bill creates sections 112.1911, 112.1912, and 295.061 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.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

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1 A bill to be entitled
 2 An act relating to death benefits; reenacting and
 3 amending ss. 112.19 and 112.191, F.S., relating to
 4 death benefits for law enforcement, correctional, and
 5 correctional probation officers and for firefighters,
 6 respectively; revising definitions; revising the
 7 payment amounts of death benefits; deleting the
 8 provision requiring annual adjustment of the death
 9 benefit amount; conforming provisions regarding the
 10 waiver for specified educational expenses to changes
 11 made by the act; creating s. 112.1911, F.S.;
 12 establishing a death benefit for emergency medical
 13 technicians and paramedics to conform to s. 31, Art. X
 14 of the State Constitution; providing definitions;
 15 specifying eligibility and payment amounts for such
 16 death benefits; prescribing the procedure by which an
 17 emergency medical technician or a paramedic designates
 18 a beneficiary; specifying that such death benefits are
 19 supplementary and exempt from creditors' demands or
 20 claims; specifying the financial responsibility of
 21 employing agencies as to the payment of benefits;
 22 creating s. 112.1912, F.S.; defining the term "first
 23 responder"; providing a death benefit for certain
 24 educational expenses for the surviving spouse and
 25 children of certain first responders; authorizing a
 26 specified number of hours to be waived by certain
 27 educational institutions; providing requirements to
 28 receive such benefit; requiring the State Board of
 29 Education and the Board of Governors to adopt rules

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30 and regulations, respectively; amending s. 250.34,
 31 F.S.; modifying eligibility for certain death benefits
 32 for a deceased member of the Florida National Guard,
 33 to conform to s. 31, Art. X of the State Constitution;
 34 prescribing the procedure by which a Florida National
 35 Guard member designates a beneficiary; specifying that
 36 such death benefits are exempt from creditors' claims
 37 and demands; specifying eligibility for educational
 38 benefits for the member's surviving children and
 39 spouse; reenacting and amending s. 295.01, F.S.;
 40 modifying provisions governing educational expense
 41 waivers for the child or spouse of a servicemember;
 42 creating s. 295.061, F.S.; providing definitions;
 43 establishing a death benefit for active duty members
 44 of the United States Armed Forces, to conform to s.
 45 31, Art. X of the State Constitution; specifying
 46 eligibility and other requirements for entitlement to
 47 such benefits; specifying the payment amount of such
 48 benefits; prescribing the procedure by which an active
 49 duty member designates a beneficiary; specifying that
 50 the state-funded benefit is in addition to any federal
 51 benefit; providing for funding of the death benefit;
 52 requiring the state to waive certain educational
 53 expenses of a child or spouse of a deceased active
 54 duty member of the United States Armed Forces;
 55 specifying conditions and requirements for the waiver;
 56 authorizing the State Board of Education and the Board
 57 of Governors to adopt rules and regulations,
 58 respectively; providing an effective date.

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59 Be It Enacted by the Legislature of the State of Florida:

62 Section 1. Section 112.19, Florida Statutes, is reenacted
63 and amended to read:

64 112.19 Law enforcement, correctional, and correctional
65 probation officers; death benefits.—

66 (1) ~~As Whenever~~ used in this section, the term:

67 (a) "Employer" means a state board, commission, department,
68 division, bureau, or agency, or a county, municipality, or other
69 political subdivision of the state, which employs, appoints, or
70 otherwise engages the services of law enforcement, correctional,
71 or correctional probation officers.

72 (b) "Law enforcement, correctional, or correctional
73 probation officer" means any officer as defined in s. 943.10(14)
74 or employee of the state or any political subdivision of the
75 state, including any law enforcement officer, correctional
76 officer, correctional probation officer, state attorney
77 investigator, or public defender investigator, whose duties
78 require such officer or employee to investigate, pursue,
79 apprehend, arrest, transport, or maintain custody of persons who
80 are charged with, suspected of committing, or convicted of a
81 crime; and the term includes any member of a bomb disposal unit
82 whose primary responsibility is the location, handling, and
83 disposal of explosive devices. The term also includes any full-
84 time officer or employee of the state or any political
85 subdivision of the state, certified pursuant to chapter 943,
86 whose duties require such officer to serve process or to attend
87 a session of a circuit or county court as bailiff.

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88 (c) "Insurance" means insurance procured from a stock
89 company or mutual company or association or exchange authorized
90 to do business as an insurer in this state.

91 (d) "Fresh pursuit" means the pursuit of a person who has
92 committed or is reasonably suspected of having committed a
93 felony, misdemeanor, traffic infraction, or violation of a
94 county or municipal ordinance. The term does not imply instant
95 pursuit, but pursuit without unreasonable delay.

96 (2) (a) The sum of \$75,000 must \$50,000, as adjusted
97 ~~pursuant to paragraph (j), shall be paid as provided in this~~
98 ~~section when a law enforcement, correctional, or correctional~~
99 ~~probation officer, while engaged in the performance of the~~
100 ~~officer's law enforcement duties, is accidentally killed or~~
101 ~~receives accidental bodily injury which results in the loss of~~
102 ~~the officer's life, provided that such killing is not the result~~
103 ~~of suicide and that such bodily injury is not intentionally~~
104 ~~self-inflicted. Notwithstanding any other provision of law, in~~
105 ~~no case shall the amount payable under this subsection be less~~
106 ~~than the actual amount stated therein.~~

107 (b) The sum of \$75,000 must \$50,000, as adjusted under
108 ~~paragraph (j), shall be paid as provided in this section if a~~
109 ~~law enforcement, correctional, or correctional probation officer~~
110 ~~is accidentally killed as specified in paragraph (a) and the~~
111 ~~accidental death occurs:~~

- 112 1. As a result of the officer's response to fresh pursuit;
- 113 2. As a result of the officer's response to what is
- 114 reasonably believed to be an emergency;
- 115 3. At the scene of a traffic accident to which the officer
- 116 has responded; or

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117 4. While the officer is enforcing what is reasonably
 118 believed to be a traffic law or ordinance.
 119
 120 This sum is in addition to any sum provided for in paragraph
 121 (a). ~~Notwithstanding any other provision of law, in no case~~
 122 ~~shall the amount payable under this subsection be less than the~~
 123 ~~actual amount stated therein.~~
 124 (c) If a law enforcement, correctional, or correctional
 125 probation officer, while engaged in the performance of the
 126 officer's law enforcement duties, is unlawfully and
 127 intentionally killed or dies as a result of such unlawful and
 128 intentional act, the sum of \$225,000 must \$150,000, as adjusted
 129 pursuant to paragraph (j), shall be paid as provided in this
 130 section. Notwithstanding any other provision of law, in no case
 131 shall the amount payable under this subsection be less than the
 132 actual amount stated therein.
 133 (d) Such payments, pursuant to ~~the provisions of~~ paragraphs
 134 (a), (b), and (c), whether secured by insurance or not, must
 135 ~~shall~~ be made to the beneficiary designated by such law
 136 enforcement, correctional, or correctional probation officer in
 137 writing, signed by the officer and delivered to the employer
 138 during the officer's lifetime. If no such designation is made,
 139 then the payments must it shall be paid to the officer's
 140 surviving child or children and to the officer's surviving
 141 spouse in equal portions, and if there is no surviving child or
 142 spouse, then to the officer's parent or parents. If a
 143 beneficiary is not designated and there is no surviving child,
 144 spouse, or parent, then the sum must it shall be paid to the
 145 officer's estate.

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146 (e) Such payments, pursuant to ~~the provisions of~~ paragraphs
 147 (a), (b), and (c), are in addition to any workers' compensation
 148 or retirement plan pension benefits and are exempt from the
 149 claims and demands of creditors of such law enforcement,
 150 correctional, or correctional probation officer.
 151 (f) If a full-time law enforcement, correctional, or
 152 correctional probation officer who is certified pursuant to
 153 chapter 943 and employed by a state agency is killed in the line
 154 of duty while the officer is engaged in the performance of law
 155 enforcement duties or as a result of an assault against the
 156 officer under riot conditions:
 157 1. The sum of \$1,000 must shall be paid, as provided for in
 158 paragraph (d), toward the funeral and burial expenses of such
 159 officer. Such benefits are in addition to any other benefits to
 160 which employee beneficiaries and dependents are entitled under
 161 the Workers' Compensation Law or any other state or federal
 162 statutes; and
 163 2. The officer's employing agency may pay up to \$5,000
 164 directly toward the venue expenses associated with the funeral
 165 and burial services of such officer.
 166 (g) Any political subdivision of the state that employs a
 167 full-time law enforcement officer as defined in s. 943.10(1) or
 168 a full-time correctional officer as defined in s. 943.10(2) who
 169 is killed in the line of duty on or after July 1, 1993, as a
 170 result of an act of violence inflicted by another person while
 171 the officer is engaged in the performance of law enforcement
 172 duties or as a result of an assault against the officer under
 173 riot conditions shall pay the entire premium of the political
 174 subdivision's health insurance plan for the employee's surviving

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175 spouse until remarried, and for each dependent child of the
 176 employee until the child reaches the age of majority or until
 177 the end of the calendar year in which the child reaches the age
 178 of 25 if:

179 1. At the time of the employee's death, the child is
 180 dependent upon the employee for support; and

181 2. The surviving child continues to be dependent for
 182 support, or the surviving child is a full-time or part-time
 183 student and is dependent for support.

184 (h)1. Any employer who employs a full-time law enforcement,
 185 correctional, or correctional probation officer who, on or after
 186 January 1, 1995, suffers a catastrophic injury, as defined in s.
 187 440.02, Florida Statutes 2002, in the line of duty shall pay the
 188 entire premium of the employer's health insurance plan for the
 189 injured employee, the injured employee's spouse, and for each
 190 dependent child of the injured employee until the child reaches
 191 the age of majority or until the end of the calendar year in
 192 which the child reaches the age of 25 if the child continues to
 193 be dependent for support, or the child is a full-time or part-
 194 time student and is dependent for support. The term "health
 195 insurance plan" does not include supplemental benefits that are
 196 not part of the basic group health insurance plan. If the
 197 injured employee subsequently dies, the employer shall continue
 198 to pay the entire health insurance premium for the surviving
 199 spouse until remarried, and for the dependent children, under
 200 the conditions outlined in this paragraph. However:

201 a. Health insurance benefits payable from any other source
 202 shall reduce benefits payable under this section.

203 b. It is unlawful for a person to willfully and knowingly

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204 make, or cause to be made, or to assist, conspire with, or urge
 205 another to make, or cause to be made, any false, fraudulent, or
 206 misleading oral or written statement to obtain health insurance
 207 coverage as provided under this paragraph. A person who violates
 208 this sub-subparagraph commits a misdemeanor of the first degree,
 209 punishable as provided in s. 775.082 or s. 775.083.

210 c. In addition to any applicable criminal penalty, upon
 211 conviction for a violation as described in sub-subparagraph b.,
 212 a law enforcement, correctional, or correctional probation
 213 officer or other beneficiary who receives or seeks to receive
 214 health insurance benefits under this paragraph shall forfeit the
 215 right to receive such health insurance benefits, and shall
 216 reimburse the employer for all benefits paid due to the fraud or
 217 other prohibited activity. For purposes of this sub-
 218 subparagraph, the term "conviction" means a determination of
 219 guilt that is the result of a plea or trial, regardless of
 220 whether adjudication is withheld.

221 2. In order for the officer, spouse, and dependent children
 222 to be eligible for such insurance coverage, the injury must have
 223 occurred as the result of the officer's response to fresh
 224 pursuit, the officer's response to what is reasonably believed
 225 to be an emergency, or an unlawful act perpetrated by another.
 226 Except as otherwise provided herein, ~~nothing in~~ this paragraph
 227 may not shall be construed to limit health insurance coverage
 228 for which the officer, spouse, or dependent children may
 229 otherwise be eligible, except that a person who qualifies under
 230 this section is shall not ~~be~~ eligible for the health insurance
 231 subsidy provided under chapter 121, chapter 175, or chapter 185.

232 (i) The Bureau of Crime Prevention and Training within the

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233 Department of Legal Affairs shall adopt rules necessary to
234 implement paragraphs (a), (b), and (c).

235 ~~(j) Any payments made pursuant to paragraph (a), paragraph~~
236 ~~(b), or paragraph (c) shall consist of the statutory amount~~
237 ~~adjusted to reflect price level changes since the effective date~~
238 ~~of this act. The Bureau of Crime Prevention and Training shall~~
239 ~~by rule adjust the statutory amount based on the Consumer Price~~
240 ~~Index for All Urban Consumers published by the United States~~
241 ~~Department of Labor. Adjustment shall be made July 1 of each~~
242 ~~year using the most recent month for which data are available at~~
243 ~~the time of the adjustment.~~

244 (3) If a law enforcement, correctional, or correctional
245 probation officer is accidentally killed as specified in
246 paragraph (2) (b) on or after June 22, 1990, but before July 1,
247 2019, or unlawfully and intentionally killed as specified in
248 paragraph (2) (c) on or after July 1, 1980, but before July 1,
249 2019, the state must ~~shall~~ waive certain educational expenses
250 that the child or spouse of the deceased officer incurs while
251 obtaining a career certificate, an undergraduate education, or a
252 postgraduate education. The amount waived by the state must
253 ~~shall~~ be in an amount equal to the cost of tuition and
254 matriculation and registration fees for a total of 120 credit
255 hours. The child or spouse may attend a state career center, a
256 Florida College System institution, or a state university. ~~The~~
257 ~~child or spouse may attend any or all of the institutions~~
258 ~~specified in this subsection,~~ on either a full-time or part-time
259 basis. The benefits provided to a child under this subsection
260 shall continue until the child's 25th birthday. The benefits
261 provided to a spouse under this subsection must commence within

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262 5 years after the death occurs, and entitlement thereto shall
263 continue until the 10th anniversary of that death.

264 (a) Upon failure of any child or spouse who receives a
265 waiver in accordance with ~~benefited by the provisions of~~ this
266 subsection to comply with the ordinary and minimum requirements
267 regarding discipline and scholarship of the institution
268 attended, such both as to discipline and scholarship, the
269 benefits must ~~shall~~ be withdrawn as to the child or spouse and
270 no further moneys may be expended for the child's or spouse's
271 benefits so long as such failure or delinquency continues.

272 (b) Only a student in good standing in his or her
273 respective institution may receive the benefits provided in this
274 subsection ~~thereof~~.

275 (c) A child or spouse receiving benefits under this
276 subsection must be enrolled according to the customary rules and
277 requirements of the institution attended.

278 (4) (a) The employer of such law enforcement, correctional,
279 or correctional probation officer is liable for the payment of
280 the sums specified in this section and is deemed self-insured,
281 unless it procures and maintains, or has already procured and
282 maintained, insurance to secure such payments. Any such
283 insurance may cover only the risks indicated in this section, in
284 the amounts indicated in this section, or it may cover those
285 risks and additional risks and may be in larger amounts. Any
286 such insurance must ~~shall~~ be placed by such employer only after
287 public bid of such insurance coverage which must ~~coverage shall~~
288 be awarded to the carrier making the lowest best bid.

289 (b) Payment of benefits to beneficiaries of state
290 employees, or of the premiums to cover the risk, under ~~the~~

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291 ~~provisions of this section must shall~~ be paid from existing
 292 funds otherwise appropriated to the department employing the law
 293 enforcement, correctional, or correctional probation officers.

294 (5) The State Board of Education shall adopt rules and
 295 procedures, and the Board of Governors shall adopt regulations
 296 and procedures, as are appropriate and necessary to implement
 297 the educational benefits provisions of this section.

298 (6) Notwithstanding any provision of this section to the
 299 contrary, the death benefits provided in paragraphs (2) (c) and
 300 (g) shall also be applicable and paid in cases where an officer
 301 received bodily injury before ~~prior to~~ July 1, 1993, and
 302 subsequently died on or after July 1, 1993, as a result of such
 303 in-line-of-duty injury attributable to an unlawful and
 304 intentional act, or an act of violence inflicted by another, or
 305 an assault on the officer under riot conditions. Payment of such
 306 benefits must shall be in accordance with ~~provisions of this~~
 307 section. ~~Nothing in This subsection may not provision shall~~ be
 308 construed to limit death benefits for which those individuals
 309 listed in paragraph (2) (d) may otherwise be eligible.

310 Section 2. Section 112.191, Florida Statutes, is reenacted
 311 and amended to read:

312 112.191 Firefighters; death benefits.—

313 (1) ~~As whenever~~ used in this section, the term act:

314 (a) ~~The term~~ "Employer" means a state board, commission,
 315 department, division, bureau, or agency, or a county,
 316 municipality, or other political subdivision of the state.

317 (b) ~~The term~~ "Firefighter" means any full-time duly
 318 employed uniformed firefighter employed by an employer, whose
 319 primary duty is the prevention and extinguishing of fires, the

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320 protection of life and property therefrom, the enforcement of
 321 municipal, county, and state fire prevention codes, as well as
 322 the enforcement of any law pertaining to the prevention and
 323 control of fires, who is certified pursuant to s. 633.408 and
 324 who is a member of a duly constituted fire department of such
 325 employer or who is a volunteer firefighter.

326 (c) ~~The term~~ "Insurance" means insurance procured from a
 327 stock company or mutual company or association or exchange
 328 authorized to do business as an insurer in this state.

329 (2) (a) The sum of \$75,000 must ~~\$50,000, as adjusted~~
 330 ~~pursuant to paragraph (i), shall~~ be paid as provided in this
 331 section when a firefighter, while engaged in the performance of
 332 his or her firefighter duties, is accidentally killed or
 333 receives accidental bodily injury which subsequently results in
 334 the loss of the firefighter's life, provided that such killing
 335 is not the result of suicide and that such bodily injury is not
 336 intentionally self-inflicted. ~~Notwithstanding any other~~
 337 ~~provision of law, in no case shall the amount payable under this~~
 338 ~~subsection be less than the actual amount stated therein.~~

339 (b) The sum of \$75,000 must ~~\$50,000, as adjusted pursuant~~
 340 ~~to paragraph (i), shall~~ be paid as provided in this section if a
 341 firefighter is accidentally killed as specified in paragraph (a)
 342 and the accidental death occurs as a result of the firefighter's
 343 response to what is reasonably believed to be an emergency
 344 involving the protection of life or property or the
 345 firefighter's participation in a training exercise. This sum is
 346 in addition to any sum provided in paragraph (a).
 347 ~~Notwithstanding any other provision of law, the amount payable~~
 348 ~~under this subsection may not be less than the actual amount~~

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349 ~~stated therein.~~

350 (c) If a firefighter, while engaged in the performance of
 351 his or her firefighter duties, is unlawfully and intentionally
 352 killed, is injured by an unlawful and intentional act of another
 353 person and dies as a result of such injury, dies as a result of
 354 a fire which has been determined to have been caused by an act
 355 of arson, or subsequently dies as a result of injuries sustained
 356 therefrom, the sum of \$225,000 ~~must \$150,000, as adjusted~~
 357 ~~pursuant to paragraph (i), shall be paid as provided in this~~
 358 ~~section. Notwithstanding any other provision of law, the amount~~
 359 ~~payable under this subsection may not be less than the actual~~
 360 ~~amount stated therein.~~

361 (d) Such payments, pursuant to paragraphs (a), (b), and
 362 (c), whether secured by insurance or not, must ~~shall~~ be made to
 363 the beneficiary designated by such firefighter in writing,
 364 signed by the firefighter and delivered to the employer during
 365 the firefighter's lifetime. If no such designation is made, then
 366 the payment must ~~it shall~~ be paid to the firefighter's surviving
 367 child or children and to the firefighter's surviving spouse in
 368 equal portions, and if there be no surviving child or spouse,
 369 then to the firefighter's parent or parents. If a beneficiary
 370 designation is not made and there is no surviving child, spouse,
 371 or parent, then the sum must ~~it shall~~ be paid to the
 372 firefighter's estate.

373 (e) Such payments, pursuant to ~~the provisions of~~ paragraphs
 374 (a), (b), and (c), are ~~shall be~~ in addition to any workers'
 375 compensation or retirement plan pension benefits and are ~~shall~~
 376 ~~be~~ exempt from the claims and demands of creditors of such
 377 firefighter.

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378 (f) Any political subdivision of the state that employs a
 379 full-time firefighter who is killed in the line of duty on or
 380 after July 1, 1993, as a result of an act of violence inflicted
 381 by another person while the firefighter is engaged in the
 382 performance of firefighter duties, as a result of a fire which
 383 has been determined to have been caused by an act of arson, or
 384 as a result of an assault against the firefighter under riot
 385 conditions shall pay the entire premium of the political
 386 subdivision's health insurance plan for the employee's surviving
 387 spouse until remarried, and for each dependent child of the
 388 employee until the child reaches the age of majority or until
 389 the end of the calendar year in which the child reaches the age
 390 of 25 if:

391 1. At the time of the employee's death, the child is
 392 dependent upon the employee for support; and

393 2. The surviving child continues to be dependent for
 394 support, or the surviving child is a full-time or part-time
 395 student and is dependent for support.

396 (g)1. Any employer who employs a full-time firefighter who,
 397 on or after January 1, 1995, suffers a catastrophic injury, as
 398 defined in s. 440.02, Florida Statutes 2002, in the line of duty
 399 shall pay the entire premium of the employer's health insurance
 400 plan for the injured employee, the injured employee's spouse,
 401 and for each dependent child of the injured employee until the
 402 child reaches the age of majority or until the end of the
 403 calendar year in which the child reaches the age of 25 if the
 404 child continues to be dependent for support, or the child is a
 405 full-time or part-time student and is dependent for support. The
 406 term "health insurance plan" does not include supplemental

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407 benefits that are not part of the basic group health insurance
 408 plan. If the injured employee subsequently dies, the employer
 409 shall continue to pay the entire health insurance premium for
 410 the surviving spouse until remarried, and for the dependent
 411 children, under the conditions outlined in this paragraph.

412 However:

413 a. Health insurance benefits payable from any other source
 414 shall reduce benefits payable under this section.

415 b. It is unlawful for a person to willfully and knowingly
 416 make, or cause to be made, or to assist, conspire with, or urge
 417 another to make, or cause to be made, any false, fraudulent, or
 418 misleading oral or written statement to obtain health insurance
 419 coverage as provided under this paragraph. A person who violates
 420 this sub-subparagraph commits a misdemeanor of the first degree,
 421 punishable as provided in s. 775.082 or s. 775.083.

422 c. In addition to any applicable criminal penalty, upon
 423 conviction for a violation as described in sub-subparagraph b.,
 424 a firefighter or other beneficiary who receives or seeks to
 425 receive health insurance benefits under this paragraph shall
 426 forfeit the right to receive such health insurance benefits, and
 427 shall reimburse the employer for all benefits paid due to the
 428 fraud or other prohibited activity. For purposes of this sub-
 429 subparagraph, the term "conviction" means a determination of
 430 guilt that is the result of a plea or trial, regardless of
 431 whether adjudication is withheld.

432 2. In order for the firefighter, spouse, and dependent
 433 children to be eligible for such insurance coverage, the injury
 434 must have occurred as the result of the firefighter's response
 435 to what is reasonably believed to be an emergency involving the

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436 protection of life or property, or an unlawful act perpetrated
 437 by another. Except as otherwise provided herein, ~~nothing in~~ this
 438 paragraph ~~may not shall~~ be construed to limit health insurance
 439 coverage for which the firefighter, spouse, or dependent
 440 children may otherwise be eligible, except that a person who
 441 qualifies for benefits under this section ~~is shall~~ not ~~be~~
 442 eligible for the health insurance subsidy provided under chapter
 443 121, chapter 175, or chapter 185.

444 Notwithstanding any provision of this section to the contrary,
 445 the death benefits provided in paragraphs (b), (c), and (f)
 446 shall also be applicable and paid in cases where a firefighter
 447 received bodily injury prior to July 1, 1993, and subsequently
 448 died on or after July 1, 1993, as a result of such in-line-of-
 449 duty injury.

451 (h) The Division of the State Fire Marshal within the
 452 Department of Financial Services shall adopt rules necessary to
 453 implement this section.

454 ~~(i) Any payments made pursuant to paragraph (a), paragraph~~
 455 ~~(b), or paragraph (c) shall consist of the statutory amount~~
 456 ~~adjusted to show price level changes in the Consumer Price Index~~
 457 ~~for All Urban Consumers published by the United States~~
 458 ~~Department of Labor since July 1, 2002. The Division of State~~
 459 ~~Fire Marshal, using the most recent month for which Consumer~~
 460 ~~Price Index data is available, shall, on June 15 of each year,~~
 461 ~~calculate and publish on the division's Internet website the~~
 462 ~~amount resulting from the adjustments to the statutory amounts.~~
 463 ~~The adjusted statutory amounts shall be effective on July 1 of~~
 464 ~~each year.~~

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465 (3) If a firefighter is accidentally killed as specified in
 466 paragraph (2) (b) on or after June 22, 1990, but before July 1,
 467 2019, or unlawfully and intentionally killed as specified in
 468 paragraph (2) (c), on or after July 1, 1980, but before July 1,
 469 2019, the state ~~must shall~~ waive certain educational expenses
 470 that the child or spouse of the deceased firefighter incurs
 471 while obtaining a career certificate, an undergraduate
 472 education, or a postgraduate education. The amount waived by the
 473 state ~~must shall~~ be in an amount equal to the cost of tuition
 474 and matriculation and registration fees for a total of 120
 475 credit hours. The child or spouse may attend a state career
 476 center, a Florida College System institution, or a state
 477 university. ~~The child or spouse may attend any or all of the~~
 478 ~~institutions specified in this subsection,~~ on either a full-time
 479 or part-time basis. The benefits provided to a child under this
 480 subsection shall continue until the child's 25th birthday. The
 481 benefits provided to a spouse under this subsection must
 482 commence within 5 years after the death occurs, and entitlement
 483 thereto shall continue until the 10th anniversary of that death.

484 (a) Upon failure of any child or spouse who receives a
 485 waiver in accordance with ~~benefited by the provisions of~~ this
 486 subsection to comply with the ordinary and minimum requirements
 487 regarding discipline and scholarship of the institution
 488 attended, ~~such both as to discipline and scholarship,~~ the
 489 benefits ~~must thereof shall~~ be withdrawn as to the child or
 490 spouse and no further moneys expended for the child's or
 491 spouse's benefits so long as such failure or delinquency
 492 continues.

493 (b) Only students in good standing in their respective

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494 institutions ~~may shall~~ receive the benefits provided in this
 495 subsection thereof.

496 (c) A child or spouse receiving benefits under this
 497 subsection must be enrolled according to the customary rules and
 498 requirements of the institution attended.

499 (4) (a) The employer of such firefighter ~~is shall be~~ liable
 500 for the payment of ~~the said~~ sums specified in this section and
 501 ~~is shall be~~ deemed self-insured, unless it procures and
 502 maintains, or has already procured and maintained, insurance to
 503 secure such payments. Any such insurance may cover only the
 504 risks indicated in this section, in the amounts indicated in
 505 this section, or it may cover those risks and additional risks
 506 and may be in larger amounts. Any such insurance ~~must shall~~ be
 507 placed by such employer only after public bid of such insurance
 508 coverage which ~~must coverage shall~~ be awarded to the carrier
 509 making the lowest best bid.

510 (b) Payment of benefits to beneficiaries of state
 511 employees, or of the premiums to cover the risk, under ~~the~~
 512 ~~provisions of~~ this section, ~~must shall~~ be paid from existing
 513 funds otherwise appropriated for the department.

514 (5) The State Board of Education shall adopt rules and
 515 procedures, and the Board of Governors shall adopt regulations
 516 and procedures, as are appropriate and necessary to implement
 517 the educational benefits provisions of this section.

518 Section 3. Section 112.1911, Florida Statutes, is created
 519 to read:

520 112.1911 Emergency medical technicians and paramedics;
 521 death benefits.-

522 (1) As used in this section, the term:

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523 (a) "Emergency medical technician" means a person who is
 524 certified by the Department of Health to perform basic life
 525 support pursuant to part III of chapter 401, who is employed by
 526 an employer, and whose primary duties and responsibilities
 527 include on-the-scene emergency medical care.

528 (b) "Employer" means a state board, commission, department,
 529 division, bureau, or agency, or a county, municipality, or other
 530 political subdivision of the state.

531 (c) "Insurance" means insurance procured from a stock
 532 company or mutual company, or an association or exchange
 533 authorized to do business as an insurer in this state.

534 (d) "Paramedic" means a person who is certified by the
 535 Department of Health to perform basic and advanced life support
 536 pursuant to part III of chapter 401, who is employed by an
 537 employer, and whose primary duties and responsibilities include
 538 on-the-scene emergency medical care.

539 (2) (a) The sum of \$75,000 must be paid as provided in this
 540 section when an emergency medical technician or a paramedic,
 541 while engaged in the performance of his or her official duties,
 542 is accidentally killed or receives an accidental bodily injury
 543 that subsequently results in the loss of the individual's life,
 544 provided that such killing is not the result of suicide and that
 545 such bodily injury is not intentionally self-inflicted.

546 (b) The sum of \$75,000 must be paid as provided in this
 547 section if an emergency medical technician or a paramedic is
 548 accidentally killed as specified in paragraph (a) and the
 549 accidental death occurs as a result of the emergency medical
 550 technician's or paramedic's response to what is reasonably
 551 believed to be an emergency involving the protection of life.

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552 This sum is in addition to any sum provided under paragraph (a).

553 (c) If an emergency medical technician or a paramedic,
 554 while engaged in the performance of his or her official duties,
 555 is unlawfully and intentionally killed or is injured by an
 556 unlawful and intentional act of another person and dies as a
 557 result of such injury, the sum of \$225,000 must be paid as
 558 provided in this section.

559 (d) Such payments, pursuant to paragraphs (a), (b), and
 560 (c), whether secured by insurance or not, must be made to the
 561 beneficiary designated by such emergency medical technician or
 562 paramedic in a written and signed form, which must be delivered
 563 to the employer during the emergency medical technician's or
 564 paramedic's lifetime. If no such designation is made, then the
 565 payments must be made to the emergency medical technician's or
 566 paramedic's surviving child or children and to his or her
 567 surviving spouse in equal portions, or if there is no surviving
 568 child or spouse, must be made to the emergency medical
 569 technician's or paramedic's parent or parents. If a beneficiary
 570 is not designated and there is no surviving child, spouse, or
 571 parent, then the sum must be paid to the emergency medical
 572 technician's or paramedic's estate.

573 (e) Such payments, pursuant to paragraphs (a), (b), and
 574 (c), are in addition to any workers' compensation or retirement
 575 plan benefits and are exempt from the claims and demands of
 576 creditors of such emergency medical technician or paramedic.

577 (3) (a) The employer of an emergency medical technician or a
 578 paramedic is liable for the payment of the benefits specified in
 579 this section and is deemed self-insured, unless it procures and
 580 maintains, or has already procured and maintained, insurance to

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581 cover such payments. Any such insurance may cover only the risks
 582 indicated in this section, in the amounts indicated in this
 583 section, or it may cover those risks and additional risks and
 584 may be in larger amounts. Any such insurance must be placed by
 585 such employer only after public bid of such insurance coverage,
 586 which must be awarded to the carrier making the lowest best bid.

587 (b) Payment of benefits to beneficiaries of state
 588 employees, or of the premiums to cover the risk, under this
 589 section, must be paid from existing funds otherwise appropriated
 590 to the agency that employed the emergency medical technician or
 591 paramedic.

592 Section 4. Section 112.1912, Florida Statutes, is created
 593 to read:

594 112.1912 First responders; death benefits for educational
 595 expenses.-

596 (1) As used in this section, the term "first responder"
 597 means:

598 (a) A law enforcement, correctional, or correctional
 599 probation officer as defined in s. 112.19(1) who is killed as
 600 provided in s. 112.19(2) on or after July 1, 2019;

601 (b) A firefighter as defined in s. 112.191(1) who is killed
 602 as provided in s. 112.191(2) on or after July 1, 2019; or

603 (c) An emergency medical technician or a paramedic, as
 604 defined in s. 112.1911(1), who is killed as provided in s.
 605 112.1911(2) on or after July 1, 2019.

606 (2) (a) The state shall waive certain educational expenses
 607 that the child or spouse of a deceased first responder incurs
 608 while obtaining a career certificate, an undergraduate
 609 education, or a postgraduate education. The amount waived by the

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610 state must be in an amount equal to the cost of tuition and
 611 matriculation and registration fees for a total of 120 credit
 612 hours. The child or the spouse may attend a state career center,
 613 a Florida College System institution, or a state university on
 614 either a full-time or part-time basis. The benefits provided to
 615 a child under this subsection must continue until the child's
 616 25th birthday. The benefits provided to a spouse under this
 617 subsection must commence within 5 years after the first
 618 responder's death occurs and may continue until the 10th
 619 anniversary of that death.

620 (b) Upon failure of any child or spouse who receives a
 621 waiver in accordance with this subsection to comply with the
 622 ordinary and minimum requirements regarding discipline and
 623 scholarship of the institution attended, such benefits to the
 624 child or the spouse must be withdrawn and no further moneys may
 625 be expended for the child's or spouse's benefits so long as such
 626 failure or delinquency continues.

627 (c) Only a student in good standing in his or her
 628 respective institution may receive the benefits provided in this
 629 subsection.

630 (d) A child or spouse receiving benefits under this
 631 subsection must be enrolled according to the customary rules and
 632 requirements of the institution attended.

633 (e) The State Board of Education shall adopt rules and
 634 procedures, and the Board of Governors shall adopt regulations
 635 and procedures, as are appropriate and necessary to implement
 636 this subsection.

637 Section 5. Subsection (4) of section 250.34, Florida
 638 Statutes, is amended to read:

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639 250.34 Injury or death on state active duty.—

640 (4) (a) The sum of \$75,000 must be paid by the state when a

641 ~~Each~~ member of the Florida National Guard, while on state active

642 duty and engaged in the member's official duties, who is

643 accidentally killed or receives accidental bodily injury that

644 results in the loss of the member's life, provided that such

645 killing is not the result of suicide and that such bodily injury

646 is not intentionally self-inflicted.

647 (b) If a member of the Florida National Guard, while on

648 state active duty and engaged in the performance of the member's

649 official duties, is unlawfully and intentionally killed, or who

650 dies as the result of such unlawful and intentional act, the sum

651 of \$225,000 must be paid by the state injuries incurred, while

652 on state active duty under competent orders qualifies for

653 benefits as a law enforcement officer pursuant to s. 112.19 or

654 any successor statute providing for death benefits for law

655 enforcement officers, and

656 (c) Such payments, pursuant to paragraphs (a) and (b), must

657 be made to the beneficiary designated by such member in writing,

658 signed by the member, and delivered to the Florida National

659 Guard during the member's lifetime. If no such designation is

660 made, then the payments must be paid to the member's surviving

661 child or children and to the member's surviving spouse in equal

662 portions, and if there are no surviving children or spouse, then

663 to the member's parent or parents. If a beneficiary is not

664 designated and there is no surviving child, spouse, or parent,

665 then the sum must be paid to the member's estate.

666 (d) Such payments, pursuant to paragraphs (a) and (b), are

667 exempt from the claims and demands of creditors of such member.

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668 (e) The decedent's survivors or estate are entitled to the

669 death benefits provided in s. 112.19(2)(d) ~~s. 112.19~~. However,

670 this section does not prohibit survivors or the estate of the

671 decedent from presenting a claim bill for approval by the

672 Legislature in addition to the death benefits provided in this

673 section.

674 (f) If a member of the Florida National Guard is

675 accidentally killed as specified in paragraph (a) or unlawfully

676 and intentionally killed as specified in paragraph (b), the

677 member's surviving child or children and spouse are eligible for

678 the educational benefits as specified in s. 112.1912.

679 Section 6. Section 295.01, Florida Statutes, is reenacted

680 and amended to read:

681 295.01 Children of deceased or disabled veterans; spouses

682 of deceased or disabled servicemembers; education.—

683 (1) ~~It is hereby declared to be~~ the policy of the state to

684 provide educational opportunity at state expense for dependent

685 children either of whose parents entered the Armed Forces and:

686 (a) Died as a result of service-connected injuries,

687 disease, or disability sustained while on active duty; or

688 (b) Has been:

689 1. Determined by the United States Department of Veterans

690 Affairs or its predecessor to have a service-connected 100-

691 percent total and permanent disability rating for compensation;

692 2. Determined to have a service-connected total and

693 permanent disability rating of 100 percent and is in receipt of

694 disability retirement pay from any branch of the United States

695 Armed Services; or

696 3. Issued a valid identification card by the Department of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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697 Veterans' Affairs in accordance with s. 295.17,
698
699 when the parents of such children have been residents of the
700 state for 1 year immediately preceding the death or the
701 occurrence of such disability, and subject to the rules,
702 restrictions, and limitations set forth in this section.

703 (2) It is also the declared policy of this state to provide
704 educational opportunity at state expense for spouses of deceased
705 or disabled servicemembers.

706 (a) The unremarried spouse of a deceased servicemember, as
707 defined in s. 250.01, qualifies for the benefits under this
708 section:

709 1. If the servicemember and his or her spouse had been
710 residents of the state for 1 year immediately preceding the
711 servicemember's death and the servicemember's death occurred
712 under the circumstances provided in subsection (1); and
713 2. If the unremarried spouse applies to use the benefit
714 within 5 years after the servicemember's death.

715 (b) The dependent spouse of a disabled servicemember, as
716 defined in s. 250.01, qualifies for the benefits under this
717 section:

718 1. If the servicemember and his or her spouse have been
719 married to each other for 1 year; and
720 2. If the servicemember and his or her spouse have been
721 residents of the state for 1 year immediately preceding the
722 occurrence of the servicemember's disability and the disability
723 meets the criteria set forth in subsection (1); and
724 3. Only during the duration of the marriage and up to the
725 point of termination of the marriage by dissolution or

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726 annulment.
727
728 All rules, restrictions, and limitations set forth in this
729 section shall apply.

730 (3) Sections 295.03, 295.04, 295.05, and 1009.40 shall
731 apply.

732 (4) The State Board of Education shall adopt rules for
733 administering this section.

734 (5) A child or spouse of a servicemember may receive
735 benefits under either this section or s. 295.061.

736 Section 7. Section 295.061, Florida Statutes, is created to
737 read:

738 295.061 Active duty servicemembers; death benefits.-
739 (1) As used in this section, the term:
740 (a) "Active duty" has the same meaning as provided in s.
741 250.01.
742 (b) "United States Armed Forces" means the United States
743 Army, Navy, Air Force, Marine Corps, and Coast Guard.
744 (2) The sum of \$75,000 must be paid by the state if a
745 member of the United States Armed Forces, while on active duty
746 and engaged in the performance of his or her official duties, is
747 killed or receives a bodily injury that results in the loss of
748 the member's life, provided that such killing is not the result
749 of suicide and that such bodily injury is not intentionally
750 self-inflicted.
751 (3) The sum of \$25,000 must be paid by the state if a
752 member of the United States Armed Forces, while on active duty,
753 is killed other than as specified in subsection (2), provided
754 that the killing is not the result of suicide and that such

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755 bodily injury is not intentionally self-inflicted.

756 (4) Payment of benefits made under subsection (2) or
 757 subsection (3) must be paid to the beneficiary designated by
 758 such member in writing and delivered to the Department of
 759 Military Affairs during the member's lifetime. If no such
 760 designation is made, then the payments must be paid to the
 761 member's surviving child or children and to his or her surviving
 762 spouse in equal portions, or if there is no surviving child or
 763 spouse, must be made to the member's parent or parents. If a
 764 beneficiary is not designated and there is no surviving child,
 765 spouse, or parent, then the sum must be paid to the member's
 766 estate.

767 (5) To qualify for the benefits provided in this section,
 768 the deceased military member must have been a resident of this
 769 state, or his or her duty post must have been within this state,
 770 at the time of death.

771 (6) Any benefits provided pursuant to this section are in
 772 addition to any other benefits provided under the
 773 Servicemembers' Group Life Insurance program or any other
 774 federal program. Benefits granted pursuant to this section are
 775 exempt from the claims and demands of creditors of such member.

776 (7) Benefits provided under subsection (2) or subsection
 777 (3) shall be paid from the General Revenue Fund. Beginning in
 778 the 2019-2020 fiscal year and continuing each fiscal year
 779 thereafter, a sum sufficient to pay such benefits is
 780 appropriated from the General Revenue Fund to the Department of
 781 Financial Services for the purposes of paying such benefits.

782 (8) (a) If an active duty member is killed as specified in
 783 subsection (2) or subsection (3), the state must waive certain

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784 educational expenses that the child or the spouse of the
 785 deceased member incurs while obtaining a career certificate, an
 786 undergraduate education, or a postgraduate education. The amount
 787 waived by the state must be in an amount equal to the cost of
 788 tuition and matriculation and registration fees for a total of
 789 120 credit hours. The child or the spouse may attend a state
 790 career center, a Florida College System institution, or a state
 791 university on either a full-time or part-time basis. The
 792 benefits provided to a child under this subsection must continue
 793 until the child's 25th birthday. The benefits provided to a
 794 spouse under this subsection must commence within 5 years after
 795 the death occurs and may continue until the 10th anniversary of
 796 that death.

797 (b) Upon failure of any child or spouse who receives a
 798 waiver in accordance with this subsection to comply with the
 799 ordinary and minimum requirements regarding discipline and
 800 scholarship of the institution attended, such benefits to the
 801 child or the spouse must be withdrawn and no further moneys may
 802 be expended for the child's or spouse's benefits so long as such
 803 failure or delinquency continues.

804 (c) Only a student in good standing in his or her
 805 respective institution may receive the benefits provided in this
 806 subsection.

807 (d) A child or spouse who is receiving benefits under this
 808 subsection shall be enrolled according to the customary rules
 809 and requirements of the institution attended.

810 (e) A child or spouse of a member may receive benefits
 811 under either this subsection or s. 295.01.

812 (f) The State Board of Education shall adopt rules and

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813 procedures, and the Board of Governors shall adopt regulations
814 and procedures, as are appropriate and necessary to implement
815 this subsection.

816 Section 8. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19 Meeting Date

7098 Bill Number (if applicable)

Topic DEATH BENEFITS

Amendment Barcode (if applicable)

Name Mick McHale

Job Title LOBBYIST

Address 300 E BREWARD STREET

Phone 722-3329

Tallahassee FL City State Zip

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing FLORIDA PBA

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 2, 2019

Meeting Date

7098

Bill Number (if applicable)

Topic Death Benefits

Amendment Barcode (if applicable)

Name Gary Hester

Job Title Chief - Government Affairs

Address 2636 Mitcham Drive

Phone 850-219-3631

Street

Tallahassee

FL

32308

Email ghester@fpca.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/19

Meeting Date

7098

Bill Number (if applicable)

Topic FIRST RESPONDER DEATH BENEFITS

Amendment Barcode (if applicable)

Name MAT BUTLER

Job Title

Address 2500 W. GLENDALE DR.

Street

Phone 321 299 9064

ORLANDO

City

FL

State

32804

Zip

Email MAT.BUTLER@OCFL.NET

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ORANGE COUNTY SHERIFF'S OFFICE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

1280

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Peter D. Jones

is duly appointed a member of the
Investment Advisory Council

for a term beginning on the Fourth day of December, A.D.,
2018, until the Twelfth day of December, A.D., 2020 and is
subject to be confirmed by the Senate during the next regular
session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Thirteenth day of February, A.D., 2019.*

Laurel M. Lee

Secretary of State



If photocopied or chemically altered, the word "VOID" will appear

State of Florida appears in small letters across the face of this 8 1/2" x 11" document

CERTIFICATION

STATE OF FLORIDA

COUNTY OF Pinellas

Before me, the undersigned Notary Public of Florida, personally appeared

Peter D. Jones

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Peter D. Jones
Signature of Applicant-Affiant

Sworn to and subscribed before me this 13th day of December, 2018.

[Signature]
Signature of Notary Public-State of Florida

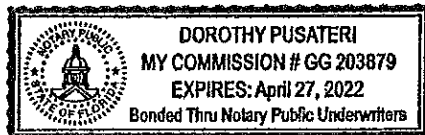
Dorothy Pusateri
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: April 27, 2022

Personally Known OR Produced Identification

Type of Identification Produced Drivers License

(seal)



OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2018 DEC 17 PM 10:19
DIVISION OF ELECTIONS

STATE OF FLORIDA

County of PINELLAS

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

INVESTMENT ADVISORY COUNCIL OF THE STATE BOARD OF ADMINISTRAT
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Peter D. Jones
Signature

Sworn to and subscribed before me this 14th day of December, 2018.

Dorothy Pusateri
Signature of Officer Administering Oath or of Notary Public

Dorothy Pusateri
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced Drivers License



ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

308 MAGNOLIA DRIVE
Street or Post Office Box

CLEARWATER, FL 33756
City, State, Zip Code

PETER D. JONES
Print Name

Peter Jones
Signature

Peter Jones

RECEIVED
DEPARTMENT OF STATE
2019 FEB 13 AM 8:40
DEPARTMENT OF STATE
DIVISION OF ELECTIONS

STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND
CABINET

CABINET MEMBERS: GOVERNOR RICK SCOTT
ATTORNEY GENERAL PAM BONDI
CHIEF FINANCIAL OFFICER JIMMY
PATRONIS
COMMISSIONER OF AGRICULTURE
ADAM PUTNAM

DATE: TUESDAY, DECEMBER 4, 2018

LOCATION: CABINET MEETING ROOM
LOWER LEVEL, THE CAPITOL
TALLAHASSEE, FLORIDA

REPORTED BY: NANCY S. METZKE, RPR, FPR
COURT REPORTER

C & N REPORTERS
POST OFFICE BOX 3093
TALLAHASSEE, FLORIDA 32315-3093
(850) 697-8314 / FAX (850) 697-8715
nancy@metzke.com
candnreporters.com

1 CFO PATRONIS: So move.

2 GOVERNOR SCOTT: Is there a second?

3 ATTORNEY GENERAL BONDI: Second.

4 GOVERNOR SCOTT: Comments or objections?

5 (NO RESPONSE).

6 GOVERNOR SCOTT: Hearing none, the motion
7 carries.

8 Item 21, appointment to the Investment
9 Advisory Council.

10 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

11 Item 21, we have two nominees for the
12 Investment Advisory Council today, one brought
13 forward by Attorney General Bondi, Mr. Peter Jones.
14 The other is a Governor's nominee, Mr. Tom Grady.

15 Both have distinguished backgrounds and
16 credentials for service on this body, and both are
17 well qualified and I think would be welcome
18 additions to it.

19 Request approval.

20 GOVERNOR SCOTT: Is there a motion on the
21 item?

22 CFO PATRONIS: So move.

23 ATTORNEY GENERAL BONDI: So move. Oh, sorry.

24 GOVERNOR SCOTT: Is there a second?

25 ATTORNEY GENERAL BONDI: Second.

1 GOVERNOR SCOTT: Comments or objections?

2 (NO RESPONSE).

3 GOVERNOR SCOTT: Hearing none, the motion
4 carries.

5 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

6 Item 22, request appointment of the chair of
7 the Florida Commission on Hurricane Loss Projection
8 Methodology. This is Mr. Floyd Yeager. He has
9 served on the committee with distinction.

10 Request approval.

11 GOVERNOR SCOTT: Is there a motion?

12 CFO PATRONIS: So move.

13 GOVERNOR SCOTT: Second?

14 ATTORNEY GENERAL BONDI: Second.

15 GOVERNOR SCOTT: Comments or objections?

16 (NO RESPONSE).

17 GOVERNOR SCOTT: Hearing none, the motion
18 carries.

19 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

20 Item 23, request approval of the appointment
21 of Mr. Jeffrey F. McCarty to the Commission on
22 Hurricane Loss Projection Methodology. His bio is
23 in here and credentials are sound.

24 Request approval.

25 CFO PATRONIS: So move.

CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 4/2/2019 10:00:11 AM

Ends: 4/2/2019 11:00:01 AM

Length: 00:59:51

10:00:10 AM Meeting called to order
10:00:19 AM Roll Call - Quorum present
10:00:27 AM Chair makes comments to audience
10:00:43 AM Tab 11- SB 7080 by Senator Harrell -Public Records and Meetings/Interstate Medical Licensure Compact
10:02:07 AM Delete-all amendment 114866 by Senator Harrell
10:03:06 AM Chair
10:03:12 AM Questions?
10:03:15 AM Objections? None
10:03:29 AM Delete-all is adopted
10:03:34 AM Questions on bill
10:03:40 AM Debate?
10:03:47 AM Senator Harrell waives close
10:03:54 AM Roll Call; CS/SB 7080 passes favorably
10:04:05 AM Tab 3 - SB 358 by Senator Stargel - Health Insurance Coverage
10:05:26 AM Questions?
10:05:33 AM Senator Rader
10:05:54 AM Senator Stargel
10:06:03 AM Senator Rader
10:06:27 AM Appearance Cards?
10:06:31 AM Stephanie Walls, representing self, speaks in support
10:07:25 AM Senator Rader with question
10:08:20 AM Stephanie Walls responds
10:08:56 AM Chair
10:09:22 AM Senator Torres
10:09:48 AM Debate?
10:10:02 AM Senator Rader
10:11:13 AM Senator Stargel to close
10:11:27 AM Roll Call on SB 358 - favorable
10:12:13 AM Tab 7 - CS/SB 838 by Senator Powell, Public Records/Mental Health Treatment and Services
10:12:37 AM Questions?
10:13:31 AM Appearance
10:13:34 AM Barney Bishop with Florida Smart Justice Alliance, waives in support
10:13:39 AM Nancy Daniels, Florida Public Defender Association, waives in support
10:13:51 AM Debate?
10:13:54 AM Senator Powell to close
10:14:10 AM Roll Call CS/SB 838 - favorable
10:14:35 AM Tab 6 - SB 746 by Senator Wright, presented by Senator Bean
10:15:44 AM Questions?
10:15:46 AM Allison Dudley with the Judicial Assistant's Association of Florida, waives in support
10:15:58 AM Debate?
10:16:01 AM Senator Bean waives close
10:16:08 AM Roll Call SB 746 - favorable
10:16:21 AM Senator Rader
10:16:34 AM Senator Rader - Introduction of people in audience from Lake Okeechobee
10:17:34 AM Tab 8 - SB 1306 by Senator Book - Women's Suffrage Centennial Commemoration Committee
10:20:14 AM Questions?
10:21:14 AM Bob Harris, speaking for the bill
10:24:18 AM Trish Neely, League Women Voters, speaking for the bill
10:25:53 AM Chair
10:26:54 AM Debate?
10:26:58 AM Senator Rader
10:27:23 AM Senator Torres

10:29:17 AM Chair
10:29:51 AM Senator Book to close
10:30:52 AM Roll Call SB 1306 - favorable
10:31:09 AM Tab 5 - SB 742 by Senator Braynon - Designation of Eligible Telecommunications Carriers
10:32:27 AM Questions?
10:32:51 AM Appearance Cards?
10:32:55 AM Joanna Bonfanti, Link Wireless, waives in support
10:33:02 AM Paul Turner, waives in support
10:33:11 AM Debate?
10:33:18 AM Senator Powell to close
10:33:36 AM Roll Call SB 742 - favorable
10:33:57 AM Tab 9 - SB 1428 by Senator Perry - Disposition of Surplus Funds by Candidates
10:34:28 AM Questions?
10:34:31 AM Trish Neeley, League of Women Voters, waives in support
10:34:42 AM Debate?
10:34:45 AM Senator Perry waive close
10:34:54 AM SB 1428 - favorable
10:35:12 AM Tab 1 - CS/SB 34 by Senator Torres - Relief of Robert Alan Smith by Orange
10:36:10 AM Amendment 797914 by Senator Torres
10:36:25 AM Questions?
10:36:32 AM Debate?
10:36:35 AM No objections to the amendment
10:36:43 AM Back on bill as amended
10:36:48 AM Debate?
10:36:53 AM Senator Rader
10:37:52 AM Debate? None
10:37:57 AM Senator Torres waives close
10:38:02 AM Roll Call - CS/CS/SB 34 - favorable
10:38:13 AM Tab 4 CS/SB 600 by Senator Gibson, Public Records/Meter-derived Data and Billing Information
10:39:31 AM Questions?
10:40:05 AM Appearance Cards?
10:40:09 AM Suzanne Goss, JEA, waives in support
10:40:17 AM Kevin Noonan, Orlando Utilities Commission, waives in support
10:40:28 AM Debate?
10:40:31 AM Senator Rader comments
10:41:07 AM Senator Gibson to close
10:41:28 AM Roll Call CS/SB 600 - favorable
10:41:42 AM Senator Hooper turns chair over to Vice-chair Rader
10:41:44 AM Tab 12 - SPB 7098 by Governmental Oversight and Accountability relating to Death Benefits, presented
by Senator Hooper
10:43:35 AM Chair
10:44:34 AM Questions?
10:44:38 AM Appearance Forms?
10:44:48 AM Mick McHale, Florida PBA, waives in support
10:44:59 AM Gary Hestor, Florida Police Chiefs Association, waives in support
10:45:16 AM Matt Butler, Orange County Sheriff's Association, waives in support
10:45:31 AM Debate?
10:45:34 AM Senator Torres
10:46:18 AM Motion to submit bill as Committee Bill?
10:46:23 AM Senator Torres moves that SPB be submitted as Committee Bill
10:46:33 AM Roll Call on SPB 7098 - favorable as committee bill
10:46:53 AM Chair Hooper back in Chair
10:47:09 AM Tab 2 - SB 342 by Senator Lee - Public Records/Voters and Voter Registration
10:48:09 AM Questions?
10:48:41 AM Senator Rader
10:48:59 AM Senator Lee
10:50:44 AM Senator Rader
10:51:00 AM Senator Lee
10:52:09 AM Appearance Cards?
10:52:25 AM Trish Neely, League of Women Voters, waives in support
10:52:32 AM David Ramba, Florida Supervisors of Elections, waives in support
10:52:42 AM Debate?

10:52:46 AM Senator Rader
10:53:14 AM Senator Torres
10:54:17 AM Senator Lee to close
10:54:22 AM Roll Call SB 342 - favorable
10:55:16 AM Tab 10 - SB 1612 by Senator Baxley -Prison Industry Programs
10:56:35 AM Questions?
10:56:57 AM Appearance Cards?
10:57:01 AM Barney Bishop, waives in support
10:57:09 AM Debate?
10:57:13 AM Senator Baxley waives close
10:57:22 AM Roll Call - SB 1612 - favorable
10:57:42 AM Tab 13 - Confirmation of Peter D. Jones to Investment Advisory Council
10:58:12 AM Debate?
10:58:16 AM Senator Bean moves to recommend appointment
10:58:26 AM Roll Call - Recommendation to confirm Peter D. Jones to Investment Advisory Board is favorable
10:58:37 AM Chair asks for any motions for missed votes?
10:58:47 AM Senator Bean
10:59:21 AM Senator Bean makes a motion for several bills that he missed to be shown as voting in the affirmative.
10:59:36 AM Motion adopted
10:59:42 AM With no further business and no objections, the meeting is adjourned.