

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Ring, Chair
Senator Hays, Vice Chair

MEETING DATE: Tuesday, April 16, 2013
TIME: 4:00 —6:00 p.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Ring, Chair; Senator Hays, Vice Chair; Senators Bean, Benacquisto, Bradley, Hukill, Montford, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 250 Ring (Identical H 27)	Florida Law Enforcement Officers' Hall of Fame; Establishing the Florida Law Enforcement Officers' Hall of Fame; providing for administration by the Department of Law Enforcement; designating location; providing procedures for selection, nomination, and induction, etc. CJ 04/08/2013 Favorable GO 04/16/2013 Fav/CS ACJ AP	Fav/CS Yeas 8 Nays 0
2	CS/SB 860 Banking and Insurance / Galvano (Identical CS/CS/H 553)	Workers' Compensation System Administration; Revising requirements relating to submitting notice of election of exemption; revising immunity from liability standards for employers and employees using a help supply services company; revising and deleting penalties for noncompliance relating to duty of employer upon receipt of notice of injury or death; deleting a requirement that a provision that is mutually agreed upon in any collective bargaining agreement be filed with the Department of Financial Services, etc. BI 04/09/2013 Fav/CS GO 04/16/2013 Favorable AP	Favorable Yeas 9 Nays 0
3	CS/SB 984 Environmental Preservation and Conservation / Richter (Similar CS/CS/H 1085, Compare CS/CS/H 1083, Link CS/CS/S 958)	Public Records/Natural Gas Storage Facility Permit; Creating an exemption from public records requirements for certain information provided in an application for a natural gas storage facility permit to inject and recover gas into and from a natural gas storage reservoir; providing for future review and repeal of the public records exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc. EP 04/09/2013 Fav/CS GO 04/16/2013 Fav/CS RC	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDAGovernmental Oversight and Accountability
Tuesday, April 16, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1318 Ethics and Elections / Soto (Identical CS/H 1075)	Public Records/Complaint of Misconduct Against Agency Employee; Providing an exemption from public record requirements for a complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation of the complaint by the agency; providing for limited duration of the exemption; providing for future review and repeal of the exemption under the Open Government Sunset Review Act, etc. EE 04/01/2013 Fav/CS GO 04/16/2013 Favorable RC	Favorable Yeas 9 Nays 0
5	SB 1680 Altman (Identical H 725)	Public Records and Public Meetings/State Child Abuse Death Review Committee or Local Committee; Eliminating requirements that the closed portion of a meeting of the State Child Abuse Death Review Committee or a local committee at which specified identifying information is discussed be recorded, that no portion of such closed meeting be off the record, and that the recording be maintained by the state committee or a local committee, etc. CF 04/08/2013 Favorable GO 04/16/2013 Favorable RC	Favorable Yeas 8 Nays 0
6	SB 1868 Bean (Similar CS/H 7135, Compare CS/CS/H 217, Link S 410)	Public Records/Payment Instrument Transaction/Office of Financial Regulation; Providing an exemption from public records requirements for payment instrument transaction information held by the Office of Financial Regulation; authorizing the office to enter into information-sharing agreements and provide access to information contained in the database to certain governmental agencies; requiring a department or agency that receives confidential information to maintain the confidentiality of the information, except as otherwise required by court order, etc. GO 04/16/2013 Fav/CS RC	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

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 250

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Ring

SUBJECT: Florida Law Enforcement Officers' Hall of Fame

DATE: April 15, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>ACJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 250 establishes a Florida Law Enforcement Officers' Hall of Fame, which is administered by the Florida Department of Law Enforcement (FDLE) without appropriation of state funds. The Department of Management Services (DMS) must set aside an area on the Plaza Level of the Capitol Building (and meet other specifications) for the Hall of Fame and consult with the FDLE regarding the design and theme of the area. The bill also specifies the procedures for recommendations of potential nominees and selection of officers for induction.

This bill creates section 265.004 of the Florida Statutes.

II. Present Situation:

The FDLE provides the following information relevant to the bill:

Florida has no publicly established Hall of Fame for law enforcement officers, and there is no Hall of Fame in Florida that gives preference to law enforcement officers who were born in Florida or adopted Florida as their home. Florida is, however, home to the American Police Hall of Fame and Museum (APHF), which was founded in 1960 and is

the nation's first national police museum and memorial dedicated to American law enforcement officers killed in the line of duty. Through interactive displays, simulators and thousands of artifacts, the APHF Museum educates the public about the history and current trends of American law enforcement. The APHF Memorial lists over 8,000 officers who were killed in the line of duty. Their names are permanently etched on the Memorial's marble walls, which are added to once a year for Police Memorial Day (May 15th). The APHF houses two non-profit law enforcement associations: The National Association of Chiefs of Police (NACOP) and the American Federation of Police and Concerned Citizens (AFP&CC), which provide financial and program support.

The Florida Legislature has established four Halls of Fame in Florida that honor persons born in Florida or who adopted Florida as their home, and who have made significant contributions to the state. The Florida Women's Hall of Fame (s. 265.001, F.S.), created in 1982, honors women who, through their lives and efforts, have made significant contributions to improving the lives of women and all citizens of Florida. The Florida Commission on the Status of Women maintains and facilitates the permanent Florida Women's Hall of Fame display in the state Capitol, with no specific appropriation of state funds.

The Florida Veterans' Hall of Fame (s. 265.003, F.S.), was created by the 2011 Legislature to recognize and honor military veterans who have made a significant contribution to Florida through their works and lives, during or after military service. The Florida Veterans' Hall of Fame is administered by the Florida Department of Veterans Affairs without appropriation of state funds.

The Florida Civil Rights Hall of Fame (s. 760.065, F.S.), honors persons who have made significant contributions as leaders in the struggle for equality and justice. It is administered by the Commission on Human Relations, which is responsible for related costs; however, the costs of operation, repairs and maintenance are covered by the Department of Management Services.

The Florida Artists Hall of Fame (s. 265.2865, F.S.), was established by the Legislature in 1986 to recognize persons, living or deceased, who have made significant contributions to the arts in Florida either as performing or practicing artists in individual disciplines. Located on the Plaza level of the Rotunda in the Capitol building, it is administered by the Florida Council on Arts and Culture and the Division of Cultural Affairs within the Department of State. The Secretary of State must annually request an appropriation to carry out the purposes of s. 265.2865, F.S.

The 1988 Legislature designated the Florida Sports Hall of Fame in Lake City, Columbia County, as the Official Sports Hall of Fame for the state (s. 15.051, F.S.). The Sports Hall of Fame was founded in 1961 by the Florida Sportswriters Association and Florida Sportscasters Association, to recognize and honor Florida's greatest sports figures and events, and was housed ... at Cypress Gardens in Winter Haven and in Lake City before moving to the Lake Myrtle Sports Complex in Auburndale, Florida, on June 22, 2010.

Florida provides state funding for a professional golf hall of fame facility and the International Game Fish Association World Center facility, pursuant to s. 288.1168, F.S. The distribution of funds is overseen by the Department of Revenue.¹

Presently, numerous agencies, associations, and organizations present state and national awards for “officer of the year,” “deputy of the year,” etc., including, but not limited to, the Florida Attorney General,² the Florida Police Chiefs Association, the Florida Sheriffs Association, the Fraternal Order of Police, the Police Benevolent Association, the American Legion, and the National Rifle Association.

Section 683.115, F.S., designates May 15th of each year as “Law Enforcement Memorial Day.” The Capitol Courtyard contains a law enforcement officer memorial monument to honor fallen officers. This monument is maintained by the Fraternal Order of Police. A memorial service for fallen officers is held annually at the Capitol.

III. Effect of Proposed Changes:

The bill creates s. 265.004, F.S., which establishes the Florida Law Enforcement Officers’ Hall of Fame. According to intent language in the proposed statute:

It is the intent of the Legislature to recognize and honor those law enforcement officers who, through their works, service, and exemplary accomplishments during or following their service as a law enforcement officer, have dedicated their lives to, and sacrificed their lives for, the safety of the residents of Florida and have made significant contributions to the state.

The Hall of Fame is administered by the FDLE without appropriation of state funds. The bill directs the DMS to set aside an appropriate public area on the Plaza Level of the Capitol building for the Hall of Fame. The DMS must consult with the FDLE regarding the design and theme of the area. The FDLE must affix the name of each inductee on a plaque displayed in the designated area of the Capitol building.

The FDLE must annually accept recommendations of persons to be considered as nominees for induction into the Hall of Fame from law enforcement organizations the FDLE deems appropriate, including but not limited to, the Police Benevolent Association.

The FDLE must choose nominees from among the recommendations submitted and transmit the names to the Governor and Cabinet who will select the nominees to be inducted. In making these

¹ Analysis of SB 250 (February 12, 2012), Florida Department of Law Enforcement (on file with the Senate Criminal Justice Committee) (further cited as “FDLE’s Bill Analysis”). All information in the “Present Section” of this analysis is from the FDLE Analysis unless otherwise indicated.

² According to information provided by Attorney General staff in 2011 in regard to SB 484 (which is almost identical to SB 250), nominees are law enforcement officers (including correctional officers) who are selected by several agencies, associations, and organizations. The Florida Law Enforcement Officer of the Year is selected by a group composed of members of multiple agencies, associations, and organizations. Both the Florida Law Enforcement Officer of the Year and the other nominees are honored for their achievements. *See* Staff Analysis of SB 484 (November 28, 2011) Senate Committee on Criminal Justice.

recommendations, the FDLE must give preference to law enforcement officers who were born in Florida or who adopted Florida as their home state.

The FDLE may establish criteria and set specific time periods for the acceptance of recommendations for nomination and for the selection process. The FDLE may also establish, organize, and conduct a formal induction ceremony.³

The effective date of the bill is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill specifies that the Florida Law Enforcement Officers' Hall of Fame is administered by the FDLE without appropriation of state funds.

The FDLE states:

FDLE believes it is important to recognize the many accomplishments of Florida's law enforcement officers; as of December 7, 2012, there were 45,261 certified law enforcement officers in Florida. In order for the Florida Law Enforcement Officers' Hall of Fame initiative to be meaningful, it will require an extensive vetting process in order to examine and evaluate all nominations submitted to the department.

³ In its bill analysis, the FDLE construes these provisions as granting it rulemaking authority. The bill does not grant any rulemaking authority.

Although the bill directs FDLE to administer the Florida Law Enforcement Officers’ Hall of Fame without appropriation of state funds, the associated costs related to staff time and agency resources that will be expended to carry out this annual activity cannot be absorbed within FDLE’s existing resources due to previous position reductions.⁴

Over the last several sessions, FDLE had 297 positions eliminated and the department’s operating budget cut by approximately \$34 million. Although the bill directs FDLE to administer the Florida Law Enforcement Officers’ Hall of Fame without appropriation of state funds, the associated costs related to staff time and agency resources that will be expended to carry out this annual activity cannot be absorbed within FDLE’s existing resources.

Expenditures:

The FDLE states:

The FDLE is required to accept recommendations of persons to be considered for induction, and to choose nominees from the recommendations submitted for transmittal to the Governor and Cabinet. The FDLE is, also, authorized to develop guidelines for the process of accepting recommendations and selecting nominees. In order to implement these statutory requirements, the FDLE will need 1 FTE to develop the guidelines that will govern the implementation, and to solicit, review and more importantly, vet the applications prior to processing the names submitted for consideration.

	FY 13-14	FY 14-15	FY 15-16	
1 Government Analyst	\$ 51, 482	\$ 51,482	\$ 50,642	Salary & Benefits
1 Government Analyst	\$9,973	\$3,762	\$6,555	Expenses
Standard HR Services for 1 Government Analyst	\$354	\$354	\$354	Human Resources Services
TOTAL	\$61,809	\$55,598	\$55,598	

The FDLE further indicates that the bill “requires that the name of each person inducted into the Hall of Fame be placed on a plaque displayed in the designated area of the Capitol building.” The FDLE will include the costs related to this plaque as part of the expenses previously specified.

⁴ All of the information and comments provided by the FDLE for the “Government Sector Impact” section of this bill analysis are from the FDLE Analysis.

Non-Recurring:

An analysis was not available from the DMS, but the FDLE states: “The DMS is required to set aside an area on the Plaza level of the Capitol for the Hall of Fame, and may incur non-recurring expenses to prepare the area.”

VI. Technical Deficiencies:

The FDLE indicates that some intent language in the bill could create ambiguities that may make it difficult to implement provisions of the bill:

CS/SB 250 grants FDLE rule-making authority to “establish criteria and set specific time periods for the acceptance of recommendations for nomination and for the process of selecting nominees to forward to the Governor and Cabinet.” However, an apparent inconsistency in the intent language may pose difficulties for FDLE in carrying out this duty.

Section 1 states that “It is the intent of the Legislature to recognize and honor those law enforcement officers who, through their works, service, and *exemplary accomplishments during or following their service as law enforcement officers*, have dedicated their lives to, and *sacrificed their lives for*,...” (Emphases added). To the law enforcement community, the words “sacrificed their lives for” mean “died in the line of duty.” But, it does not appear that the intent is to limit eligibility only to those who have died in the line of duty, as evidenced by the inclusion of the words “exemplary accomplishments during or following their service as law enforcement officers.” If this point is not clarified, the FDLE will have difficulty in establishing criteria for the process of accepting recommendations and selecting nominees to forward to the Governor and Cabinet.⁵

VII. Related Issues:

None.

VIII. 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 16, 2013:

The CS clarifies that the DMS must locate the hall of fame in an appropriate public area on the plaza level of the Capitol Building.

- B. **Amendments:**

None.

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

⁵ FDLE Analysis.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment

Delete lines 27 - 28
and insert:
an appropriate public area on the Plaza Level of the Capitol
Building for the Florida Law Enforcement Officers' Hall of Fame
and shall consult with the Department of

By Senator Ring

29-00552-13

2013250__

A bill to be entitled

An act relating to the Florida Law Enforcement Officers' Hall of Fame; creating s. 265.004, F.S.; establishing the Florida Law Enforcement Officers' Hall of Fame; providing for administration by the Department of Law Enforcement; designating location; providing procedures for selection, nomination, and induction; providing an effective date.

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

Section 1. Section 265.004, Florida Statutes, is created to read:

265.004 Florida Law Enforcement Officers' Hall of Fame.—

(1) It is the intent of the Legislature to recognize and honor those law enforcement officers who, through their works, service, and exemplary accomplishments during or following their service as law enforcement officers, have dedicated their lives to, and sacrificed their lives for, the safety of the citizens of Florida and have made significant contributions to the state.

(2) There is established the Florida Law Enforcement Officers' Hall of Fame.

(a) The Florida Law Enforcement Officers' Hall of Fame is administered by the Department of Law Enforcement without appropriation of state funds.

(b) The Department of Management Services shall set aside an area on the Plaza Level of the Capitol Building along the northeast front wall and shall consult with the Department of Law Enforcement regarding the design and theme of the area.

29-00552-13

2013250__

(c) The Department of Law Enforcement shall affix the name of each person inducted into the Florida Law Enforcement Officers' Hall of Fame on a plaque displayed in the designated area of the Capitol Building.

(3) (a) The Department of Law Enforcement shall annually accept recommendations of persons to be considered as nominees for induction into the Florida Law Enforcement Officers' Hall of Fame. The department shall accept recommendations of potential nominees from law enforcement organizations that the department deems appropriate, including, but not limited to, the Police Benevolent Association. The department shall choose nominees from among the recommendations submitted and transmit the names of those law enforcement officers to the Governor and Cabinet who will select the nominees to be inducted.

(b) In making its recommendations to the Governor and Cabinet, the Department of Law Enforcement shall give preference to law enforcement officers who were born in Florida or adopted Florida as their home state.

(4) The Department of Law Enforcement may establish criteria and set specific time periods for the acceptance of recommendations for nomination and for the process of selecting nominees to forward to the Governor and Cabinet. The department may establish, organize, and conduct a formal induction ceremony.

Section 2. This act shall take effect July 1, 2013.

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 860

INTRODUCER: Banking and Insurance Committee and Senator Galvano

SUBJECT: Workers' Compensation System Administration

DATE: April 16, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Burgess	BI	Fav/CS
2.	McKay	McVaney	GO	Favorable
3.			JU	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 860 amends provisions relating to the administration of Florida's workers' compensation system. The bill makes the following changes:

- Provides that stop-work orders and penalties assessed against a limited liability company (LLC) continue in force against successor companies of the LLC to the same extent (and under the same conditions) that they remain in force against successor companies of corporations, partnerships, and sole proprietorships.
- Eliminates the requirement that workers' compensation health care providers be certified by the Department of Financial Services (DFS).
- Provides additional time for health care providers, carriers, and employers to file medical reimbursement disputes with the DFS, for carriers to respond to petitions, and for the DFS to issue a written determination.
- Eliminates the following requirements: (1) that the DFS approve the advance payment of workers' compensation benefits in certain circumstances; (2) that carriers submit reemployment status reports to the DFS for review; (3) that a vocational evaluation always be conducted prior to the DFS authorizing training and education for an injured employee; and (4) that the DFS serve as custodian of certain collective bargaining agreements.

This bill substantially amends the following sections of the Florida Statutes: 284.44, 440.02, 440.05, 440.102, 440.107, 440.11, 440.13, 440.15, 440.185, 440.20, 440.211, 440.385, and 440.491.

II. Present Situation:

Chapter 440, F.S., is Florida's workers' compensation law. The Division of Workers' Compensation within the Department of Financial Services is responsible for administering ch. 440, F.S. Generally, employers/carriers are required to provide medical and indemnity benefits to a worker who is injured due to an accident arising out of and during the course of employment. For such compensable injuries, an employer/carrier is responsible for providing medical treatment, which includes, but is not limited to, medically necessary care and treatment.

Coverage Requirements

Whether an employer is required to have workers' compensation insurance depends upon the employer's industry and the number of employees. Employers may secure coverage by purchasing a workers' compensation insurance policy or qualifying as a self-insurer.¹ In Florida, any contractor or subcontractor who engages in construction in the state must secure and maintain workers' compensation insurance.² No more than three officers of a corporation or members of a limited liability company, who are engaged in the construction industry, may elect to be exempt from this requirement, if certain conditions are met.³ Corporate officers and members of a non-construction LLC who own at least 10 percent of a LLC can elect to be exempt from workers' compensation coverage requirements. Individuals who make such election are not considered employees for premium calculation purposes, and are not entitled to workers compensation benefits if they suffer a workplace injury.

In 2012, the Legislature enacted changes⁴ relating to the application process for the workers' compensation exemption. Electronic filing of exemption applications was required. As a result, applicants no longer needed to provide their social security number, but are required to include their date of birth, Florida driver license number, or Florida identification card number⁵ on their application. An unintended consequence of the amended data reporting requirements was to preclude out-of-state corporate officers, who would otherwise have been eligible for an exemption, from filing an electronic application, as they could not possess a Florida driver license or Florida identification card. Current practice at the DFS is to accept paper applications from out-of-state applicants and issue exemptions when all other eligibility criteria are met.

If an employer fails to comply with coverage requirements, the DFS must issue a stop-work order (SWO) within 72 hours of knowledge of the non-compliance. SWOs require the employer

¹ Sections 440.38, F.S.

² Sections 440.10 and 440.38, F.S.

³ Section 440.02, F.S.

⁴ Chapter 2012-213, L.O.F.

⁵ The Florida Department of Highway Safety and Motor Vehicles issues non-driver identification cards to State residents above 12 years of age who do not have a valid ID card, driver license or instruction permit from the State or any other jurisdiction. See <http://www.dmv.com/fl/florida/apply-id-card>.

to cease business operations, and remain in effect until the DFS issues an Order Releasing the Stop-Work Order. Additionally, employers are assessed penalties equal to 1.5 times what the employer would have paid in workers' compensation premiums for all periods of non-compliance during the preceding 3-year period or \$1,000, whichever is greater.⁶ SWOs are issued for the following violations: failure to obtain workers' compensation insurance; materially understating or concealing payroll; materially misrepresenting or concealing employee duties to avoid paying the proper premium; materially concealing information pertinent to the calculation of an experience modification factor; and failure to produce business records in a timely manner.

To prevent a person or business from circumventing these sanctions, s. 440.107, F.S., provides that a SWO and associated penalties continue in force against a successor entity of a corporation, partnership, or sole proprietorship if certain conditions are met. The application of the sanctions would apply to the successor entity if it were engaged in the same or equivalent trade or activity as the business that was issued the SWO and has one or more of the same principals or officers as the business that was issued the SWO. The workers' compensation law is silent as to whether SWOs and associated penalties continue in force against successor entities of limited liability companies (LLCs).⁷

Certified Health Care Providers and Reimbursement Disputes

A health care provider rendering medical treatment and care to an injured employee must be certified pursuant to Rule 69L-29.002, F.A.C., by the DFS or deemed certified, pursuant to s. 440.13(1)(d), F.S., as a provider within a managed care organization licensed through the Agency for Health Care Administration. Section 440.13(1) (d), F.S., provides that a "certified health care provider" is a provider approved to receive reimbursement through the Florida workers' compensation system. A certified provider may be a physician, a licensed practitioner, or a facility approved by the DFS, or a provider who has entered an agreement with a licensed managed care organization to provide treatment to injured employees. Generally, a certified health care provider must receive authorization from the insurer before providing treatment.

The DFS is responsible for resolving medical reimbursement disputes between health care providers and insurance carriers. Providers have 30 days from receipt of notice of disallowance or adjustment of payment from a carrier to file a dispute petition with the DFS. Carriers have 10 days from receipt of the provider's petition to submit to the DFS all documentation substantiating the carrier's disallowance or adjustment; otherwise, they waive all objections to the petition. The DFS has 60 days from receipt of all documentation to issue a written determination. The provider or the workers' compensation carrier, or either party's designated representative, may contest the DFS's determination by filing a request for an administrative hearing under ch. 120, F.S.

Workers' Compensation Indemnity Benefits

Workers' compensation indemnity (monetary) benefits are payable to employees who miss at least 8 days of work due to a covered (compensable) injury. However, indemnity benefits are

⁶ Section 440.107, F.S.

⁷ Section 440.107(7)(b), F.S.

payable retroactively from the first day of disability (to include compensation for the first 7 days missed) to employees who miss more than 21 days of work due to a compensable injury.⁸ Such benefits are generally payable at 66 2/3 percent of the employee's average weekly wage, up to the maximum weekly benefit established by law⁹ (\$816 per week¹⁰ in 2013). Indemnity benefits are generally payable for a maximum of 104 weeks, with specified exceptions.¹¹

For catastrophic temporary total disability,¹² the workers' compensation law provides for increased indemnity benefits (80 percent of the employee's average weekly wage) for up to 6 months from the date of injury. Section 440.15(2)(b), F.S., limits such increased benefit to a maximum of \$700 per week. As noted in the preceding paragraph, the maximum workers' compensation rate in Florida's workers' compensation system was greater than \$700 for 2013. Accordingly, employees could actually receive less compensation for a catastrophic temporary total disability than they would for a non-catastrophic injury.¹³

Section 440.20(12), F.S., permits Judges of Compensation Claims or, under certain conditions, the DFS to approve the advance payment of workers' compensation benefits to injured employees. In cases in which the carrier and employer have stipulated to an advance payment in excess of \$2,000, DFS approval of the advance payment is required.

Carrier Performance Standards

Carriers are required to pay the first installment of compensation for total disability (temporary total disability or temporary partial disability) or death benefits or deny the claim within 14 days after the employer receives notification of the injury or death, when disability is immediate and continuous for 8 or more days after the injury.¹⁴ Medical, dental, pharmacy, and hospital bills properly submitted to the insurer must be paid within 45 calendar days after receipt.¹⁵ The DFS ensures compliance through electronic databases and carrier audits, and imposes administrative penalties against carriers that do not achieve a minimum 95 percent performance standard¹⁶ as to either the timely payment of indemnity benefits or timely payment of medical bills.¹⁷

Penalties for carrier failure to timely pay medical bills are provided for in two sections of the workers' compensation law. Section 440.185, F.S., sets forth reporting requirements for employees, employers, and carriers. Employees are required to notify their employer of an injury within 30 days after the initial date of manifestation of the injury, except as otherwise specified. Employers are required to report an injury or death to their workers' compensation carrier within 7 days of having knowledge of the injury. Carriers must then report the injury to the DFS within

⁸ Section 440.12(1), F.S.

⁹ Sections 440.15(1)-(4), F.S.

¹⁰ See "Informational Bulletin DFS-04-2012" (December 10, 2012). Available at <http://www.myfloridacfo.com>

¹¹ Section 440.15, F.S.

¹² The loss of an arm, leg, hand or foot, an injury that renders the employee a paraplegic, paraparetic, quadriplegic, quadriparetic, or the loss of sight in both eyes. See s. 440.15(2)(b), F.S.

¹³ The maximum compensation rate is set in s. 440.12(2), F.S., and is equal to 100% of the statewide average weekly wage.

¹⁴ Section 440.20(2)(a), F.S.

¹⁵ Section 440.20(2)(b), F.S.

¹⁶ Increased penalties are assessed against carriers that fail to achieve a minimum 90 percent performance standard for the payment of either medical or indemnity benefits.

¹⁷ Section 440.20, F.S.

14 days. Section 440.593(4), F.S., relating to electronic reporting, authorizes the DFS to assess a civil penalty of up to \$500 per violation. The DFS has indicated that it utilizes s. 440.185(9), F.S., to assess penalties for violations of reporting requirements, but that it has never assessed a penalty greater than \$500 per violation or against an employer based upon a percentage of late filings.¹⁸

Reemployment Services and Evaluations

For injured employees who are unemployed 60 days after the date of injury, who are receiving certain workers' compensation benefits and have not been provided medical care coordination and reemployment services voluntarily by the carrier, the carrier must determine whether the employee is likely to return to work and report its determination to the DFS and the employee. The DFS informs that the reports it receives vary from carrier to carrier, and that the DFS review of these reports is of marginal value. The DFS further reports that it has access to medical and claims data that would allow it to identify and reach out to injured employees in need of rehabilitation services and, thus, carrier submission of reemployment status reports is unnecessary.¹⁹

The DFS is required to conduct training and education screenings of injured employees upon referral of the carrier or employee request. Pursuant to s. 440.491(6), F.S., an employee must submit to, and the DFS must pay for, a vocational evaluation even when the employee has decided on a suitable reemployment-training plan that has been approved by the DFS. The DFS indicates that the average cost of a vocational evaluation exceeds \$1,000.²⁰

Miscellaneous Provisions

The DFS is the custodian of collective bargaining agreements (CBAs) that contain mutually agreed upon workers' compensation provisions (e.g., providing an alternative dispute resolution system, an agreed-upon list of medical providers, etc.). Such collectively bargained provisions may not diminish an employee's entitlement to benefits under the workers' compensation law. The DFS informs that it simply receives CBAs, does not use them in any way, and rarely ever receives a request for such documents.²¹

The Florida Self-Insurers Guaranty Association (FSIGA) monitors the financial strength of self-insured entities for the DFS and makes recommendations as to the qualifications to self-insure. Incorrect cross references within ch. 440.F.S. [reference to s. 440.38(1)(b)1., F.S., rather than s. 440.38(1)(b), F.S., in its entirety] create uncertainty as to the extent of the FSIGA's authority. The DFS is responsible for ensuring the timely payment of compensation and medical bills by workers' compensation carriers, for monitoring, auditing, and investigating carrier performance, and for assessing penalties for violations. Section 440.20, F.S., however, identifies the Office of Insurance Regulation as the regulatory body with these responsibilities.

¹⁸ DFS correspondence, *supra*, on file with staff of the Banking and Insurance Committee.

¹⁹ DFS correspondence, *supra*, on file with staff of the Banking and Insurance Committee.

²⁰ *Id.*

²¹ *Id.*

Section 440.02(8), F.S., authorizes the DFS to establish, by rule, “standard industrial classification” (SIC) codes with respect to the construction industry. Similarly, s. 440.11, F.S., relating to exclusiveness of liability, refers to “Standard Industrial Code 7363.” The SIC codes have been obsolete since 1997, and have been replaced with the North American Industrial Classification Code System (NAICS).

III. Effect of Proposed Changes:

Section 1 revises s. 440.02, F.S., relating to definitions, to eliminate outdated references to SIC codes and to update statutory language to provide for NAICS codes.

Section 2 amends s. 440.05, F.S., relating to exemptions from coverage requirements, to eliminate the requirement of a Florida-only driver’s license for purposes of obtaining an exemption. The removal of this requirement will allow out-of-state officers to obtain an exemption via the electronic application process. Current practice at DFS is to accept paper applications from out-of-state applicants and issue exemptions once all other eligibility criteria are met.

Section 3 amends s. 440.102, F.S., to provide a conforming cross reference.

Section 4 amends s. 440.107, F.S., relating to enforcement of coverage requirements, to clarify that stop-work orders and penalty assessments against a LLC would be in effect for any successor entity, including a LLC.

Section 5 amends s. 440.11, F.S., to eliminate an obsolete reference to SIC codes and provide an updated reference to NAICS codes.

Section 6 amends s. 440.13, F.S., relating to medical services, to eliminate certification requirements for health care providers. Currently, certification by the DFS is a requirement for eligibility for payment under ch. 440, F.S. The bill makes conforming changes to eliminate the certification and decertification provisions.

The section allows a health care provider, carrier, or employer 45 days, rather than 30 days, to petition the DFS once a notice of disallowance or adjustment of a payment is received. Likewise, the carrier is provided 20 additional days (10 to 30) to submit documentation substantiating the disallowance or adjustment of payment. The section also provides DFS an additional 60 days (60 to 120) after receipt of all documentation to issue a written determination of a dispute.

The bill also revises provisions relating to the authority of the DFS to sanction health care providers for a pattern or practice of utilization. As an option, the DFS may impose a fine of \$5,000. Currently, the DFS may impose a fine in an amount *not to exceed* \$5,000.

The bill eliminates a provisions relating to the authority of the DFS to issue penalties against carriers for failure to pay medical bills in a timely manner. The DFS uses s. 440.20(6), F.S., as their authority to issue penalties.

Section 7 amends s. 440.15(2), F.S., relating to temporary total disability (TTD) benefits to eliminate the current maximum weekly compensation rate of \$700. As a result, those injured workers with qualifying TTD injuries would receive 80 percent of their pre-injury average weekly wage subject to no maximum during the first 6 months of disability. Currently, injured workers' receiving TTD benefits receive 66 2/3 percent of their pre-injury average weekly wage subject to a maximum of 100 percent of the Florida state average weekly wage. The maximum workers' compensation rate for 2013 is \$816. Injured workers receiving TTD benefits as a result of an injury described in s. 440.15(2)(b), F.S., are eligible to receive TTD benefits equal to 80 percent of his or her pre-injury average weekly wage. The increased TTD compensation rate of 80 percent is paid during the first 6 months of disability, subject to a maximum weekly compensation rate of \$700. This increased compensation rate would only be paid if the employee is eligible for or has already started to collect permanent total disability benefits.

Section 8 amends s. 440.185, F.S., relating to reporting requirements, to revise the penalties imposed on employers and carriers for failing to file any form, report, or notice to provide that an employer or carrier would be subject to fine not to exceed \$500 instead of \$1,000 for each failure or refusal to file. The bill eliminates the additional penalty of \$2,000 per failure if a carrier's noncompliance is more than 10 percent within a calendar year. The change in the penalty would comport the penalty with section 440.593(4), F.S., relating to electronic reporting, which authorizes the DFS to assess a civil penalty of up to \$500 per violation.

Section 9 amends s. 440.20, F.S., relating to payment of compensation and medical bills, to correct references relating to the authority of the DFS. The bill makes the approval of advance payment of workers' compensation benefits the sole jurisdiction of Judges of Compensation Claims, and removes the DFS from the approval process in all circumstances. Currently, section 440.20(12), F.S., permits Judges of Compensation Claims or, under certain conditions, the DFS to approve the advance payment of workers' compensation benefits to injured employees. In cases in which the carrier and employer have stipulated to an advance payment in excess of \$2,000, the DFS approval of the advance payment is required.

Section 10 amends s. 440.211, F.S., to eliminate DFS as the custodian of collective bargaining agreements.

Section 11 amends s. 440.385, F.S., relating to the Florida Self-Insurers Guaranty Association, to correct a cross reference, thereby clarifying the FSIGA's authority.

Section 12 amends s. 440.491, F.S., relating to reemployment and evaluation of injured workers, to eliminate the requirement for a carrier to file reemployment status reports with DFS. Currently, a carrier must determine whether the employee is likely to return to work and report its determination to the DFS and the employee. The section is also amended to allow rather than require the DFS to provide vocational evaluations.

Section 13 provides that this act will take effect July 1, 2013.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

According to the National Council of Compensation Insurance, the implementation of CS/SB 860 would likely result in negligible impact (less than 0.1 percent) on the overall workers' compensation costs of employers in Florida.²² Due to the serious nature of the qualifying injuries, NCCI expects that only a small number of prospective cases would be affected by the removal of the \$700 cap on maximum weekly temporary total catastrophic benefits.

The elimination of the mandatory vocational evaluation prior to the provision of training, education, or other vocational services may allow injured workers to receive such benefits sooner and return to work in a more expeditious manner.

The bill will eliminate some reporting requirements for employers and carriers resulting in some indeterminate reduction in regulatory burden.

C. Government Sector Impact:

The bill eliminates unnecessary, duplicative, and conflicting regulatory provisions, which should assist DFS in administering the provisions of ch. 440, F.S., in a more efficient manner.

The bill eliminates the mandatory vocational evaluation under s. 440.491, F.S. The elimination of some of the evaluations could result in cost savings of approximately \$80,000. This estimated savings represents less than 0.1 percent of Workers' Compensation Administration Trust Fund expenditures for FY 2010-2011.

²² NCCI Analysis, January 28, 2013. On file with staff of the Banking and Insurance Committee.

The bill will provide additional time (from 60 days to 120 days) for the DFS to resolve reimbursement disputes and issue determination letters. According to the DFS, the DFS receives 50-200 petitions per month. For calendar year 2012, the DFS received over 2,000 petitions per month. The average number of days to resolve a case has increased from approximately 24 days to over 81 days.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Banking and Insurance Committee on April 9, 2013:

The CS provides the following changes:

- Eliminates changes to the formula used to assess state agencies for purposes of funding workers' compensation claims of state employees.
- Eliminates changes relating to types of entities that may file medical reimbursement disputes with the DFS.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Galvano

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1 A bill to be entitled
 2 An act relating to workers' compensation system
 3 administration; amending s. 440.02, F.S.; revising a
 4 definition; amending s. 440.05, F.S.; revising
 5 requirements relating to submitting notice of election
 6 of exemption; amending s. 440.102, F.S.; conforming a
 7 cross-reference; amending s. 440.107, F.S.; revising
 8 effectiveness of stop-work orders and penalty
 9 assessment orders; amending s. 440.11, F.S.; revising
 10 immunity from liability standards for employers and
 11 employees using a help supply services company;
 12 amending s. 440.13, F.S.; deleting and revising
 13 definitions; revising health care provider
 14 requirements and responsibilities; deleting rulemaking
 15 authority and responsibilities of the Department of
 16 Financial Services; revising provider reimbursement
 17 dispute procedures; revising penalties for certain
 18 violations or overutilization of treatment; deleting
 19 certain Office of Insurance Regulation audit
 20 requirements; deleting provisions providing for
 21 removal of physicians from lists of those authorized
 22 to render medical care under certain conditions;
 23 amending s. 440.15, F.S.; revising limitations on
 24 compensation for temporary total disability; amending
 25 s. 440.185, F.S.; revising and deleting penalties for
 26 noncompliance relating to duty of employer upon
 27 receipt of notice of injury or death; amending s.
 28 440.20, F.S.; transferring certain responsibilities of
 29 the office to the department; deleting certain

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30 responsibilities of the department; amending s.
 31 440.211, F.S.; deleting a requirement that a provision
 32 that is mutually agreed upon in any collective
 33 bargaining agreement be filed with the department;
 34 amending s. 440.385, F.S.; conforming cross-
 35 references; amending s. 440.491, F.S.; revising
 36 certain carrier reporting requirements; revising
 37 duties of the department upon referral of an injured
 38 employee; providing an effective date.
 39
 40 Be It Enacted by the Legislature of the State of Florida:
 41
 42 Section 1. Subsection (8) of section 440.02, Florida
 43 Statutes, is amended to read:
 44 440.02 Definitions.—When used in this chapter, unless the
 45 context clearly requires otherwise, the following terms shall
 46 have the following meanings:
 47 (8) "Construction industry" means for-profit activities
 48 involving any building, clearing, filling, excavation, or
 49 substantial improvement in the size or use of any structure or
 50 the appearance of any land. However, "construction" does not
 51 mean a homeowner's act of construction or the result of a
 52 construction upon his or her own premises, provided such
 53 premises are not intended to be sold, resold, or leased by the
 54 owner within 1 year after the commencement of construction. The
 55 division may, by rule, establish ~~standard industrial~~
 56 ~~classification~~ codes and definitions thereof that which meet the
 57 criteria of the term "construction industry" as set forth in
 58 this section.

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59 Section 2. Subsection (3) of section 440.05, Florida
60 Statutes, is amended to read:
61 440.05 Election of exemption; revocation of election;
62 notice; certification.—
63 (3) Each officer of a corporation who is engaged in the
64 construction industry and who elects an exemption from this
65 chapter or who, after electing such exemption, revokes that
66 exemption, ~~must~~ must be ~~which is~~ electronically submitted to the
67 department by the officer of a corporation who is allowed to
68 claim an exemption as provided by this chapter and must list the
69 name, federal tax identification number, date of birth, ~~Florida~~
70 driver license number or Florida identification card number, and
71 all certified or registered licenses issued pursuant to chapter
72 489 held by the person seeking the exemption, the registration
73 number of the corporation filed with the Division of
74 Corporations of the Department of State, and the percentage of
75 ownership evidencing the required ownership under this chapter.
76 The notice of election to be exempt must identify each
77 corporation that employs the person electing the exemption and
78 must list the social security number or federal tax
79 identification number of each such employer and the additional
80 documentation required by this section. In addition, the notice
81 of election to be exempt must provide that the officer electing
82 an exemption is not entitled to benefits under this chapter,
83 must provide that the election does not exceed exemption limits
84 for officers provided in s. 440.02, and must certify that any
85 employees of the corporation whose officer elects an exemption
86
87

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88 are covered by workers' compensation insurance. Upon receipt of
89 the notice of the election to be exempt, receipt of all
90 application fees, and a determination by the department that the
91 notice meets the requirements of this subsection, the department
92 shall issue a certification of the election to the officer,
93 unless the department determines that the information contained
94 in the notice is invalid. The department shall revoke a
95 certificate of election to be exempt from coverage upon a
96 determination by the department that the person does not meet
97 the requirements for exemption or that the information contained
98 in the notice of election to be exempt is invalid. The
99 certificate of election must list the name of the corporation
100 listed in the request for exemption. A new certificate of
101 election must be obtained each time the person is employed by a
102 new or different corporation that is not listed on the
103 certificate of election. A copy of the certificate of election
104 must be sent to each workers' compensation carrier identified in
105 the request for exemption. Upon filing a notice of revocation of
106 election, an officer who is a subcontractor or an officer of a
107 corporate subcontractor must notify her or his contractor. Upon
108 revocation of a certificate of election of exemption by the
109 department, the department shall notify the workers'
110 compensation carriers identified in the request for exemption.
111 Section 3. Paragraph (p) of subsection (5) of section
112 440.102, Florida Statutes, is amended to read:
113 440.102 Drug-free workplace program requirements.—The
114 following provisions apply to a drug-free workplace program
115 implemented pursuant to law or to rules adopted by the Agency
116 for Health Care Administration:

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117 (5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen
118 collection and testing for drugs under this section shall be
119 performed in accordance with the following procedures:

120 (p) All authorized remedial treatment, care, and attendance
121 provided by a health care provider to an injured employee before
122 medical and indemnity benefits are denied under this section
123 must be paid for by the carrier or self-insurer. However, the
124 carrier or self-insurer must have given reasonable notice to all
125 affected health care providers that payment for treatment, care,
126 and attendance provided to the employee after a future date
127 certain will be denied. A health care provider, as defined in s.
128 440.13(1)(g) ~~440.13(1)(h)~~, that refuses, without good cause, to
129 continue treatment, care, and attendance before the provider
130 receives notice of benefit denial commits a misdemeanor of the
131 second degree, punishable as provided in s. 775.082 or s.
132 775.083.

133 Section 4. Paragraph (b) of subsection (7) of section
134 440.107, Florida Statutes, is amended to read:

135 440.107 Department powers to enforce employer compliance
136 with coverage requirements.—

137 (7)

138 (b) Stop-work orders and penalty assessment orders issued
139 under this section against a corporation, limited liability
140 company, partnership, or sole proprietorship shall be in effect
141 against any successor corporation or business entity that has
142 one or more of the same principals or officers as the
143 corporation, limited liability company, or partnership against
144 which the stop-work order was issued and are engaged in the same
145 or equivalent trade or activity.

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146 Section 5. Subsection (2) of section 440.11, Florida
147 Statutes, is amended to read:

148 440.11 Exclusiveness of liability.—

149 (2) The immunity from liability described in subsection (1)
150 shall extend to an employer and to each employee of the employer
151 which uses ~~utilizes~~ the services of the employees of a help
152 supply services company, as set forth in North American
153 Industrial Classification System Codes 561320 and 561330
154 ~~Standard Industry Code Industry Number 7363~~, when such
155 employees, whether management or staff, are acting in
156 furtherance of the employer's business. An employee so engaged
157 by the employer shall be considered a borrowed employee of the
158 employer, and, for the purposes of this section, shall be
159 treated as any other employee of the employer. The employer
160 shall be liable for and shall secure the payment of compensation
161 to all such borrowed employees as required in s. 440.10, except
162 when such payment has been secured by the help supply services
163 company.

164 Section 6. Paragraphs (e) through (t) of subsection (1) of
165 section 440.13, Florida Statutes, are redesignated as paragraphs
166 (d) through (s), respectively, subsections (14) through (17) are
167 renumbered as subsections (13) through (16), respectively, and
168 present paragraphs (h) and (q) of subsection (1), paragraphs
169 (a), (c), (e), and (i) of subsection (3), subsection (7),
170 paragraph (b) of subsection (8), paragraph (b) of subsection
171 (11), paragraph (e) of subsection (12), and present subsections
172 (13) and (14) of that section are amended to read:

173 440.13 Medical services and supplies; penalty for
174 violations; limitations.—

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175 (1) DEFINITIONS.—As used in this section, the term:

176 ~~(d) "Certified health care provider" means a health care~~
 177 ~~provider who has been certified by the department or who has~~
 178 ~~entered an agreement with a licensed managed care organization~~
 179 ~~to provide treatment to injured workers under this section.~~
 180 ~~Certification of such health care provider must include~~
 181 ~~documentation that the health care provider has read and is~~
 182 ~~familiar with the portions of the statute, impairment guides,~~
 183 ~~practice parameters, protocols of treatment, and rules which~~
 184 ~~govern the provision of remedial treatment, care, and~~
 185 ~~attendance.~~

186 (g) (h) "Health care provider" means a physician or any
 187 recognized practitioner licensed to provide ~~who provides~~ skilled
 188 services pursuant to a prescription or under the supervision or
 189 direction of a physician ~~and who has been certified by the~~
 190 ~~department as a health care provider.~~ The term "health care
 191 provider" includes a health care facility.

192 (p) (q) "Physician" or "doctor" means a physician licensed
 193 under chapter 458, an osteopathic physician licensed under
 194 chapter 459, a chiropractic physician licensed under chapter
 195 460, a podiatric physician licensed under chapter 461, an
 196 optometrist licensed under chapter 463, or a dentist licensed
 197 under chapter 466, ~~each of whom must be certified by the~~
 198 ~~department as a health care provider.~~

199 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.—

200 (a) As a condition to eligibility for payment under this
 201 chapter, a health care provider who renders services ~~must be a~~
 202 ~~certified health care provider and~~ must receive authorization
 203 from the carrier before providing treatment. This paragraph does

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204 not apply to emergency care. ~~The department shall adopt rules to~~
 205 ~~implement the certification of health care providers.~~

206 (c) A health care provider may not refer the employee to
 207 another health care provider, diagnostic facility, therapy
 208 center, or other facility without prior authorization from the
 209 carrier, except when emergency care is rendered. Any referral
 210 must be to a health care provider ~~that has been certified by the~~
 211 ~~department,~~ unless the referral is for emergency treatment, and
 212 ~~the referral~~ must be made in accordance with practice parameters
 213 and protocols of treatment as provided for in this chapter.

214 (e) Carriers shall adopt procedures for receiving,
 215 reviewing, documenting, and responding to requests for
 216 authorization. ~~Such procedures shall be for a health care~~
 217 ~~provider certified under this section.~~

218 (i) Notwithstanding paragraph (d), a claim for specialist
 219 consultations, surgical operations, physiotherapeutic or
 220 occupational therapy procedures, X-ray examinations, or special
 221 diagnostic laboratory tests that cost more than \$1,000 and other
 222 specialty services that the department identifies by rule is not
 223 valid and reimbursable unless the services have been expressly
 224 authorized by the carrier, ~~or~~ unless the carrier has failed to
 225 respond within 10 days to a written request for authorization,
 226 or unless emergency care is required. The insurer shall
 227 authorize such consultation or procedure unless the health care
 228 provider or facility is not authorized ~~or certified,~~ unless such
 229 treatment is not in accordance with practice parameters and
 230 protocols of treatment established in this chapter, or unless a
 231 judge of compensation claims has determined that the
 232 consultation or procedure is not medically necessary, not in

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233 accordance with the practice parameters and protocols of
 234 treatment established in this chapter, or otherwise not
 235 compensable under this chapter. Authorization of a treatment
 236 plan does not constitute express authorization for purposes of
 237 this section, except to the extent the carrier provides
 238 otherwise in its authorization procedures. This paragraph does
 239 not limit the carrier's obligation to identify and disallow
 240 overutilization or billing errors.

241 (7) UTILIZATION AND REIMBURSEMENT DISPUTES.-

242 (a) Any health care provider, carrier, or employer who
 243 elects to contest the disallowance or adjustment of payment by a
 244 carrier under subsection (6) must, within 45 ~~30~~ days after
 245 receipt of notice of disallowance or adjustment of payment,
 246 petition the department to resolve the dispute. The petitioner
 247 must serve a copy of the petition on the carrier and on all
 248 affected parties by certified mail. The petition must be
 249 accompanied by all documents and records that support the
 250 allegations contained in the petition. Failure of a petitioner
 251 to submit such documentation to the department results in
 252 dismissal of the petition.

253 (b) The carrier must submit to the department within 30 ~~10~~
 254 days after receipt of the petition all documentation
 255 substantiating the carrier's disallowance or adjustment. Failure
 256 of the carrier to timely submit such ~~the requested~~ documentation
 257 to the department within 30 ~~10~~ days constitutes a waiver of all
 258 objections to the petition.

259 (c) Within 120 ~~60~~ days after receipt of all documentation,
 260 the department must provide to the petitioner, the carrier, and
 261 the affected parties a written determination of whether the

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262 carrier properly adjusted or disallowed payment. The department
 263 must be guided by standards and policies set forth in this
 264 chapter, including all applicable reimbursement schedules,
 265 practice parameters, and protocols of treatment, in rendering
 266 its determination.

267 (d) If the department finds an improper disallowance or
 268 improper adjustment of payment by an insurer, the insurer shall
 269 reimburse the health care provider, facility, insurer, or
 270 employer within 30 days, subject to the penalties provided in
 271 this subsection.

272 (e) The department shall adopt rules to carry out this
 273 subsection. The rules may include provisions for consolidating
 274 petitions filed by a petitioner and expanding the timetable for
 275 rendering a determination upon a consolidated petition.

276 (f) Any carrier that engages in a pattern or practice of
 277 arbitrarily or unreasonably disallowing or reducing payments to
 278 health care providers may be subject to one or more of the
 279 following penalties imposed by the department:

280 1. Repayment of the appropriate amount to the health care
 281 provider.

282 2. An administrative fine assessed by the department in an
 283 amount not to exceed \$5,000 per instance of improperly
 284 disallowing or reducing payments.

285 3. Award of the health care provider's costs, including a
 286 reasonable attorney ~~attorney's~~ fee, for prosecuting the
 287 petition.

288 (8) PATTERN OR PRACTICE OF OVERUTILIZATION.-

289 (b) If the department determines that a health care
 290 provider has engaged in a pattern or practice of overutilization

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291 or a violation of this chapter or rules adopted by the
 292 department, including a pattern or practice of providing
 293 treatment in excess of the practice parameters or protocols of
 294 treatment, it may impose one or more of the following penalties:

- 295 1. An order ~~of the department~~ barring the provider from
 296 payment under this chapter;
- 297 2. Deauthorization of care under review;
- 298 3. Denial of payment for care rendered in the future;
- 299 4. ~~Decertification of a health care provider certified as~~
 300 ~~an expert medical advisor under subsection (9) or of a~~
 301 ~~rehabilitation provider certified under s. 440.49;~~
- 302 4.5. An administrative fine of assessed by the department
 303 in an amount not to exceed \$5,000 per instance of
 304 overutilization or violation; and
- 305 5.6. Notification of and review by the appropriate
 306 licensing authority pursuant to s. 440.106(3).

307 (11) AUDITS.-

308 (b) The department shall monitor carriers as provided in
 309 this chapter ~~and the Office of Insurance Regulation shall audit~~
 310 ~~insurers and group self insurance funds as provided in s.~~
 311 ~~624.3161, to determine if medical bills are paid in accordance~~
 312 ~~with this section and rules of the department and Financial~~
 313 ~~Services Commission, respectively. Any employer, if self-~~
 314 ~~insured, or carrier found by the department or Office of~~
 315 ~~Insurance Regulation not to be within 90 percent compliance as~~
 316 ~~to the payment of medical bills after July 1, 1994, must be~~
 317 ~~assessed a fine not to exceed 1 percent of the prior year's~~
 318 ~~assessment levied against such entity under s. 440.51 for every~~
 319 ~~quarter in which the entity fails to attain 90 percent~~

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320 ~~compliance. The department shall fine or otherwise discipline an~~
 321 ~~employer or carrier, pursuant to this chapter or rules adopted~~
 322 ~~by the department, and the Office of Insurance Regulation shall~~
 323 ~~fine or otherwise discipline an insurer or group self insurance~~
 324 ~~fund pursuant to the insurance code or rules adopted by the~~
 325 ~~Financial Services Commission, for each late payment of~~
 326 ~~compensation that is below the minimum 95-percent performance~~
 327 ~~standard. Any carrier that is found to be not in compliance in~~
 328 ~~subsequent consecutive quarters must implement a medical bill~~
 329 ~~review program approved by the department or office, and an~~
 330 ~~insurer or group self insurance fund is subject to disciplinary~~
 331 ~~action by the Office of Insurance Regulation.~~

332 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
 333 REIMBURSEMENT ALLOWANCES.-

334 (e) In addition to establishing the uniform schedule of
 335 maximum reimbursement allowances, the panel shall:

336 1. Take testimony, receive records, and collect data to
 337 evaluate the adequacy of the workers' compensation fee schedule,
 338 nationally recognized fee schedules and alternative methods of
 339 reimbursement to ~~certified~~ health care providers and health care
 340 facilities for inpatient and outpatient treatment and care.

341 2. Survey ~~certified~~ health care providers and health care
 342 facilities to determine the availability and accessibility of
 343 workers' compensation health care delivery systems for injured
 344 workers.

345 3. Survey carriers to determine the estimated impact on
 346 carrier costs and workers' compensation premium rates by
 347 implementing changes to the carrier reimbursement schedule or
 348 implementing alternative reimbursement methods.

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349 4. Submit recommendations on or before January 1, 2003, and
 350 biennially thereafter, to the President of the Senate and the
 351 Speaker of the House of Representatives on methods to improve
 352 the workers' compensation health care delivery system.

353
 354 The department, as requested, shall provide data to the panel,
 355 including, but not limited to, utilization trends in the
 356 workers' compensation health care delivery system. The
 357 department shall provide the panel with an annual report
 358 regarding the resolution of medical reimbursement disputes and
 359 any actions pursuant to subsection (8). The department shall
 360 provide administrative support and service to the panel to the
 361 extent requested by the panel.

362 ~~(13) REMOVAL OF PHYSICIANS FROM LISTS OF THOSE AUTHORIZED~~
 363 ~~TO RENDER MEDICAL CARE. The department shall remove from the~~
 364 ~~list of physicians or facilities authorized to provide remedial~~
 365 ~~treatment, care, and attendance under this chapter the name of~~
 366 ~~any physician or facility found after reasonable investigation~~
 367 ~~to have:~~

368 ~~(a) Engaged in professional or other misconduct or~~
 369 ~~incompetency in connection with medical services rendered under~~
 370 ~~this chapter;~~

371 ~~(b) Exceeded the limits of his or her or its professional~~
 372 ~~competence in rendering medical care under this chapter, or to~~
 373 ~~have made materially false statements regarding his or her or~~
 374 ~~its qualifications in his or her application;~~

375 ~~(c) Failed to transmit copies of medical reports to the~~
 376 ~~employer or carrier, or failed to submit full and truthful~~
 377 ~~medical reports of all his or her or its findings to the~~

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378 ~~employer or carrier as required under this chapter;~~

379 ~~(d) Solicited, or employed another to solicit for himself~~
 380 ~~or herself or itself or for another, professional treatment,~~
 381 ~~examination, or care of an injured employee in connection with~~
 382 ~~any claim under this chapter;~~

383 ~~(e) Refused to appear before, or to answer upon request of,~~
 384 ~~the department or any duly authorized officer of the state, any~~
 385 ~~legal question, or to produce any relevant book or paper~~
 386 ~~concerning his or her conduct under any authorization granted to~~
 387 ~~him or her under this chapter;~~

388 ~~(f) Self referred in violation of this chapter or other~~
 389 ~~laws of this state; or~~

390 ~~(g) Engaged in a pattern of practice of overutilization or~~
 391 ~~a violation of this chapter or rules adopted by the department,~~
 392 ~~including failure to adhere to practice parameters and protocols~~
 393 ~~established in accordance with this chapter.~~

394 (13) ~~(14)~~ PAYMENT OF MEDICAL FEES.—

395 (a) Except for emergency care treatment, fees for medical
 396 services are payable only to a health care provider certified
 397 ~~and~~ authorized to render remedial treatment, care, or attendance
 398 under this chapter. Carriers shall pay, disallow, or deny
 399 payment to health care providers in the manner and at times set
 400 forth in this chapter. A health care provider may not collect or
 401 receive a fee from an injured employee within this state, except
 402 as otherwise provided by this chapter. Such providers have
 403 recourse against the employer or carrier for payment for
 404 services rendered in accordance with this chapter. Payment to
 405 health care providers or physicians shall be subject to the
 406 medical fee schedule and applicable practice parameters and

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407 protocols, regardless of whether the health care provider or
 408 claimant is asserting that the payment should be made.

409 (b) Fees charged for remedial treatment, care, and
 410 attendance, except for independent medical examinations and
 411 consensus independent medical examinations, may not exceed the
 412 applicable fee schedules adopted under this chapter and
 413 department rule. Notwithstanding any other provision in this
 414 chapter, if a physician or health care provider specifically
 415 agrees in writing to follow identified procedures aimed at
 416 providing quality medical care to injured workers at reasonable
 417 costs, deviations from established fee schedules shall be
 418 permitted. Written agreements warranting deviations may include,
 419 but are not limited to, the timely scheduling of appointments
 420 for injured workers, participating in return-to-work programs
 421 with injured workers' employers, expediting the reporting of
 422 treatments provided to injured workers, and agreeing to
 423 continuing education, utilization review, quality assurance,
 424 precertification, and case management systems that are designed
 425 to provide needed treatment for injured workers.

426 (c) Notwithstanding any other provision of this chapter,
 427 following overall maximum medical improvement from an injury
 428 compensable under this chapter, the employee is obligated to pay
 429 a copayment of \$10 per visit for medical services. The copayment
 430 shall not apply to emergency care provided to the employee.

431 Section 7. Paragraph (b) of subsection (2) of section
 432 440.15, Florida Statutes, is amended to read:

433 440.15 Compensation for disability.—Compensation for
 434 disability shall be paid to the employee, subject to the limits
 435 provided in s. 440.12(2), as follows:

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436 (2) TEMPORARY TOTAL DISABILITY.—

437 (b) Notwithstanding ~~the provisions of~~ paragraph (a), an
 438 employee who has sustained the loss of an arm, leg, hand, or
 439 foot, has been rendered a paraplegic, paraparetic, quadriplegic,
 440 or quadriparetic, or has lost the sight of both eyes shall be
 441 paid temporary total disability of 80 percent of her or his
 442 average weekly wage. The increased temporary total disability
 443 compensation provided for in this paragraph must not extend
 444 beyond 6 months from the date of the accident; however, such
 445 benefits shall not be due or payable if the employee is eligible
 446 for, entitled to, or collecting permanent total disability
 447 benefits. The compensation provided by this paragraph is not
 448 subject to the limits provided in s. 440.12(2), ~~but instead is~~
 449 ~~subject to a maximum weekly compensation rate of \$700.~~ If, at
 450 the conclusion of this period of increased temporary total
 451 disability compensation, the employee is still temporarily
 452 totally disabled, the employee shall continue to receive
 453 temporary total disability compensation as set forth in
 454 paragraphs (a) and (c). The period of time the employee has
 455 received this increased compensation will be counted as part of,
 456 and not in addition to, the maximum periods of time for which
 457 the employee is entitled to compensation under paragraph (a) but
 458 not paragraph (c).

459 Section 8. Subsection (9) of section 440.185, Florida
 460 Statutes, is amended to read:

461 440.185 Notice of injury or death; reports; penalties for
 462 violations.—

463 (9) Any employer or carrier who fails or refuses to timely
 464 send any form, report, or notice required by this section shall

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465 be subject to an administrative fine by the department not to
 466 exceed \$500 ~~\$1,000~~ for each such failure or refusal. ~~If, within~~
 467 ~~1 calendar year, an employer fails to timely submit to the~~
 468 ~~carrier more than 10 percent of its notices of injury or death,~~
 469 ~~the employer shall be subject to an administrative fine by the~~
 470 ~~department not to exceed \$2,000 for each such failure or~~
 471 ~~refusal.~~ However, any employer who fails to notify the carrier
 472 of ~~an the~~ injury on the prescribed form or by letter within the
 473 7 days required in subsection (2) shall be liable for the
 474 administrative fine, which shall be paid by the employer and not
 475 the carrier. Failure by the employer to meet its obligations
 476 under subsection (2) shall not relieve the carrier from
 477 liability for the administrative fine if it fails to comply with
 478 subsections (4) and (5).

479 Section 9. Paragraph (b) of subsection (8) and paragraphs
 480 (a), (b), and (c) of subsection (12) of section 440.20, Florida
 481 Statutes, are amended to read:

482 440.20 Time for payment of compensation and medical bills;
 483 penalties for late payment.—

484 (8)

485 (b) In order to ensure carrier compliance under this
 486 chapter, the ~~department office~~ shall monitor, audit, and
 487 investigate the performance of carriers. The ~~department office~~
 488 shall require that all compensation benefits ~~be are~~ timely paid
 489 in accordance with this section. The ~~department office~~ shall
 490 impose penalties for late payments of compensation that are
 491 below a minimum 95-percent ~~95-percent~~ timely payment performance
 492 standard. The carrier shall pay to the Workers' Compensation
 493 Administration Trust Fund a penalty of:

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494 1. Fifty dollars per number of installments of compensation
 495 below the 95-percent ~~95-percent~~ timely payment performance
 496 standard and equal to or greater than a 90-percent ~~90-percent~~
 497 timely payment performance standard.

498 2. One hundred dollars per number of installments of
 499 compensation below a 90-percent ~~90-percent~~ timely payment
 500 performance standard.

501 This section does not affect the imposition of any penalties or
 502 interest due to the claimant. If a carrier contracts with a
 503 servicing agent to fulfill its administrative responsibilities
 504 under this chapter, the payment practices of the servicing agent
 505 are deemed the payment practices of the carrier for the purpose
 506 of assessing penalties against the carrier.

507 (12)

508 (a) Liability of an employer for future payments of
 509 compensation may not be discharged by advance payment unless
 510 prior approval of a judge of compensation claims ~~or the~~
 511 ~~department~~ has been obtained as hereinafter provided. The
 512 approval shall not constitute an adjudication of the claimant's
 513 percentage of disability.

514 (b) When the claimant has reached maximum recovery and
 515 returned to her or his former or equivalent employment with no
 516 substantial reduction in wages, such approval of a reasonable
 517 advance payment of a part of the compensation payable to the
 518 claimant may be given informally by letter by a judge of
 519 compensation claims ~~or by the department~~.

520 (c) In the event the claimant has not returned to the same
 521 or equivalent employment with no substantial reduction in wages

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523 or has suffered a substantial loss of earning capacity or a
524 physical impairment, actual or apparent:

525 1. An advance payment of compensation not in excess of
526 \$2,000 may be approved informally by letter, without hearing, by
527 any judge of compensation claims or the Chief Judge.

528 2. An advance payment of compensation not in excess of
529 \$2,000 may be ordered by any judge of compensation claims after
530 giving the interested parties an opportunity for a hearing
531 thereon pursuant to not less than 10 days' notice by mail,
532 unless such notice is waived, and after giving due consideration
533 to the interests of the person entitled thereto. When the
534 parties have stipulated to an advance payment of compensation
535 not in excess of \$2,000, such advance may be approved by an
536 order of a judge of compensation claims, with or without
537 hearing, or informally by letter by any such judge of
538 compensation claims, ~~or by the department~~, if such advance is
539 found to be for the best interests of the person entitled
540 thereto.

541 3. When the parties have stipulated to an advance payment
542 in excess of \$2,000, ~~subject to the approval of the department~~,
543 such payment may be approved by a judge of compensation claims
544 by order if the judge finds that such advance payment is for the
545 best interests of the person entitled thereto and is reasonable
546 under the circumstances of the particular case. The judge of
547 compensation claims shall make or cause to be made such
548 investigations as she or he considers necessary concerning the
549 stipulation and, in her or his discretion, may have an
550 investigation of the matter made. The stipulation and the report
551 of any investigation shall be deemed a part of the record of the

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552 proceedings.

553 Section 10. Subsection (1) of section 440.211, Florida
554 Statutes, is amended to read:

555 440.211 Authorization of collective bargaining agreement.—

556 (1) Subject to the limitation stated in subsection (2), a
557 provision that is mutually agreed upon in any collective
558 bargaining agreement ~~filed with the department~~ between an
559 individually self-insured employer or other employer upon
560 consent of the employer's carrier and a recognized or certified
561 exclusive bargaining representative establishing any of the
562 following shall be valid and binding:

563 (a) An alternative dispute resolution system to supplement,
564 modify, or replace the provisions of this chapter which may
565 include, but is not limited to, conciliation, mediation, and
566 arbitration. Arbitration held pursuant to this section shall be
567 binding on the parties.

568 (b) The use of an agreed-upon list of ~~certified~~ health care
569 providers of medical treatment which may be the exclusive source
570 of all medical treatment under this chapter.

571 (c) The use of a limited list of physicians to conduct
572 independent medical examinations which the parties may agree
573 shall be the exclusive source of independent medical examiners
574 pursuant to this chapter.

575 (d) A light-duty, modified-job, or return-to-work program.

576 (e) A vocational rehabilitation or retraining program.

577 Section 11. Paragraph (b) of subsection (1) of section
578 440.385, Florida Statutes, is amended to read:

579 440.385 Florida Self-Insurers Guaranty Association,
580 Incorporated.—

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581 (1) CREATION OF ASSOCIATION.—

582 (b) A member may voluntarily withdraw from the association

583 when the member voluntarily terminates the self-insurance

584 privilege and pays all assessments due to the date of such

585 termination. However, the withdrawing member shall continue to

586 be bound by the provisions of this section relating to the

587 period of his or her membership and any claims charged pursuant

588 thereto. The withdrawing member who is a member on or after

589 January 1, 1991, shall also be required to provide to the

590 association upon withdrawal, and at 12-month intervals

591 thereafter, satisfactory proof, including, if requested by the

592 association, a report of known and potential claims certified by

593 a member of the American Academy of Actuaries, that it continues

594 to meet the standards of s. 440.38(1)(b) ~~440.38(1)(b)1~~ in

595 relation to claims incurred while the withdrawing member

596 exercised the privilege of self-insurance. Such reporting shall

597 continue until the withdrawing member demonstrates to the

598 association that there is no remaining value to claims incurred

599 while the withdrawing member was self-insured. If a withdrawing

600 member fails or refuses to timely provide an actuarial report to

601 the association, the association may obtain an order from a

602 circuit court requiring the member to produce such a report and

603 ordering any other relief that the court determines appropriate.

604 The association is entitled to recover all reasonable costs and

605 attorney ~~attorney's~~ fees expended in such proceedings. If during

606 this reporting period the withdrawing member fails to meet the

607 standards of s. 440.38(1)(b) ~~440.38(1)(b)1~~, the withdrawing

608 member who is a member on or after January 1, 1991, shall

609 thereupon, and at 6-month intervals thereafter, provide to the

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610 association the certified opinion of an independent actuary who

611 is a member of the American Academy of Actuaries of the

612 actuarial present value of the determined and estimated future

613 compensation payments of the member for claims incurred while

614 the member was a self-insurer, using a discount rate of 4

615 percent. With each such opinion, the withdrawing member shall

616 deposit with the association security in an amount equal to the

617 value certified by the actuary and of a type that is acceptable

618 for qualifying security deposits under s. 440.38(1)(b). The

619 withdrawing member shall continue to provide such opinions and

620 to provide such security until such time as the latest opinion

621 shows no remaining value of claims. The association has a cause

622 of action against a withdrawing member, and against any

623 successor of a withdrawing member, who fails to timely provide

624 the required opinion or who fails to maintain the required

625 deposit with the association. The association shall be entitled

626 to recover a judgment in the amount of the actuarial present

627 value of the determined and estimated future compensation

628 payments of the withdrawing member for claims incurred during

629 the time that the withdrawing member exercised the privilege of

630 self-insurance, together with reasonable attorney ~~attorney's~~

631 fees. The association is also entitled to recover reasonable

632 attorney ~~attorney's~~ fees in any action to compel production of

633 any actuarial report required by this section. For purposes of

634 this section, the successor of a withdrawing member means any

635 person, business entity, or group of persons or business

636 entities, which holds or acquires legal or beneficial title to

637 the majority of the assets or the majority of the shares of the

638 withdrawing member.

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639 Section 12. Paragraph (a) of subsection (3) and paragraph
640 (a) of subsection (6) of section 440.491, Florida Statutes, are
641 amended to read:

642 440.491 Reemployment of injured workers; rehabilitation.—

643 (3) REEMPLOYMENT STATUS REVIEWS AND REPORTS.—

644 (a) When an employee who has suffered an injury compensable
645 under this chapter is unemployed 60 days after the date of
646 injury and is receiving benefits for temporary total disability,
647 temporary partial disability, or wage loss, and has not yet been
648 provided medical care coordination and reemployment services
649 voluntarily by the carrier, the carrier must determine whether
650 the employee is likely to return to work and must report its
651 determination to ~~the department and~~ the employee. The report
652 shall include the identification of both the carrier and the
653 employee, ~~and~~ the carrier claim number, and any case number
654 assigned by the Office of the Judges of Compensation Claims. The
655 carrier must thereafter determine the reemployment status of the
656 employee at 90-day intervals as long as the employee remains
657 unemployed, is not receiving medical care coordination or
658 reemployment services, and is receiving the benefits specified
659 in this subsection.

660 (6) TRAINING AND EDUCATION.—

661 (a) Upon referral of an injured employee by the carrier, or
662 upon the request of an injured employee, the department shall
663 conduct a training and education screening to determine whether
664 it should refer the employee for a vocational evaluation ~~and, if~~
665 ~~appropriate,~~ approve training and education, or approve other
666 vocational services for the employee. At the time of such
667 referral, the carrier shall provide the department a copy of any

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668 reemployment assessment or reemployment plan provided to the
669 carrier by a rehabilitation provider. The department may not
670 approve formal training and education programs unless it
671 determines, after consideration of the reemployment assessment,
672 that the reemployment plan is likely to result in return to
673 suitable gainful employment. The department ~~may is authorized to~~
674 expend moneys from the Workers' Compensation Administration
675 Trust Fund, established by s. 440.50, to secure appropriate
676 training and education at a Florida public college or at a
677 career center established under s. 1001.44, or to secure other
678 vocational services when necessary to satisfy the recommendation
679 of a vocational evaluator. As used in this paragraph,
680 "appropriate training and education" includes securing a general
681 education diploma (GED), if necessary. The department shall by
682 rule establish training and education standards pertaining to
683 employee eligibility, course curricula and duration, and
684 associated costs. For purposes of this subsection, training and
685 education services may be secured from additional providers if:

686 1. The injured employee currently holds an associate degree
687 and requests to earn a bachelor's degree not offered by a
688 Florida public college located within 50 miles from his or her
689 customary residence;

690 2. The injured employee's enrollment in an education or
691 training program in a Florida public college or career center
692 would be significantly delayed; or

693 3. The most appropriate training and education program is
694 available only through a provider other than a Florida public
695 college or career center or at a Florida public college or
696 career center located more than 50 miles from the injured

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697 employee's customary residence.

698 Section 13. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Education, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Gaming
Health Policy
Regulated Industries
Rules

SENATOR BILL GALVANO

26th District

April 11, 2013

Senator Jeremy Ring
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Ring:

I respectfully request that CS/SB 860, Workers' Compensation System Administration, be scheduled for a hearing in the Committee on Governmental Oversight and Accountability at your earliest convenience.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me. Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bill".

Bill Galvano

cc: Joe McVaney
Courtney Hicks

REPLY TO:

- 1023 Manatee Avenue West, Suite 201, Bradenton, Florida 34205
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.16.13

Meeting Date

Topic Workers' Comp

Bill Number 860 (if applicable)

Name Ashley Mayer

Amendment Barcode (if applicable)

Job Title Dir. Leg's Cabinet Plans

Address Capitol PL-11

Phone 413-2863

Tallahassee FL City State Zip

E-mail ashley.mayer@myfloridachamber.com

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

Representing Dep't of Financial Svcs

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/16/13

Meeting Date

Topic Workers' Comp

Bill Number 860 (if applicable)

Name Tammy Perdue

Amendment Barcode (if applicable)

Job Title General Counsel

Address 516 N. Adams St

Phone 850-224-7173

Tallahassee FL 32301 City State Zip

E-mail tperdue@aif.com

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

Representing AIF

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

5/16/2013
Meeting Date

Topic _____

Bill Number 860
(if applicable)

Name BRIAN Pitts

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Avenue S.
Street

Phone 727-897-9291

St Petersburg FL 33705
City State Zip

E-mail justice2jesus@yahoo.com

Speaking: For Against Information

Representing Justice-2-Jesus

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 (10/20/11)

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/CS/SB 984

INTRODUCER: Governmental Oversight and Accountability Committee, Environmental Preservation and Conservation Committee and Senator Richter

SUBJECT: Public Records/Natural Gas Storage Facility Permit

DATE: April 16, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	Fav/CS
2.	Naf	McVaney	GO	Fav/CS
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/CS/SB 984 is a public records exemption bill linked to CS/SB 958. In pertinent part, CS/SB 958 establishes permitting requirements to store gas in a natural gas storage reservoir and authorizes the Department of Environmental Protection (DEP) to regulate the storage of natural gas by reviewing and processing permit applications to operate such storage facilities.

This bill creates a public records exemption for “proprietary business information” held by the DEP in accordance with its duties relating to an application for a natural gas storage facility permit. It authorizes the release of the confidential and exempt proprietary business information in certain circumstances.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2018, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

Because this bill creates a 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 creates section 377.24075 of the Florida Statutes.

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ 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 provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" 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." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

The Open Government Sunset Review Act¹⁰ requires a newly created or expanded public records exemption to be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.¹¹ It further provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.¹²

CS/SB 958: Underground Natural Gas Storage

Currently, Florida has no regulatory provisions for underground natural gas storage facilities. The Oil and Gas Program is the permitting authority within the Department of Environmental Protection's (DEP's) Mining and Minerals Regulation Program in the Division of Water Resource Management (Division). Companies interested in the exploration or production of hydrocarbons in Florida are regulated by the Oil and Gas Program. Primary responsibilities of the Program include conservation of oil and gas resources, correlative rights protection, maintenance of health and human safety, and environmental protection. These concerns are addressed through a system of permits and field inspections to insure compliance. Primary duties include permitting geophysical operations (usually seismic prospecting), permitting drilling or operating wells (all separate permits), and tracking activities through use of a computer database. All permitted activities are inspected by staff of the Oil and Gas Program.

CS/SB 958, the companion to this bill, establishes permitting requirements to store gas in a natural gas storage reservoir. CS/SB 958 provides that before drilling a well to inject gas into and recover gas from a natural gas storage reservoir, a person who desires to conduct such operation must apply to the DEP and pay a reasonable fee for processing to obtain a natural gas storage facility permit.

Under CS/SB 958, each permit application must contain:

- A detailed, three-dimensional description of the natural gas storage reservoir, including geologic-based descriptions of the reservoir boundaries, and the horizontal and vertical dimensions.
- A geographic description of the lateral reservoir boundary.
- A description and location of all injection, recovery, and observation wells, including casing and cementing plans for each well.
- A description of the reservoir protective area.
- Information demonstrating that the proposed natural gas storage reservoir is suitable for the storage and recovery of gas.
- Information identifying all known abandoned or active wells within the natural gas storage facility.
- A field-monitoring plan that requires, at a minimum, monthly field inspections of all wells that are part of the natural gas storage facility.
- A monitoring and testing plan for the well integrity.

¹⁰ Section 119.15, F.S.

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(5)(b), F.S.

- A well inspection plan that requires, at a minimum, the inspection of all wells that are part of the natural gas storage facility and plugged wells within the natural gas storage facility boundary.
- A spill prevention and response plan.
- A well spacing plan.
- An operating plan for the natural gas storage reservoir, which must include gas capacities, anticipated operating conditions, and maximum storage pressure.
- A gas migration response plan.
- A location plat and general facility map surveyed and prepared by a registered land surveyor.

The DEP may also require additional information that is deemed necessary to permit the development of the natural gas storage facility.

III. Effect of Proposed Changes:

The bill provides that proprietary business information held by DEP in accordance with its statutory duties with respect to an application for a natural gas storage facility permit is confidential and exempt¹³ from s. 119.07(1), F.S., and Article I, section 24(a) of the Florida Constitution.

The bill defines “proprietary business information” as information that:

- Is owned or controlled by the applicant or a person affiliated with the applicant.
- Is intended to be private and is treated by the applicant as private because disclosure would harm the applicant or the applicant's business operations.
- Has not been disclosed except as required by law or a private agreement that provides that the information will not be released to the public.
- Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as requested by the department.
- Includes, but is not limited to:
 - Trade secrets as defined in the Uniform Trade Secrets Act.¹⁴
 - Leasing plans, real property acquisition plans, exploration budgets, or marketing studies, the disclosure of which would impair the efforts of the applicant or its affiliates to contract for goods or services or to acquire real property interests on favorable terms.
 - Competitive interests, which may include well design or completion plans, geological or engineering studies related to storage reservoir performance characteristics, or field

¹³ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991) If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62 (August 1, 1985).

¹⁴ Section 688.002(4), F.S., defines “trade secret” to mean information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure and use; and
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

- utilization strategies or operating plans, the disclosure of which would impair the competitive business of the applicant providing the information.
- May be found in a document:
 - Filed with the department by the applicant or affiliated person seeking a natural gas storage facility permit pursuant to s. 377.2407, F.S.; or
 - Sent to the department from another governmental entity for use by the department in the performance of its duties. This subparagraph applies only if the information is otherwise confidential or exempt as held by the governmental entity.

The bill authorizes the DEP to disclose the confidential and exempt proprietary business information:

- Pursuant to a court order;
- If the applicant to which it pertains gives prior written consent; or
- To another governmental entity if the receiving entity agrees in writing to maintain the confidential and exempt status of the information and has verified in writing its legal authority to maintain such confidentiality.

The bill provides that the public records exemption is subject to the Open Sunset Review Act and stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

The bill provides an effective date contingent upon the passage of CS/SB 958 or similar legislation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

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

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill could create a minimal fiscal impact on the DEP because staff responsible for complying with public records requests could require training related to the creation of the public records exemption. In addition, the DEP could incur costs associated with redaction of the confidential and exempt information prior to releasing a record. The costs would be absorbed, however, as they are part of the day-to-day responsibilities of the DEP.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill's public necessity statement provides that it is a public necessity to protect, in part, commercial studies. However, the exemption as currently drafted does not specifically protect commercial studies.

The bill does not define "department," but it appears to use "department" and "Department of Environmental Protection" interchangeably to refer to the DEP.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Governmental Oversight and Accountability on April 16, 2013:

The CS/CS:

- Provides that trade secrets are defined as in s. 688.002, F.S.
- Revises the entities with whom the confidential and exempt information may be shared to provide that such information may be shared with another "governmental entity" instead of with "another state agency in this or another state or to a federal agency."

CS by Environmental Preservation and Conservation on April 9, 2013:

The CS:

- Provides that “proprietary business information” is exempt from s. 119.07(1), F.S., and provides a definition of “proprietary business information.”
- Removes the ten year time limitation on the exemption.
- Specifies circumstances under which the DEP may disclose proprietary business information.

B. Amendments:

None.



831716

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Smith) recommended the following:

Senate Amendment (with title amendment)

Delete line 37

and insert:

1. Trade secrets as defined in s. 688.002;

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

And the title is amended as follows:

Delete line 7

and insert:

natural gas storage reservoir; defining the term
"proprietary business information"; providing



831716

13

exceptions to the exemption; providing for future



124302

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Smith) recommended the following:

Senate Amendment (with title amendment)

Delete lines 63 - 66
and insert:

(c) To another governmental entity if the receiving entity
agrees in writing to maintain the confidential and exempt status
of the information and has verified in writing its legal

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

And the title is amended as follows:

Delete line 7
and insert:



124302

13
14
15

natural gas storage reservoir; defining the term
"proprietary business information"; providing
exceptions to the exemption; providing for future

By the Committee on Environmental Preservation and Conservation;
and Senators Richter and Smith

592-04032-13

2013984c1

1 A bill to be entitled
2 An act relating to public records; creating s.
3 377.24075, F.S.; creating an exemption from public
4 records requirements for certain information provided
5 in an application for a natural gas storage facility
6 permit to inject and recover gas into and from a
7 natural gas storage reservoir; providing for future
8 review and repeal of the public records exemption
9 under the Open Government Sunset Review Act; providing
10 a statement of public necessity; providing a
11 contingent effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. Section 377.24075, Florida Statutes, is created
16 to read:
17 377.24075 Exemption from public records requirements.—
18 Proprietary business information held by the Department of
19 Environmental Protection in accordance with its statutory duties
20 with respect to an application for a natural gas storage
21 facility permit is confidential and exempt from s. 119.07(1) and
22 s. 24(a), Art. I of the State Constitution.
23 (1) As used in this section, the term "proprietary business
24 information" means information that:
25 (a) Is owned or controlled by the applicant or a person
26 affiliated with the applicant.
27 (b) Is intended to be private and is treated by the
28 applicant as private because disclosure would harm the applicant
29 or the applicant's business operations.

Page 1 of 5

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

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30 (c) Has not been disclosed except as required by law or a
31 private agreement that provides that the information will not be
32 released to the public.
33 (d) Is not publicly available or otherwise readily
34 ascertainable through proper means from another source in the
35 same configuration as requested by the department.
36 (e) Includes, but is not limited to:
37 1. Trade secrets;
38 2. Leasing plans, real property acquisition plans,
39 exploration budgets, or marketing studies, the disclosure of
40 which would impair the efforts of the applicant or its
41 affiliates to contract for goods or services or to acquire real
42 property interests on favorable terms; or
43 3. Competitive interests, which may include well design or
44 completion plans, geological or engineering studies related to
45 storage reservoir performance characteristics, or field
46 utilization strategies or operating plans, the disclosure of
47 which would impair the competitive business of the applicant
48 providing the information.
49 (f) May be found in a document:
50 1. Filed with the Department of Environmental Protection by
51 the applicant or affiliated person seeking a natural gas storage
52 facility permit pursuant to s. 377.2407; or
53 2. Sent to the Department of Environmental Protection from
54 another governmental entity for use by the department in the
55 performance of its duties. This subparagraph applies only if the
56 information is otherwise confidential or exempt as held by the
57 governmental entity.
58 (2) The Department of Environmental Protection may disclose

Page 2 of 5

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

592-04032-13 2013984c1

59 confidential and exempt proprietary business information:

60 (a) Pursuant to a court order;

61 (b) If the applicant to which it pertains gives prior
62 written consent; or

63 (c) To another state agency in this or another state or to
64 a federal agency if the recipient agrees in writing to maintain
65 the confidential and exempt status of the document, material, or
66 other information and has verified in writing its legal
67 authority to maintain such confidentiality.

68 (3) This section is subject to the Open Government Sunset
69 Review Act in accordance with s. 119.15 and shall stand repealed
70 on October 2, 2018, unless reviewed and saved from repeal
71 through reenactment by the Legislature.

72 Section 2. (1) The Legislature finds that it is a public
73 necessity that proprietary business information provided to the
74 Department of Environmental Protection which relates to trade
75 secrets, leasing plans, real property acquisition plans,
76 exploration budgets, proprietary well design or completion
77 plans, geological or engineering studies related to storage
78 reservoir performance characteristics, field utilization
79 strategies or operating plans, commercial or marketing studies,
80 or other proprietary business information provided by a person
81 in conjunction with an application to establish an underground
82 natural gas storage facility as defined in s. 377.19, Florida
83 Statutes, be made confidential and exempt from s. 119.07(1),
84 Florida Statutes, and s. 24(a), Article I of the State
85 Constitution. The disclosure of such proprietary business
86 information could injure an applicant in the marketplace by
87 giving competitors detailed insight into technical assessments,

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88 design, and experience, thereby putting the applicant at a
89 competitive disadvantage. Without this exemption, applicants
90 might be less willing to expend or commit to expend the
91 substantial resources necessary to determine the feasibility of
92 establishing, permitting, and operating an underground natural
93 gas storage facility, resulting in limited opportunities for
94 developing the additional natural gas storage capacity that this
95 state critically needs to meet current and future residential,
96 commercial, and industrial energy needs. The resulting lack of
97 resources could hinder the ability of electric utility services
98 to optimize services to their customers and could adversely
99 affect those customers by depriving them of the opportunities
100 and energy security that comes with domestic reserves of natural
101 gas stored underground.

102 (2) Proprietary business information derives actual or
103 potential independent economic value from not being generally
104 known to and not being readily ascertainable by other persons
105 who can derive economic value from its disclosure or use. The
106 Department of Environmental Protection, in the course of
107 reviewing and issuing permitting decisions relating to
108 underground natural gas storage facility permits, may need to
109 obtain proprietary business information. Disclosure of such
110 information could destroy the value of that property and could
111 cause economic harm to the applicant providing the information.
112 Additionally, the reduced competition for the provision of
113 domestic underground storage of natural gas could adversely
114 affect energy utility customers. The exemption created by this
115 act will enhance the ability to increase domestic storage of
116 natural gas, thereby creating a significant benefit to energy

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117 utility customers. In finding that the public records exemption
118 created by this act is a public necessity, the Legislature also
119 finds that any public benefit derived from disclosure of the
120 information is significantly outweighed by the public and
121 private harm that could result from disclosure after submittal
122 of such proprietary business information.

123 Section 3. This act shall take effect October 1, 2013, if
124 SB 958 or similar legislation is adopted in the same legislative
125 session or an extension thereof and becomes a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

COMMITTEES:

Gaming, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Commerce and Tourism
Judiciary
Rules
Transportation

JOINT COMMITTEE:

Joint Legislative Budget Commission

April 9, 2013

The Honorable Jeremy Ring, Chair
Senate Committee on Governmental Oversight and Accountability
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Ring:

Senate Bill 984, relating to the Public Records for the Florida Underground Natural Storage Act, has just been reported favorably out of the Committee on Environmental Preservation and Conservation. This is a very important bill and if possible, I would appreciate the placing of this bill on the committee's next agenda as "If Received".

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Richter".

cc: Joe McVaney, Staff Director

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-16-2013

Meeting Date

Topic _____

Bill Number 989
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

E-mail justice2jesus@yahoo.com

Speaking: For Against Information

Representing Justice-2-Jesus

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic _____

Bill Number 984
(if applicable)

Name TIMOTHY RILEY

Amendment Barcode _____
(if applicable)

Job Title HOPKINS GREEN @ SAMS

Address _____

Phone _____

TALLAHASSEE FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing SPECTRA ENERGY

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 (10/20/11)

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 1318

INTRODUCER: Ethics and Elections Committee and Senator Soto

SUBJECT: Public Records/Complaint of Misconduct Against Public Employee

DATE: April 16, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Roberts	Roberts	EE	Fav/CS
2.	Naf	McVaney	GO	Favorable
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 1318 creates a public record exemption for a complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to the investigation by the agency of the complaint of misconduct. The information is confidential and exempt from public record disclosure requirements until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint that the agency concluded the investigation and either will or will not proceed with disciplinary action or file charges.

The bill provides for repeal of the exemption on October 2, 2018, unless reviewed and saved from repeal by the Legislature. In addition, the bill provides a statement of public necessity as required by the State Constitution.

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

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 public record or public meeting

exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

This bill substantially amends section 119.071, Florida Statutes.

II. Present Situation:

Public Record Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public record disclosure requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ 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 provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" 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." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

The Open Government Sunset Review Act¹⁰ requires a newly created or expanded public record exemption to be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.¹¹ It further provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.¹²

Public Record Exemptions Relating to Complaints of Misconduct and Investigations

State law provides limited exemptions from public record disclosure requirements for information relating to complaints of misconduct and investigations carried out by agencies in certain contexts. For example, a complaint filed against a law enforcement officer and all information obtained pursuant to the investigation of the complaint by the agency is confidential and exempt from s. 119.07(1), F.S., until the investigation ceases to be active or until the agency head or designee informs the subject of the complaint that the agency will or will not proceed with disciplinary action or the filing of charges.¹³ Similarly, a complaint filed against an individual certified by the Department of Education, and all information obtained pursuant to the investigation of the complaint by the agency, is confidential and exempt from s. 119.07(1), F.S., until the conclusion of the preliminary investigation of the complaint, until such time as the preliminary investigation ceases to be active, or until such time as otherwise provided by s. 1012.798(6), F.S.¹⁴ However, there is no general exemption for information obtained pursuant to an investigation following a complaint of misconduct filed against a public employee.

III. Effect of Proposed Changes:

This bill creates a public record exemption for certain information pertaining to a complaint of misconduct filed against an agency employee. Specifically, the complaint and all information obtained pursuant to the investigation of the complaint by the agency¹⁵ are confidential and exempt¹⁶ from public record disclosure requirements until the:

- Investigation ceases to be active;

¹⁰ Section 119.15, F.S.

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(5)(b), F.S.

¹³ Section 112.533(2), F.S.

¹⁴ Section 1012.796(4), F.S. Section 1012.798(6), F.S. does not provide any additional limit on the duration of the exemption.

¹⁵ Section 119.011(2), F.S., defines the term “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 chapter 119, F.S., 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.

¹⁶ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62 (August 1, 1985).

- Agency provides written notice to the employee who is the subject of the complaint that the agency concluded the investigation with a finding not to proceed with disciplinary action or file charges; or
- Agency provides written notice to the employee who is the subject of the complaint that the agency concluded the investigation with a finding to proceed with disciplinary action or file charges.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2018, unless reviewed and reenacted by the Legislature.

In addition, the bill provides a statement of public necessity as required by the State Constitution.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c), Art. I of the State Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for passage of a newly created public record exemption. Because this bill creates a new public record exemption, it requires a two-thirds vote for passage.

Public Necessity Statement

Section 24(c), Art. I of the State Constitution requires a public necessity statement for a newly created public record exemption. Because this bill creates a new public record exemption, it includes a public necessity statement.

Single Subject

Article I, s. 24(c) of the State Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption of limited duration for a complaint of misconduct filed with a state agency or political subdivision of the state against an agency employee, and all information obtained pursuant to the investigation of the complaint by the agency. The purpose of the exemption is to facilitate the investigation of such complaints, and the exemption does not extend past the duration of such an investigation. 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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill could create a minimal fiscal impact on agencies because staff responsible for complying with public record requests could require training related to the expansion of the public records exemption. In addition, those agencies could incur costs associated with redacting confidential and exempt information prior to releasing a record. Such costs would be absorbed, however, as they are part of the day-to-day responsibilities of the agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 April 1, 2013:

The CS differs from the original bill in that it:

- Replaces the term “state agency or political subdivision of the state” with the term “agency” to simplify the exemption and ensure consistency with other public records exemptions created in chapter 119, F.S.; and
- Corrects a technical deficiency with the date for the automatic repeal of the exemption under the Open Government Sunset Review Act to read “October 2, 2018,” instead of “July 1, 2018.”

B. Amendments:

None.

By the Committee on Ethics and Elections; and Senator Soto

582-03327-13

20131318c1

A bill to be entitled

An act relating to public records; amending s.

119.071, F.S.; providing an exemption from public record requirements for a complaint of misconduct

filed with an agency against an agency employee and

all information obtained pursuant to an investigation

of the complaint by the agency; providing for limited

duration of the exemption; providing for future review

and repeal of the exemption under the Open Government

Sunset Review Act; providing a statement of public

necessity; providing an effective date.

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

Section 1. Paragraph (k) is added to subsection (2) of section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(k)1. A complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint, either personally or by mail, that the agency has either:

a. Concluded the investigation with a finding not to proceed with disciplinary action or file charges; or

Page 1 of 3

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

582-03327-13

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b. Concluded the investigation with a finding to proceed with disciplinary action or file charges.

2. Subparagraph 1. is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that a complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct be made confidential and exempt from the requirements of s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The disclosure of information, such as the nature of the complaint against an agency employee and testimony and evidence given in the investigation of the complaint, could injure an individual and deter that person from providing information pertaining to internal investigations, thus impairing the ability of an agency to conduct an investigation that is fair and reasonable. In the performance of its lawful duties and responsibilities, an agency may need to obtain information for the purpose of determining an administrative action. Without an exemption from public record requirements to protect information of a sensitive personal nature provided to an agency in the course of an internal investigation, such information becomes a public record when received and must be divulged upon request. Disclosure of information obtained during an internal investigation conducted by an agency inhibits voluntary participation of individuals during internal investigations and makes it difficult if not impossible to

Page 2 of 3

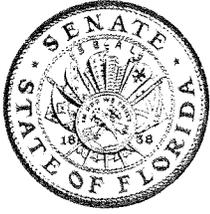
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59 determine the truth. Therefore, the Legislature declares that it
60 is a public necessity that a complaint of misconduct filed with
61 an agency against an agency employee and all information
62 obtained pursuant to an investigation by the agency of the
63 complaint of misconduct be held confidential and exempt from
64 public record requirements.

65 Section 3. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General Government
Community Affairs
Environmental Preservation and Conservation
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR DARREN SOTO

Deputy Democratic Whip
14th District

April 4, 2013

The Honorable Jeremy Ring
Committee on Governmental Oversight and Accountability
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Ring,

I respectfully request that Senate Bill 1318, Public Records/Complaint of Misconduct Against Public Employee, be placed on the agenda as soon as possible.

Senate Bill 1318 would provide an exemption from public records requirements for a complaint of misconduct filed against a public employee with a state agency or a political subdivision of the state and all information obtained pursuant to the investigation by the agency or political subdivision of the complaint of misconduct. This bill would provide for future review and repeal of the exemption under the Open Government Sunset Review Act.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

A handwritten signature in cursive script that reads "Darren M. Soto".

Darren M. Soto
State Senator, District 14

Cc: Courtney Hicks, Committee Administrative Assistant

REPLY TO:

□ 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

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 1680

INTRODUCER: Senator Altman

SUBJECT: Public Records and Public Meetings/State Child Abuse Death Review Committee or Local Committee

DATE: April 16, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Naf</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1680 amends a public record and meeting exemption for certain information held by or discussed by the State Child Abuse Death Review Committee (CADR) or local child abuse death review committees within the Department of Health.

Current law provides a public record exemption for any information that reveals the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by and which information is held by the CADR or a local committee. It also provides that portions of meetings of the CADR or a local committee at which confidential or exempt information is discussed are exempt from public meeting requirements.

This bill removes a current requirement that closed portions of meetings of the CADR or local committees be recorded, as well as a requirement that no portion of a closed meeting be off the record. The bill also removes a requirement that the CADR or local committee maintain the recording of the closed portion of the meeting.

This bill substantially amends section 383.412 of the Florida Statutes.

II. Present Situation:

Public Records and Meetings

State Constitution

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

The Legislature, however, may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Florida Statutes: Public Records Law

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Florida Statutes: Public Meetings Law

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.² The board or commission must provide reasonable notice of all public meetings.³ 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.⁴ Minutes of a public meeting must be promptly recorded and be open to public inspection.⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.

¹ Section 24(c), Art. I of the State Constitution

² Section 286.011(1), F.S.

³ *Id.*

⁴ Section 286.011(6), F.S.

⁵ Section 286.011(2), F.S.

⁶ *See* s. 119.15, F.S.

- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

Child Abuse Death Review Committee

Current law establishes the State Child Abuse Death Review Committee (CADR) and local child abuse death review committees within the Department of Health (DOH).⁷ The purpose of the CADR is prevention of child deaths as a result of abuse or neglect.

The CADR is tasked with reviewing the facts and circumstances of the deaths of children whose deaths have been investigated by the Department of Children and Families and closed with a "verified" finding of child abuse or neglect. The purpose of the child death review is to:⁸

- Develop a community based approach to address child abuse deaths and contributing factors;
- Achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse or neglect;
- Identify gaps, deficiencies or problems in service delivery to children and families by public and private agencies that may be related to child abuse deaths; and
- Develop and implement data-driven recommendations for reducing child abuse and neglect deaths.

The state committee must prepare an annual statistical report to be presented to the Governor and the Legislature containing recommendations to reduce preventable child deaths.⁹ The CADR is composed of 18 members, including experts from the medical, law enforcement, social services, and advocacy professions who convene every other month to examine the circumstances leading to child deaths.¹⁰

Local child abuse death review committees also conduct reviews of the verified deaths of children in their respective communities to develop prevention campaigns and prepare recommendations for improving local practices in child protection and support services to families. There are 23 local committees that provide coverage for Florida's 67 counties.¹¹

Public Record and Public Meeting Exemptions for CADR

Current law provides a public record exemption for any information that reveals the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by and which information is held by the CADR or a local committee.¹² It

⁷ Section 383.402(1), F.S.

⁸ *Id.*

⁹ Section 383.402(3)(c), F.S.

¹⁰ Section 383.402(2)(a) and (b), F.S.

¹¹ Child Abuse Death Review Committee, Annual Report (Dec. 2012), available at www.flcadr.org/reports.html (last visited April 2, 2013).

¹² Section 383.412(2)(a), F.S.

also provides that portions of meetings of the CADR or a local committee at which confidential or exempt information is discussed are exempt from public meeting requirements.¹³

In 2010, the law was amended to require that the closed portion of a meeting of the CADR or local committee be recorded. In addition, a public record exemption was created to protect the release of such recording. No portion of the meeting may be off the record, and the recording must be maintained by the CADR or local committee.¹⁴

The CADR has indicated that the recording requirement has had a negative impact on both the state and local committees, because the members need to be able to speak candidly about the individual cases in order to make prevention recommendations.¹⁵ The recording requirement has impacted local committees in some areas due to the reluctance of some law enforcement, state attorney offices and other agencies to openly discuss confidential information that is being recorded.¹⁶

III. Effect of Proposed Changes:

The bill removes the requirement that closed portions of meetings of the CADR or local committees be recorded, as well as the requirement that no portion of a closed meeting be off the record. The bill also removes the requirement that the CADR or local committee must maintain the recording of the closed portion of the meeting.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill revises a record requirement related to closed portions of meetings held by the CADR or local child abuse death review committees. It does not expand a public record or meeting exemption.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹³ Section 383.412(3)(a), F.S.

¹⁴ Chapter 2010-40, L.O.F.

¹⁵ E-mail from Special Agent Terry Thomas, Chairperson, State Child Abuse Death Review Committee (Apr.3, 2013) (on file with the Committee on Children, Families and Elder Affairs).

¹⁶ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 32-35 of the bill remove the requirement for the CADR or the local committee to record closed portions of meetings and to maintain such recording. If a recording is not being made and maintained, then the public record exemption for such recording on lines 36-38 of the bill would appear to be unnecessary. If the public record exemption is repealed, any recordings in existence prior to the repeal would retain their protection.¹⁷ However, if the CADR or local committee later chose to record its meetings, such recordings would not be protected.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial 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.

¹⁷ See *Baker v. Eckerd Corporation*, 697 So.2d 970 (Fla. 2d DCA 1997) (an amendment eliminating protection against disclosure of any unfounded reports of child abuse applies prospectively from the date of the amendment) and Attorney General Opinion 95-19 (expanded disclosure provisions for juvenile records apply only to records created after the effective date of the amendment).

By Senator Altman

16-00944-13

20131680__

A bill to be entitled

An act relating to public records and public meetings exemptions; amending s. 383.412, F.S.; eliminating requirements that the closed portion of a meeting of the State Child Abuse Death Review Committee or a local committee at which specified identifying information is discussed be recorded, that no portion of such closed meeting be off the record, and that the recording be maintained by the state committee or a local committee; providing an effective date.

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

Section 1. Subsection (2) of section 383.412, Florida Statutes, is reenacted and subsection (3) of that section is amended to read:

383.412 Public records and public meetings exemptions.—

(2) (a) Any information that reveals the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by and which information is held by the State Child Abuse Death Review Committee or a local committee is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Information made confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution that is obtained by the State Child Abuse Death Review Committee or a local committee shall retain its confidential or exempt status.

(3) (a) Portions of meetings of the State Child Abuse Death Review Committee or a local committee at which information made

Page 1 of 2

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confidential and exempt pursuant to subsection (2) is discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. ~~The closed portion of a meeting must be recorded, and no portion of the closed meeting may be off the record. The recording shall be maintained by the State Child Abuse Death Review Committee or a local committee.~~

(b) A ~~The~~ recording of a closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 2. This act shall take effect July 1, 2013.

Page 2 of 2

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR THAD ALTMAN

16th District

April 9, 2013

The Honorable Jeremy Ring
Senate Committee on Governmental Oversight and Accountability, Chair
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Ring:

I respectfully request that SB 1680, related to *Public Records and Public Meetings/State Child Abuse Death Review Committee or Local Committee*, be placed on the committee 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 blue ink that reads "Thad Altman".

Thad Altman
TA/rk

CC: Joe McVaney, Staff Director, 525 Knott Building

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-16-2013

Meeting Date

Topic _____

Bill Number 1680
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

E-mail justice2jesus@yahoo.com

Speaking: For Against Information

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 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security,
Chair
Budget - Subcommittee on Finance and Tax,
Vice Chair
Budget
Budget - Subcommittee on Higher Education
Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Higher Education
Reapportionment
Regulated Industries

SENATOR THAD ALTMAN

16th District

April 12, 2013

The Honorable Jeremy Ring, Chair
Senate Committee on Government Oversight
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Ring:

Senate Bill 1680, related to *Public Records and Public Meetings/State Child Abuse Death Review Committee or Local Committee*, is on the Governmental Oversight agenda on April 16, 2013.

Because of a conflict, I will be unable to attend. Please recognize my Legislative Aide, Selene Bruns, to present SB 1680, on my behalf.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman/svb

Cc: Joe McVaney, Staff Director
Courtney Hicks, Committee Administrative Assistant
525 Knott Building

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

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 1868

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Bean

SUBJECT: Public Records/Payment Instrument Transaction/Office of Financial Regulation

DATE: April 16, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Naf	McVaney	GO	Fav/CS
2.			RC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 1868 is a public records bill that is linked to SB 410.

In pertinent part, SB 410 requires specified information relating to a check cashing transaction exceeding \$1,000 to be submitted to a database operated by the Office of Financial Regulation (OFR). This bill creates a public records exemption for payment instrument transaction information held in the database by the OFR. Specifically, any such information that identifies a licensee, payor, payee, or conductor is confidential and exempt from public records disclosure requirements.

This bill authorizes a licensee to access information that it submits to the OIR for inclusion in the database. It also authorizes OFR to enter into information-sharing agreements with the Department of Financial Services, law enforcement agencies, and other governmental agencies in certain circumstances, and requires those agencies to maintain the confidentiality of the information, except as otherwise required by court order.

This bill provides for repeal of the exemption on October 2, 2018, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

Because this 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 creates section 560.312 of the Florida Statutes.

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ 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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" 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." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

substantive provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

The Open Government Sunset Review Act¹⁰ requires a newly created or expanded public records exemption to be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.¹¹ It further provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.¹²

SB 410: Payment Instrument Transaction Database

Current law requires each money services business licensee¹³ and its authorized vendors to maintain all information necessary for determining compliance with the chapter under which they are licensed.¹⁴ In addition, licensed check cashers and foreign currency exchangers¹⁵ must maintain specified information on each transaction in which the payment instrument¹⁶ exceeds \$1,000.¹⁷

Current law also requires the Office of Financial Regulation (OFR) to implement a database for deferred presentment¹⁸ providers.¹⁹ Before entering into a deferred presentment transaction, a deferred presentment provider must submit specified data for inclusion in the database.²⁰

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ Section 119.15, F.S.

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(5)(b), F.S.

¹³ Licensed pursuant to ch. 560, F.S. The following entities are exempt:

- Banks, credit card banks, credit unions, trust companies, associations, offices of an international banking corporation, Edge Act or agreement corporations, or other financial depository institutions organized under the laws of any state or the United States;
- The United States or any agency or instrumentality thereof; and
- The state of Florida or any of its political subdivisions (s. 560.104, F.S.).

¹⁴ Section 560.1105, F.S.

¹⁵ Check cashing and foreign currency exchange licensure is not required for a person cashing payment instruments that have an aggregate face value of less than \$2,000 per person per day and that are incidental to the retail sale of goods or services whose compensation for cashing payment instruments at each site does not exceed 5 percent or the total gross income from the retail sale of goods or services by such person during the last 60 days (s. 560.304, F.S.).

¹⁶ “Payment instrument” means a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, payment of money, or monetary value whether or not negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit. Section 560.103(29), F.S.

¹⁷ Section 560.310(2), F.S. Such information includes:

- Customer files;
- A copy of the personal identification that bears a photograph of the customer used as identification and presented by the customer;
- A thumbprint of the customer taken by the licensee when the payment instrument is present for negotiation or payment

¹⁸ “Deferred presentment transaction” means providing currency or a payment instrument in exchange for a drawer’s check and agreeing to hold the check for a deferment period. “Deferment period” means the number of days a deferred presentment provider agrees to defer depositing, presenting, or redeeming a payment instrument. “Drawer” means a customer who writes a personal check and upon whose account the check is drawn. Section 560.402, F.S.

¹⁹ Section 560.404(23), F.S.

²⁰ *Id.* Such required information includes:

In pertinent part, SB 410 requires a licensed check casher, before entering into a transaction in which the payment instrument exceeds \$1,000, to submit specified information for inclusion in the deferred presentment database. The information that must be submitted includes:

- Transaction data.
- Payor name.
- Payee name.
- Customer name, if different from the payee name.
- Amount of the payment instrument.
- Amount of currency provided.
- Type of payment instrument, which may include personal, payroll, government, corporate, third-party, or another type of instrument.
- Amount of the fee charged for cashing the payment instrument.
- Branch or location where the payment instrument was accepted.
- Type of identification and identification number presented by the payee or customer.
- Payee's workers' compensation insurance policy number, if the payee is a business.

A 2008 grand jury report found that some contractors and check cashers have colluded on a scheme that allows the contractors to hide their payroll and obtain workers' compensation coverage without purchasing such coverage; additionally, such contractors may avoid the payment of state and federal taxes.²¹ In 2011, the Chief Financial Officer formed a Money Service Business Facilitated Workers' Compensation Work Group to study the issue of workers' compensation premium fraud facilitated by check cashers. The work group's recommendations include the establishment of a statewide database for regulators and law enforcement to use in the detection of workers' compensation insurance fraud.²²

The submission of certain check cashing information to the database may enhance the ability of regulators and law enforcement to effectively target individuals who are engaging in criminal activity, and would allow information to be compared on a statewide basis. However, the database would include personal financial information of those utilizing check cashing services and private business transaction information that is traditionally private.

III. Effect of Proposed Changes:

This bill, which is linked to SB 410, creates a public records exemption for certain payment instrument transaction information held by the OFR. Specifically, payment instrument

-
- The drawer's name, social security number or employment authorization alien number, address, and driver's license number;
 - The amount and date of the transaction;
 - The date that the transaction is closed; and
 - Such additional information as is required by rule.

²¹ *Check Cashers: A Call for Enforcement*, Eighteenth Statewide Grand Jury, Case No. SC 07-1128, Second Interim Report of the Statewide Grand Jury, March 2008. For their participation and risk, the check cashers may receive a greater fee for cashing the checks than is allowed by statute (authorized fees are set forth in s. 560.304(8), F.S.).

²² *A Report by the Money Service Business Facilitated-Workers' Compensation Fraud Work Group*, available online at http://www.myfloridacfo.com/siteDocs/MoneyServiceBusiness/WC_MSBReport-Rec.pdf (last viewed April 15, 2013).

transaction information held in the database that identifies a licensee, payor, payee, or conductor²³ is confidential and exempt from public records disclosure requirements.

The bill authorizes a licensee to access information that it submits to the OFR for inclusion in the database. In addition, the bill authorizes the OFR to enter into agreements with the Department of Financial Services, law enforcement agencies, and other governmental agencies in order to share confidential and exempt information contained in the database for purposes of detecting and deterring financial crimes and workers' compensation violations. Any department or agency that receives the confidential and exempt information must maintain the confidentiality of that information, unless a court order compels production of the information.

The bill provides that the exemption is subject to the Open Sunset Review Act and stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

The bill's effective date is contingent upon passage of SB 410 or similar legislation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a bill creating a new public records exemption to pass by a two-thirds vote of the members present and voting in each house of the Legislature; therefore, this bill requires a two-thirds vote.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a bill creating a new public records exemption to contain a public necessity statement justifying the exemption; therefore, this bill contains a public necessity statement.

C. Trust Funds Restrictions:

None.

²³ A "conductor" is a natural person who presents himself or herself to a licensee for purposes of cashing a payment instrument (s. 560.103(9), F.S.).

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

None.

B. Private Sector Impact:

The bill may benefit the private sector. By making the identities of payees and customers confidential, personal financial information will be protected. Similarly, by making the identities of payors and licensees confidential, business information will be protected.

C. Government Sector Impact:

The bill likely could create a minimal fiscal impact on the OFR, because staff responsible for complying with public records requests could require training related to the public records exemption. In addition, the OFR could incur costs associated with redaction of the confidential and exempt information prior to releasing a record. The costs would be absorbed, however, as they are part of the day-to-day responsibilities of the OFR.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 16, 2013:

The CS provides that the entire statutory section created by the bill is subject to the Open Government Sunset Review Act, instead of just subsection (1).

B. Amendments:

None.



797464

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Bean) recommended the following:

Senate Amendment

Delete line 43
and insert:

(3) This section is subject to the Open Government Sunset

By Senator Bean

4-03845-13

20131868__

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 560.312, F.S.; providing an exemption from public
 4 records requirements for payment instrument
 5 transaction information held by the Office of
 6 Financial Regulation; providing for specified access
 7 to such information; authorizing the office to enter
 8 into information-sharing agreements and provide access
 9 to information contained in the database to certain
 10 governmental agencies; requiring a department or
 11 agency that receives confidential information to
 12 maintain the confidentiality of the information,
 13 except as otherwise required by court order; providing
 14 for future review and repeal of the exemption;
 15 providing a statement of public necessity; providing
 16 an effective date.

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

20 Section 1. Section 560.312, Florida Statutes, is created to
 21 read:

22 560.312 Database of payment instrument transactions;
 23 confidentiality.—

24 (1) Payment instrument transaction information held by the
 25 office pursuant to s. 560.310 which identifies a licensee,
 26 payor, payee, or conductor is confidential and exempt from s.
 27 119.07(1) and s. 24(a), Art. I of the State Constitution.

28 (2) (a) A licensee may access information that it submits to
 29 the office for inclusion in the database.

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

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30 (b) The office, to the extent permitted by state and
 31 federal law, may enter into information-sharing agreements with
 32 the department, law enforcement agencies, and other governmental
 33 agencies and, in accordance with such agreements, may provide
 34 the department, law enforcement agencies, and other governmental
 35 agencies with access to information contained in the database
 36 for use in detecting and deterring financial crimes and workers'
 37 compensation violations, pursuant to chapter 440. Any department
 38 or agency that receives confidential information from the office
 39 under this paragraph must maintain the confidentiality of the
 40 information, unless, and only to the extent that, a court order
 41 compels production of the information to a specific party or
 42 parties.

43 (3) Subsection (1) is subject to the Open Government Sunset
 44 Review Act in accordance with s. 119.15 and shall stand repealed
 45 on October 2, 2018, unless reviewed and saved from repeal
 46 through reenactment by the Legislature.

47 Section 2. The Legislature finds that it is a public
 48 necessity that payment instrument transaction information held
 49 by the Office of Financial Regulation pursuant to s. 560.310,
 50 Florida Statutes, which identifies a licensee, payor, payee, or
 51 conductor be made confidential and exempt from s. 119.07(1),
 52 Florida Statutes, and s. 24(a), Article I of the State
 53 Constitution. Pursuant to s. 560.310, Florida Statutes, money
 54 services businesses that cash a payment instrument exceeding
 55 \$1,000 must submit information about the transaction to the
 56 Office of Financial Regulation in order to deter money
 57 laundering through these entities and in response to the
 58 findings of the Money Service Business Facilitated Workers'

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59 Compensation Fraud Work Group that these entities are being used
60 to facilitate financial crimes, including fraud relating to
61 workers' compensation. The report issued by the group found that
62 this type of workers' compensation fraud could be costing the
63 state up to \$1 billion annually in unreported payroll taxes,
64 unreported premium taxes, and higher costs to insurance carriers
65 that must process workers' compensation claims from uninsured
66 workers. This type of fraud places tremendous pressure on law-
67 abiding businesses to absorb these costs. Submission of this
68 information to the office is intended to assist the office, the
69 Department of Financial Services, law enforcement agencies, and
70 other governmental agencies in detecting and deterring these
71 financial crimes and related fraudulent activities. The
72 availability of this information to these agencies will help to
73 increase premium collection, lower costs to insurance carriers,
74 and alleviate premium avoidance, as well as reduce the cost of
75 administering these public programs. However, the public
76 availability of payment instrument transaction information would
77 reveal sensitive, personal financial information about payees
78 and conductors who use check-cashing programs, including
79 paycheck amounts, salaries, and business activities, as well as
80 information regarding the financial stability of these persons.
81 Such information is traditionally private and sensitive.
82 Protecting the confidentiality of information that would
83 identify these payees and conductors would provide adequate
84 protection for these persons while still providing public
85 oversight of the program. The public release of payment
86 instrument transaction information would also identify licensees
87 or payors and reveal private business transaction information

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88 that is traditionally private and could be used by competitors
89 to harm other licensees or payors in the marketplace. If such
90 information were publicly available, competitors could determine
91 the amount of business conducted by other licensees or payors.
92 Therefore, the Legislature finds that it is a public necessity
93 that information that would identify the licensee, payor, payee,
94 or conductor in payment instrument transaction information be
95 made confidential and exempt from public records requirements.

96 Section 3. This act shall take effect on the same date that
97 SB 410 or similar legislation takes effect, if such legislation
98 is adopted in the same legislative session or an extension
99 thereof and becomes law.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/16/13

Meeting Date

Topic PR/ Payment Instrument Transaction

Bill Number 1868
(if applicable)

Name FRENCH BROWN

Amendment Barcode _____
(if applicable)

Job Title LEGISLATIVE AFFAIRS DIRECTOR

Address 200 E. GAINES ST

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TALLAHASSEE

FL

32399

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Speaking: For Against Information

Representing OFFICE OF FINANCIAL REGULATION

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 (10/20/11)

CourtSmart Tag Report

Room: KN 412

Case:

Type:

Caption: Governmental Oversight and Accountability

Judge:

Started: 4/16/2013 4:03:29 PM

Ends: 4/16/2013 4:26:04 PM

Length: 00:22:36

4:03:31 PM CS/SB 860 by Sen. Galvano
4:06:05 PM SB 984 by Sen. Richter
4:06:33 PM Amendment 831716
4:07:06 PM Amendment 124302
4:07:35 PM Brian Pitts, Justice2Jesus
4:10:07 PM CS/SB 1318 by Sen. Soto
4:11:13 PM SB 1868 by Sen. Bean
4:12:19 PM Amendment 797464
4:13:20 PM SB 1680 by Sen. Altman
4:13:25 PM Selene Bruns, Aide
4:13:58 PM Brian Pitts, Justice2Jesus
4:17:31 PM SB 250 by Sen. Ring
4:17:38 PM Rae Powers, Intern
4:19:06 PM Amendment 450420
4:25:45 PM Comments - Sen. Hays