

Committee on Governmental Oversight and Accountability

CS/CS/SB 86 — Scrutinized Companies

by Appropriations Committee; Governmental Oversight and Accountability Committee; and Senators Negron, Gaetz, Braynon, Margolis, Soto, Abruzzo, Sobel, Flores, Sachs, Benacquisto, Hays, Gardiner, Altman, Bean, Bradley, Brandes, Bullard, Clemens, Dean, Detert, Diaz de la Portilla, Evers, Galvano, Garcia, Gibson, Grimsley, Hutson, Joyner, Latvala, Lee, Montford, Richter, Simmons, Simpson, Smith, Stargel, Thompson, and Hukill

The bill (Chapter 2016-36, L.O.F.) requires the State Board of Administration (SBA) to identify and assemble a list of all companies that boycott Israel. The bill requires the SBA to update and make publicly available on a quarterly basis a Scrutinized Companies that Boycott Israel List (List). The List must be distributed to the trustees of the SBA, the President of the Florida Senate and the Speaker of the Florida House of Representatives.

The SBA must provide written notice to the companies that may be placed on the List and give those companies an opportunity to respond prior to the company becoming subject to investment prohibition and placement on the List.

In terms of its investment responsibilities relating to the Florida Retirement System (FRS) pension plan, the SBA is not permitted to acquire securities, as direct holdings, of companies that appear on the List. The bill provides an exception for securities that are not subject to this prohibition. The bill requires the investment policy statement for the FRS pension plan to be updated to include the limitations set forth in this bill.

The bill limits governmental entities from contracting with scrutinized companies on the List. Specifically, the bill prohibits a state agency or local governmental entity from contracting for goods and services of \$1 million or more with a company that has been placed on the List. In addition, the bill requires certain governmental contracts to contain provisions allowing the awarding body to terminate the contract if a company is placed on the List. Additionally, the bill requires certification by a company that the company is not participating in a boycott of Israel upon submission of bid or renewal of existing contract. A case-by-case exception is provided to state agencies and local governmental entities for contracting with companies on the List under specified circumstances. These provisions take effect October 1, 2016.

The provisions were approved by the Governor and took effect on March 10, 2016, except as otherwise provided.

Vote: Senate 38-0; House 112-2

Committee on Governmental Oversight and Accountability

CS/HB 273 — Public Records

by Government Operations Subcommittee; and Reps. Beshears, Kerner, and others (CS/SB 390 by Judiciary Committee and Senator Simpson)

Currently, private contractors who act on behalf of a public agency are required to comply with public records laws in the same manner as a public agency. The bill makes changes to the law regarding provisions in a contract for services; possession of public records at the end of a contract for services; and liability in public records lawsuits.

The bill (Chapter 2016-20, L.O.F.) repeals the requirement that each contract for services require the contractor to transfer its public records to the public agency upon termination of the contract. Instead, the contract must address whether the contractor will retain the public records or transfer the public records to the public agency upon completion of the contract. This bill requires contracts for services between a public agency and a contractor that are amended or entered into on or after July 1, 2016, to include the following provisions:

- A statement informing the contractor of the contact information of the public agency's custodian of public records and instructing the contractor to contact the public agency's records custodian concerning any questions the contractor may have regarding the contractor's duties to provide public records relating to the contract;
- Terms requiring a contractor to comply with a public agency's request for a copy of a public record or to permit inspection of a public record;
- Terms requiring a contractor to prevent disclosure of confidential or exempt information while the contractor has custody of a public record; and,
- Terms requiring a contractor to comply with all applicable public records requirements if the contractor retains public records after the contract for services is completed.

The bill requires a request for public records relating to a contract for services to be made directly to the agency. If the public agency determines that it does not possess the records, it must immediately notify the contractor, and the contractor must provide the records or allow access to the records within a reasonable time. A contractor who fails to provide the records to the agency within a reasonable time may be subject to certain penalties.

The bill provides that if a civil action is filed against a contractor to compel production of public records, the court must assess and award against the contractor the reasonable costs of enforcement, including attorney fees, if:

- The court determines that a contractor unlawfully refused to comply with the public records request within a reasonable time; and,

- The plaintiff provided written notice of the public records request to the public agency and the contractor at least eight business days before filing the civil action.

The bill specifies that a contractor who complies with the public records request within eight business days after the notice is sent is not liable for the reasonable costs of enforcement.

These provisions were approved by the Governor and took effect on March 8, 2016.

Vote: Senate 34-1; House 110-7

Committee on Governmental Oversight and Accountability

CS/SB 310 — National Statuary Hall

by Fiscal Policy Committee and Senators Legg and Margolis

A statue of Confederate General Edmund Kirby Smith (Kirby Smith) currently represents the State of Florida in the National Statuary Hall Collection at the U.S. Capitol. This bill establishes the process by which Gen. Kirby Smith's statue may be replaced. At its first meeting after the effective date of this bill, the ad hoc committee of the Department of State's Great Floridians Program will select three prominent Florida citizens to be commemorated in the National Statuary Hall instead of Gen. Kirby Smith. The ad hoc committee must submit its recommendations to the Legislature by January 1, 2017.

The bill (Chapter 2016-41, L.O.F.) directs the Florida Council on Arts and Culture (Council) to select a sculptor. The Council and the Department of State must provide estimates for the costs associated with replacing the statue of Gen. Kirby Smith. The Council is permitted to raise funds from private sources to cover the costs associated with the replacement of the statue. Any funds raised by the Council must be deposited into the Department of State's Grants and Donations Trust Fund.

The Department of State must prepare a report which will include the name of the selected sculptor, how the sculptor was chosen, and estimates for costs associated with replacing the statue of Gen. Kirby Smith. The Department of State will submit the report to the Governor and the presiding officers of each chamber of the Legislature by January 1, 2017.

The Legislature will pass a memorial requesting Congress approve the replacement of the statue of Gen. Kirby Smith. If the Governor approves the replacement of the statue, the memorial will be submitted to the United States Joint Committee on the Library of Congress for consideration.

These provisions were approved by the Governor and took effect on March 10, 2016.

Vote: Senate 33-7; House 83-32

Committee on Governmental Oversight and Accountability

CS/SB 350 — Procurement Procedures for Educational Institutions

by Appropriations Committee; and Senators Montford, Hutson, Gaetz, and Soto

The bill requires each district school board and Florida College System institution board of trustees to:

- Review the purchasing agreements and state term contracts available through the Department of Management Services pursuant to s. 287.056, F.S., before purchasing nonacademic commodities and services; and
- Include in each bid specification for nonacademic commodities and services a statement that the purchasing agreements and state term contracts have been reviewed.

These requirements do not apply to services that are eligible for reimbursement under the federal E-rate program administered by the Universal Service Administration Company.

The bill also authorizes each district school board to use the cooperative state purchasing programs managed through the regional consortium service organizations.

The bill authorizes district school boards, Florida College System institution boards of trustees and university boards of trustees to make purchases through an online procurement system, electronic auction service, or other efficient procurement tool.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 113-0

Committee on Governmental Oversight and Accountability

CS/SB 624 — Public Records/State Agency Information Technology Security Programs

by Governmental Oversight and Accountability Committee and Senator Hays

This bill makes confidential and exempt from public disclosure requirements information relating to how an agency detects, investigates or responds to information technology (IT) security incidents if the disclosure of such IT security information would facilitate the unauthorized access, modification, disclosure or destruction of data or IT resources. The bill provides that IT resources include an agency's networks, computers, software, as well as information related to an agency's IT systems.

The bill also makes confidential and exempt from public disclosure requirements portions of risk assessments, external audits, evaluations or other reports of a state agency's IT security program. Such information is confidential and exempt if the information would facilitate unauthorized modification, disclosure or destruction of data or IT resources.

Both exemptions require agencies to release confidential and exempt information to the Auditor General, AST, FDLE, and the Chief Inspector General. Agencies have the discretion to release confidential and exempt information to local governments, state agencies or federal agencies.

These exemptions have retroactive application and will be repealed on October 2, 2021, unless saved from repeal by the Legislature, pursuant to the Open Government Sunset Review Act. Finally, the bill includes legislative findings which provide the public necessity for each exemption.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 112-0

Committee on Governmental Oversight and Accountability

CS/CS/SB 708 — Arthur G. Dozier School for Boys

by Appropriations Committee; Governmental Oversight and Accountability Committee; and Senators Joyner and Smith

This bill authorizes the Department of State (DOS) to reimburse the next of kin or pay the provider or funeral home up to \$7,500 for funeral, reinterment, and grave marker expenses for each child's remains recovered from the Arthur G. Dozier (Dozier) School for Boys by the University of South Florida (USF). The historical resources and artifacts recovered from Dozier are to remain in the custody of the USF pending release to the DOS, and any recovered human remains are to be held by the USF pending release to the next of kin or reinterment.

The bill requires the DOS to contract with the USF for identification and location of next of kin. The DOS will notify the next of kin and make arrangements for the payment or reimbursement of eligible expenses.

The bill establishes a nine-member task force to make recommendations to the DOS about creating and maintaining a memorial and the location of a site for the reinterment of unidentified or unclaimed remains. The task force recommendations must be submitted to the Governor and Cabinet, the President of the Senate, the Speaker of the House or Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives by October 1, 2016. The bill also provides for the repeal of the task force on December 31, 2016.

The bill also requires the DOS to submit a report by February 1, 2018, to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives on payments and expenditures required by the bill.

For Fiscal Year 2016-2017, the bill appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to the DOS to implement the provisions of the bill. Any unused funds will revert to the General Revenue Fund and are appropriated for Fiscal Year 2017-2018 for the same purpose.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 114-3

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Committee on Governmental Oversight and Accountability

SB 716 — Florida Holocaust Memorial

by Senators Sobel, Sachs, Simpson, and Margolis

This bill establishes the Florida Holocaust Memorial to recognize and commemorate the millions of people, including six million Jews, murdered by the Nazis and their collaborators before and during World War II in Europe and to honor the survivors of the Holocaust.

The bill requires the Department of Management Services (DMS) to administer the memorial and to designate an appropriate public area for the memorial on the premises of the Capitol Complex. DMS shall construct the memorial after considering the recommendations of the Florida Historical Commission and coordinating with the Division of Historical Resources of the Department of State regarding the memorial's design and placement.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 116-1

Committee on Governmental Oversight and Accountability

CS/CS/SB 752 — Public Records/Agency Inspector General Personnel

by Rules Committee; Governmental Oversight and Accountability Committee; and Senator
Abruzzo

This bill exempts from public disclosure requirements certain information relating to the personnel of an agency's office of inspector general or internal audit department. The exemption applies to personnel whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation or other activities that could lead to criminal or administrative penalties. The bill exempts certain personal identifying and location information of the employee, the employee's spouse and the employee's child. The exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2021, unless reenacted by the Legislature. Finally, the bill includes a public necessity statement justifying the exemption.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 36-1; House 111-2

Committee on Governmental Oversight and Accountability

HB 981 — Administrative Procedures

by Rep. Richardson and others (SB 1226 by Senator Ring)

The bill requires a statement of estimated regulatory costs (SERC) to include the adverse impacts and regulatory costs estimated to occur five years after the effective date of a rule. If a portion of the rule is not fully implemented on the effective date of the rule, the SERC must include the adverse impacts and regulatory costs expected to occur within the first five years after implementation of the unimplemented portion of the rule.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 37-0; House 116-0

Committee on Governmental Oversight and Accountability

CS/CS/CS/HB 1033 — Information Technology Security

by State Affairs Committee; Government Operations Appropriations Subcommittee; Government Operations Subcommittee; Rep. Artiles and others (CS/SB 7050 by Appropriations Committee; and Governmental Oversight and Accountability Committee)

This bill revises the duties of the Agency for State Technology (AST). Specifically, the bill directs the AST to develop guidelines, policies and processes for state agencies to:

- Mitigate security risks;
- Allow state agencies to contract with a private sector vendor to complete risk assessments;
- Establish computer security incident response teams;
- Establish information technology security incident reporting processes to respond timely to suspected technology security incidents; and
- Incorporate information obtained through detection and response activities into a state agency's response plan.

The bill directs state agencies to:

- Establish computer security incident response teams and comply with the applicable guidelines and processes established by the AST;
- Incorporate information learned from incident response activities into future plans;
- Implement risk assessment remediation plans recommended by the AST;
- Provide cybersecurity training to employees within 30 days of employment; and
- Provide incident and breach information to the AST and the Cybercrime Office of the FDLE within certain timeframes.

The bill revises the seven member AST Technology Advisory Council to require at least one member appointed by the Governor to be a cybersecurity expert.

The bill directs the AST, in collaboration with the Department of Management Services (DMS), to:

- Establish an information technology policy for all information technology-related state contracts, including state term contracts for information technology commodities, consultant services, and staff augmentation services;
- Evaluate vendor responses for state term contract solicitations and invitations to negotiate;
- Answer vendor questions on state term contract solicitations; and

- Ensure that the information technology policy developed herein is included in all solicitations and contracts which are administratively executed by the DMS.

The bill provides specified requirements for the information technology policy.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 111-0

Committee on Governmental Oversight and Accountability

HB 5005 — State-administered Retirement Systems

by Appropriations Committee and Rep. Corcoran (SB 7042 by Governmental Oversight and Accountability Committee)

This bill establishes the contribution rates paid by employers participating in the Florida Retirement System (FRS) beginning July 1, 2016. These rates are intended to fund the full normal cost and the amortization of the unfunded actuarial liability of the FRS. With these modifications to employer contribution rates, the FRS Trust Fund will receive roughly \$62.6 million more in revenue on an annual basis beginning July 1, 2016. The public employers that will incur these additional costs are state agencies, state universities and colleges, school districts, counties, and certain municipalities and other governmental entities.

The bill also increases the assessment paid by employers to pay the costs of administering the FRS investment plan and providing educational services to all members of the FRS. With the increased contribution rates, the State Board of Administration's Administrative Trust Fund will receive roughly \$5.7 million more on an annual basis beginning July 1, 2016. The public employers that will incur these additional costs are state agencies, state universities and colleges, school districts, counties, and certain municipalities and other governmental entities.

The bill also corrects the name of the trust fund which receives the employer-paid assessments for administrative and educational costs associated with the FRS. The correct name is the Administrative Trust Fund rather than the FRS Investment Plan Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 120-0

Committee on Governmental Oversight and Accountability

CS/HB 7003 — Individuals with Disabilities

by Government Operations Appropriations Subcommittee; State Affairs Committee; and Rep. Caldwell and others (CS/SB 7010 by Fiscal Policy Committee; Governmental Oversight and Accountability Committee; and Senators Gardiner, Abruzzo, Altman, Bean, Benacquisto, Bradley, Brandes, Braynon, Bullard, Clemens, Dean, Detert, Evers, Flores, Gaetz, Galvano, Garcia, Gibson, Hays, Hukill, Hutson, Joyner, Lee, Montford, Negron, Richter, Ring, Sachs, Simmons, Simpson, Smith, Sobel, Soto, Stargel, and Thompson)

This bill (Chapter 2016-3, L.O.F.) addresses the employment and economic independence of individuals with disabilities. Specifically, this bill:

- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services (DFS) to provide information and outreach to individuals and employers;
- Modifies the state's equal employment policy to provide enhanced executive branch agency employment opportunities for individuals who have a disability;
- Creates the Employment First Act requiring an interagency cooperative agreement among specified state agencies and organizations to ensure a long-term commitment to improve employment for individuals who have a disability; and
- Creates the Florida Unique Abilities Partner Program to recognize businesses that employ or support the independence of individuals who have a disability.

The bill makes several appropriations to implement the programs and activities required under the bill. Specifically, the bill:

- Appropriates \$69,570 in recurring funds from the Insurance Regulatory Trust Fund to the DFS to implement the Financial Literacy Program for Individuals with Developmental Disabilities;
- Appropriates \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to the Department of Management Services (DMS), and authorizes two FTE positions for the DMS to implement the provisions relating to enhancing executive branch agency employment opportunities;
- Appropriates the recurring sums of \$74,234 from the General Revenue Fund and \$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds to Administered Funds for distribution among agencies for the increase in the human resource assessment; and
- Appropriates \$100,000 in recurring and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to the Department of Economic Opportunity to implement the Florida Unique Abilities Partner program.

These provisions were approved by the Governor and take effect July 1, 2016.

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Vote: Senate 35-0; House 110-0

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Committee on Governmental Oversight and Accountability

SB 7012 — Death Benefits Under the Florida Retirement System

by Governmental Oversight and Accountability Committee and Senators Gardiner, Abruzzo, Altman, Bean, Benacquisto, Bradley, Brandes, Braynon, Bullard, Clemens, Dean, Detert, Diaz de la Portilla, Evers, Flores, Gaetz, Galvano, Garcia, Gibson, Grimsley, Hays, Hukill, Hutson, Joyner, Latvala, Lee, Legg, Margolis, Montford, Negron, Richter, Ring, Sachs, Simmons, Simpson, Smith, Sobel, Soto, Stargel, and Thompson

This bill primarily makes two changes to the Florida Retirement System (FRS). First, the bill increases the monthly survivor benefits available to the spouses and children of FRS pension plan members in the Special Risk Class when killed in the line of duty from 50 percent of the member's monthly salary at the time of death to 100 percent of the member's monthly salary at the time of death. These new benefits are funded through additional employer-paid contributions relating to the FRS pension plan.

Second, the bill permits the surviving spouse or children of an investment plan member in the Special Risk Class when killed in the line of duty to opt into the FRS investment plan survivor benefits program in lieu of receiving normal retirement benefits under the FRS investment plan. By participating in the survivor benefits program, the surviving spouse and children are eligible to receive annuitized benefits much like the survivor benefits (described above) afforded to Special Risk Class members of the FRS pension plan. The investment plan survivor benefits program is funded by additional employer-paid contributions to the survivor benefits account of the FRS Trust Fund.

The new survivor benefits established by this bill are available to members in the Special Risk Class when killed in the line of duty on or after July 1, 2013.

The contributions paid into the FRS by employers participating in the FRS are increased by \$25 million annually. The bill appropriates the recurring amounts of \$5,445,337 from the General Revenue Fund and \$1,062,991 from trust funds to Administered Funds, to fund the increased employer contribution rates to be paid under the bill by state agencies, state universities, state colleges, and school districts.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 116-1

Committee on Governmental Oversight and Accountability

SB 7028 — State Board of Administration

by Governmental Oversight and Accountability Committee and Senator Sobel

This bill encourages the State Board of Administration (SBA) to take actions in support of the MacBride Principles in Northern Ireland. The MacBride Principles means the objectives for companies operating in Northern Ireland to provide fair employment opportunities to individuals from underrepresented religious groups in the workforce.

Specifically, the bill encourages the SBA to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland. For those companies identified, the SBA is encouraged to:

- Notify the company that the SBA supports the MacBride Principles;
- Inquire regarding actions taken by the company in support of the MacBride Principles;
- Encourage the company that has not adopted the MacBride Principles to make all lawful efforts to implement similar fair employment practices; and
- Support the adoption of the MacBride Principles in exercising its proxy voting authority.

The bill provides that the SBA is not liable for, and a cause of action does not arise from, any action or inaction by the SBA in the administration of these provisions.

Also, the bill deletes one of the conditions that trigger the expiration of the SBA's duty to scrutinize companies and to assemble the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. The SBA will no longer be required to consider statements from the United States Congress or the President expressed in legislation, executive order, or written certification from the President to Congress, that mandatory divestment of companies with scrutinized business operations in Iran interfere with the conduct of U.S. foreign policy. The State Board of Administration must monitor certain events and report occurrence of these events to its trustees.

The bill clarifies the duties of the SBA relating to:

- The creation and maintenance of the various lists of scrutinized companies;
- The divestment of certain investments relating to those scrutinized companies; and
- The reporting of the various lists of scrutinized companies and specified criteria of the Florida Retirement System.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 33-0; House 113-1

Committee on Governmental Oversight and Accountability

SB 7030 — OGSR/Competitive Solicitation or Negotiation Strategies

by Governmental Oversight and Accountability Committee

This bill (Chapter 2016-49, L.O.F.) continues the public records and public meetings exemptions used by governmental entities during competitive solicitations by removing the October 2, 2016, repeal date in each law. This bill is the result of an Open Government Sunset Review (OGSR) by the Governmental Oversight and Accountability Committee of a public records exemption in s. 119.071(1)(b), F.S., and a public meetings and records exemption in s. 286.0113(2), F.S.

Section 119.071(1)(b), F.S., exempts from public disclosure sealed responses to a competitive solicitation. Vendors' sealed responses are exempt until a governmental entity notices its intended decision or 30 days after the governmental entity unseals the responses. Sealed responses to a competitive solicitation may be exempt under certain circumstances if a competitive solicitation is withdrawn and reissued; however, such records remain exempt for no longer than 12 months after the governmental entity rejects the responses to the initial competitive solicitation.

A governmental entity's negotiation team's strategy meetings and its team meetings with vendors may be closed to the public, pursuant to s. 286.0113(2), F.S. Transcripts of these meetings and any records presented during such meetings are exempt from public disclosure. All meeting records become public when the governmental entity notices its intended decision or 30 days after the governmental entity unseals the vendors' responses. If a competitive solicitation is withdrawn and reissued, the meeting records remain exempt under certain circumstances; however, the exemption expires 12 months after the governmental entity rejects the vendors' responses to the initial competitive solicitation.

These provisions were approved by the Governor and take effect on October 1, 2016.

Vote: Senate 37-0; House 113-2

Committee on Governmental Oversight and Accountability

HB 7071 — Public Corruption

by Rules, Calendar and Ethics Committee and Rep. Workman and others (CS/SB 582 by Governmental Oversight and Accountability Committee and Senators Gaetz and Altman)

This bill amends the laws relating to public corruption. Specifically, the bill:

- Defines “governmental entity” as an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law;
- Defines “public contractor” as any person who has entered into a contract with a governmental entity or any officer or employee of a person who has entered into a contract with a governmental entity;
- Changes the mens rea element for certain public corruption crimes from “corruptly” to “knowingly and intentionally;”
- Expands the application of the official misconduct law in s. 838.022, F.S., to public contractors; and
- Expands the application of the bid tampering law in s. 838.22, F.S., to public contractors who contract to assist a governmental entity in a competitive procurement.

If approved by the Governor, these provisions take effect October 1, 2016.

Vote: Senate 39-0; House 118-0