Agenda Order

Tab 1	**CS/SB 56** by **BI, Harrell**; (Similar to CS/H 00241) Coverage for Skin Cancer Screenings

Tab 2	**SB 216** by **Hooper (CO-INTRODUCERS) Gruters**; (Identical to H 00113) Tax Collections

Tab 3	**CS/CS/SB 266** by **ATD, TR, Hooper (CO-INTRODUCERS) Gruters**; (Compare to CS/CS/CS/H 00287) Transportation

611078	A	S	RCS	AP, Hooper	Delete L.91 - 686:	02/22 06:01 PM
207404	AA	S	RCS	AP, Hooper	Delete L.47 - 160.	02/22 06:01 PM
647196	A	S	RS	AP, Hooper	btw L.651 - 652:	02/22 06:01 PM
493914	SA	S	RCS	AP, Hooper	btw L.651 - 652:	02/22 06:01 PM

Tab 4	**CS/SB 330** by **AHS, Boyd (CO-INTRODUCERS) Rouson**; (Similar to CS/H 01617) Behavioral Health Teaching Hospitals

Tab 5	**CS/SB 472** by **GO, Brodeur (CO-INTRODUCERS) Rouson**; (Similar to CS/CS/H 00569) Suits Against the Government

274312	A	S	RCS	AP, Brodeur	Delete L.48 - 128:	02/22 05:54 PM

Tab 6	**CS/SB 808** by **CJ, DiCeglie (CO-INTRODUCERS) Stewart, Osgood, Powell, Polsky, Hooper**; (Similar to CS/CS/H 00637) Treatment by a Medical Specialist

566208	A	S	RCS	AP, DiCeglie	Delete L.56:	02/22 05:18 PM

Tab 7	**CS/SB 932** by **AEG, Berman (CO-INTRODUCERS) Davis, Stewart**; (Identical to CS/H 00773) Coverage for Diagnostic and Supplemental Breast Examinations

240690	A	S	L	RCS	AP, Berman	Delete L.25 - 38:	02/22 05:51 PM

Tab 8	**CS/CS/SB 1180** by **AHS, CF, Harrell**; (Compare to CS/CS/CS/H 01065) Substance Abuse Treatment

770068	A	S	RCS	AP, Harrell	Delete L.59 - 179:	02/22 05:35 PM

Tab 9	**CS/SB 1366** by **BI, DiCeglie (CO-INTRODUCERS) Pizzo**; (Similar to CS/CS/H 01029) My Safe Florida Condominium Pilot Program

126388	A	S	RCS	AP, DiCeglie	Delete L.67 - 295:	02/22 12:16 PM

Tab 10	**CS/HJR 7017** by **SAC, WMC, Buchanan (CO-INTRODUCERS) Garcia, Melo**; Annual Adjustment to Homestead Exemption Value

Tab 11	**CS/HB 7019** by **SAC, WMC, Buchanan (CO-INTRODUCERS) Garcia, Melo**; Exemption of Homesteads

Tab 12	**SB 7032** by **HE**; (Similar to CS/CS/H 07051) Education

142150	D	S	RS	AP, Grall	Delete everything after	02/22 05:33 PM
625324	SD	S	RCS	AP, Grall	Delete everything after	02/22 05:33 PM

Tab 13	**SB 7048** by **ED**; (Identical to CS/CS/H 01403) Education

Tab 14	**SB 7054** by **CA**; (Similar to H 07069) Private Activity Bonds

531206	A	S	RCS	AP, Calatayud	Delete L.658 - 673:	02/22 05:26 PM

Tab 15	**SPB 7080** by **AP**; Trust Funds/Indian Gaming Revenue Clearing Trust Fund/Department of Financial Services

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Broxson, Chair
Senator Rouson, Vice Chair

MEETING DATE: Thursday, February 22, 2024
TIME: 12:00 noon—5:00 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Building

MEMBERS: Senator Broxson, Chair; Senator Rouson, Vice Chair; Senators Avila, Baxley, Book, Bradley, Brodeur, Burgess, Davis, Grall, Gruters, Harrell, Hooper, Ingoglia, Martin, Perry, Pizzo, Polsky, and Powell

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 56** Banking and Insurance / Harrell (Similar CS/H 241)	Coverage for Skin Cancer Screenings; Requiring the Department of Management Services to provide coverage and payment through state employee group health insurance contracts for certain annual skin cancer screenings, without imposing a cost-sharing requirement; specifying a requirement for and a restriction on payments for such screenings, etc. BI 01/22/2024 Fav/CS AEG 02/13/2024 Favorable AP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0
2	**SB 216** Hooper (Identical H 113)	Tax Collections; Deleting a specified processing fee; revising information to be included in a certain report; revising the calculation of interest for canceled tax deed applications, etc. CA 01/09/2024 Favorable FT 02/08/2024 Favorable AP 02/22/2024 Favorable	Favorable Yeas 15 Nays 0
3	**CS/CS/SB 266** Appropriations Committee on Transportation, Tourism, and Economic Development / Transportation / Hooper (Compare CS/CS/H 287)	Transportation; Prohibiting the Department of Transportation from annually committing more than a certain percentage of revenues derived from state fuel taxes and motor vehicle license-related fees to public transit projects; authorizing the department to enter into comprehensive agreements with private entities or the consortia thereof for the building, operation, ownership, or financing of transportation facilities; prohibiting a local governmental entity from adopting certain standards or specifications concerning asphalt pavement material; requiring the department to receive three letters of interest before proceeding with requests for proposals for certain contracts, etc. TR 01/17/2024 Fav/CS ATD 02/08/2024 Fav/CS AP 02/22/2024 Fav/CS	Fav/CS Yeas 10 Nays 3

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 330** Appropriations Committee on Health and Human Services / Boyd (Compare H 1617)	Behavioral Health Teaching Hospitals; Creating part VI of ch. 395, F.S., entitled "Behavioral Health Teaching Hospitals"; defining the terms "agency" and "behavioral health teaching hospital"; specifying criteria that a hospital must meet to receive designation as a behavioral health teaching hospital; establishing the Florida Center for Behavioral Health Workforce within the Louis de la Parte Florida Mental Health Institute for a specified purpose, etc. AHS 02/13/2024 Fav/CS AP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0
5	**CS/SB 472** Governmental Oversight and Accountability / Brodeur (Similar CS/CS/H 569)	Suits Against the Government; Abolishing the common-law doctrine of home venue privilege with respect to action against the state; increasing the statutory limits on liability for tort claims against the state and its agencies and subdivisions; prohibiting a party from lobbying against any agreed upon settlement brought to the Legislature as a claim bill; requiring the Department of Financial Services to adjust the limitations on tort liability every 5 years after a specified date, etc. GO 01/29/2024 Fav/CS AP 02/22/2024 Fav/CS RC	Fav/CS Yeas 15 Nays 0
6	**CS/SB 808** Criminal Justice / DiCeglie (Identical CS/H 637)	Treatment by a Medical Specialist; Authorizing firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment by a medical specialist for certain conditions under certain circumstances; requiring firefighters, law enforcement officers, correctional officers, and correctional probation officers to notify certain entities of their selection of a medical specialist, etc. CJ 01/23/2024 Fav/CS AEG 02/13/2024 Favorable AP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0
7	**CS/SB 932** Appropriations Committee on Agriculture, Environment, and General Government / Berman (Identical CS/H 773, Compare S 132)	Coverage for Diagnostic and Supplemental Breast Examinations; Prohibiting the state group insurance program from imposing on an enrollee any cost-sharing requirement with respect to coverage for diagnostic breast examinations and supplemental breast examinations, etc. BI 01/29/2024 Favorable AEG 02/13/2024 Fav/CS AP 02/22/2024 Fav/CS	Fav/CS Yeas 14 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**CS/CS/SB 1180** Appropriations Committee on Health and Human Services / Children, Families, and Elder Affairs / Harrell (Compare CS/CS/H 1065, H 1583, CS/S 1636)	Substance Abuse Treatment; Providing the levels of care at certified recovery residences and their respective levels of care for residents; defining the term "community housing"; extending the deadline for certified recovery residences to retain a replacement for a certified recovery residence administrator who has been removed from his or her position; authorizing certain Level IV certified recovery residences owned or controlled by a licensed service provider and managed by a certified recovery residence administrator approved for a specified number of residents to manage a specified greater number of residents, provided that certain criteria are met, etc. CF 02/06/2024 Fav/CS AHS 02/13/2024 Fav/CS AP 02/22/2024 Fav/CS	Fav/CS Yeas 15 Nays 0
9	**CS/SB 1366** Banking and Insurance / DiCeglie (Similar CS/CS/H 1029)	My Safe Florida Condominium Pilot Program; Establishing the My Safe Florida Condominium Pilot Program within the Department of Financial Services; providing requirements for associations and unit owners to participate in the pilot program; requiring the department to contract with specified entities for certain inspections; providing requirements for hurricane mitigation inspectors and inspections, etc. BI 02/06/2024 Fav/CS AP 02/22/2024 Fav/CS	Fav/CS Yeas 15 Nays 0
10	**CS/HJR 7017** State Affairs Committee / Ways & Means Committee / Buchanan (Linked CS/H 7019)	Annual Adjustment to Homestead Exemption Value; Proposes amendment to State Constitution to require an annual adjustment for inflation to the value of current or future homestead exemptions that apply solely to levies other than school district levies & for which every person who has legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another person legally or naturally dependent upon the owner is eligible. AP 02/22/2024 Favorable	Favorable Yeas 9 Nays 5
11	**CS/HB 7019** State Affairs Committee / Ways & Means Committee / Buchanan (Linked CS/HJR 7017)	Exemption of Homesteads; Requires value of homestead exemption be adjusted annually; requiring Legislature appropriate funds for specified purpose; require funds be distributed in specified manner; requires specified counties provide certain documentation. AP 02/22/2024 Favorable	Favorable Yeas 9 Nays 5

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	**SB 7032** Education Postsecondary (Similar CS/CS/H 7051, Compare S 2516)	Education; Requiring district school boards to notify all candidates for the high school equivalency diploma of adult secondary and postsecondary education options; providing that high school students enrolled in the GATE Program are not included in a high school's graduation rate; creating the GATE Scholarship Program; creating the GATE Program Student Success Incentive Fund, etc. AP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0
13	**SB 7048** Education Pre-K -12 (Identical CS/CS/H 1403, Compare CS/H 7025, S 1444)	Education; Expanding the credit contributions for eligible nonprofit scholarship-funding organizations; revising eligibility requirements for the Family Empowerment Scholarship Program; revising eligibility requirements for the Florida Tax Credit Scholarship Program; revising requirements for the Hope Scholarship Program; requiring the Florida Center for Students with Unique Abilities to develop specified purchasing guidelines by a specified date and annually revise such guidelines, etc. AP 02/22/2024 Favorable	Favorable Yeas 15 Nays 0
14	**SB 7054** Community Affairs (Similar H 7069)	Private Activity Bonds; Requiring the Division of Bond Finance of the State Board of Administration to annually determine the state volume limitation and publicize such information; repealing provisions relating to procedures for obtaining allocations, requirements, limitations on allocations, and issuance reports; establishing procedures for the issuance of private activity bonds; providing requirements for notices of intent to issue private activity bonds, etc. AP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0
	Consideration of proposed bill:		
15	**SPB 7080**	Trust Funds/Indian Gaming Revenue Clearing Trust Fund/Department of Financial Services; Creating the Indian Gaming Revenue Clearing Trust Fund within the Department of Financial Services; providing that the trust fund is exempt from a certain service charge; exempting the trust fund from certain termination provisions, etc.	Submitted and Reported Favorably as Committee Bill Yeas 15 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 Appropriations

BILL:	CS/SB 56
INTRODUCER:	Banking and Insurance Committee and Senator Harrell
SUBJECT:	Coverage for Skin Cancer Screenings
DATE:	February 21, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Fav/CS**
2.	Sanders	Betta	AEG	**Favorable**
3.	Sanders	Sadberry	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 56 requires all contracted state group health insurance plans and health maintenance organizations (HMO) to cover and pay for annual skin cancer screenings performed by a Florida licensed dermatologist. The bill prohibits a state group health insurance plan or HMO from imposing any cost-sharing requirement for the annual skin cancer screening, including a deductible, copayment, coinsurance, or any other type of cost-sharing. The provider conducting the screening must be a dermatologist licensed as a medical doctor under chapter 458, F.S., or an osteopathic physician licensed under chapter 459, F.S., or an advanced practice registered nurse licensed under chapter 464, F.S., who is under the supervision of a dermatologist licensed under chapters 458 F.S. or 459 F.S.

The bill requires payment for such annual skin cancer screenings to be consistent with the state group health insurance plans' or HMO's payments for other preventive screenings. Additionally, the bill prohibits all contracted state group health insurance plans or HMOs from bundling a payment for a skin cancer screening with any other procedure or service, including an evaluation or management visit, which is performed during the same office visit or subsequent office visit.

The bill has a negative impact to state revenues and expenditures. The Division of State Group Insurance within the Department of Management Services (DMS) estimates the bill will result in

an annual increase of $416,503[1] to the state employee group health plan. See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Background

Skin cancer is the most common cancer in the United States.[2] Approximately one in five Americans will develop skin cancer in their lifetime.[3] It is estimated approximately 9,500 people in the U.S. are diagnosed with skin cancer every day.[4] Nearly 20 Americans die from melanoma every day.[5] Cancer is the second most common cause of death in the United States after heart disease and in 2023, a total of 1.9 million new cancer cases were diagnosed. Of the estimated new cancer cases in the United States, five percent were skin cancer cases.[6] It is estimated 8,290 people will die of melanoma in 2024.[7]

Basal cell and squamous cell cancers are called nonmelanoma skin cancer, and are the most common of skin cancers. Melanoma accounts for about one percent of skin cancers but causes a large majority of skin cancer deaths.[8] The long-term survival rate of those diagnosed with skin cancer after five years is high at 93.5 percent[9] and more than 1.4 million people were identified in the United States in 2020 as living with this cancer.[10] The more localized the cancer is when it is found, meaning the cancer has been confined to a primary spot, the higher the survival rate is

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[1] Telephone call from Jake Holmgreen, Deputy Director of Legislative Affairs, Department of Management Services, to Niki Davis, Legislative Analyst, Senate Committee on Agriculture, Environment, and General Government (Feb. 1, 2024).
[2] Guy GP, Thomas CC, et al., *Vital signs: Melanoma incidence and mortality trends and projections – United States, 1982-2030*, MMWR Morb Mortal Wkly Rep. 2015; 64(21):591-596, National Library of Medicine, *available at* https://pubmed.ncbi.nlm.nih.gov/26042651/ (last visited Jan. 29, 2024).
[3] Sterns RS, *Prevalence of a history of skin cancer in 2007: results of an incidence-based model*, Arch Dermatol, 2010 Mar.; 146(3):279-282, National Library of Medicine, available at https://pubmed.ncbi.nlm.nih.gov/26042651/ (last visited Jan. 29, 2024).
[4] Rogers HW, Weinstock MA, et al., *Incidence estimate of nonmelanoma skin cancer (keratinocyte carcinomas) in the US population*, JAMA Dermatol, April 30, 2015, *available at* https://pubmed.ncbi.nlm.nih.gov/25928283/ (last visited Jan. 29, 2024).
[5] American Academy of Dermatology, *Don't let skin cancer sneak up on you*, https://www.aad.org/public/diseases/skin-cancer/find/at-risk#:~:text=is%20highly%20curable.-,Melanoma,die%20from%20melanoma%20every%20day (last visited Jan 29, 2024). "Melanoma is the most deadly form of skin cancer and may suddenly appear without warning, but can also develop from or near an existing mole. Melanoma is most common on the upper back, torso, lower legs, head and neck. If detected early and treated properly, melanoma is highly treatable."
[6] American Cancer Society, Journals, CA: *A Cancer Journal for Clinicians, Cancer statistics, 2023* (last visited Jan. 29, 2024).
[7] Skin Cancer Foundation, *Skin Cancer Facts & Statistics, What You Need to Know: Melanoma*, https://www.skincancer.org/skin-cancer-information/skin-cancer-facts/ (last visited Jan. 29, 2024).
[8] American Cancer Society, *Key Statistics for Melanoma Skin Cancer, available at* https://www.cancer.org/cancer/types/melanoma-skin-cancer/about/key-statistics.html#:~:text=Having%20lighter%20skin%20color%20is,in%20200)%20for%20Hispanic%20people (last visited Jan. 29, 2024).
[9] National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin, available at* https://seer.cancer.gov/statfacts/html/melan.html (last visited Jan. 29, 2024).
[10] National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin, Prevalence of Cancer, available at* https://seer.cancer.gov/statfacts/html/melan.html (last visited Jan. 29, 2024).

compared to a cancer that has spread to the regional lymph nodes or metastasized to another region of the body.[11]

For Florida, the estimated new cases of melanoma skin cancer for 2024 is 9,880 with projected deaths of 790 individuals.[12] Of the top five cities in the U.S. for skin cancer prevalence rate in 2018, four were found in Florida – Sarasota-Bradenton (10 percent), Fort Pierce-Port St. Lucie (9.5 percent), West Palm Beach-Boca Raton (9.5 percent), and Melbourne-Titusville-Palm Bay (8.6 percent).[13]

Skin Cancer Screening

During a skin cancer screening test, a doctor or nurse checks a patient's skin for moles, birthmarks, or other pigmented areas that may be abnormal in color, size, shape, or texture.[14] If an area looks abnormal, a biopsy of the area may be done where the health care provider may remove as much of the suspicious tissue as possible with a local excision.[15] A pathologist reviews this tissue under a microscope to check for cancer cells.[16]

In Illinois, where preventative skin cancer screenings are covered by health insurance companies, a large dermatology practice reports a 99.15 percent (stage 0-2) early melanoma detection rate compared to the industry average early melanoma detection rate of 83.0 percent.[17] This results in a 97.9 percent five-year melanoma survival rate, compared to the industry-average 87.0 percent five-year melanoma survival rate.[18]

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.[19] As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[20] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer

[11] National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin, Survival by State, available at* https://seer.cancer.gov/statfacts/html/melan.html (last visited Jan. 29, 2024).
[12] American Cancer Society, Cancer Statistics Center, *Explore Cancer Statistics, 2024 Estimated New Cancer Cases and Deaths By State: Melanoma of the skin (sexes combined, Florida) (data run on Jan. 29, 2024) available at* Cancer Statistics Center - American Cancer Society (last visited Jan. 29, 2024).
[13] Blue Cross Blue Shield, National Labor Force, LABORMatters, *The Health of America Report*, July 2018, at 4, https://www.bcbs.com/sites/default/files/file-attachments/page/Labor-Matters-July2018.pdf (last visited Jan. 29, 2024)
[14] National Cancer Institute, *Skin Cancer Screening (PDQ) – Patient Version, available at* Skin Cancer Screening - NCI (last visited Jan. 29, 2024).
[15] *Id.*
[16] *Id.*
[17] Almutairi, et al., *Economic Evaluation Patients with Advanced Unresectable Melanoma versus Economic Evaluation Talimogene Laherparepvec Plus Ipilimumab Combination Therapy vs Ipilimumab Monotherapy in Patients With Advanced Unresectable Melanoma*, JAMA Dermatology, January 2019; 155(1):22-28, *available at* https://pubmed.ncbi.nlm.nih.gov/30477000/ (last visited Jan. 29, 2024).
[18] *Id.*
[19] Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the Financial Services Commission appoints the commissioner of the Office of Insurance Regulation.
[20] Section 624.418, F.S.

that holds a certificate of authority to transact insurance business in Florida.[21] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[22] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.[23]

The Agency for Health Care Administration (AHCA) regulates the quality of care by health maintenance organizations (HMO) under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.[24] As part of the certificate process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.[25]

Patient Protection and Affordable Care Act

Essential Benefits

Under the Patient Protection and Affordable Care Act (PPACA),[26] all non-grandfathered health plans in the non-group and small-group private health insurance markets must offer a core package of health care services known as the essential health benefits (EHBs). While not specifying the benefits within the EHB, the PPACA provides 10 categories of benefits and services which must be covered and then required the Secretary of Health and Human Services to further define the EHB.[27]

The 10 EHB categories are:
- Ambulatory patient services;
- Emergency services;
- Hospitalization;
- Maternity and newborn care;
- Mental health and substance use disorder services, including behavioral health treatment;
- Prescription drugs;
- Rehabilitation and habilitation services;
- Laboratory services;
- Preventive and wellness services and chronic disease management; and
- Pediatric services, including oral and vision care.

The PPACA requires each state to select its own reference benchmark plan as its EHB benchmark plan which all other health plans in the state use as a model. Beginning in 2020, states could choose a new EHB plan using one of three options, including: selecting another's state benchmark plan; replacing one or more categories of EHB benefits; or selecting a set of

[21] Section 624.316(1)(a), F.S.
[22] Section 624.318(2), F.S.
[23] Section 624.3161, F.S.
[24] Section 641.21(1)(1), F.S.
[25] Section 641.495, F.S.
[26] Affordable Care Act, (March 23, 2010), P.L. 111-141, as amended.
[27] 45 CFR 156.100. et seq.

benefits that would become the State's EHB benchmark plan.[28] Florida selected its EHB plan before 2012 and has not modified that selection.[29]

State Insurance Coverage Mandates

If a state elects to amend its benchmark plan later by imposing a statutory mandate to cover a new service, the PPACA requires the state to pay for the additional costs of that mandate for the entire industry.[30] According to a recent study, only two states have chosen to enhance their EHB benchmark plans and have incurred the additional benefits penalty: Utah and Massachusetts.[31] Utah, for example, added a coverage mandate for applied behavioral analysis therapy for individuals with autism in 2014 and subsequently implemented a state rule to allow the state to reimburse the estimated five affected carriers for the autism claims with state funds.[32]

Annually, the federal Centers for Medicare and Medicaid Services issues a *Notice of Benefit and Payment Parameters* (NBPP) for the next plan year. The NBPP typically includes minor updates to coverage standards, clarifications to prior policy statements, and announcements relating to any major process changes. For the 2025 Plan Year which begins on January 1, 2025, the NBPP proposes to codify that any new, additional benefits included in a state's EHB plan would *not* be considered an addition to the state's EHB, and therefore not subject to the PPACA provision requiring the state to defray the cost for the industry.[33] This change is part of a proposed rule which has not yet been finalized, so it is unclear whether the PPACA state defrayal provision will apply in future.[34]

State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) administers

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[28] Centers for Medicare and Medicare Services, Marketplace & Private Insurance, *Information on Essential Health Benefits (EHB) Benchmark Plans, available at* https://www.cms.gov/marketplace/resources/data/essential-health-benefits (last visited Jan. 29, 2024).

[29] Centers for Medicare and Medicaid Services, *Information on Essential Health Benefits (EHB) Benchmark Plans,* Florida State Required Benefits, *available at* https://downloads.cms.gov/cciio/State%20Required%20Benefits_FL.pdf (last visited on Jan. 29, 2024).

[30] 42 U.S.C. section 1803; *See* U.S. Preventive Services Task Force, *Skin Cancer Prevention: Behavioral Counseling (March 20, 2018) available at* https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/skin-cancer-counseling (last visited Jan. 29, 2024).

[31] California Health Benefits Program, (CHBRP) (August 2023), *Issue Brief: Essential Health Benefits: Exceeding EHBs and the Defrayal Requirement,* p.2. *available at https://www.chbrp.org/sites/default/files/2023-08/EHB_Defrayal_FINAL.pdf* (last visited Jan. 29, 2024).

[32] Utah Admin. Code R590-283 – Notice of Proposed Rule (November 1, 2019), *available at* DAR File No. 44181 (Rule R590-283), 2019-22 Utah Bull. (11/15/2019)DAR File No. 44181 (Rule R590-283), 2019-22 Utah Bull. (11/15/2019) (last visited Jan. 24, 2024).

[33] Centers for Medicare and Medicaid Services, *HHS Notice of Benefit and Payment Parameters for 2025 Proposed Rule (Nov. 15, 2023), available at* https://www.cms.gov/newsroom/fact-sheets/hhs-notice-benefit-and-payment-parameters-2025-proposed-rule (last visited Jan. 29, 2024).

[34] Patient Protection and Affordable Care Act, *HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program, and Basic Health Program*, 88 Fed. Reg. 82510, 82553, 82630-82631, 82649, 82653-82654 (Nov. 24, 2023)(to be codified at section 45 CFR 155.170 and 156.11), *available at* https://www.cms.gov/files/document/cms-9895-p-patient-protection-final.pdf (last visited Jan. 29, 2024).

the state group health insurance program (Program).[35] The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.[36] To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s. 110.12315, F.S.

The state employee health plan contracts currently cover dermatology visits and skin cancer screenings as a specialist office visit. Depending on the plan chosen by the employee, the appropriate out of pocket cost or costs then applies for the specialist office visit.[37]

Legislative Proposals for Mandated Health Benefit Coverage

Any person or organization proposing legislation which would mandate health coverage or the offering of health coverage by an insurance carrier, health care service contractor, or health maintenance organization (HMO) as a component of individual or group policies, must submit to the Agency for Healthcare Administration (AHCA) and the legislative committees having jurisdiction, a report which assesses the social and financial impacts of the proposed coverage.[38] Guidelines for assessing the impact of a proposed mandated or mandatorily offered health coverage, to the extent that information is available, must include:

- To what extent is the treatment or service generally used by a significant portion of the population;
- To what extent is the insurance coverage generally available;
- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment;
- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship;
- The level of public demand for the treatment or service;
- The level of public demand for insurance coverage of the treatment or service;
- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts;
- To what extent will the coverage increase or decrease the cost of the treatment or service;
- To what extent will the coverage increase the appropriate uses of the treatment or service;
- To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service;
- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders; and
- The impact of this coverage on the total cost of health care.[39]

[35] Section 110.123, F.S.
[36] A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.
[37] Department of Management Services, *Senate Bill 56 Agency Bill Analysis* (Jan. 12, 2024) (on file with the Senate Committee on Banking and Insurance).
[38] Section 624.215(2), F.S.
[39] Section 624.215(2)(a)-(l), F.S.

Proponents of the bill submitted a report to the Senate Committee on Banking and Insurance on March 7, 2023, to comply with s. 624.215, F.S., addressing the guidelines for assessing the impact of the proposed annual skin cancer screening mandated benefit, at no cost to the insured.[40]

III. Effect of Proposed Changes:

This bill amends s. 110.12303, F.S., to require, effective January 1, 2025, all contracted state group health insurance plans and HMOs to cover and pay for annual skin cancer screenings performed by a Florida licensed dermatologist. The bill prohibits a contracted state group health insurance plan or HMO from imposing any cost-sharing requirement for the annual skin cancer screening, including a deductible, copayment, coinsurance, or any other type of cost-sharing. The provider conducting the screening must be a dermatologist licensed as a medical doctor under ch. 458, F.S., or an osteopathic physician licensed under ch. 459, F.S., or an advanced practice registered nurse licensed under chapter 464 F.S., who is under the supervision of a dermatologist licensed under ch. 458 or ch. 459, F.S.

The bill requires payment for such annual skin cancer screenings to be consistent with a state group health insurance plan's or HMO's payments for other preventive screenings, as defined by the Current Procedural Terminology (CPT®) code set of the American Medical Association. Lastly, the bill prohibits such insurers and HMOs from bundling a payment for skin cancer screenings with any other procedure or service performed during the same or a subsequent office visit as the screening.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

[40] Florida Academy of Dermatology, *Coverage for Skin Cancer Screenings*, March 2023 (Report submitted pursuant to s. 624.215, F.S.) (on file with the Senate Committee on Banking and Insurance).

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The inclusion of coverage for skin cancer screenings with cost sharing restrictions may positively impact physicians who likely will see an increased demand for their services as well as collateral and ancillary medical supports such as laboratories and diagnostic offices which will be called upon to process additional lab slips, biopsies, and scans.

Contracted state group health insurance plans and HMOs may need to update information technology systems and processes to implement the provision of the bill.

C. Government Sector Impact:

The bill has a negative impact to state revenue and expenditures. The OIR has indicated it may need to update its form review checklists and procedures to incorporate this new requirement for the affected insurers;[41] such changes can be absorbed within existing resources.

The DGSI within the DMS administers the Program. For the state employee group health plan, the DMS has estimated an annual increase of $416,503 for no cost sharing liability in the coverage of annual skin cancer screenings.[42]

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the American Medical Association, CPT terminology is the most widely accepted nomenclature used across the country to report medical, surgical, radiology, laboratory, anesthesiology, genomic sequencing, evaluation and management services under public and private health insurance programs. CPT codes offer doctors and health care professionals a uniform language for coding medical services and procedures to streamline reporting, increase accuracy and efficiency. The CPT Editorial Panel, responsible for maintaining and updating the

[41] Office of Insurance Regulation, *Senate Bill 56 Legislative Bill Analysis* (Nov. 21, 2023) (on file with the Senate Committee on Agriculture, Environment, and General Government).
[42] Telephone call from Jake Holmgreen, Deputy Director of Legislative Affairs, Department of Management Services, to Niki Davis, Legislative Analyst, Senate Committee on Agriculture, Environment, and General Government (Feb. 1, 2024).

CPT code set, meets three times a year to review applications for either new codes or revisions to existing codes.[43]

The DMS has indicated state group health insurance companies currently bundle payments based on the primary codes and there is no CPT code for "skin cancer screenings." As a result, manual review of clinical records to input these changes and to update several systems and processes may be required.[44]

VIII. Statutes Affected:

This bill substantially amends section 110.12303 of the Florida Statutes.

IX. Additional Information:

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

CS by Banking and Insurance on January 22, 2024:
The committee substitute removes the entire substance of the bill and amends s. 110.12303, F.S., to provide that the provisions of the bill as filed apply only to the contracted state group health insurance plans and HMOs.

B. Amendments:

None.

[43] American Medical Association, CPT® overview and code approval, https://www.ama-assn.org/practice-management/cpt/cpt-overview-and-code-approval#:~:text=Code%20applications%20%26%20criteria-,What%20is%20a%20CPT%C2%AE%20code%3F,reporting%2C%20increase%20accuracy%20and%20efficiency. (last visited Jan. 29, 2024).
[44] *Id.*

By the Committee on Banking and Insurance; and Senator Harrell

597-02368-24 202456c1

A bill to be entitled

An act relating to coverage for skin cancer screenings; amending s. 110.12303, F.S.; requiring the Department of Management Services to provide coverage and payment through state employee group health insurance contracts for certain annual skin cancer screenings, without imposing a cost-sharing requirement; specifying a requirement for and a restriction on payments for such screenings; providing an effective date.

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

Section 1. Subsection (5) is added to section 110.12303, Florida Statutes, to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(5)(a) Effective January 1, 2025, the department shall require all contracted state group health insurance plans and HMOs to provide coverage and payment, without imposing a deductible, a copayment, coinsurance, or any other cost-sharing requirement on the covered individual, for annual skin cancer screenings performed by a dermatologist licensed under chapter 458 or chapter 459, or by a physician assistant licensed under chapter 458 or chapter 459 or an advanced practice registered nurse licensed under chapter 464 who is under the supervision of a dermatologist licensed under chapter 458 or chapter 459. Payment for such screenings must be consistent with the manner in which the state group health insurance plan or HMO pays for

Florida Senate - 2024 CS for SB 56

597-02368-24 202456c1

other preventive screenings as provided by the American Medical Association's Current Procedural Terminology code set.

(b) A state group health insurance plan or HMO participating under this section may not bundle a payment for skin cancer screenings performed under this subsection with any other procedure or service, including, but not limited to, an evaluation and management visit that is performed during the same office visit or a subsequent office visit.

Section 2. This act shall take effect July 1, 2024.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Health and Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR GAYLE HARRELL
31st District

February 13, 2024,

Senator Broxson
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Broxson,

I respectfully request that SB 56 –Dental Insurance Claims be placed on the next available agenda for the Committee on Appropriations Meeting.

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

Thank you,

Senator Gayle Harrell
Senate District 31

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:
❒ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
❒ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

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2-22-23
Meeting Date

Agencies
Committee

56
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jarrod Fowler

Phone 850-224-6496

Address [redacted] 1430 Piedmont Dr. E

Email jfowler@flmedical.org

Street

Tallahassee FL 32308

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Florida Medical Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2.22.24
Meeting Date

Appropriations
Committee

56
Bill Number or Topic

Amendment Barcode (if applicable)

Name Damaris Allen, Florida PTA

Phone 407.855.7604

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Street

Email legislation@flpta.org

Orlando, Fl 32809
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

S-001 (08/10/2021)

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 Appropriations

BILL:	SB 216
INTRODUCER:	Senators Hooper and Gruters
SUBJECT:	Tax Collections
DATE:	February 21, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	**Favorable**
2.	Shuler	Khan	FT	**Favorable**
3.	Shuler	Sadberry	AP	**Favorable**

I. Summary:

SB 216 makes various changes to local governments' tax collection administration. The bill:

- Removes a $10 processing fee associated with partial payment of current year taxes;
- Requires that tax collectors include properties subject to federal bankruptcies, properties in which the taxes are below the minimum tax bill, and properties assigned to the list of lands available for taxes in their report on tax collections submitted annually to the board of county commissioners; and
- Clarifies the status of a tax certificate following cancellation of a tax deed application.

The bill takes effect July 1, 2024.

II. Present Situation:

Partial Payment of Current Year Taxes

Each year, property tax bills are mailed in November for assessments made the previous January 1, and payment is due by March 31.[1] Taxes are typically considered delinquent on April 1.[2] At their own discretion, a tax collector may accept one or more partial payments of current year taxes and assessments on real or tangible personal property prior to the date of delinquency.[3] Each partial payment is credited to the associated tax account, less a $10 processing fee.[4] Partial payments are not eligible for certain discounts, and do not affect the property owner's responsibility to pay taxes in full by their delinquency date.[5]

[1] Sections 197.322 and 197.333, F.S.
[2] If the tax notice is mailed late, the date of delinquency is 60 days after mailing of the notice. Section 197.333.
[3] Section 197.374(2), F.S.
[4] Section 197.374(3), F.S.
[5] Section 197.374, F.S.

The Florida Tax Collectors Association has indicated that, following Hurricane Michael (October 2018) tax collectors began waiving the $10 fee in an effort to help taxpayers affected by natural disasters.[6]

Tax Certificate Sales

A tax certificate is a financial instrument representing the value of unpaid delinquent taxes and assessments, with associated costs and charges, issued against a parcel and sold thereafter at auction.[7] The tax certificate sale serves to reduce interest on unpaid taxes, from 18 percent to as low as 5 percent, in exchange for the local government collecting its expected tax roll.[8] The tax certificate is held as a lien on the property in the amount of unpaid taxes due, and is fulfilled when the unpaid taxes, assessments, costs, charges, and interest are paid by the person redeeming the tax certificate.[9] Two years after a tax certificate is sold, the certificate holder may apply for a tax deed.[10] A tax certificate expires after 7 years, unless it is subject to a tax deed application or other administrative or legal proceeding such as bankruptcy.[11]

Errors and Insolvencies Report

Within 60 days after the tax certificate sale is adjourned, tax collectors are required to submit an errors and insolvencies report to the board of county commissioners.[12] This report must show the discounts, errors, double assessments, and insolvencies relating to tax collections in which credit is to be given.[13] This report serves to explain discrepancies between expected and actual tax revenue.

Tax Deed Application

Two years after the April 1 of the year of the issuance of a tax certificate, the certificateholder may apply for a tax deed.[14] This brings into motion a process through which the property will ultimately be sold by the county in order to cover unpaid taxes.[15] Applying for a tax deed requires the certificateholder to pay to the tax collector all amounts required for redemption or purchase of all outstanding tax certificates, as a new certificate can be produced for each year's unpaid taxes, alongside associated costs, taxes, and interest, and any outstanding delinquent or current year taxes.[16] This application therefore redeems or collects tax certificates other than the one on which the tax deed application was based, and the property comes subject to a single tax certificate lien.

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[6] OFF. OF ECON. & DEMOGRAPHIC RSCH., *Revenue Estimating Conference Impact Results: SB216/ HB113*, 29-30 (Nov. 17, 2023), *available at* http://edr.state.fl.us/content/conferences/revenueimpact/archives/2024/_pdf/impact1117.pdf (last visited Jan. 29, 2024).
[7] Section 197.102(1)(f), F.S.
[8] *See generally* sections 197.172, 197.432, and 197.472, F.S.
[9] Sections 197.432 and 197.472, F.S.
[10] Section 197.502(1), F.S.
[11] Section 197.482, F.S.
[12] Section 197.492, F.S.
[13] *Id.*
[14] Section 197.502(1), F.S.
[15] *See generally* section 197.502, F.S.
[16] Section 197.502(2), F.S.

After application for tax deed, the county clerk notifies the applicant of the costs required to bring the property to sale. These costs include property information searches, mailing and advertising costs, and resale costs. If the certificateholder-applicant fails to pay these costs within 30 days after notice from the clerk, the tax collector must cancel the tax deed application.[17] All taxes and costs associated with the canceled tax deed application earn interest at the bid rate of the certificate on which the tax deed application was based, and the property is listed as land "available for taxes," and taxed normally thereafter.[18]

III. Effect of Proposed Changes:

Section 1 amends s. 197.374, F.S., to remove a $10 processing fee associated with partial payment of current year taxes.

Section 2 amends s. 197.492, F.S., to require that tax collectors include properties subject to federal bankruptcies, properties in which the taxes are below the minimum tax bill, and properties assigned to the list of lands available for taxes in their report on tax collections submitted annually to the board of county commissioners.

Section 3 amends s. 197.502, F.S., to clarify that, upon cancellation of a tax deed application due to failure to pay costs to bring the property to sale, the tax certificate on which the canceled tax deed application was based shall earn interest at the original bid rate of that certificate and remain inclusive of other taxes and costs paid associated with bringing the application. This change appears clarifying and not substantive in nature.

Section 4 provides that the bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law, if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. The mandate requirement does not apply to laws having an insignificant impact, which for Fiscal Year 2024-2025 is forecast at approximately $2.3 million.

The Revenue Estimating Conference estimated that the bill provisions will have a negative indeterminate impact on local government revenues in Fiscal Year 2024-2025.[19] Therefore, the mandates provision likely does not apply.

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[17] *Id.*
[18] *Id.*
[19] OFF. OF ECON. & DEMOGRAPHIC RSCH., *Revenue Estimating Conference Impact Results: SB216/ HB113*, 29-30 (Nov. 17, 2023), *available at* http://edr.state.fl.us/content/conferences/revenueimpact/archives/2024/_pdf/impact1117.pdf (last visited Jan. 29, 2024).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires that legislation that increases or creates taxes or fees be passed by a two-thirds vote of each chamber in a bill with no other subject. The bill does not increase or create new taxes or fees. Thus, the constitutional requirements related to new or increased taxes or fees do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Committee adopted a negative indeterminate impact based on the permanent removal of fees for partial payment of current year taxes.[20]

B. Private Sector Impact:

Parties will permanently cease payment of the $10 processing fee associated with partial payment of current year taxes.

C. Government Sector Impact:

Local governments will permanently cease collection of the $10 processing fee associated with partial payment of current year taxes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 197.374, 197.492, and 197.502.

[20] *Id.*

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Hooper

21-00409-24 2024216__

A bill to be entitled

An act relating to tax collections; amending s. 197.374, F.S.; deleting a specified processing fee; amending s. 197.492, F.S.; revising information to be included in a certain report; amending s. 197.502, F.S.; revising the calculation of interest for canceled tax deed applications; providing an effective date.

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

Section 1. Subsection (3) of section 197.374, Florida Statutes, is amended to read:

197.374 Partial payment of current year taxes.—

(3) Each partial payment~~, less a $10 processing fee payable to the tax collector,~~ shall be credited to the tax account. A partial payment is not eligible for any applicable discount set forth in s. 197.162. The taxpayer has the responsibility to ensure that the remaining amount due is paid.

Section 2. Section 197.492, Florida Statutes, is amended to read:

197.492 Errors and insolvencies report.—

(1) On or before the 60th day after the tax certificate sale is adjourned, the tax collector shall certify to the board of county commissioners a report showing the following situations for which credit is to be given:

(a) Discounts.~~,~~

(b) Errors.~~,~~

(c) Double assessments.~~, and~~

21-00409-24 2024216__

(d) Insolvencies.

(e) Federal bankruptcies.

(f) Properties in which the taxes are below the minimum tax bill under s. 197.212.

(g) Properties assigned to the list of lands available for taxes. ~~relating to tax collections for which credit is to be given, including in every case except discounts,~~

(2) The report must include the names of the parties on whose account the credit is to be allowed, excluding credits given for discounts.

(3) The report may be submitted in an electronic format.

Section 3. Subsection (2) of section 197.502, Florida Statutes, is amended to read:

197.502 Application for obtaining tax deed by holder of tax sale certificate; fees.—

(2) A certificateholder, other than the county, who applies for a tax deed shall pay the tax collector at the time of application all amounts required for redemption or purchase of all other outstanding tax certificates, plus interest, any omitted taxes, plus interest, any delinquent taxes, plus interest, and current taxes, if due, covering the property. In addition, the certificateholder shall pay the costs required to bring the property to sale as provided in ss. 197.532 and 197.542, including property information searches, and mailing costs, as well as the costs of resale, if applicable. If the certificateholder fails to pay the costs to bring the property to sale within 30 days after notice from the clerk, the tax collector shall cancel the tax deed application. The tax certificate on which the ~~all taxes and costs associated with a~~

canceled tax deed application was based shall earn interest at the original bid rate of the tax certificate and remain inclusive of all tax years paid and costs associated with ~~on which~~ the tax deed application ~~was based~~. Failure to pay the costs of resale, if applicable, within 30 days after notice from the clerk shall result in the clerk's entering the land on a list entitled "lands available for taxes."

Section 4. This act shall take effect July 1, 2024.

The Florida Senate

Committee Agenda Request

To: Senator Doug Broxson, Chair
Committee on Appropriations

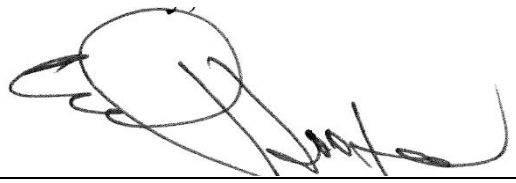
Subject: Committee Agenda Request

Date: February 14, 2024

I respectfully request that **Senate Bill #216**, relating to Tax Collections, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.



Senator Ed Hooper
Florida Senate, District 21

File signed original with committee office

The Florida Senate

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1/22/24
Meeting Date

Appropriations
Committee

216
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mike Moore

Phone 813-777-6171

Address 127 S. Adams
Street

Email moore@thesouthern group.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Pasco County Tax Collector

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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Approps
Committee

216
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tim Qualls

Phone 850-222-7206

Address 216 S. Monroe
Street

Email info@floridataxcollectors.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Florida Tax collectors Assoc.

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations	
BILL:	CS/CS/CS/SB 266
INTRODUCER:	Appropriations Committee; Appropriations Committee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senators Hooper and Gruters
SUBJECT:	Transportation
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	**Fav/CS**
2.	Nortelus	Jerrett	ATD	**Fav/CS**
3.	Nortelus	Sadberry	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 266 contains various provisions relating to transportation. Specifically, the bill:

- Prohibits the Florida Department of Transportation (FDOT), with specified exceptions, from annually committing more than 20 percent of the revenues derived from state motor fuel taxes and motor vehicle license-related fees to public transit projects.
- Increases from five to eight the number of Basic Driver Improvement courses an individual may take during a lifetime.
- Requires the DHSMV to annually review changes made to major traffic laws and to require course content for certain driving courses to be modified accordingly.
- Amends provisions relating to the FDOT's authority regarding public-private partnerships to:
  - Replace the term "public-private partnership agreement" with the term "comprehensive agreement."
  - Require an "independent," instead of an "investment grade," traffic and revenue study prepared by a traffic and revenue expert.
  - Revise the timeframe, based on the project's complexity, during which the FDOT will accept other proposals for the same project as it received an unsolicited public-private partnership proposal.
  - Authorize the FDOT to enter into an interim agreement with a private entity proposing the development or operation of a qualifying project.
  - Limit the FDOT secretary's power, upon written findings that a comprehensive agreement requires a term in excess of 50 years, to authorize a term of up to 75 years to projects partially or completely funded from project user fees.

  - Requires the FDOT to notify the Division of Bond Finance prior to entering into interim or comprehensive agreements.
  - Conforms other statutory provisions referencing to public-private partnership agreements.
- Clarifies that a local governmental entity may not deem reclaimed asphalt pavement as solid waste.
- Authorizes FDOT to allow the issuance of multiple contract performance and payment bonds for phased design-build contracts.
- Provides that a claimant must institute an action against a contractor or surety within 365 days after the performance of the labor or completion of delivery of the materials or supplies.
- Revises a presumption of sole proximate cause on the part of a driver of a vehicle involved in a crash within a construction zone to exclude low-THC cannabis.
- Defines terms and expands contractor limits of liability for personal injury, property damage, or death arising from specified performance of work on a transportation facility or from specified acts or omissions of a third party.
- Revises the application of immunity when the proximate cause of the injury, damage, or death is a latent condition, defect, error, or omission created by the contractor and in the contract documents, or when the proximate cause was the contractor's failure to perform, update, or comply with the maintenance of traffic control plans, instead of with the traffic safety plan. Provides that such provision does not amend workers compensation law or preclude liability due to a contractor's negligence.
- Removes current law providing that in any civil action against the FDOT or its agents, consultants, engineers, or contractors for work performed, if the FDOT and others specified are immune from liability or are not parties to the litigation, they may not be named on the verdict form or be found to be at fault or responsible for the personal injury, property damage, or death.
- Provides requirements for an interlocal agreement regarding a fire station located on Alligator Alley.
- Codifies the FDOT's existing local agency program into Florida law and provides statutory requirements for the program.

The bill has a potential negative fiscal impact on state and local governmental entities. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

For ease of organization and readability, the present situation is discussed below with the effect of proposed changes.

III. Effect of Proposed Changes:

Public Transit Funding from the State Transportation Trust Fund (Section 1)

Present Situation

State Transportation Trust Fund

Section 206.46(1), F.S., creates the State Transportation Trust Fund (STTF) within the Florida Department of Transportation (FDOT). The FDOT, as provided by law, must use all moneys in the STTF for transportation purposes.

Florida law identifies specific funding from moneys in the STTF for certain transportation systems and projects, as well as specific funding programs aimed at transportation projects in rural communities. Section 206.46(3), F.S., requires that the FDOT commit annually a minimum of 15 percent of all state revenues deposited into the STTF annually for public transportation projects.[1]

State Fuel Taxes

Under Florida law, the sale of motor fuel, diesel fuel, and aviation fuel is subject to state taxes. State taxes on fuel include the Highway Fuel Sales Tax, the Off-Highway Fuel Sales Tax, the State Comprehensive Enhanced Transportation System (SCETS) Tax, the Constitutional Fuel Tax, County Fuel Tax, Municipal Fuel Tax, and the Aviation Fuel Tax. Florida law annually indexes the Highway Fuel Sales Tax and the SCETS Tax to the consumer price index.[2] Revenues deposited into the STTF include the Highway Fuel Sales Tax on both motor fuel and diesel fuel, the SCETS Tax on both on motor fuel and diesel fuel, and the Aviation Fuel Tax on aviation fuel.[3]

Motor Vehicle License-Related Fees

The STTF also receives specified revenues from motor-vehicle license fees administered by the Department of Highway Safety and Motor Vehicles. Motor vehicle license-related fees deposited into the STTF include motor vehicle-title related fees,[4] the initial motor vehicle registration fee,[5] an additional surcharge on certain commercial vehicles,[6] a license tax surcharge,[7] and various dispositions of proceeds from motor vehicle license taxes.[8]

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[1] Florida Department of Transportation (FDOT), Agency Analysis of 2024 Senate Bill 266, p.2. January 3, 2024. (On file with Senate Committee on Transportation)
[2] Florida Department of Transportation (FDOT), *Florida Transportation Tax Sources: A Primer 2023*, p 3. https://fdotewp1.dot.state.fl.us/FMSupportApps/Documents/pra/Primer.pdf (last visited January 3, 2024).
[3] *Id*. at 20.
[4] *See* s. 319.32(5), F.S.
[5] *See* s. 320.072(4), F.S. That statute allocates 3.4 percent of the proceeds from the initial motor vehicle registration fee to the New Starts Transit Program.
[6] *See* s. 320.0801(2), F.S.
[7] *See* s. 320.0804, F.S.
[8] *See* s. 320.20, F.S.

Effect of Proposed Changes

The bill creates s. 206.46(6), F.S., prohibiting the FDOT from annually committing to public transit[9] projects in accordance with ch. 341, F.S., more than 20 percent of the revenues derived from state fuel taxes and motor vehicle license-related fees deposited into the STTF. The bill provides the following exceptions:

- A public transit project that uses revenues derived from state fuel taxes and motor vehicle-license related fees to match funds made available by the federal government.
- A public transit project included in the transportation improvement program[10] *and* approved by a supermajority vote of the board of county commissioners or the governing board of a consolidated county where the project is located.
- A bus rapid transit or rail project that would result in maintaining or enhancing the level of service if the State Highway System along the project's corridor o, provided state funds do not exceed 50 percent of the nonfederal share of the costs and the percentage of the local share.

Driver Improvement Course Election (Sections 3 and 14)

Present Situation

Under Florida law, if a person who does not hold a commercial driver license or commercial learner's permit is cited while driving a noncommercial motor vehicle for a noncriminal moving violation, he or she may, in lieu of a court appearance, elect to attend a Department of Highway Safety and Motor Vehicles (DHSMV)-approved basic driver improvement course. This election may only be made once every 12 months and a total of five times within a person's lifetime.[11]

Effect of Proposed Changes

The bill increases from five to eight the number of basic driver improvement course elections that a person has in his or her lifetime.

Additionally, the bill conforms a cross-reference to reflect this increase in s. 627.06501, F.S, relating to insurance discounts for persons completing a driver improvement course.

Course Content for New Driver Education Courses and Driver Improvement Courses (Sections 4 and 5)

Present Situation

Under Florida law, each applicant for a driver license who is not already licensed in another jurisdiction must complete a traffic law and substance abuse education course (TLSAE course), unless the applicant has satisfactorily completed a Department of Education driver education

[9] Section 341.031(6), F.S., defines the term "public transit" to mean the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Public transit specifically includes those forms of transportation commonly known as "paratransit."

[10] Metropolitan planning organizations develop transportation improvement programs pursuant to s. 339.135(8), F.S.

[11] Section 318.14(9), F.S.

course.[12] The DHSMV approves TLSAE courses, and course materials must be designed to promote safety, education, and driver awareness.[13] Approved TLSAE courses must be updated at the DHSMV's request, and a course provider's failure to do so within 90 days after such request results in the suspension of the course's approval until such time that the updates are submitted to and approved by the DHSMV.[14]

The DHSMV must approve and regulate various driver improvement courses.[15]

In determining whether to approve these courses, the DHSMV must consider course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint, including promoting motorcyclist, bicyclist, and pedestrian safety and risk factors resulting from driver attitude and irresponsible driver behaviors, such as speeding, running red lights and stop signs, and using electronic devices while driving.[16] The DHSMV must set and modify course content requirements to keep current with laws and safety information.[17] The DHSMV may require that approved driver improvement courses listed above be updated, and failure to do so will result in the suspension of the course approval until the course is updated and approved by the DHSMV.[18]

Effect of Proposed Changes

The bill requires the DHSMV to annually review changes made to major traffic laws of this state, including the Move Over Law.[19] The DHSMV must require that course content for the TLSAE course and the basic and advanced driver improvement courses be modified in accordance with changes relevant to the courses.

Public-Private Partnerships (Sections 2, 6, and 13)

Present Situation

Public-private partnerships (P3s) are contractual agreements between a public agency and a private entity that allow for greater private participation in the delivery of projects. For transportation projects, this participation typically involves the private sector taking on additional project risks such as design, construction, finance, long-term operation, and traffic revenue.[20]

Section 334.30, F.S., authorizes the FDOT to enter into P3 agreements for the building, operation, ownership or financing of transportation facilities. The FDOT's P3 transportation

[12] Section 322.095(1), F.S.
[13] Section 322.095(2), F.S.
[14] Section 322.095(7), F.S.
[15] Department of Highway Safety and Motor Vehicles, *Driver Improvement Schools,* https://www.flhsmv.gov/driver-licenses-id-cards/education-courses/driver-improvement-schools/#:~:text=All%20first%2Dtime%20drivers%20must,having%20to%20take%20the%20TLSAE (last visited February 22, 2024).
[16] Section 318.1451(2)(a), F.S.
[17] Section 318.1451(6)(d), F.S.
[18] Section 318.1451(6)(b), F.S.
[19] Section 316.126(1)(b), F.S.
[20] U.S. Department of Transportation, Public Private-Partnerships (P3), Overview, https://www.transportation.gov/buildamerica/p3 (last visited January 4, 2024).

facilities include the I-4 Ultimate in Orange and Seminole Counties and the PortMiami tunnel in Miami-Dade County.[21]

Under s. 334.30, F.S., the FDOT may receive or solicit proposals and, with legislative approval evidenced by the project's approval in the FDOT
's work program, enter into P3 agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The FDOT, by rule, must establish an application fee for submitting an unsolicited P3 proposal, which must be sufficient to pay the FDOT's costs to evaluate the proposals.[22] Before approving a P3, the FDOT must determine that the proposed project:

- Is in the public's best interest;
- Would not require state funds to be used unless the project is on the State Highway System;
- Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized in the event of default or cancellation of the agreement;
- Would have adequate safeguards in place to ensure that the FDOT or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and
- Would be owned by the FDOT upon completion or termination of the agreement.

The FDOT must ensure that all reasonable costs to the state, related to transportation facilities that are not part of the State Highway System, are borne by the private entity. The FDOT must also ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity for privately owned transportation facilities. For projects on the State Highway System, the FDOT may use state resources to participate in funding and financing the project as provided for under its enabling legislation.[23]

P3 agreements may authorize the private entity to impose tolls or fares on the transportation facility. Various conditions apply to P3s imposing tolls or fares, including that the P3 agreement must provide that a negotiated portion of revenues from tolls or fares are returned to the FDOT over the life of the agreement. Additionally, the private entity must provide an investment grade traffic and revenue study prepared by an internationally recognized traffic and revenue expert that is accepted by the national bond rating agencies. The private entity must also provide a finance plan identifying the project cost, revenues by source, financing, major assumptions, internal rate of return on private investments, and whether any government funds are required to deliver a cost-feasible project, and a total cash flow analysis beginning with implementation of the project and extending for the term of the agreement.[24]

The FDOT may request proposals for P3 projects from private entities. However, if the FDOT receives an unsolicited P3 proposal, it must publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for two weeks. The notice

[21] FDOT, *Public-Private Partnership Projects,* last updated Aug. 7, 2023, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/comptroller/pfo/p3-summary_8-7-2023.pdf (last visited January 3, 2024).
[22] Rule 14-107.0011, F.S., sets the initial fee for an unsolicited P3 proposal at $50,000.
[23] Section 334.30(1), F.S.
[24] Section 334.30(2), F.S.

must state that the FDOT has received an unsolicited P3 proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. The FDOT must mail a copy of the notice to each local government in the affected area.[25]

P3 agreements are limited to a term of 50 years. Upon making written findings that a P3 agreement requires a term in excess of 50 years, the FDOT's secretary may authorize an agreement for up to 75 years. P3 agreements may not exceed 75 years unless specifically approved by the Legislature. The FDOT must identify each new P3 project with a term exceeding 75 years in the transmittal letter that accompanies the submittal of its tentative work program to the Governor and the Legislature.[26]

In connection with a proposal to finance or refinance a transportation facility using a P3, the FDOT must consult with the Division of Bond Finance.[27] The FDOT must provide the division with the information necessary to provide timely consultation and recommendations. The division may make an independent recommendation to the Executive Office of the Governor.[28]

Effect of Proposed Changes

The bill amends s. 334.30, F.S., regarding P3 transportation facilities. Specifically, the bill:

- Authorizes the FDOT to enter into comprehensive agreements for projects approved by the Legislature as evidenced by approval of the FDOT work program.
- Replaces reference to "public-private partnership agreement with "comprehensive" agreement, effectively deleting the term "public-private partnership agreement" from s. 334.30, F.S.
- Requires a private entity, as part of its proposal, to provide an independent, instead of investment grade, traffic and revenue study prepared by a traffic and revenue expert.
- Requires the independent traffic and revenue study to be accepted by national bond rating agencies before closing on financing that supports the comprehensive agreement for the P3 project.
- Requires the FDOT to publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for 2 weeks stating that the FDOT has received the proposal and will accept, for between 30 and 120 days after the initial date of publication as determined by the FDOT based on the complexity of the project, other proposals for the same project purpose.

The bill authorizes the FDOT before or in connection with the negotiation of a comprehensive agreement, to enter into an interim agreement with the private entity proposing the development or operation of a qualifying project. An interim agreement does not obligate the FDOT to enter into a comprehensive agreement. The interim agreement is discretionary with the parties and is not required on a project for which the parties may proceed directly to a comprehensive agreement without the need for an interim agreement. An interim agreement must be limited to any of the following provisions that:

[25] Section 334.30(6)(a), F.S.
[26] Section 334.30(11), F.S.
[27] The Division of Bond Finance is part of the State Board of Administration.
[28] Section 330.30(13), F.S.

- Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project, including, but not limited to, project planning and development, designing, environmental analysis and mitigation, surveying, other activities concerning any part of the proposed qualifying project, and ascertaining the availability of financing for the proposed facility or facilities.
- Establish the process and timing for the negotiation of the comprehensive agreement.
- Contain such other provisions related to an aspect of the development or operation of a qualifying project which the FDOT and the private entity deem appropriate.

The bill requires that a comprehensive agreement with a term of more than 50 and no more than 75 years for projects that are partially or completely funded from project user fees.

The bill requires the FDOT to notify the Division of Bond Finance before entering into an interim agreement or comprehensive agreement regarding a P3.

According to the FDOT, the interim agreement provision may be most useful for projects without an existing corridor and/or on undeveloped land, which the FDOT has not already performed the project development and environmental (PD&E), design, environmental, and survey. On established corridors, the FDOT typically has significant information and analysis which it has made available as part of other P3 procurements. If the project does not move forward, the FDOT risks having to pay the entity for the work performed.[29]

The bill amends ss. 288.9606 and 339.2825, F.S., making conforming changes regarding P3 agreements.

Use of Recyclable Materials in Construction (Section 7)

Present Situation

Under Florida law, a local governmental entity[30] may not adopt standards or specifications that are contrary to the FDOT's standards or specifications for permissible use of reclaimed asphalt pavement material in construction. For this purpose, such material may not be considered solid waste.[31]

Effect of Proposed Changes

The bill amends s. 336.044(5), F.S., to prohibit a local governmental entity from deeming reclaimed asphalt pavement as solid waste.

[29] *Supra* note 1 at 9.
[30] Section 334.03(13), F.S, defines the term "local governmental entity" to mean a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.
[31] Section 336.044(5), F.S.

Design-Build Contracts (Section 8)

Present Situation

Section 337.11(7), F.S., authorizes the FDOT, if it determines that it is in the public's best interest to enter into design-build contracts by combining the design and construction phase of a project into a single contract, known as a design-build contract.[32]

If the FDOT determines that it is in the public's best interests, it may combine the design and construction phases of a project fully funded in its work program into a single contract, known as a phased design build contract. With such a contract, the FDOT selects the design-build firm in the early stages of a project to ensure that the design-build firm is part of the collaboration and development of the design as part of a step-by-step progression through construction. For phased design-build contracts, selection and award is a two-phase process. For phase one, the FDOT competitively awards the contract to a design-build firm based upon qualifications. For phase two, the design-build firm competitively bids construction trade subcontractor packages and, based upon these bids, negotiates with the FDOT a fixed firm price or guaranteed maximum price that meets the project budget and scope as advertised in the request for qualifications.[33]

Under current law, the FDOT must receive at least three letters of interest in order to proceed with a request for proposals. The FDOT must request proposals from no fewer than three of the design-build firms submitting letters of interest. If a design-build firm withdraws from consideration after the FDOT requests proposals, it may continue if it receives least two proposals.[34]

Effect of Proposed Changes

The bill amends s. 337.11(7)(e), F.S., clarifying that for design-build contracts and phased design-build contracts, the FDOT must receive requests for proposals from no fewer than three of the firms submitting letters of interest. As is current law, if a firm withdraws from consideration after the FDOT requests proposals, the FDOT may continue if it receives least two proposals.

FDOT Contractor Motor Vehicle Registration (Section 8)

Present Situation

Under Ch. 320, F.S., relating to motor vehicle licenses, except as otherwise provided, every owner or person in charge of a motor vehicle that is operated or driven on Florida's roads must register the motor vehicle in Florida.[35]

Section 337.11(13), F.S., requires each contract let by the FDOT for the performance of road or bridge construction or maintenance work to require all motor vehicles that the contractor operates or causes to be operated in Florida to be registered in compliance with ch. 320, F.S.

[32] Section 337.11(7)(a), F.S.
[33] Section 337.11(7)(b), F.S.
[34] Section 337.11(7)(e), F.S.
[35] Section 320.02(1), F.S.

Section 337.141(2), F.S., prohibits any payment to a construction or maintenance contractor until the FDOT receives a notarized affidavit from the contractor that he or she has registered all motor vehicles that he or she operates in Florida in compliance with ch. 320, F.S.

Effect of Proposed Changes

The bill amends s. 337.11(13), F.S., to require that any motor vehicle used in the performance of road or bridge construction or maintenance work for the FDOT to be registered in compliance with ch. 320, F.S. Therefore, the FDOT contracts would no longer require a provision regarding motor vehicle registration. However, the affidavit provision in s. 337.141(2), F.S., remains in law.

Surety Bonds – Phased Design Build Contracts (Section 9)

Present Situation

Under Florida law, if the FDOT determines that it is in the best interests of the public, the FDOT may enter into phased design-build contracts.[36]

Under Florida law, a surety bond is required of the successful bidder of an FDOT construction or maintenance contract in an amount equal to the awarded contract price. However, the FDOT may choose, in its discretion and applicable only to multi-year maintenance contracts, to allow for incremental annual contract bonds that cumulatively total the full, awarded, multiyear contract price.[37]

Effect of Proposed Changes

The bill amends s. 337.18(1), F.S., authorizing the FDOT, in its discretion and applicable only to phased design-build construction contracts, to allow the issuance of multiple contract performance and payment bonds in succession to align with each phase of the contract to meet the bonding requirements.

Surety Bonds for the FDOT Construction and Maintenance Contracts (Section 9)

Present Situation

Under Florida law, when the commencement of work is not essential to the public health, safety, or welfare and flexible start and finish times are used in a given contract, the FDOT may withhold up to ten percent retainage on completed work when the contractor either fails to timely commence work or falls behind in work progress at any point prior to completion of the contract.[38] Retainage is the portion of monies kept aside until a project is completed in all aspects according to the contract.[39]

[36] Section 337.11(7)()b F.S.
[37] Section 337.18(1)(a), F.S.
[38] Section 337.015(5), F.S.
[39] Black's Law Dictionary, 2nd Edition.

Section 337.175, F.S., provides, in part, that the FDOT "may provide in its construction contracts for retaining a portion of the amount due a contractor for work that the contractor has completed, until completion and final acceptance of the project by the department."[40]

Section 337.11(11)(a), F.S., authorizes a *prime contractor,* as opposed to the FDOT, to withhold amounts from progress payments made by the FDOT to a prime contractor pursuant to a prime contractor's agreement with a subcontractor for work completed and materials furnished.

Effect of Proposed Changes

The bill revises certain time frames specified in s. 337.18(1)(d), F.S. The bill provides that an action, except for an action for recovery of retainage, must be instituted by a claimant, against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 365 days after the performance of the labor or completion of delivery of the materials or supplies. An action for recovery of retainage must be instituted against the contractor or the surety within 365 days after final acceptance of the contract work by the FDOT.

According to the FDOT, s. 337.18(1)(d), F.S., requires claimants to institute an action against a contractor or surety within 365 days after the FDOT's final acceptable. While the bill retains this timeline as to an action to recover retainage, it shortens the time to institute an action for payment for labor or materials/supplies by beginning the 365-day timeframe at the time of performance or delivery rather than final acceptance.[41]

Medical Marijuana/Cause of Impairment (Section 10)

Present Situation

Florida law provides a presumption that a driver of a motor vehicle under the influence of specified substances, including alcohol and certain controlled substances, while involved in a crash in a construction zone is the sole proximate cause of his or her own personal injury, property damage, or death. This presumption can be overcome only if the gross negligence or intentional misconduct of the FDOT, or of its agents, consultants, or contractors, was a proximate cause of the driver's injury, damage, or death.[42]

Section 381.986, F.S., authorizes the medical use of marijuana. For purposes of s. 381.986, F.S., the term "low-THC cannabis" is defined to mean a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center.[43]

For purposes of s. 381.986, F.S., the term "medical use" is defined to mean the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician

[40] *Supra* note 1 at 3.
[41] *Id.* at 11
[42] Section 337.195(1), F.S.
[43] Section 381.986(1)(f), F.S.

certification.[44] Among other enumerated items, the term "medical use" does *not* include use or administration of marijuana in a school bus, *a vehicle*, an aircraft, or a motorboat, except for low-THC cannabis not in a form for smoking.[45]

Effect of Proposed Changes

The bill revises the presumption of impairment in s. 337.195(1), F.S., to include being under the influence of medical marijuana, excluding low-THC cannabis.

FDOT Contractor Limits on Liability (Section 10)

Present Situation

Section 337.195, F.S., limits the liability of the FDOT's construction and maintenance contractors performing services to the FDOT under certain circumstances and limits the liability of a person or entity contracting with the FDOT to provide engineering plans for construction or repair of highway, road, street, bridge, or other transportation facility under certain circumstances.

Section 337.195(2), F.S., provides that a contractor who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the FDOT is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the personal injury, property damage, or death, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death.

Section 337.195(2)(a), F.S., provides that a limitation on liability does not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the contract documents; or when the proximate cause of the personal injury, property damage, or death was the contractor's failure to perform, update, or comply with the maintenance of the traffic safety plan as required by the contract documents.

For a person or entity who contracts with the FDOT to prepare or provide engineering plans, s. 337.195(3), F.S., provides that in all cases involving personal injury, property damage, or death, a person or entity who contracts to prepare or provide engineering plans for the construction or repair of a highway, road, street, bridge, or other transportation facility for the FDOT is be presumed to have prepared such engineering plans using the degree of care and skill ordinarily exercised by other engineers in the field under similar conditions and in similar localities and with due regard for acceptable engineering standards and principles if the engineering plans conformed to the FDOT's design standards material to the condition or defect that was the proximate cause of the personal injury, property damage, or death. This presumption can be overcome only upon a showing of the person's or entity's gross negligence in the preparation of the engineering plans and may not be interpreted or construed to alter or affect any claim of the FDOT against such person or entity. This limitation on liability does not apply to any hidden or

[44] Section 381.986(1)(k), F.S.
[45] Section 318.986(1)(k)5.f., F.S.

undiscoverable condition created by the engineer. This does not affect any claim of any entity against such engineer or engineering firm, which claim is associated with such entity's facilities on or in the FDOT's roads or other transportation facilities.

Regarding civil actions against the FDOT or its agents, consultants, engineers, or contractors, section 337.195(4), F.S., provides that in any civil action for death, injury, or damages against the FDOT or its agents, consultants, engineers, or contractors for work performed on a highway, road, street, bridge, or other transportation facility, if the department, its agents, consultants, engineers, or contractors are immune from liability pursuant to s. 337.195, F.S., or are not parties to the litigation, they may not be named on the jury verdict form or be found to be at fault or responsible for the injury, death, or damage that gave rise to the damages.

Construction, Engineering and Inspection Firms under FDOT Contract

Section 768.28, F.S., governs waiver of sovereign immunity for tort actions for the state and for its agencies and subdivisions. Under s. 768.28(10)(e), F.S., a professional firm that provides monitoring and inspection services of work required for state roadway, bridge, or other transportation facility construction projects, or any of the firm's employees performing such services, are considered agents of the FDOT while acting within the scope of the firm's contract with the FDOT to ensure that the project is constructed in conformity with the project's plans, specifications, and contract provisions.[46]

Any contract between the professional firm and the state, to the extent permitted by law, must provide for the indemnification of the FDOT for any liability, including reasonable attorney's fees, incurred up to the limits set out in ch. 768, F.S., to the extent caused by the negligence of the firm or its employees.[47]

However, s. 768.28(10)(a), F.S., is not applicable to the professional firm or its employees if involved in an accident while operating a motor vehicle. Additionally, s. 768.28(10)(a), F.S., is not applicable to a firm engaged by the FDOT for the design or construction of a state roadway, bridge, or other transportation facility construction project or to its employees, agents, or subcontractors.[48]

FDOT Contract Documents

While the term "contract documents" is not defined in statute, the FDOT's Standards Specifications for Road and Bridge Construction defines the term to include: the "Advertisement for Proposal, Proposal, Certification as to Publication and Notice of Advertisement for Proposal, Appointment of Agent by Nonresident Contractors, Noncollusion Affidavit, Warranty Concerning Solicitation of the Contract by Others, Resolution of Award of Contract, Executed Form of Contract, Performance Bond and Payment Bond, Specifications, Plans (including revisions thereto issued during construction), Estimated Quantities Report, Standard Plans, Addenda, or other information mailed or otherwise transmitted to the prospective bidders prior to

[46] *Supra* note 1 at 4.
[47] *Id.*
[48] *Id.*

the receipt of bids, work orders and supplemental agreements, all of which are to be treated as one instrument whether or not set forth at length in the form of contract."[49]

Maintenance of Traffic Plans

Section 337.11(14), F.S., requires that each the FDOT contract for road or bridge construction or maintenance work contain a traffic maintenance plan showing appropriate regulatory signs and traffic control devices for the work zone area. Traffic maintenance plans are, therefore, part of the contract documents.

Maintenance of traffic "includes all facilities, devices, and operations as required for safety and convenience of the public within the work zone."[50] Maintenance of traffic involves activities such as constructing and maintaining detours; providing facilities for access to residences and businesses; furnishing, installing, and maintaining traffic control and safety devices during construction; and furnishing and installing work zone pavement markings in construction areas.

Effect of Proposed Changes

The bill amends s. 337.195, F.S., regarding limits on liability. The bill defines the term "contract documents" to have same meaning as in the applicable contract between the FDOT's and the contractor.

The bill defines the term "contractor" to mean a person or an entity, at any contractual tier, including any member of a design-build team, who, pursuant to s. 337.11, F.S., constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the FDOT or in connection with a FDOT project.

The bill defines the term "design engineer" to mean a person or an entity, including the design consultant of a design-build team, who contracts to prepare or provide engineering plans, including traffic control plans, for the construction or repair of a highway, road, street, bridge, or other FDOT transportation facility for the FDOT or in connection with a FDOT project.

The bill defines the term "traffic control plans" to mean the maintenance of traffic plans designed by a professional engineer, or otherwise in accordance with the FDOT's maintenance of traffic standards and approved by the FDOT.

The bill provides that a contractor is not liable for personal injury, property damage, or death arising from any of the following:

- The performance of the construction, maintenance, or repair of the transportation facility, if, at the time the personal injury, property damage, or death occurred, the contractor was in compliance with the contract documents material to the personal injury, property damage, or death.

[49] *See* section 1-3 of the FDOT's Standard Specifications for Road and Bridge Construction (Standard Specs) available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/implemented/specbooks/fy-2023-24/fy2023-24ebook.pdf?sfvrsn=6b69416d_24 (last visited January 4, 2024). Note that for purposes of certain provisions of the Standard Specs, the term does not include work orders and supplementary agreement, or Resolution of Award of Contract, Executed Form of Contract, and Performance and Payment Bond.

[50] *See* section 102-1 of FDOT's Standard Specs

- Acts or omissions of a third party that furnishes or contracts at any contractual level to furnish services or materials to the transportation facility, including any subcontractor; sub-subcontractor; laborer; materialman; owner, lessor, or driver of a motor vehicle, trailer, semitrailer, truck, heavy truck, truck tractor, or commercial motor vehicle; or any person who performs services as an architect, a landscape architect, an interior designer, an engineer, or a surveyor and mapper.
- Acts or omissions of a third party who trespasses within the limits of the transportation facility or otherwise is not authorized to enter the area of the transportation facility in which the personal injury, property damage, or death occurred. According to the FDOT, there may be instances where the trespassing was unintentional, such as a motor vehicle accident or a third party's vehicle breaking down.[51]
- Acts or omissions of a third party who damages, modifies, moves, or removes any traffic control device, warning device, barrier, or other facility or device used for the public's safety and convenience. According to the FDOT, there may be instances where the acts or omission of a third party were unintentional, such as a motor vehicle accident that resulted in damaging, modifying, or moving a traffic control device.[52]

The bill provides that the limitations on liability do not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the traffic control plans, or when the proximate cause of the personal injury, property damage, or death was the contractor's failure to comply with the traffic control plans as required by contract documents.

The bill provides that the limitation on liability may not be interpreted or construed as relieving the contractor of any obligation to provide the FDOT with written notice of any apparent error or omission in the contract documents, or as relieving the contractor of his or her contract responsibility to manage the work of others performing under the contract.

The bill provides that this limitation of liability may not be interpreted or construed to alter or amendment any provision of the Workers' Compensation Law,[53] which takes precedence in the event of any conflict with provisions in this law.

The bill also provides that this limitation on liability does not preclude liability where the contractor's negligence is the proximate cause of the personal injury, property damage, or death.

The bill repeals existing s. 337.195(4), F.S., concerning civil actions for death, injury, or damages against the FDOT or its agents, consultants, engineers, or contractors for work performed on a highway, road, street, bridge, or other transportation facility.

[51] *Id.* at 12.
[52] *Id.*
[53] Chapter 440, F.S.

Alligator Alley Toll Road (Section 11)

Present Situation

Section 338.26, F.S., establishes Alligator Alley, which is a 78-mile toll road connecting Naples and Fort Lauderdale. That statute finds that because the construction of the road "contributed to the alteration of water flows in the Everglades and affected ecological patterns of the historical southern Everglades," the Legislature established a system of tolls for use of Alligator Alley to provide financial resources to help restore the natural resource values lost by construction of the highway. Collier County provides fire, rescue, and emergency management services along Alligator Alley through a fire station located at mile marker 63 (MM 63).

Current law sets forth the required uses of the revenues generated from tolls for the use of Alligator Alley, which are deposited into the STTF. Revenues must be used to reimburse outstanding contractual obligations and to operate and maintain the highway and toll facilities, including reconstruction and restoration. With regard to the fire station on Alligator Alley, the revenues must be used:

- To design and construct the fire station at MM 63, which may be used by a county or other local governmental entity to provide services to the public on Alligator Alley; and
- To reimburse a county or other local governmental entity for the direct actual costs of operating the fire station. Reimbursement occurs through an interlocal agreement effective July 1, 2019, through no later than June 30, 2027.[54]

Revenues generated annually in excess of those required to pay the above-described expenses may be transferred to the Everglades Trust Fund and used for certain environmental projects.[55] Upon termination of the interlocal agreement for the fire station, DOT would be authorized to use the excess revenues for such environmental projects.

According to the FDOT's 2022 Annual Report for its Enterprise Toll Operations, for Fiscal Year 2021-2022, Alligator Alley had $31.8 million in gross toll revenue, with operating and maintenance expenses of $10.9 million and annual debt service payments of $2.8 million. The maintenance expenses include funding for rest area improvements, fire station operations, and interchange lighting projects.[56]

Effect of Proposed Changes

The bill provides that the interlocal agreement effective July 1, 2019, through June 20, 2027, controls until such time that the local governmental entity and the FDOT enter into a new agreement or agree to extend the existing agreement. For the 2024-2025 fiscal year, the amount of reimbursement is $2 million.

Beginning no later than April 30, 2025, and every five years thereafter, the local governmental entity must provide to the FDOT a maintenance and operations comprehensive plan. The plan

[54] Section 338.26(3)(a), F.S.
[55] Section 338.26(3)(b), F.S.
[56] The 2022 report is the latest posted to DOT's Turnpike Enterprise webpage and is available at https://floridasturnpike.com/wp-content/uploads/2023/02/2022-Department-owned-Facilities.pdf. (last visited February 21, 2023).

must include a current inventory of assets, including their projected service live, and area service needs; the call and response history for emergency services provided in the preceding 5 years on Alligator Alley, including costs; and future projects for assets and equipment, including replacement or purchase needs, and operating costs.

The local governmental entity and the FDOT must review and adopt the comprehensive plan as part of the interlocal agreement.

In concurrence with projected incoming toll revenues for Alligator Alley, the FDOT must include the corresponding funding needs of the comprehensive plan into the FDOT's work program.

The bill also removes the current $1.4 million annual reimbursement from the FDOT and provides that equipment purchased with state funds and used at the fires station, the ownership of such equipment transfers to the state ant the end of the term of the interlocal agreement.

Local Agency Program (Section 12)

Present Situation

Under its Local Agency Program (LAP), the FDOT administers several federal grant programs to provide sub-recipient towns, cities and counties funding to develop, design, and construct transportation facilities. The FDOT is the steward of the federal funds and is responsible for oversight of funded projects on behalf of the Federal Highway Administration (FHWA). Local agencies must be certified to deliver LAP projects.[57]

A LAP may include a wide range of projects, from very simple enhancement projects to the development and construction of major transportation facilities. Federal funds may be authorized for the following project phases:

- Planning;
- Project development and engineering (PD&E) studies;
- Preliminary Engineering;
- Design;
- Right of Way;
- Construction; and
- Construction Engineering and Inspection[58]

Certification and recertification is required for local agencies participating in LAP projects. This certification documents the local agency's capability and proficiency in delivering transportation projects under the program. LAP is the required project delivery mechanism for Federal-aid projects administered by local agencies because the FDOT has established oversight policies and monitoring procedures in LAP that ensure that federal requirements are met throughout project delivery.[59]

[57] Department of Transportation, Program Management/Local Programs, https://www.fdot.gov/programmanagement/lp/lp (last visited January 4, 2024).
[58] *Id.*
[59] *Id.*

The FDOT and the FHWA retain responsibility for the following:

- Project selection;
- Authorization of funds;
- Determination of National Environmental Policy Act (NEPA) environmental class of action;
- Right of way certification;
- Approval of final plans, specifications, and estimates for all projects;
- Final inspection;
- Equal Employment Opportunity Contract Compliance Program; and
- Disadvantaged Business Enterprise Program.[60]

Receiving federal funds to deliver a LAP project, "federalizes" the project and requires that all phases of project development be completed or retrofitted to comply with applicable federal rules and regulations,[61] including the federal Uniform Act for right of way acquisition, the National Environmental Policy Act (NEPA), and Buy America.[62]

Federal regulations do not allow the FDOT to delegate the certification of right of way or the determination of environmental class of action. The FDOT must prequalify local agencies on a project-by-project basis to acquire right of way or perform PD&E phases. The local agency must obtain the FDOT's authorization to proceed with right of way activities after qualification and prior to beginning any right of way activities on the project. Any funds expended or costs incurred prior to authorization will not be reimbursed.[63]

Effect of Proposed Changes

The bill creates s. 339.2820, F.S., creating within the FDOT a local agency program for providing assistance to subrecipient agencies, which include counties, municipalities, intergovernmental agencies and other eligible governmental entities, to develop, design, and construct transportation facilities using federal funds allocated to the FDOT from federal agencies which are awarded to local agencies. The FDOT must update the project cost estimate in the year the project is granted to the local agency and include a contingency amount as part of the project cost estimate.

The FDOT is authorized to oversee projects funded FHWA. Local agencies must prioritize budgeting local projects through their respective metropolitan planning organizations or governing boards so that those organizations or boards may receive reimbursement for the services they provide to the public which are in compliance with applicable federal statutes, rules, and regulations.

Federal-aid highway funds are available only to local agencies that are certified by the FDOT based on the agencies' qualifications, experience, and ability to comply with federal requirements, and ability to undertake and satisfactorily complete the work.

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[60] *Id.*
[61] *Id.*
[62] FDOT, *LAP Frequently Asked Questions*, available at https://www.fdot.gov/programmanagement/LAP/FAQ.shtm (last visited January 4, 2024).
[63] *Id.*

At a minimum, local agencies must include in their contracts to develop, design, or construct transportation facilities, the FDOT's Division I General Requirements and Covenants for local agencies and a contingency amount in the project cost to account for unforeseen conditions.

Effective Date (Section 10)

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Interim agreements on P3 projects may reduce costs associated with project risk because it allows the private entity to perform the necessary due diligence as the final contract is being negotiated.[64]

C. Government Sector Impact:

The bill provides that the FDOT may not annually commit, with specified exceptions, more than 20 percent of the revenues derived from state fuel taxes and motor vehicle license-related fees deposited into the STTF to public transit projects. This funding cap

[64] *Supra* Note 1 at 9.

limits the total amount of state discretionary funding the FDOT can provide to local governments and transit agencies.[65] This may have an indeterminate negative fiscal impact on local governments and public transit agencies.

The bill may have an indeterminate positive fiscal impact on the FDOT and its contractors to the extent that such contractors benefit from the affirmative defenses from liability for personal injury, property damage, or death that may occur due to a motor vehicle crash within a construction zone.

The bill revises the amount of state funds the FDOT pays to support a fire station on Alligator Alley.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 206.46, 288.9606, 318.14, 318.1451, 322.095, 334.30, 336.044, 337.11, 337.18, 337.195, 338.26, 339.2825, and 627.0651.

This bill creates section 339.2820 of the Florida Statutes.

IX. Additional Information:

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

CS/CS/CS by Appropriations on February 22, 2024:
The committee substitute:

- Exempts bus rapid transit or rail projects meeting specified criteria from cap on the expenditure of certain revenues deposited into the STTF for public transit.
- Increases the number of Basic Driver Improvement course elections that are allowed in a driver's lifetime.
- Requires the DHSMV to annually review changes made to major traffic laws of this state and to require course content for certain driving courses to be modified accordingly.
- Revises the provision regarding liability for drivers under the influence of medical marijuana.
- Revises the definition of "contract documents" as it relates to the limitation of liability provisions.

[65] *Id.* at 9.

- Provides requirements for an interlocal agreement regarding funding of an existing fire station located on Alligator Alley.

CS/CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:
The committee substitute:

- Requires the FDOT to notify the Division of Bond Finance before entering into an interim agreement or comprehensive agreement under its P3 statute.
- Clarifies that a local government entity may not deem reclaimed asphalt pavement material as solid waste.
- Authorizes the FDOT to allow the issuance of multiple contract performance and payment bonds for phased design-build contracts.
- Provides that the bill's limitations of liability provisions may not be interpreted or construed to alter or amend any of the Worker's Compensation Law, and in the event of any conflict, the Workers' Compensation Law takes precedence.
- Provides that the limits of liability do not preclude liability where the contractor's negligence is the proximate cause of personal injury, property damage, or death.
- Removes provisions relating to utility relocation.

CS by Transportation on January 17, 2024:
Makes conforming changes regarding comprehensive agreements for public-private partnership agreements.

- Removes language requiring the FDOT to pay interest at the judgement interest rate for amounts that remain 75 days after the completion of added work or the eliminate of a project delay.
- Clarifies that for design-build and phased design-build contracts, the FDOT must receive at least three letters of interest in order to proceed with requests for proposals.
- Revises the definitions of "design engineer" as it relates to limitations of liability to include an entity.
- Changes the contractor's immunity from liability to the contractor being in compliance with the contract documents, instead of the traffic control plan.
- Reiterates that contractors retain responsibility to manage the work of others performing under the contract.
- Requires utility relocation agreements with the FDOT to contain a reasonable relocation schedule to expedite the completion of the FDOT projects and specify a reasonable liquidated damages amount for work that is incomplete beyond the completion date.
- Requires utilities to provide a reasonable utility relocation schedule to expedite the completion of construction or maintenance project on a transportation facility.
- Requires utilities to pay authorities reasonable costs, including liquidated damages, from the utility's failure or refusal to perform the work.
- Removes language limiting the designation of additional metropolitan planning organizations.
- Makes technical corrections to provisions relating to the Local Agency Program.
- Makes other technical and conforming changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
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The Committee on Appropriations (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete lines 91 - 686
and insert:
apply to any of the following:
(a) A public transit project that uses revenues derived from state fuel taxes and motor vehicle license-related fees to match funds made available by the Federal Government.
(b) A public transit project included in the transportation improvement program adopted pursuant to s. 339.175(8) and

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approved by a supermajority vote of the board of county commissioners or the governing board of a consolidated county and city government where the project is located.

(c) A bus rapid transit or rail project that would result in maintaining or enhancing the level of service of the State Highway System along the corridor of the project, provided state funds do not exceed 50 percent of the nonfederal share of the costs and the percentage of the local share.

Section 2. Subsections (6) and (7) of section 288.9606, Florida Statutes, are amended to read:

288.9606 Issue of revenue bonds.—

(6) The proceeds of any bonds of the corporation may not be used, in any manner, to acquire any building or facility that will be, during the pendency of the financing, used by, occupied by, leased to, or paid for by any state, county, or municipal agency or entity. This subsection does not prohibit the use of proceeds of bonds of the corporation for the purpose of financing the acquisition or construction of a transportation facility under a comprehensive ~~public-private partnership~~ agreement authorized by s. 334.30.

(7) Notwithstanding any provision of this section, the corporation in its corporate capacity may, without authorization from a public agency under s. 163.01(7), issue revenue bonds or other evidence of indebtedness under this section to:

(a) Finance the undertaking of any project within the state that promotes renewable energy as defined in s. 366.91 or s. 377.803;

(b) Finance the undertaking of any project within the state that is a project contemplated or allowed under s. 406 of the


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American Recovery and Reinvestment Act of 2009; ~~or~~

(c) If permitted by federal law, finance qualifying improvement projects within the state under s. 163.08; or~~.~~

(d) Finance the costs of acquisition or construction of a transportation facility by a private entity or consortium of private entities under a comprehensive ~~public-private partnership~~ agreement authorized by s. 334.30.

Section 3. Subsection (95) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(95) TELEOPERATION SYSTEM.—The hardware and software installed in a motor vehicle which allow a remote human operator to supervise or perform aspects of, or the entirety of, the dynamic driving task. The term "remote human operator" means a natural person who:

(a) Is not physically present in the motor ~~a~~ vehicle; ~~equipped with an automated driving system who~~

(b) Engages or monitors the motor vehicle from a remote location;

(c) Has~~. A remote human operator may have~~ the ability to perform aspects of, or the entirety of, the dynamic driving task for the motor vehicle;

(d) Has the ability to ~~or~~ cause the motor vehicle to achieve a reasonably safe state, such as bringing the vehicle to a complete stop and activating the vehicle's hazard lamps; ~~minimal risk condition as defined in s. 319.145(2). A remote~~


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~~human operator must be~~

(e) Is physically present in the United States; and ~~be~~

(f) Is licensed to operate a motor vehicle by a United States jurisdiction.

Section 4. Subsection (1) of section 316.303, Florida Statutes, is amended to read:

316.303 Television receivers.—

(1) A motor vehicle may not be operated on the highways of this state if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is visible from the driver’s seat while the vehicle is in motion, unless the vehicle is being operated with the automated driving system or teleoperation system engaged.

Section 5. Section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles and motor vehicles equipped with teleoperation systems; operation; compliance with traffic and motor vehicle laws; testing.—

(1) Notwithstanding any other law, a licensed human operator is not required to operate a fully autonomous vehicle as defined in s. 316.003(3).

(2) A fully autonomous vehicle may operate in this state regardless of whether a human operator is physically present in the vehicle.

(3)(a) For purposes of this chapter, unless the context otherwise requires, the automated driving system, when engaged, shall be deemed to be the operator of an autonomous vehicle, regardless of whether a person is physically present in the vehicle while the vehicle is operating with the automated

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driving system engaged.

(b) Unless otherwise provided by law, applicable traffic or motor vehicle laws of this state may not be construed to:

1. Prohibit the automated driving system from being deemed the operator of an autonomous vehicle operating with the automated driving system engaged.

2. Require a licensed human operator to operate a fully autonomous vehicle.

(4) An on-demand autonomous vehicle network shall operate pursuant to state laws governing the operation of transportation network companies and transportation network company vehicles as defined in s. 627.748, except that any provision of s. 627.748 that reasonably applies only to a human driver does not apply to the operation of a fully autonomous vehicle with the automated driving system engaged while logged on to an on-demand autonomous vehicle network. A fully autonomous vehicle with the automated driving system engaged while logged on to an on-demand autonomous vehicle network must meet the insurance requirements in s. 627.749.

(5)(a) Notwithstanding any other provision of this chapter, a motor ~~an autonomous vehicle or a fully autonomous~~ vehicle equipped with a teleoperation system may operate without a human operator physically present in the motor vehicle when the teleoperation system is engaged. When the teleoperation system is engaged, the remote human operator is deemed to be the driver or operator of the motor vehicle and must operate the motor vehicle in compliance with the applicable traffic and motor vehicle laws of this state. The remote human operator may not be held personally liable for any injury, property damage, or death

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arising from the performance of his or her duties unless caused directly by his or her negligence, recklessness, or willful misconduct.

(b) A motor vehicle equipped with a teleoperation system, while the teleoperation system is engaged, must be covered by a policy of automobile insurance which provides:

1. Primary liability coverage of at least $1 million for death, bodily injury, and property damage.

2. Personal injury protection benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405.

3. Uninsured and underinsured vehicle coverage as required by s. 627.727 ~~A vehicle that is subject to this subsection must meet the requirements of s. 319.145 and is considered a vehicle that meets the definition provided in s. 316.003(3)(c) for the purposes of ss. 316.062(5), 316.063(4), 316.065(5), 316.1975(3), and 316.303(1)~~.

(6) It is the intent of the Legislature to provide for uniformity of laws governing autonomous vehicles and motor vehicles equipped with teleoperation systems throughout the state. A local government may not impose any tax, fee, for-hire vehicle requirement, or other requirement on automated driving systems or autonomous vehicles; teleoperation systems or motor vehicles equipped with teleoperation systems; ~~or on~~ a person who operates an autonomous vehicle, including, but not limited to, a person who operates an autonomous vehicle for purposes of providing passenger transportation services; or a remote human operator of a motor vehicle with a teleoperation system engaged. This subsection does not prohibit an airport or a seaport from charging reasonable fees consistent with any fees charged to

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companies that provide similar services at that airport or seaport for their use of the airport's or seaport's facilities, nor does it prohibit the airport or seaport from designating locations for staging, pickup, or other similar operations at the airport or seaport.

Section 6. Subsection (9) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(9) Any person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for an infraction under this section other than a violation of s. 316.183(2), s. 316.187, or s. 316.189 when the driver exceeds the posted limit by 30 miles per hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld, any civil penalty that is imposed by s. 318.18(3) must be reduced by 18 percent, and points, as provided by s. 322.27, may not be assessed. However, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may not make more than eight ~~five~~ elections within his or her lifetime under this subsection. The requirement for community service under s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.

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Section 7. Subsection (6) of section 318.1451, Florida Statutes, is amended to read:

318.1451 Driver improvement schools.—

(6) The department shall adopt rules establishing and maintaining policies and procedures to implement the requirements of this section. These policies and procedures may include, but shall not be limited to, the following:

(a) *Effectiveness studies.*—The department shall conduct effectiveness studies on each type of driver improvement course pertaining to ss. 318.14(9), 322.0261, and 322.291 on a recurring 5-year basis, including in the study process the consequence of failed studies.

(b) *Required updates.*—The department may require that courses approved under this section be updated at the department's request. Failure of a course provider to update the course under this section shall result in the suspension of the course approval until the course is updated and approved by the department.

(c) *Course conduct.*—The department shall require that the approved course providers ensure their driver improvement schools are conducting the approved course fully and to the required time limit and content requirements.

(d) *Course content.*—The department shall set and modify course content requirements to keep current with laws and safety information. The department shall annually review changes made to major traffic laws of this state, including s. 316.126(1)(b), and shall require course content for courses referenced in this section to be modified in accordance with changes relevant to the courses. Course content includes all items used in the

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conduct of the course.

(e) *Course duration.*—The department shall set the duration of all course types.

(f) *Submission of records.*—The department shall require that all course providers submit course completion information to the department through the department's Driver Improvement Certificate Issuance System within 5 days. Course providers must also submit course completion information together with the citation number through the Florida Courts E-Filing Portal governed by the Florida Courts E-Filing Authority to the clerk of the circuit court of the county where the citation is issued within 3 days after receipt of the unique course completion certificate number from the Driver Improvement Certificate Issuance System.

(g) *Sanctions.*—The department shall develop the criteria to sanction a course provider for any violation of this section or any other law that pertains to the approval and use of driver improvement courses.

(h) *Miscellaneous requirements.*—The department shall require that all course providers:

1. Disclose all fees associated with courses offered by the provider and associated driver improvement schools and not charge any fees that are not disclosed during registration.

2. Provide proof of ownership, copyright, or written permission from the course owner to use the course in this state.

3. Ensure that any course that is offered in a classroom setting, by the provider or a school authorized by the provider to teach the course, is offered at locations that are free from

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distractions and reasonably accessible to most applicants.

4. Issue a certificate to persons who successfully complete the course.

Section 8. Subsection (7) of section 322.095, Florida Statutes, is amended to read:

322.095 Traffic law and substance abuse education program for driver license applicants.—

(7) Courses approved under this section must be updated at the department's request. The department shall annually review changes made to major traffic laws of this state, including s. 316.126(1)(b), and shall require course content for courses referenced in this section to be modified in accordance with changes relevant to the courses. Failure of a course provider to update the course within 90 days after the department's request shall result in the suspension of the course approval until such time that the updates are submitted and approved by the department.

Section 9. Present subsections (8) through (13) of section 334.30, Florida Statutes, are redesignated as subsections (9) through (14), respectively, a new subsection (8) is added to that section, and subsections (1), (2), and (6) and present subsections (8), (10), (11), and (13) of that section are amended, to read:

334.30 Public-private transportation facilities.—The Legislature finds and declares that there is a public need for the rapid construction of safe and efficient transportation facilities for the purpose of traveling within the state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical

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transportation facilities.

(1) The department may receive or solicit proposals and, with legislative approval as evidenced by approval of the project in the department's work program, enter into comprehensive agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The department may advance projects programmed in the adopted 5-year work program or projects increasing transportation capacity and greater than $500 million in the 10-year Strategic Intermodal Plan using funds provided by public-private partnerships or private entities to be reimbursed from department funds for the project as programmed in the adopted work program. The department shall by rule establish an application fee for the submission of unsolicited proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before approval, the department must determine that the proposed project:

(a) Is in the public's best interest;

(b) Would not require state funds to be used unless the project is on the State Highway System;

(c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the comprehensive agreement by the department;

(d) Would have adequate safeguards in place to ensure that the department or the private entity has the opportunity to add

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capacity to the proposed project and other transportation facilities serving similar origins and destinations; and

(e) Would be owned by the department upon completion or termination of the comprehensive agreement.

The department shall ensure that all reasonable costs to the state, related to transportation facilities that are not part of the State Highway System, are borne by the private entity. The department shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation. Because the Legislature recognizes that private entities or consortia thereof would perform a governmental or public purpose or function when they enter into comprehensive agreements with the department to design, build, operate, own, or finance transportation facilities, the transportation facilities, including leasehold interests thereof, are exempt from ad valorem taxes as provided in chapter 196 to the extent property is owned by the state or other government entity, and from intangible taxes as provided in chapter 199 and special assessments of the state, any city, town, county, special district, political subdivision of the state, or any other governmental entity. The private entities or consortia thereof are exempt from tax imposed by chapter 201 on all documents or obligations to pay money which arise out of the

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comprehensive agreements to design, build, operate, own, lease, or finance transportation facilities. Any private entities or consortia thereof must pay any applicable corporate taxes as provided in chapter 220, and reemployment assistance taxes as provided in chapter 443, and sales and use tax as provided in chapter 212 shall be applicable. The private entities or consortia thereof must also register and collect the tax imposed by chapter 212 on all their direct sales and leases that are subject to tax under chapter 212. The comprehensive agreement between the private entity or consortia thereof and the department establishing a transportation facility under this chapter constitutes documentation sufficient to claim any exemption under this section.

(2) Comprehensive agreements entered into pursuant to this section may authorize the private entity to impose tolls or fares for the use of the facility. The following provisions ~~shall~~ apply to such agreements:

(a) With the exception of the Florida Turnpike System, the department may lease existing toll facilities through public-private partnerships. The comprehensive ~~public-private partnership~~ agreement must ensure that the transportation facility is properly operated, maintained, and renewed in accordance with department standards.

(b) The department may develop new toll facilities or increase capacity on existing toll facilities through public-private partnerships. The comprehensive ~~public-private partnership~~ agreement must ensure that the toll facility is properly operated, maintained, and renewed in accordance with department standards.


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(c) Any toll revenues shall be regulated by the department pursuant to s. 338.165(3). The regulations governing the future increase of toll or fare revenues shall be included in the comprehensive ~~public-private partnership~~ agreement.

(d) The department shall provide the analysis required in subparagraph (6)(e)2. to the Legislative Budget Commission created pursuant to s. 11.90 for review and approval prior to awarding a contract on a lease of an existing toll facility.

(e) The department shall include provisions in the comprehensive ~~public-private partnership~~ agreement which ~~that~~ ensure a negotiated portion of revenues from tolled or fare generating projects are returned to the department over the life of the comprehensive ~~public-private partnership~~ agreement. In the case of a lease of an existing toll facility, the department shall receive a portion of funds upon closing on the comprehensive agreement ~~agreements~~ and shall also include provisions in the comprehensive agreement to receive payment of a portion of excess revenues over the life of the public-private partnership.

(f) The private entity shall provide an independent ~~investment grade~~ traffic and revenue study prepared by a ~~an internationally recognized~~ traffic and revenue expert as part of the private entity proposal. The study must be ~~that is~~ accepted by the national bond rating agencies before closing on the financing that supports the comprehensive agreement for the public-private partnership project. The private entity shall also provide a finance plan that identifies the project cost, revenues by source, financing, major assumptions, internal rate of return on private investments, and whether any government


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funds are assumed to deliver a cost-feasible project, and a total cash flow analysis beginning with implementation of the project and extending for the term of the comprehensive agreement.

(6) The procurement of public-private partnerships by the department shall follow the provisions of this section. Sections 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18, 337.185, 337.19, 337.221, and 337.251 may ~~shall~~ not apply to procurements under this section unless a provision is included in the procurement documents. The department shall ensure that generally accepted business practices for exemptions provided by this subsection are part of the procurement process or are included in the comprehensive ~~public-private partnership~~ agreement.

(a) The department may request proposals from private entities for public-private transportation projects or, if the department receives an unsolicited proposal, the department shall publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for 2 weeks stating that the department has received the proposal and will accept, for between 30 and 120 days after the initial date of publication as determined by the department based on the complexity of the project, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected area.

(b) Public-private partnerships shall be qualified by the department as part of the procurement process as outlined in the procurement documents, provided such process ensures that the private firm meets at least the minimum department standards for


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qualification in department rule for professional engineering services and road and bridge contracting prior to submitting a proposal under the procurement.

(c) The department shall ensure that procurement documents include provisions for performance of the private entity and payment of subcontractors, including, but not limited to, surety bonds, letters of credit, parent company guarantees, and lender and equity partner guarantees. The department shall balance the structure of the security package for the public-private partnership that ensures performance and payment of subcontractors with the cost of the security to ensure the most efficient pricing.

(d) After the public notification period has expired, the department shall rank the proposals in order of preference. In ranking the proposals, the department may consider factors that include, but are not limited to, professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the project. If the department is not satisfied with the results of the negotiations, the department may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the department may go to the second-ranked and lower-ranked firms, in order, using this same procedure. If only one proposal is received, the department may negotiate in good faith and, if the department is not satisfied with the results of the negotiations, the department may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the department may, at its discretion, reject all proposals at any point in the process up to completion of a

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contract with the proposer.

(e) The department shall provide an independent analysis of the proposed public-private partnership that demonstrates the cost-effectiveness and overall public benefit at the following times:

1. Prior to moving forward with the procurement; and

2. If the procurement moves forward, prior to awarding the contract.

(8) Before or in connection with the negotiation of a comprehensive agreement, the department may enter into an interim agreement with the private entity proposing the development or operation of a qualifying project. An interim agreement does not obligate the department to enter into a comprehensive agreement. The interim agreement is discretionary with the parties and is not required on a project for which the parties may proceed directly to a comprehensive agreement without the need for an interim agreement. An interim agreement must be limited to any of the following provisions that:

(a) Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project, including, but not limited to, project planning and development, designing, environmental analysis and mitigation, surveying, other activities concerning any part of the proposed qualifying project, and ascertaining the availability of financing for the proposed facility or facilities.

(b) Establish the process and timing for the negotiation of the comprehensive agreement.

(c) Contain such other provisions related to an aspect of the development or operation of a qualifying project which the


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department and the private entity deem appropriate.

(9)~~(8)~~ The department may enter into comprehensive ~~public-private partnership~~ agreements that include extended terms providing annual payments for performance based on the availability of service or the facility being open to traffic or based on the level of traffic using the facility. In addition to other provisions in this section, the following provisions ~~shall~~ apply:

(a) The annual payments under any such comprehensive agreement must ~~shall~~ be included in the department's tentative work program developed under s. 339.135 and the long-range transportation plan for the applicable metropolitan planning organization developed under s. 339.175. The department shall ensure that annual payments on multiyear comprehensive ~~public-private partnership~~ agreements are prioritized ahead of new capacity projects in the development and updating of the tentative work program.

(b) The annual payments are subject to annual appropriation by the Legislature as provided in the General Appropriations Act in support of the first year of the tentative work program.

(11)~~(10)~~ Before ~~Prior to~~ entering into any comprehensive ~~such~~ agreement in which ~~where~~ funds are committed from the State Transportation Trust Fund, the project must be prioritized as follows:

(a) The department, in coordination with the local metropolitan planning organization, shall prioritize projects included in the Strategic Intermodal System 10-year and long-range cost-feasible plans.

(b) The department, in coordination with the local

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metropolitan planning organization or local government where there is no metropolitan planning organization, shall prioritize projects, for facilities not on the Strategic Intermodal System, included in the metropolitan planning organization cost-feasible transportation improvement plan and long-range transportation plan.

(12) ~~(11)~~ Comprehensive ~~Public-private partnership~~ agreements under this section are ~~shall be~~ limited to a term not exceeding 50 years. Upon making written findings that a comprehensive ~~an~~ agreement under this section requires a term in excess of 50 years, the secretary of the department may authorize a term of up to 75 years for projects that are partially or completely funded from project user fees. Comprehensive agreements under this section may ~~shall~~ not have a term in excess of 75 years unless specifically approved by the Legislature. The department shall identify each new project under this section with a term exceeding 75 years in the transmittal letter that accompanies the submittal of the tentative work program to the Governor and the Legislature in accordance with s. 339.135.

(14) ~~(13)~~ In connection with a proposal to finance or refinance a transportation facility pursuant to this section, the department shall consult with the Division of Bond Finance of the State Board of Administration. The department shall notify the division before entering into an interim agreement or a comprehensive agreement and provide the division with the information necessary to provide timely consultation and recommendations. The Division of Bond Finance may make an independent recommendation to the Executive Office of the

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Governor.

Section 10. Subsection (5) of section 336.044, Florida Statutes, is amended to read:

336.044 Use of recyclable materials in construction.—

(5) Notwithstanding any law, rule, or ordinance to the contrary, a local governmental entity may not adopt standards or specifications that are contrary to the department standards or specifications for permissible use of reclaimed asphalt pavement material or deem reclaimed asphalt pavement material as ~~in construction. For purposes of this section, such material may not be considered~~ solid waste.

Section 11. Paragraph (e) of subsection (7) and subsection (13) of section 337.11, Florida Statutes, are amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(7)

(e) For design-build contracts and phased design-build contracts, the department must receive at least three letters of interest in order to proceed with a request for proposals. The department shall request proposals from no fewer than three of the ~~design-build~~ firms submitting letters of interest. If a ~~design-build~~ firm withdraws from consideration after the department requests proposals, the department may continue if at least two proposals are received.

(13) Any motor vehicle used in ~~Each contract let by the department for~~ the performance of road or bridge construction or maintenance work on a department project must ~~shall require all~~


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~~motor vehicles that the contractor operates or causes to be operated in this state to~~ be registered in compliance with chapter 320.

Section 12. Paragraphs (a) and (d) of subsection (1) of section 337.18, Florida Statutes, are amended to read:

337.18 Surety bonds for construction or maintenance contracts; requirement with respect to contract award; bond requirements; defaults; damage assessments.—

(1)(a) A surety bond shall be required of the successful bidder in an amount equal to the awarded contract price. However, the department may choose, in its discretion and applicable only to multiyear maintenance contracts, to allow for incremental annual contract bonds that cumulatively total the full, awarded, multiyear contract price. The department may also choose, in its discretion and applicable only to phased design-build construction contracts under s. 337.11(7)(b), to allow the issuance of multiple contract performance and payment bonds in succession to align with each phase of the contract to meet the bonding requirement in this subsection.

1. The department may waive the requirement for all or a portion of a surety bond if:

a. The contract price is $250,000 or less and the department determines that the project is of a noncritical nature and that nonperformance will not endanger public health, safety, or property;

b. The prime contractor is a qualified nonprofit agency for the blind or for the other severely handicapped under s. 413.036(2); or

c. The prime contractor is using a subcontractor that is a

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qualified nonprofit agency for the blind or for the other severely handicapped under s. 413.036(2). However, the department may not waive more than the amount of the subcontract.

2. If the Secretary of Transportation or the secretary's designee determines that it is in the best interests of the department to reduce the bonding requirement for a project and that to do so will not endanger public health, safety, or property, the department may waive the requirement of a surety bond in an amount equal to the awarded contract price for a project having a contract price of $250 million or more and, in its place, may set a surety bond amount that is a portion of the total contract price and provide an alternate means of security for the balance of the contract amount that is not covered by the surety bond or provide for incremental surety bonding and provide an alternate means of security for the balance of the contract amount that is not covered by the surety bond. Such alternative means of security may include letters of credit, United States bonds and notes, parent company guarantees, and cash collateral. The department may require alternate means of security if a surety bond is waived. The surety on such bond shall be a surety company authorized to do business in the state. All bonds shall be payable to the department and conditioned for the prompt, faithful, and efficient performance of the contract according to plans and specifications and within the time period specified, and for the prompt payment of all persons defined in s. 713.01 furnishing labor, material, equipment, and supplies for work provided in the contract; however, whenever an improvement, demolition, or removal


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contract price is $25,000 or less, the security may, in the discretion of the bidder, be in the form of a cashier's check, bank money order of any state or national bank, certified check, or postal money order. The department shall adopt rules to implement this subsection. Such rules shall include provisions under which the department shall refuse to accept bonds on contracts when a surety wrongfully fails or refuses to settle or provide a defense for claims or actions arising under a contract for which the surety previously furnished a bond.

(d) An action, except for an action for recovery of retainage, must be instituted by a claimant, whether in privity with the contractor or not, against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 365 days after the performance of the labor or completion of delivery of the materials or supplies. An action for recovery of retainage must be instituted against the contractor or the surety within 365 days after final acceptance of the contract work by the department. A claimant may not waive in advance his or her right to bring an action under the bond against the surety. In any action brought to enforce a claim against a payment bond under this section, the prevailing party is entitled to recover a reasonable fee for the services of his or her attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of the prevailing party's costs, as allowed in equitable actions.

Section 13. Section 337.195, Florida Statutes, is amended to read:

337.195 Limits on liability.—

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(1) In a civil action for the death of or injury to a person, or for damage to property, against the Department of Transportation or its agents, consultants, or contractors for work performed on a highway, road, street, bridge, or other transportation facility when the death, injury, or damage resulted from a motor vehicle crash within a construction zone in which the driver of one of the vehicles was under the influence of alcoholic beverages as set forth in s. 316.193, under the influence of any chemical substance as set forth in s. 877.111, under the influence of marijuana as authorized by s. 381.986, excluding low-THC cannabis, or illegally under the influence of any substance controlled under chapter 893 to the extent that her or his normal faculties were impaired or that she or he operated a vehicle recklessly as defined in s. 316.192, it is presumed that the driver's operation of the vehicle was the sole proximate cause of her or his own death, injury, or damage. This presumption can be overcome if the gross negligence or intentional misconduct of the Department of Transportation, or of its agents, consultants, or contractors, was a proximate cause of the driver's death, injury, or damage.

(2)(a) For purposes of this section, the term:

1. "Contract documents" has the same meaning as in the applicable contract between the department and the contractor.

2. "Contractor" means a person or an entity, at any contractual tier, including any member of a design-build team pursuant to s. 337.11, who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the department in connection with a department project.

3. "Design engineer" means a person or an entity, including

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the design consultant of a design-build team, who contracts at any tier to prepare or provide engineering plans, including traffic control plans, for the construction or repair of a highway, road, street, bridge, or other department transportation facility for the department or in connection with a department project.

4. "Traffic control plans" means the maintenance of traffic plans designed by a professional engineer, or otherwise in accordance with the department's standard plans, and approved by the department.

(b) A contractor is not liable for personal injury, property damage, or death arising from any of the following:

1. The performance of the construction, maintenance, or repair of the transportation facility, if, at the time the personal injury, property damage, or death occurred, the contractor was in compliance with the contract documents material to the personal injury, property damage, or death.

2. Acts or omissions of a third party that furnishes or contracts at any contractual level to furnish services or materials to the transportation facility, including any subcontractor; sub-subcontractor; laborer; materialman; owner, lessor, or driver of a motor vehicle, trailer, semitrailer, truck, heavy truck, truck tractor, or commercial motor vehicle, as those terms are defined in s. 320.01; or any person who performs services as an architect, a landscape architect, an interior designer, an engineer, or a surveyor and mapper.

3. Acts or omissions of a third party who trespasses within the limits of the transportation facility or otherwise is not authorized to enter the area of the transportation facility in

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which the personal injury, property damage, or death occurred.

4. Acts or omissions of a third party who damages, modifies, moves, or removes any traffic control device, warning device, barrier, or other facility or device used for the public's safety and convenience ~~who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the Department of Transportation is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the personal injury, property damage, or death, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death~~.

(c) ~~(a)~~ The limitations ~~limitation~~ on liability contained in this subsection do ~~does~~ not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the contract documents; or when the proximate cause of the personal injury, property damage, or death was the contractor's failure to ~~perform, update, or~~ comply with the ~~maintenance of the~~ traffic control plans ~~safety plan~~ as required by the contract documents.

(d) ~~(b) Nothing in~~ This subsection may not ~~shall~~ be interpreted or construed as relieving the contractor of any obligation to provide the department ~~of Transportation~~ with written notice of any apparent error or omission in the contract documents, or as relieving the contractor of his or her contract responsibility to manage the work of others performing under the contract.


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(e) ~~(c) Nothing in~~ This subsection may not ~~shall~~ be interpreted or construed to alter or affect any claim of the department ~~of Transportation~~ against such contractor.

(f) ~~(d)~~ This subsection does not affect any claim of any entity against such contractor, which claim is associated with such entity's facilities on or in department ~~of Transportation~~ roads or other transportation facilities.

(g) This subsection may not be interpreted or construed to alter or amend any of the provisions of chapter 440, which shall take precedence in the event of any conflict with this subsection.

(h) This subsection does not preclude liability where the contractor's negligence is the proximate cause of the personal injury, property damage, or death.

(3) In all cases involving personal injury, property damage, or death, a design engineer is ~~person or entity who contracts to prepare or provide engineering plans for the construction or repair of a highway, road, street, bridge, or other transportation facility for the Department of Transportation shall be~~ presumed to have prepared ~~such~~ engineering plans using the degree of care and skill ordinarily exercised by other engineers in the field under similar conditions and in similar localities and with due regard for acceptable engineering standards and principles if the engineering plans conformed to the department's ~~Department of Transportation's~~ design standards material to the condition or defect that was the proximate cause of the personal injury, property damage, or death. This presumption can be overcome only upon a showing of the design engineer's ~~person's or entity's~~

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gross negligence in the preparation of the engineering plans and may ~~shall~~ not be interpreted or construed to alter or affect any claim of the department ~~of Transportation~~ against such design engineer ~~person or entity~~. The limitation on liability contained in this subsection does ~~shall~~ not apply to any hidden or undiscoverable condition created by the design engineer. This subsection does not affect any claim of any entity against such design engineer ~~or engineering firm~~, which claim is associated with such entity's facilities on or in department ~~of Transportation~~ roads or other transportation facilities.

~~(4) In any civil action for death, injury, or damages against the Department of Transportation or its agents, consultants, engineers, or contractors for work performed on a highway, road, street, bridge, or other transportation facility, if the department, its agents, consultants, engineers, or contractors are immune from liability pursuant to this section or are not parties to the litigation, they may not be named on the jury verdict form or be found to be at fault or responsible for the injury, death, or damage that gave rise to the damages.~~

Section 14. Section 339.2820, Florida Statutes, is created to read:

339.2820 Local agency program.—

(1) There is created within the department a local agency program for the purpose of providing assistance to subrecipient agencies, which include counties, municipalities, intergovernmental agencies, and other eligible governmental entities, to develop, design, and construct transportation facilities using federal funds allocated to the department from federal agencies which are suballocated to local agencies. The

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department shall update the project cost estimate in the year the project is granted to the local agency and include a contingency amount as part of the project cost estimate.

(2) The department is authorized to oversee projects funded by the Federal Highway Administration.

(3) Local agencies shall prioritize budgeting local projects through their respective M.P.O.'s or governing boards so that those organizations or boards may receive reimbursement for the services they provide to the public which are in compliance with applicable federal laws, rules, and regulations.

(4) Federal-aid highway funds are available only to local agencies that are certified by the department based on the agencies' qualifications, experience, and ability to comply with federal requirements, and their ability to undertake and satisfactorily complete the work.

(5) Local agencies shall include in their contracts to develop, design, or construct transportation facilities the department's Division I General Requirements and Covenants for local agencies as well as a contingency amount to cover costs incurred due to unforeseen conditions.

Section 15. Subsection (3) of section 339.2825, Florida Statutes, is amended to read:

339.2825 Approval of contractor-financed projects.—

(3) This section does not apply to a comprehensive ~~public-private partnership~~ agreement authorized in s. 334.30(2)(a).

Section 16. Subsection (4) of section 627.06501, Florida Statutes, is amended to read:

627.06501 Insurance discounts for certain persons completing driver improvement course.—

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(4) This section does not apply if the driver improvement course is taken in lieu of a court appearance for a traffic infraction as provided for in s. 318.14(9). However, the eight-election ~~five-election~~ restriction enumerated in that section is not applicable to taking the course for the purposes of receiving insurance premium reductions.

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

And the title is amended as follows:

Delete lines 10 - 78

and insert:

316.003, F.S.; revising the definition of the term "teleoperation system"; amending s. 316.303, F.S.; prohibiting a motor vehicle from being operated on the highways of this state if the vehicle is actively displaying certain content unless the vehicle is operated with a teleoperation system engaged; amending s. 316.85, F.S.; authorizing certain motor vehicles to be operated without a human operator physically present; providing that a remote human operator is deemed to be the driver or operator of a motor vehicle when the teleoperation system is engaged; requiring such operator to comply with the applicable traffic and motor vehicle laws of this state; exempting remote human operators from liability; providing an exception; requiring that a motor vehicle equipped with a teleoperation system be covered by an automobile insurance policy; providing requirements for such policy; revising legislative intent;


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conforming provisions to changes made by the act; amending s. 318.14, F.S.; increasing the number of times a driver may elect to attend a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles in lieu of a court appearance; amending ss. 318.1451 and 322.095, F.S.; requiring the department to annually review changes made to certain laws and to require that course content for specified driving courses be modified in accordance with relevant changes; amending s. 334.30, F.S.; authorizing the Department of Transportation to enter into comprehensive agreements with private entities or the consortia thereof for the building, operation, ownership, or financing of transportation facilities; conforming provisions to changes made by the act; replacing the term "public-private partnership agreement" with the term "comprehensive agreement"; requiring a private entity to provide an independent traffic and revenue study prepared by a certain expert; providing a requirement for such study; revising the timeframe within which the department must publish a certain notice of receipt of an unsolicited proposal for a public-private transportation project; authorizing the department to enter into an interim agreement with a private entity regarding a qualifying project; providing that an interim agreement does not obligate the department to enter into a comprehensive agreement and is not required under certain circumstances; providing

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requirements for an interim agreement; authorizing the secretary of the department to authorize comprehensive agreements for a term of up to 75 years for certain projects; making technical changes; requiring the department to notify the Division of Bond Finance of the State Board of Administration before entering into an interim agreement or a comprehensive agreement; amending s. 336.044, F.S.; prohibiting a local governmental entity from adopting certain standards or specifications concerning asphalt pavement material; amending s. 337.11, F.S.; requiring the department to receive three letters of interest before proceeding with requests for proposals for certain contracts; making technical changes; amending s. 337.18, F.S.; authorizing the department to allow the issuance of multiple contract performance and payment bonds in succession to meet certain requirements; revising the timeframe for certain actions against the contractor or the surety; specifying a timeframe for when an action for recovery of retainage must be instituted; amending s. 337.195, F.S.; revising a presumption regarding the proximate cause of death, injury, or damage in a civil suit against the department; defining terms; providing for immunity for contractors under certain circumstances; conforming provisions related to certain limitations on liability relating to traffic control plans; making technical changes; providing construction; providing that certain provisions do not preclude liability when the


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contractor’s negligence is the proximate cause of the personal injury, property damage, or death; revising a presumption regarding a design engineer’s degree of care and skill; deleting immunity for certain persons and entities; creating s. 339.2820, F.S.; creating within the department a local agency program for a specified purpose; requiring the department to update certain project cost estimates at a specified time and include a contingency amount as part of the project cost estimate; authorizing the department to oversee certain projects; requiring local agencies to prioritize budgeting certain local projects through their respective M.P.O.’s or governing boards for a specified purpose; specifying that certain funds are available only to local agencies that are certified by the department; requiring local agencies to include in certain contracts a specified document and a contingency amount for costs incurred due to unforeseen conditions; amending ss. 339.2825 and 627.06501, F.S.; conforming provisions to changes made by the act;

207404

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
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	.	

The Committee on Appropriations (Hooper) recommended the following:

Senate Amendment to Amendment (611078) (with title amendment)

Delete lines 47 - 160.

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

And the title is amended as follows:

Delete lines 834 - 853

and insert:

318.14, F.S.; increasing the number of

647196

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/22/2024	.	
	.	
	.	
	.	

The Committee on Appropriations (Hooper) recommended the following:

Senate Amendment (with title amendment)

Between lines 651 and 652
insert:

Section 8. Paragraph (a) of subsection (3) of section 338.26, Florida Statutes, is amended to read:

338.26 Alligator Alley toll road.—

(3)(a) Fees generated from tolls shall be deposited in the State Transportation Trust Fund and shall be used:

1. To reimburse outstanding contractual obligations;

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2. To operate and maintain the highway and toll facilities, including reconstruction and restoration;

3. To pay for those projects that are funded with Alligator Alley toll revenues and that are contained in the 1993-1994 adopted work program or the 1994-1995 tentative work program submitted to the Legislature on February 22, 1994; and

4. By interlocal agreement ~~effective July 1, 2019, through no later than June 30, 2027,~~ to reimburse a local governmental entity for the direct actual costs of operating the fire station at mile marker 63 on Alligator Alley, which shall be used by the local governmental entity to provide fire, rescue, and emergency management services exclusively to the public on Alligator Alley. The local governmental entity must contribute 10 percent of the direct actual operating costs. Beginning July 1, 2024, the amount of reimbursement in any state fiscal year to the local governmental entity may not exceed $2 million, which shall increase to reflect any upward adjustment adopted by the U.S. Bureau of Labor Statistics for the previous 12 months in the Consumer Price Index for All Urban Consumers for Miami-Fort Lauderdale-West Palm Beach ~~$1.4 million in any state fiscal year~~. In accordance with the capital improvement plan of the local governmental entity, the local governmental entity shall also be reimbursed for replacement of fire apparatus that is a like or similar model to Class A fire apparatus in use at the fire station and which conforms to the currently adopted equipment needs and safety standards of the local governmental entity. Any funds received by the local governmental entity from the surplus of fire apparatus being replaced in accordance with this paragraph shall be used to reduce the amount reimbursed to

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the local governmental entity for that year. Any fire apparatus purchased using state funds may not be used at another fire station of the local governmental entity. At the end of the term of the interlocal agreement, the ownership and title of all fire, rescue, and emergency equipment purchased with state funds and used at the fire station during the term of the interlocal agreement transfers to the state.

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

And the title is amended as follows:

Delete line 63

and insert:

and entities; amending s. 338.26, F.S.; removing dates for an interlocal agreement for a certain fire station; increasing the amount reimbursed to a local governmental entity for operating the fire station; providing for an increase in the amount reimbursed based on the consumer price index; providing requirements for the replacement and surplus of fire apparatus; creating s. 339.2820, F.S.; creating

493914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
	.	
	.	
	.	

The Committee on Appropriations (Hooper) recommended the following:

Senate Substitute for Amendment (647196) (with title amendment)

Between lines 651 and 652
insert:

Section 8. Paragraph (a) of subsection (3) of section 338.26, Florida Statutes, is amended to read:

338.26 Alligator Alley toll road.—

(3)(a) Fees generated from tolls shall be deposited in the State Transportation Trust Fund and shall be used:

493914

1. To reimburse outstanding contractual obligations;

2. To operate and maintain the highway and toll facilities, including reconstruction and restoration;

3. To pay for those projects that are funded with Alligator Alley toll revenues and that are contained in the 1993-1994 adopted work program or the 1994-1995 tentative work program submitted to the Legislature on February 22, 1994; and

4. By interlocal agreement ~~effective July 1, 2019, through no later than June 30, 2027~~, to reimburse a local governmental entity for the direct actual costs of operating the fire station at mile marker 63 on Alligator Alley, which shall be used by the local governmental entity to provide fire, rescue, and emergency management services exclusively to the public on Alligator Alley. The local governmental entity must contribute 10 percent of the direct actual operating costs.

a. The interlocal agreement effective July 1, 2019, through June 30, 2027, shall control until such time that the local governmental entity and the department enter into a new agreement or agree to extend the existing agreement. For the 2024-2025 fiscal year, the amount of reimbursement shall be $2 million.

b. Beginning no later than April 30, 2025, and every 5 years thereafter, the local governmental entity must provide a maintenance and operations comprehensive plan to the department. The comprehensive plan must include a current inventory of assets, including their projected service life, and area service needs; the call and response history for emergency services provided in the preceding 5 years on Alligator Alley, including costs; and future projections for assets and equipment,

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including replacement or purchase needs, and operating costs.

c. The local government entity and the department shall review and adopt the comprehensive plan as part of the interlocal agreement.

d. In concurrence with projected incoming toll revenues for Alligator Alley, the department shall include the corresponding funding needs of the comprehensive plan into the department's work program ~~The amount of reimbursement to the local governmental entity may not exceed $1.4 million in any state fiscal year~~.

e. At the end of the term of the interlocal agreement, the ownership and title of all fire, rescue, and emergency equipment purchased with state funds and used at the fire station during the term of the interlocal agreement transfers to the state.

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

And the title is amended as follows:

Delete line 63

and insert:

and entities; amending s. 338.26, F.S.; revising the date by which fees generated from tolls deposited into the State Transportation Trust Fund must be used to reimburse a local government entity for certain costs of operating a specified fire station; requiring that the interlocal agreement which authorizes such reimbursement to control for a specified time until the local governmental entity and the department enter into a new agreement or agree to extend the agreement; specifying the amount of reimbursement for the 2024-

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2025 fiscal year; requiring the local governmental entity, by a specified date and at specified intervals thereafter, to provide a maintenance and operations comprehensive plan to the department, which includes a current inventory of assets; requiring the local government entity and the department to review and adopt the comprehensive plan as part of the interlocal agreement; requiring the department to program corresponding funding needs into the department's work program; requiring that ownership and title of certain equipment purchased with state funds and used at the fire station during the term of the interlocal agreement transfer to the state at the end of the term of the agreement; creating s. 339.2820, F.S.; creating

By the Appropriations Committee on Transportation, Tourism, and Economic Development; the Committee on Transportation; and Senator Hooper

606-03119-24 2024266c2

A bill to be entitled

An act relating to transportation; amending s. 206.46, F.S.; prohibiting the Department of Transportation from annually committing more than a certain percentage of revenues derived from state fuel taxes and motor vehicle license-related fees to public transit projects; providing exceptions; amending s. 288.9606, F.S.; conforming provisions to changes made by the act; making technical changes; amending s. 334.30, F.S.; authorizing the department to enter into comprehensive agreements with private entities or the consortia thereof for the building, operation, ownership, or financing of transportation facilities; conforming provisions to changes made by the act; replacing the term "public-private partnership agreement" with the term "comprehensive agreement"; requiring a private entity to provide an independent traffic and revenue study prepared by a certain expert; providing a requirement for such study; revising the timeframe within which the department must publish a certain notice of receipt of an unsolicited proposal for a public-private transportation project; authorizing the department to enter into an interim agreement with a private entity regarding a qualifying project; providing that an interim agreement does not obligate the department to enter into a comprehensive agreement and is not required under certain circumstances; providing requirements for an interim agreement; conforming

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provisions to changes made by the act; authorizing the secretary of the department to authorize comprehensive agreements for a term of up to 75 years for certain projects; making technical changes; requiring the department to notify the Division of Bond Finance of the State Board of Administration before entering into an interim agreement or comprehensive agreement; amending s. 336.044, F.S.; prohibiting a local governmental entity from adopting certain standards or specifications concerning asphalt pavement material; amending s. 337.11, F.S.; requiring the department to receive three letters of interest before proceeding with requests for proposals for certain contracts; making technical changes; amending s. 337.18, F.S.; authorizing the department to allow the issuance of multiple contract performance and payment bonds in succession to meet certain requirements; revising the timeframe for certain actions against the contractor or the surety; specifying a timeframe for when an action for recovery of retainage must be instituted; amending s. 337.195, F.S.; revising a presumption regarding the proximate cause of death, injury, or damage in a civil suit against the department; defining terms; providing for immunity for contractors under certain circumstances; conforming provisions related to certain limitations on liability relating to traffic control plans; making technical changes; providing construction; providing that certain provisions do not preclude liability when the

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

contractor's negligence is the proximate cause of the personal injury, property damage, or death; revising a presumption regarding a design engineer's degree of care and skill; deleting immunity for certain persons and entities; creating s. 339.2820, F.S.; creating within the department a local agency program for a specified purpose; requiring the department to update certain project cost estimates at a specified time and include a contingency amount as part of the project cost estimate; authorizing the department to oversee certain projects; requiring local agencies to prioritize budgeting certain local projects through their respective M.P.O.'s or governing boards for a specified purpose; specifying that certain funds are available only to local agencies that are certified by the department; requiring local agencies to include in certain contracts a specified document and a contingency amount for costs incurred due to unforeseen conditions; amending s. 339.2825, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Subsection (6) is added to section 206.46, Florida Statutes, to read:

206.46 State Transportation Trust Fund.—

(6) The department may not annually commit more than 20 percent of the revenues derived from state fuel taxes and motor

vehicle license-related fees deposited into the State Transportation Trust Fund to public transit projects, in accordance with chapter 341. However, this subsection does not apply to either of the following:

(a) A public transit project that uses revenues derived from state fuel taxes and motor vehicle license-related fees to match funds made available by the Federal Government.

(b) A public transit project included in the transportation improvement program adopted pursuant to s. 339.175(8) and approved by a supermajority vote of the board of county commissioners where the project is located.

Section 2. Subsections (6) and (7) of section 288.9606, Florida Statutes, are amended to read:

288.9606 Issue of revenue bonds.—

(6) The proceeds of any bonds of the corporation may not be used, in any manner, to acquire any building or facility that will be, during the pendency of the financing, used by, occupied by, leased to, or paid for by any state, county, or municipal agency or entity. This subsection does not prohibit the use of proceeds of bonds of the corporation for the purpose of financing the acquisition or construction of a transportation facility under a comprehensive ~~public-private partnership~~ agreement authorized by s. 334.30.

(7) Notwithstanding any provision of this section, the corporation in its corporate capacity may, without authorization from a public agency under s. 163.01(7), issue revenue bonds or other evidence of indebtedness under this section to:

(a) Finance the undertaking of any project within the state that promotes renewable energy as defined in s. 366.91 or s.

377.803;

(b) Finance the undertaking of any project within the state that is a project contemplated or allowed under s. 406 of the American Recovery and Reinvestment Act of 2009; ~~or~~

(c) If permitted by federal law, finance qualifying improvement projects within the state under s. 163.08; or~~.~~

(d) Finance the costs of acquisition or construction of a transportation facility by a private entity or consortium of private entities under a comprehensive ~~public-private partnership~~ agreement authorized by s. 334.30.

Section 3. Present subsections (8) through (13) of section 334.30, Florida Statutes, are redesignated as subsections (9) through (14), respectively, a new subsection (8) is added to that section, and subsections (1), (2), and (6) and present subsections (8), (10), (11), and (13) of that section are amended, to read:

334.30 Public-private transportation facilities.—The Legislature finds and declares that there is a public need for the rapid construction of safe and efficient transportation facilities for the purpose of traveling within the state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical transportation facilities.

(1) The department may receive or solicit proposals and, with legislative approval as evidenced by approval of the project in the department's work program, enter into comprehensive agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The department may advance projects

programmed in the adopted 5-year work program or projects increasing transportation capacity and greater than $500 million in the 10-year Strategic Intermodal Plan using funds provided by public-private partnerships or private entities to be reimbursed from department funds for the project as programmed in the adopted work program. The department shall by rule establish an application fee for the submission of unsolicited proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before approval, the department must determine that the proposed project:

(a) Is in the public's best interest;

(b) Would not require state funds to be used unless the project is on the State Highway System;

(c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the comprehensive agreement by the department;

(d) Would have adequate safeguards in place to ensure that the department or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and

(e) Would be owned by the department upon completion or termination of the comprehensive agreement.

The department shall ensure that all reasonable costs to the state, related to transportation facilities that are not part of

the State Highway System, are borne by the private entity. The department shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation. Because the Legislature recognizes that private entities or consortia thereof would perform a governmental or public purpose or function when they enter into comprehensive agreements with the department to design, build, operate, own, or finance transportation facilities, the transportation facilities, including leasehold interests thereof, are exempt from ad valorem taxes as provided in chapter 196 to the extent property is owned by the state or other government entity, and from intangible taxes as provided in chapter 199 and special assessments of the state, any city, town, county, special district, political subdivision of the state, or any other governmental entity. The private entities or consortia thereof are exempt from tax imposed by chapter 201 on all documents or obligations to pay money which arise out of the comprehensive agreements to design, build, operate, own, lease, or finance transportation facilities. Any private entities or consortia thereof must pay any applicable corporate taxes as provided in chapter 220, and reemployment assistance taxes as provided in chapter 443, and sales and use tax as provided in chapter 212 shall be applicable. The private entities or consortia thereof must also register and collect the tax imposed

by chapter 212 on all their direct sales and leases that are subject to tax under chapter 212. The comprehensive agreement between the private entity or consortia thereof and the department establishing a transportation facility under this chapter constitutes documentation sufficient to claim any exemption under this section.

(2) Comprehensive agreements entered into pursuant to this section may authorize the private entity to impose tolls or fares for the use of the facility. The following provisions ~~shall~~ apply to such agreements:

(a) With the exception of the Florida Turnpike System, the department may lease existing toll facilities through public-private partnerships. The comprehensive ~~public-private partnership~~ agreement must ensure that the transportation facility is properly operated, maintained, and renewed in accordance with department standards.

(b) The department may develop new toll facilities or increase capacity on existing toll facilities through public-private partnerships. The comprehensive ~~public-private partnership~~ agreement must ensure that the toll facility is properly operated, maintained, and renewed in accordance with department standards.

(c) Any toll revenues shall be regulated by the department pursuant to s. 338.165(3). The regulations governing the future increase of toll or fare revenues shall be included in the comprehensive ~~public-private partnership~~ agreement.

(d) The department shall provide the analysis required in subparagraph (6)(e)2. to the Legislative Budget Commission created pursuant to s. 11.90 for review and approval prior to

awarding a contract on a lease of an existing toll facility.

(e) The department shall include provisions in the comprehensive ~~public-private partnership~~ agreement which ~~that~~ ensure a negotiated portion of revenues from tolled or fare generating projects are returned to the department over the life of the comprehensive ~~public-private partnership~~ agreement. In the case of a lease of an existing toll facility, the department shall receive a portion of funds upon closing on the comprehensive agreement ~~agreements~~ and shall also include provisions in the comprehensive agreement to receive payment of a portion of excess revenues over the life of the public-private partnership.

(f) The private entity shall provide an independent ~~investment grade~~ traffic and revenue study prepared by a ~~an internationally recognized~~ traffic and revenue expert as part of the private entity proposal. The study must be ~~that is~~ accepted by the national bond rating agencies before closing on the financing that supports the comprehensive agreement for the public-private partnership project. The private entity shall also provide a finance plan that identifies the project cost, revenues by source, financing, major assumptions, internal rate of return on private investments, and whether any government funds are assumed to deliver a cost-feasible project, and a total cash flow analysis beginning with implementation of the project and extending for the term of the comprehensive agreement.

(6) The procurement of public-private partnerships by the department shall follow the provisions of this section. Sections 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,

337.185, 337.19, 337.221, and 337.251 may ~~shall~~ not apply to procurements under this section unless a provision is included in the procurement documents. The department shall ensure that generally accepted business practices for exemptions provided by this subsection are part of the procurement process or are included in the comprehensive ~~public-private partnership~~ agreement.

(a) The department may request proposals from private entities for public-private transportation projects or, if the department receives an unsolicited proposal, the department shall publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for 2 weeks stating that the department has received the proposal and will accept, for between 30 and 120 days after the initial date of publication as determined by the department based on the complexity of the project, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected area.

(b) Public-private partnerships shall be qualified by the department as part of the procurement process as outlined in the procurement documents, provided such process ensures that the private firm meets at least the minimum department standards for qualification in department rule for professional engineering services and road and bridge contracting prior to submitting a proposal under the procurement.

(c) The department shall ensure that procurement documents include provisions for performance of the private entity and payment of subcontractors, including, but not limited to, surety bonds, letters of credit, parent company guarantees, and lender

and equity partner guarantees. The department shall balance the structure of the security package for the public-private partnership that ensures performance and payment of subcontractors with the cost of the security to ensure the most efficient pricing.

(d) After the public notification period has expired, the department shall rank the proposals in order of preference. In ranking the proposals, the department may consider factors that include, but are not limited to, professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the project. If the department is not satisfied with the results of the negotiations, the department may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the department may go to the second-ranked and lower-ranked firms, in order, using this same procedure. If only one proposal is received, the department may negotiate in good faith and, if the department is not satisfied with the results of the negotiations, the department may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the department may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

(e) The department shall provide an independent analysis of the proposed public-private partnership that demonstrates the cost-effectiveness and overall public benefit at the following times:

1. Prior to moving forward with the procurement; and

2. If the procurement moves forward, prior to awarding the

contract.

(8) Before or in connection with the negotiation of a comprehensive agreement, the department may enter into an interim agreement with the private entity proposing the development or operation of a qualifying project. An interim agreement does not obligate the department to enter into a comprehensive agreement. The interim agreement is discretionary with the parties and is not required on a project for which the parties may proceed directly to a comprehensive agreement without the need for an interim agreement. An interim agreement must be limited to any of the following provisions that:

(a) Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project, including, but not limited to, project planning and development, designing, environmental analysis and mitigation, surveying, other activities concerning any part of the proposed qualifying project, and ascertaining the availability of financing for the proposed facility or facilities.

(b) Establish the process and timing for the negotiation of the comprehensive agreement.

(c) Contain such other provisions related to an aspect of the development or operation of a qualifying project which the department and the private entity deem appropriate.

(9)~~(8)~~ The department may enter into comprehensive ~~public-private partnership~~ agreements that include extended terms providing annual payments for performance based on the availability of service or the facility being open to traffic or based on the level of traffic using the facility. In addition to other provisions in this section, the following provisions ~~shall~~

apply:

(a) The annual payments under any such comprehensive agreement must ~~shall~~ be included in the department's tentative work program developed under s. 339.135 and the long-range transportation plan for the applicable metropolitan planning organization developed under s. 339.175. The department shall ensure that annual payments on multiyear comprehensive ~~public-private partnership~~ agreements are prioritized ahead of new capacity projects in the development and updating of the tentative work program.

(b) The annual payments are subject to annual appropriation by the Legislature as provided in the General Appropriations Act in support of the first year of the tentative work program.

(11)~~(10)~~ Before ~~Prior to~~ entering into any comprehensive ~~such~~ agreement in which ~~where~~ funds are committed from the State Transportation Trust Fund, the project must be prioritized as follows:

(a) The department, in coordination with the local metropolitan planning organization, shall prioritize projects included in the Strategic Intermodal System 10-year and long-range cost-feasible plans.

(b) The department, in coordination with the local metropolitan planning organization or local government where there is no metropolitan planning organization, shall prioritize projects, for facilities not on the Strategic Intermodal System, included in the metropolitan planning organization cost-feasible transportation improvement plan and long-range transportation plan.

(12)~~(11)~~ Comprehensive ~~Public-private partnership~~

agreements under this section are ~~shall be~~ limited to a term not exceeding 50 years. Upon making written findings that a comprehensive ~~an~~ agreement under this section requires a term in excess of 50 years, the secretary of the department may authorize a term of up to 75 years for projects that are partially or completely funded from project user fees. Comprehensive agreements under this section may ~~shall~~ not have a term in excess of 75 years unless specifically approved by the Legislature. The department shall identify each new project under this section with a term exceeding 75 years in the transmittal letter that accompanies the submittal of the tentative work program to the Governor and the Legislature in accordance with s. 339.135.

(14)~~(13)~~ In connection with a proposal to finance or refinance a transportation facility pursuant to this section, the department shall consult with the Division of Bond Finance of the State Board of Administration. The department shall notify the division before entering into an interim agreement or comprehensive agreement and provide the division with the information necessary to provide timely consultation and recommendations. The Division of Bond Finance may make an independent recommendation to the Executive Office of the Governor.

Section 4. Subsection (5) of section 336.044, Florida Statutes, is amended to read:

336.044 Use of recyclable materials in construction.—

(5) Notwithstanding any law, rule, or ordinance to the contrary, a local governmental entity may not adopt standards or specifications that are contrary to the department standards or

specifications for permissible use of reclaimed asphalt pavement material or deem reclaimed asphalt pavement material as ~~in construction. For purposes of this section, such material may not be considered~~ solid waste.

Section 5. Paragraph (e) of subsection (7) and subsection (13) of section 337.11, Florida Statutes, are amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(7)

(e) For design-build contracts and phased design-build contracts, the department must receive at least three letters of interest in order to proceed with a request for proposals. The department shall request proposals from no fewer than three of the ~~design-build~~ firms submitting letters of interest. If a ~~design-build~~ firm withdraws from consideration after the department requests proposals, the department may continue if at least two proposals are received.

(13) Any motor vehicle used in ~~Each contract let by the department for~~ the performance of road or bridge construction or maintenance work on a department project must ~~shall require all motor vehicles that the contractor operates or causes to be operated in this state to~~ be registered in compliance with chapter 320.

Section 6. Paragraphs (a) and (d) of subsection (1) of section 337.18, Florida Statutes, are amended to read:

337.18 Surety bonds for construction or maintenance contracts; requirement with respect to contract award; bond

requirements; defaults; damage assessments.—

(1)(a) A surety bond shall be required of the successful bidder in an amount equal to the awarded contract price. However, the department may choose, in its discretion and applicable only to multiyear maintenance contracts, to allow for incremental annual contract bonds that cumulatively total the full, awarded, multiyear contract price. The department may also choose, in its discretion and applicable only to phased design-build construction contracts under s. 337.11(7)(b), to allow the issuance of multiple contract performance and payment bonds in succession to align with each phase of the contract to meet the bonding requirement in this subsection.

1. The department may waive the requirement for all or a portion of a surety bond if:

a. The contract price is $250,000 or less and the department determines that the project is of a noncritical nature and that nonperformance will not endanger public health, safety, or property;

b. The prime contractor is a qualified nonprofit agency for the blind or for the other severely handicapped under s. 413.036(2); or

c. The prime contractor is using a subcontractor that is a qualified nonprofit agency for the blind or for the other severely handicapped under s. 413.036(2). However, the department may not waive more than the amount of the subcontract.

2. If the Secretary of Transportation or the secretary's designee determines that it is in the best interests of the department to reduce the bonding requirement for a project and

that to do so will not endanger public health, safety, or property, the department may waive the requirement of a surety bond in an amount equal to the awarded contract price for a project having a contract price of $250 million or more and, in its place, may set a surety bond amount that is a portion of the total contract price and provide an alternate means of security for the balance of the contract amount that is not covered by the surety bond or provide for incremental surety bonding and provide an alternate means of security for the balance of the contract amount that is not covered by the surety bond. Such alternative means of security may include letters of credit, United States bonds and notes, parent company guarantees, and cash collateral. The department may require alternate means of security if a surety bond is waived. The surety on such bond shall be a surety company authorized to do business in the state. All bonds shall be payable to the department and conditioned for the prompt, faithful, and efficient performance of the contract according to plans and specifications and within the time period specified, and for the prompt payment of all persons defined in s. 713.01 furnishing labor, material, equipment, and supplies for work provided in the contract; however, whenever an improvement, demolition, or removal contract price is $25,000 or less, the security may, in the discretion of the bidder, be in the form of a cashier's check, bank money order of any state or national bank, certified check, or postal money order. The department shall adopt rules to implement this subsection. Such rules shall include provisions under which the department shall refuse to accept bonds on contracts when a surety wrongfully fails or refuses to settle or

provide a defense for claims or actions arising under a contract for which the surety previously furnished a bond.

(d) An action, except for an action for recovery of retainage, must be instituted by a claimant, whether in privity with the contractor or not, against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 365 days after the performance of the labor or completion of delivery of the materials or supplies. An action for recovery of retainage must be instituted against the contractor or the surety within 365 days after final acceptance of the contract work by the department. A claimant may not waive in advance his or her right to bring an action under the bond against the surety. In any action brought to enforce a claim against a payment bond under this section, the prevailing party is entitled to recover a reasonable fee for the services of his or her attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of the prevailing party's costs, as allowed in equitable actions.

Section 7. Section 337.195, Florida Statutes, is amended to read:

337.195 Limits on liability.—

(1) In a civil action for the death of or injury to a person, or for damage to property, against the Department of Transportation or its agents, consultants, or contractors for work performed on a highway, road, street, bridge, or other transportation facility when the death, injury, or damage resulted from a motor vehicle crash within a construction zone in which the driver of one of the vehicles was under the

influence of alcoholic beverages as set forth in s. 316.193, under the influence of any chemical substance as set forth in s. 877.111, or illegally under the influence of any substance controlled under chapter 893, excluding low-THC cannabis, to the extent that her or his normal faculties were impaired or that she or he operated a vehicle recklessly as defined in s. 316.192, it is presumed that the driver's operation of the vehicle was the sole proximate cause of her or his own death, injury, or damage. This presumption can be overcome if the gross negligence or intentional misconduct of the Department of Transportation, or of its agents, consultants, or contractors, was a proximate cause of the driver's death, injury, or damage.

(2)(a) For purposes of this section, the term:

1. "Contract documents" has the same meaning as in the department's Standard Specifications for Road and Bridge Construction applicable under the contract between the department and the contractor.

2. "Contractor" means a person or an entity, at any contractual tier, including any member of a design-build team pursuant to s. 337.11, who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the department in connection with a department project.

3. "Design engineer" means a person or an entity, including the design consultant of a design-build team, who contracts at any tier to prepare or provide engineering plans, including traffic control plans, for the construction or repair of a highway, road, street, bridge, or other department transportation facility for the department or in connection with a department project.

4. "Traffic control plans" means the maintenance of traffic plans designed by a professional engineer, or otherwise in accordance with the department's standard plans, and approved by the department.

(b) A contractor is not liable for personal injury, property damage, or death arising from any of the following:

1. The performance of the construction, maintenance, or repair of the transportation facility, if, at the time the personal injury, property damage, or death occurred, the contractor was in compliance with the contract documents material to the personal injury, property damage, or death.

2. Acts or omissions of a third party that furnishes or contracts at any contractual level to furnish services or materials to the transportation facility, including any subcontractor; sub-subcontractor; laborer; materialman; owner, lessor, or driver of a motor vehicle, trailer, semitrailer, truck, heavy truck, truck tractor, or commercial motor vehicle, as those terms are defined in s. 320.01; or any person who performs services as an architect, a landscape architect, an interior designer, an engineer, or a surveyor and mapper.

3. Acts or omissions of a third party who trespasses within the limits of the transportation facility or otherwise is not authorized to enter the area of the transportation facility in which the personal injury, property damage, or death occurred.

4. Acts or omissions of a third party who damages, modifies, moves, or removes any traffic control device, warning device, barrier, or other facility or device used for the public's safety and convenience ~~who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation~~

~~facility for the Department of Transportation is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the personal injury, property damage, or death, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death~~.

(c) ~~(a)~~ The limitations ~~limitation~~ on liability contained in this subsection do ~~does~~ not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the contract documents; or when the proximate cause of the personal injury, property damage, or death was the contractor's failure to ~~perform, update, or~~ comply with the ~~maintenance of the~~ traffic control plans ~~safety plan~~ as required by the contract documents.

(d) ~~(b) Nothing in~~ This subsection may not ~~shall~~ be interpreted or construed as relieving the contractor of any obligation to provide the department ~~of Transportation~~ with written notice of any apparent error or omission in the contract documents, or as relieving the contractor of his or her contract responsibility to manage the work of others performing under the contract.

(e) ~~(c) Nothing in~~ This subsection may not ~~shall~~ be interpreted or construed to alter or affect any claim of the department ~~of Transportation~~ against such contractor.

(f) ~~(d)~~ This subsection does not affect any claim of any entity against such contractor, which claim is associated with such entity's facilities on or in department ~~of Transportation~~

roads or other transportation facilities.

(g) This subsection may not be interpreted or construed to alter or amend any of the provisions of chapter 440, which shall take precedence in the event of any conflict with this subsection.

(h) This subsection does not preclude liability where the contractor's negligence is the proximate cause of the personal injury, property damage, or death.

(3) In all cases involving personal injury, property damage, or death, a design engineer is ~~person or entity who contracts to prepare or provide engineering plans for the construction or repair of a highway, road, street, bridge, or other transportation facility for the Department of Transportation shall be~~ presumed to have prepared ~~such~~ engineering plans using the degree of care and skill ordinarily exercised by other engineers in the field under similar conditions and in similar localities and with due regard for acceptable engineering standards and principles if the engineering plans conformed to the department's ~~Department of Transportation's~~ design standards material to the condition or defect that was the proximate cause of the personal injury, property damage, or death. This presumption can be overcome only upon a showing of the design engineer's ~~person's or entity's~~ gross negligence in the preparation of the engineering plans and may ~~shall~~ not be interpreted or construed to alter or affect any claim of the department ~~of Transportation~~ against such design engineer ~~person or entity~~. The limitation on liability contained in this subsection does ~~shall~~ not apply to any hidden or undiscoverable condition created by the design engineer. This

subsection does not affect any claim of any entity against such design engineer ~~or engineering firm~~, which claim is associated with such entity's facilities on or in department ~~of Transportation~~ roads or other transportation facilities.

~~(4) In any civil action for death, injury, or damages against the Department of Transportation or its agents, consultants, engineers, or contractors for work performed on a highway, road, street, bridge, or other transportation facility, if the department, its agents, consultants, engineers, or contractors are immune from liability pursuant to this section or are not parties to the litigation, they may not be named on the jury verdict form or be found to be at fault or responsible for the injury, death, or damage that gave rise to the damages.~~

Section 8. Section 339.2820, Florida Statutes, is created to read:

339.2820 Local agency program.—

(1) There is created within the department a local agency program for the purpose of providing assistance to subrecipient agencies, which include counties, municipalities, intergovernmental agencies, and other eligible governmental entities, to develop, design, and construct transportation facilities using federal funds allocated to the department from federal agencies which are suballocated to local agencies. The department shall update the project cost estimate in the year the project is granted to the local agency and include a contingency amount as part of the project cost estimate.

(2) The department is authorized to oversee projects funded by the Federal Highway Administration.

(3) Local agencies shall prioritize budgeting local

projects through their respective M.P.O.'s or governing boards so that those organizations or boards may receive reimbursement for the services they provide to the public which are in compliance with applicable federal laws, rules, and regulations.

(4) Federal-aid highway funds are available only to local agencies that are certified by the department based on the agencies' qualifications, experience, and ability to comply with federal requirements, and their ability to undertake and satisfactorily complete the work.

(5) Local agencies shall include in their contracts to develop, design, or construct transportation facilities the department's Division I General Requirements and Covenants for local agencies as well as a contingency amount to cover costs incurred due to unforeseen conditions.

Section 9. Subsection (3) of section 339.2825, Florida Statutes, is amended to read:

339.2825 Approval of contractor-financed projects.—

(3) This section does not apply to a comprehensive ~~public-private partnership~~ agreement authorized in s. 334.30(2)(a).

Section 10. This act shall take effect July 1, 2024.

The Florida Senate

Committee Agenda Request

To: Senator Doug Broxson, Chair
Committee on Appropriations

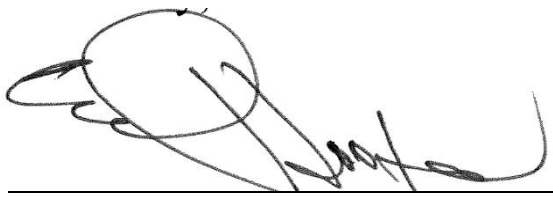
Subject: Committee Agenda Request

Date: February 14, 2024

I respectfully request that **Senate Bill #266**, relating to Department of Transportation, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.



Senator Ed Hooper
Florida Senate, District 21

File signed original with committee office

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2-22-24
Meeting Date

Appropriations
Committee

SB 266
Bill Number or Topic

207404
Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Appropriations
Committee

246
Bill Number or Topic

493914
Amendment Barcode (if applicable)

Name Katie Kelly

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Address 100 E. College Ave #820
Street

Email kkelly@mansonbolves.com

TLH FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Greater Naples Fire District

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

02/22/24
Meeting Date

APPROPS
Committee

The Florida Senate
APPEARANCE RECORD

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266
Bill Number or Topic

Amendment Barcode (if applicable)

Name ANANTH PRASAD

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PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
FTBA

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Approps
Committee

266
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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 Appropriations

BILL:	CS/SB 330
INTRODUCER:	Appropriations Committee on Health and Human Services and Senator Boyd and others
SUBJECT:	Behavioral Health Teaching Hospitals
DATE:	February 21, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	McKnight	AHS	**Fav/CS**
2.	Tuszynski	Sadberry	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 330 creates a new "behavioral health teaching hospital" designation within ch. 395, F.S. to mean a licensed community-based hospital that has partnered with a state university school of medicine and offers specific behavioral health education.

The bill designates four medical school and hospital partnerships as 3-year pilot behavioral health teaching hospitals (BHTH). The bill requires these pilots to meet the designation criteria by the end of the pilot on July 1, 2027.

After the end of the 3-year pilot, the bill requires the Department of Children and Families (DCF) in coordination with other stakeholders, to provide a report on the effectiveness and barriers to implementation of the BHTH model as well as make certain recommendations on how to enhance the model, including whether to expand BHTHs beyond the original designees. This report is due by July 1, 2028.

The bill establishes the Florida Center for Behavioral Health Workforce (Center) within the University of South Florida's Louis de la Parte Florida Mental Health Institute. The Center will:

- Design and implement a longitudinal study to analyze issues of workforce supply and demand in behavioral health professions in the state, including recruitment, retention, and other workforce issues;
- Develop a statewide plan with recommendations for systemic changes and strategies;
- Enhance and promote behavioral health professionals; and

- Convene various stakeholders to review the Center's analysis, recommend systemic changes, and evaluate and report the results to the Legislature.

The bill also requires the DCF to contract for a study of Florida's forensic, voluntary and involuntary civil commitment, and statewide inpatient psychiatric program bed capacity. The study must be completed by January 31, 2025.

The bill has a significant, negative impact on state expenditures and provides appropriations to implement provisions of the bill. *See* Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024, except as otherwise expressly provided in the bill.

II. Present Situation:

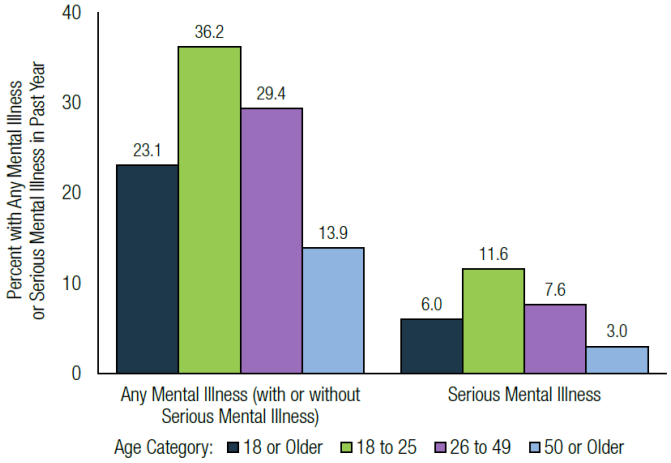
Behavioral Health

Behavioral health generally refers to mental health and substance use disorders, life stressors and crises, and stress-related physical symptoms.[1] Behavioral health care refers to the prevention, diagnosis, and treatment of those conditions.[2]

In 2022, the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) estimates that 23.1 percent of the U.S. population experienced some form of mental illness, known as any mental illness (AMI); this is approximately 59.3 million Americans.[3] Of that 59.3 million Americans, 6 percent experienced a serious mental illness (SMI).[4,5]

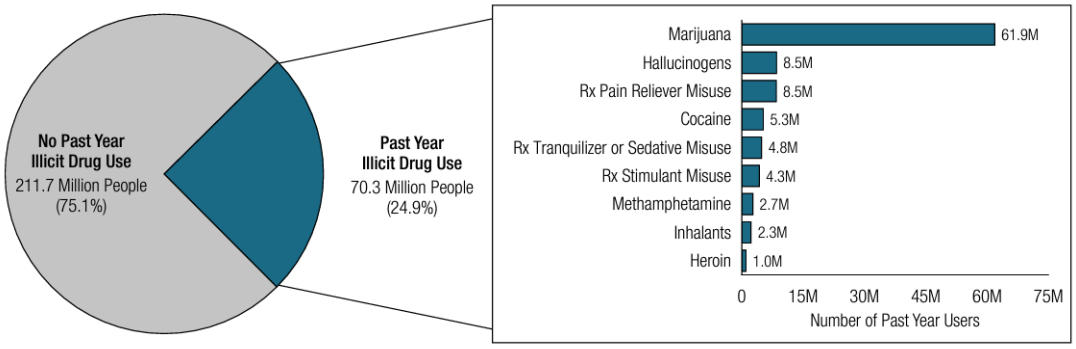
[1] The American Medical Association, *What is behavioral health?*, available at https://www.ama-assn.org/delivering-care/public-health/what-behavioral-health (last visited Jan. 12, 2024).
[2] *Id*.
[3] U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2022 National Survey on Drug Use and Health*, pg. 40, available at: https://www.samhsa.gov/data/sites/default/files/reports/rpt42731/2022-nsduh-nnr.pdf (last visited Jan. 12, 2024).
[4] *Id*., pg. 41.
[5] Serious Mental Illness (SMI) is commonly defined as mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities; National Institutes of Mental Health, Mental Illness, available at https://www.nimh.nih.gov/health/statistics/mental-illness (last visited Jan. 12, 2024).

Any Mental Illness (AMI) or Serious Mental Illness (SMI) in the Past Year: Adults aged 18 or Older[6]



In 2022, this same study collected illicit drug use information and estimates that 70.3 million people aged 12 or older used illicit drugs, the most common of these drugs being marijuana.[7]

Illicit Drug Use in the Past Year: Among People Aged 12 or Older[8]



Rx = prescription.

Note: The estimated numbers of past year users of different illicit drugs are not mutually exclusive because people could have used more than one type of illicit drug in the past year.

[6] Serious Mental Illness (SMI) is commonly defined as mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities; National Institutes of Mental Health, Mental Illness, available at https://www.nimh.nih.gov/health/statistics/mental-illness (last visited Jan. 12, 2024).

[7] U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2022 National Survey on Drug Use and Health*, pg. 14, available at: https://www.samhsa.gov/data/sites/default/files/reports/rpt42731/2022-nsduh-nnr.pdf (last visited Jan. 12, 2024).

[8] *Id*.

The Health Care Workforce Shortage

The term "health care workforce" means health care professionals working in health service settings. Physicians and nurses make up the largest segments of the health care workforce.[9] The United States has a health care professional shortage nationwide and this shortage is predicted to continue into the foreseeable future and will likely worsen as the aging U.S. population continues to grow[10] and the expanded access to health care resulting from the federal Affordable Care Act.[11] Aging populations create a disproportionately higher health care demand due to seniors having a higher per capita consumption of health care services than younger populations.[12] Additionally, as more individuals qualify for health care benefits, there will likely be a greater demand for more health care professionals to provide these services.

Health Care Professional Shortage Areas

A health care professional shortage area (HPSA) is a geographic area, population group, or health care facility designated by the U.S. Health Resources & Services Administration (HRSA) as having a shortage of health professionals. There are three categories of HPSA: primary care, dental health, and mental health.[13] As of September 30, 2023, there are 304 primary care HPSAs, 266 dental HPSAs, and 228 mental health HPSAs designated within Florida. To eliminate these recognized shortages, it would take an additional 1,803 primary care physicians, 1,317 dentists, and 587 psychiatrists.[14]

Each HPSA is given a score by the HRSA indicating the severity of the shortage in that area, population, or facility. The scores for primary care and mental health HPSAs can be between 0 and 25 and between 0 and 26 for dental health HPSAs, with a higher score indicating a more severe shortage.[15]

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[9] Spencer, Ph.D., M.PH., Emma, Division Director, Division of Public Health Statistics and Performance Management, The Department of Health, *Florida's Physician and Nursing Workforce,* presented in Florida Senate Health Policy Committee meeting Nov. 14, 2023, published Nov. 15, 2023, (on file with the Senate Health Policy Committee).

[10] The U.S. population is expected to increase by 79 million people by 2060, and average of 1.8 million people each year between 2017 and 2060. *See* U.S. *Census Bureau, Demographic Turning Points for the U.S.; Population Projections for 2020 to 2060* (February 2020), *available at* https://www.census.gov/content/dam/Census/library/publications/2020/demo/p25-1144.pdf (last visited Jan. 14, 2024).

[11] Association of American Medical Colleges, *The Complexities of Physician Supply and Demand: Projections from 2019 to 2034*, (June 2021), *available at* https://www.aamc.org/media/54681/download (last visited Jan. 14, 2024).

[12] The nation's 65-and-older population is projected to nearly double in size in coming decades, from 49 million in 2016 to 95 million people in 2060. *See:* U.S. Census Bureau, *U.S. and World Population Clock*, *available at* https://www.census.gov/popclock/, and U.S. Census Bureau, *U.S. Population Projected to Begin Declining in Second Half of Century* (Nov. 9, 2023), *available at* https://www.census.gov/newsroom/press-releases/2023/population-projections.html (both sites last visited Jan. 10, 2024).

[13] *Health Professional Shortage Areas (HPSAs) and Your Site*, National Health Service Corps, *available at* https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/workforce-shortage-areas/nhsc-hpsas-practice-sites.pdf, (last visited Jan. 13, 2024).

[14] Bureau of Health Workforce, Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services, *Designated Health Professional Shortage Areas Statistics, Fourth Quarter of Fiscal Year 2023* (Sept. 30, 2023), *available at* https://data.hrsa.gov/topics/health-workforce/health-workforce-shortage-areas?hmpgtile=hmpg-hlth-srvcs (last visited December 4, 2023). To generate the report, select "Designated HPSA Quarterly Summary."

[15] HRSA, *Scoring Shortage Designations*, *available at* https://bhw.hrsa.gov/workforce-shortage-areas/shortage-designation/scoring, (last visited Jan. 13, 2024).

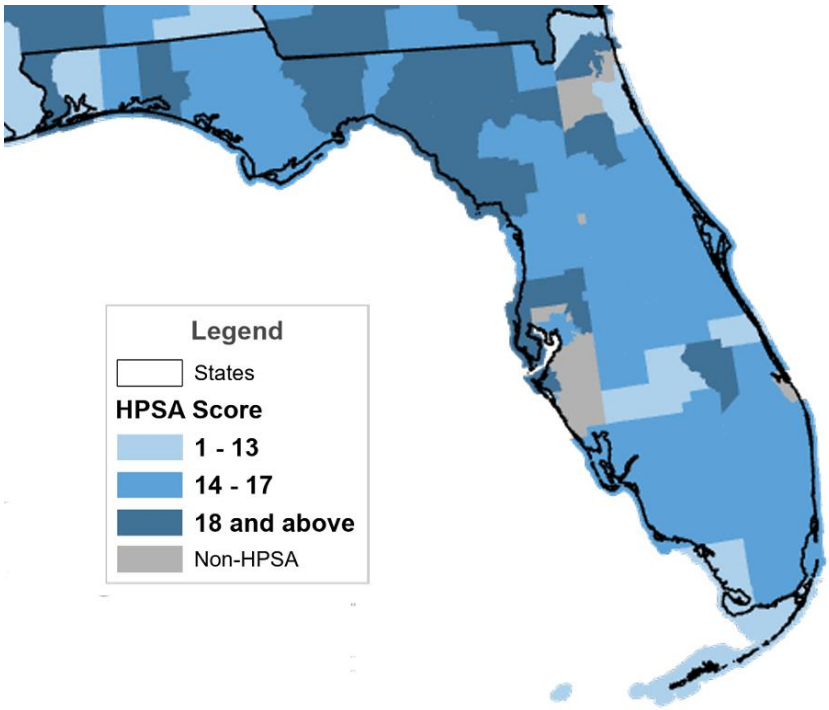
Florida's Behavioral Health Workforce Shortage

Challenges for the Behavioral Health Workforce

Several factors affect the ability of the behavioral health workforce to provide quality care. However, one of the greatest is population demographics and the lack of workforce to provide the necessary care.[16] Youth behavioral concerns are on the rise as well as a growing and unique behavioral health need among older adults.[17] It is estimated that by 2060, the number of adults aged 65 and older is projected to increase by 54 percent, compared to only a 9 percent increase in the total U.S. population.[18]

Florida's Mental Health HPSAs

As of January 2024, Florida has 19 geographical area mental health HPSAs. Six of these have a score between zero and 13. Thirteen have scores between 14 and 25.[19] Below is a map of mental health HPSAs in Florida, which details the associated HPSA score and indicates HPSAs involving every county.[20]



[16] See HRSA, Health Workforce, *Behavioral Health Workforce Brief, 2023*, available at https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/Behavioral-Health-Workforce-Brief-2023.pdf (last visited Jan. 13, 2024).
[17] *Id*.
[18] U.S. Census Bureau, *2022 National Population Projections Tables: Main Series Table 2, projected age and sex composition of the population*, 2022, available at https://www.census.gov/data/tables/2023/demo/popproj/2023-summary-tables.html (last viewed Jan. 15, 2024).
[19] HRSA, *Health Workforce Shortage Areas*, available at https://data.hrsa.gov/topics/health-workforce/shortage-areas (last visited Jan. 15, 2024).
[20] *Id*.

Today, HRSA's National Center for Health Workforce Analysis projects that Florida is at a 73 percent overall adequacy rate[21] for the behavioral health workforce.[22] The Center projects an overall adequacy rate for the behavioral health workforce of only 60 percent by 2030.[23]

Behavioral Health Education

Graduate Medical Education for Psychiatry

The continuum of formal physician education begins with undergraduate medical education in an allopathic or osteopathic medical school. U.S. medical schools confer the M.D. or D.O. degree. U.S. graduates with these degrees combine with some of the graduates of non-U.S. medical schools in competing for residency program slots. Graduate medical education, or GME, is the post-graduate period often called residency training. GME has evolved from an apprenticeship model to a curriculum-based education program. Learning is still predominantly based on resident participation in patient care, under supervision, with increasing independence through the course of training.[24] Most residency programs are sponsored by and take place in large teaching hospitals and academic health centers. However, as health care services are increasingly provided in ambulatory and community-based settings, residency training is beginning to expand to non-hospital sites.[25] Every U.S. state requires residency training to receive an unrestricted license to practice medicine.[26]

Graduate Education for Clinical Psychologists

The formal education of a Clinical Psychologist usually begins with an undergraduate degree in psychology followed by a doctoral degree in psychology from an accredited education institution.[27] Most doctoral degrees take five to seven years to complete with a requirement to pass a comprehensive exam and write and defend a dissertation.[28] Florida law requires two years or 4,000 hours of supervised experience for licensure.[29] If the doctoral student wants to practice as a psychologist in a clinical setting, the student will also have to complete a one-year internship as part of their doctoral study for their selected area of practice.[30]

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[21] Workforce Adequacy rate is calculated by dividing the projected supply of workforce by the projected demand of workforce as calculated by HRSA.
[22] HRSA, Workforce Projections, available at https://data.hrsa.gov/topics/health-workforce/workforce-projections (last visited Jan. 15, 2024); HRSA's "Behavioral Health Workforce" includes: Psychiatrists (adult and pediatric), Addiction Counselors, Child, Family, & School Social Workers, Marriage & Family Therapists, Substance Abuse Social Workers, Mental Health Counselors, Psychiatric Aides, Psychiatric Assistants, Psychologists, and School Counselors.
[23] *Id*.
[24] *Graduate Medical Education That Meets the Nation's Health Needs*, Committee on the Governance and Financing of Graduate Medical Education; Board on Health Care Services; Institute of Medicine; Eden J, Berwick D, Wilensky G, editors. Washington (DC): National Academies Press (US); 2014 Sep 30. 1, Introduction. Available from: https://www.ncbi.nlm.nih.gov/books/NBK248032/, (last visited Jan. 14, 2024).
[25] *Id*.
[26] *Id*.
[27] American Psychological Association, *A Career in Clinical or Counseling Psychology*, available at https://www.apa.org/education-career/guide/subfields/clinical/education-training (last visited Jan. 16, 2024).
[28] *Id*.
[29] Section 490.005, F.S.; Rule 64B19-11.005, F.A.C.;
[30] American Psychological Association, *A Career in Clinical or Counseling Psychology*, available at https://www.apa.org/education-career/guide/subfields/clinical/education-training (last visited Jan. 16, 2024).

Behavioral Health Workforce Education and Training

In addition to Psychiatry, HRSA recognizes many education and training programs as Behavioral Health Workforce, to include programs at accredited institutions of higher education in psychology, school psychology, psychiatric nursing, social work, marriage and family therapy, occupational therapy, school counseling, and professional addiction and mental counseling.[31] These types of programs vary in length and degree, but are all part of integrated behavioral health workforce education and training.

The Florida Mental Health Act

The Florida Mental Health Act, otherwise known as the Baker Act, was enacted in 1971 to revise the state's mental health commitment laws.[32] The Baker Act provides legal procedures for mental health examination and treatment, including voluntary and involuntary examinations. It additionally protects the rights of all individuals examined or treated for mental illness in Florida.[33] Individuals in an acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.[34]

Involuntary Examination

An involuntary examination is required if there is reason to believe that the person has a mental illness and, because of his or her mental illness, has refused voluntary examination, or is likely to refuse to care for himself or herself to the extent that such refusal threatens to cause substantial harm to his or her well-being and such harm is unavoidable through help of willing family members or friends, or will cause serious bodily harm to himself or herself or others in the near future based on recent behavior.[35]

An involuntary examination may be initiated by:

- A court entering an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony;[36]
- A law enforcement officer taking a person who appears to meet the criteria for involuntary examination into custody and delivering the person or having him or her delivered to a receiving facility for examination;[37] or

[31] HRSA, Health Workforce, *Projecting Health Workforce Supply and Demand*, available at https://bhw.hrsa.gov/data-research/projecting-health-workforce-supply-demand (last visited Jan. 15, 2024); *See* HRSA, *Behavioral Health Workforce Education and Training (BHWET) Program for Professionals*, available at https://www.hrsa.gov/grants/find-funding/HRSA-21-089 (last visited Jan. 12, 2024).
[32] Sections 394.451-394.47892, F.S.
[33] Section 394.459, F.S.
[34] Sections 394.4625, 394.463, and 394.4655, F.S.
[35] Section 394.463(1), F.S.
[36] Section 394.463(2)(a)1., F.S. The order of the court must be made a part of the patient's clinical record.
[37] Section 394.463(2)(a)2., F.S. The officer must execute a written report detailing the circumstances under which the person was taken into custody, and the report must be made a part of the patient's clinical record.

- A physician, clinical psychologist,[38] psychiatric nurse,[39] an autonomous advanced practice registered nurse, mental health counselor, marriage and family therapist, or clinical social worker executing a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination, including a statement of the practitioner's observations supporting such conclusion.[40]

Involuntary patients must be taken to either a public or private facility that has been designated by the DCF as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold, or refer, as appropriate, involuntary patients under emergency conditions for psychiatric evaluation and to provide short-term treatment or transportation to the appropriate service provider.[41]

Involuntary Placement

If an individual continues to be in need of services, a treatment facility may petition the court to order either involuntary inpatient treatment or involuntary outpatient treatment for the individual.[42] Any petition for continued involuntary treatment, whether inpatient or outpatient, must be supported by the opinion of a psychiatrist, and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours and determined that the criteria for involuntary services are met.[43] In a hearing on such petitions, a court may issue an order for involuntary outpatient services, involuntary inpatient services, or an involuntary assessment, appoint a guardian, or order the patient's discharge.[44]

Voluntary Admissions

Baker Act receiving facilities may also admit any person 18 years of age or older making application by express and informed consent for admission, or any person age 17 or younger for whom such application is made by his or her guardian.[45] If found to show evidence of mental illness, to be competent to provide express and informed consent, and to be suitable for treatment, a person 18 years of age or older may be admitted to the facility.[46] A person 17 years of age or younger may only be admitted after a clinical review to verify the voluntariness of the minor's assent.

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[38] Section 394.455(5), F.S., defines a "clinical psychologist" as a Florida-licensed psychologist with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the U.S. Department of Veterans Affairs that qualifies as a receiving or treatment facility.
[39] Section 394.455(36), F.S., defines a "psychiatric nurse" as a Florida-licensed advanced practice registered nurse who has a master's or doctoral degree in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advanced practice nurse, and has two years of post-master's clinical experience under the supervision of a physician.
[40] Section 394.463(2)(a)3., F.S. The report and certificate shall be made a part of the patient's clinical record.
[41] Section 394.455(40), F.S.
[42] *See* ss. 394.4655 and 394.467, F.S.
[43] Sections 394.4655(3)-(4), F.S., for involuntary outpatient services, and ss. 394.467(2)-(4), F.S., for involuntary inpatient services.
[44] Section 394.4655(7), F.S., for involuntary outpatient services, and ss. 394.467(6), F.S., for involuntary inpatient services.
[45] Section 394.4625(1)(a), F.S.
[46] *Id*.

Louis de la Parte Florida Mental Health Institute

Section 1004.44, F.S., establishes the Louis de la Parte Florida Mental Health Institute (FMHI) within the University of South Florida. The purpose of the FMHI is to strengthen mental health services throughout the state by providing technical assistance and support to mental health agencies and professionals.[47] Such assistance and services include:

- Technical training and specialized education.
- Development, implementation, and evaluation of mental health services programs.
- Evaluation of availability and effectiveness of existing mental health services.
- Analysis of factors that influence the incidence and prevalence of mental and emotional disorders.
- Dissemination of information about innovations in mental health services.
- Consultation on all aspects of program development and implementation.
- Provisions for direct client services, provided for a limited period of time either in the institute facility or in other facilities within the state, and limited to purposes of research or training.

Over the past 50 years, the FMHI and its partners have worked on issues involving mental health, substance use, co-occurring disorders, criminal justice, aging, and child welfare across the lifespan.[48]

Slots for Doctors

In 2023, the Legislature created the Slots for Doctors program to require the Agency for Health Care Administration to annually allocate $100,000 to hospitals and qualifying institutions for each newly created graduate medical education residency slot that is filled on or after June 1, 2023, and remains filled thereafter.[49] The new slot must be accredited by the Accreditation Council for Graduate Medical Education or the Osteopathic Postdoctoral Training Institution in an initial or established accredited training program which is in a physician specialty or subspecialty in a statewide supply-and-demand deficit. The program is designed to generate matching funds under the Medicaid program and distribute those funds to participating hospitals and qualifying institutions.

Training, Education, and Clinicals in Health (TEACH) Funding Program

The TEACH Funding Program is created in SB 7016 (2024), the Live Healthy bill. The program is created to provide a high-quality educational experience with "qualified facilities," defined as federally qualified health centers, community mental health centers, rural health clinics, and certified community behavioral health clinics. The program does this by providing specific funding to offset the administrative costs and loss of revenue associated with training residents and students to become licensed health care practitioners. The program is intended to be used to

[47] Section 1004.44(1), F.S.
[48] University of South Florida, College of Behavioral & Community Sciences, Louis de la Parte Florida Mental Health Institute Annual Report 2022, pg. 1, available at https://www.usf.edu/cbcs/fmhi/documents/2022_annual_report/annual_report_22.pdf (last visited Jan. 16, 2024).
[49] Chapter 2023-243, Laws of Florida; codified as s. 409.909(6), F.S.

support the state Medicaid program and underserved populations by expanding the available health care workforce. The qualified facilities under TEACH that operate residency programs may not be reimbursed more than $100,000 per fiscal year.

III. Effect of Proposed Changes:

Section 1 creates Part VI of ch. 395, F.S., and entitles it "Behavioral Health Teaching Hospitals." This creates a specific hospital designation that is further defined and detailed in the bill's language.

Section 2 creates s. 395.901, F.S., in newly created Part VI, and defines the term "agency" to mean the Agency for Health Care Administration (AHCA) and the term "behavioral health teaching hospital" to mean a licensed community-based hospital that has partnered with a state university school of medicine and offers specific behavioral health education as detailed in newly created s. 395.902, F.S.

The bill also provides legislative findings and intent to highlight the purpose of creating the new behavioral health teaching hospital (BHTH) designation and highlight the intent of the Legislature to pilot BHTHs to develop and implement a statewide model.

Section 3 creates s. 395.902, F.S., and details how a hospital, in partnership with a university school of medicine, may seek designation as a BHTH. Specifically, the bill requires the hospital to meet the following criteria:

- Offer a psychiatric residency program accredited through the Accreditation Council of Graduate Medical Education;
- Offer a postdoctoral clinical psychology fellowship program accredited by the American Psychological Association;
- Develop and maintain a consultation agreement with the Louis de la Parte Florida Mental Health Institute (FMHI), including the newly created Florida Center for Behavioral Health Workforce (Center); and
- Develop and submit a plan to the Department of Children and Families (DCF) and Center that meets all of the following:
    - Promotes the development of integrated behavioral health workforce educational programs to include practicums and internships for both clinical and nonclinical behavioral and physical health professions;
    - Promotes a coordinated system of care which offers specific treatment and services;
    - Coordinates and promotes innovated partnerships that integrate colleges and schools of nursing, psychology, social work, pharmacy, public health, and other relevant disciplines with existing local and regional programs, clinics, and resources;
    - Develops processes to identify local gaps in access to inpatient care;
    - Builds capacity in safety net inpatient and outpatient behavioral health services; and
    - Provides bed capacity to support state hospital needs.

The bill names, as 3-year pilots, the following partnerships as designated BHTHs, notwithstanding meeting the designation criteria, to allow them to be part of the development and implementation of the model:

- The University of South Florida Morsani College of Medicine and Tampa General Hospital.

- The University of Florida School of Medicine and UF Health Shands Hospitals in both Gainesville and Jacksonville.
- The University of Miami Miller School of Medicine and Jackson Memorial Hospital.

These pilot BHTHs are required to meet designation requirements by July 1, 2027.

The bill requires designated BHTHs to annually report to the DCF the current status of the program, including, but not limited to:
- Number of residents;
- Number of postdoctoral clinical psychology fellows;
- Status and details of the consultation agreement with the FMHI and Center; and
- Status and implementation details of the overall BHTH plan required for designation.

Upon completion of the 3-year pilot, the bill also requires a report by the DCF, in collaboration with the Center, the pilot BHTHs, and other relevant stakeholders. The report must, at a minimum:
- Evaluate the effectiveness of the BHTH model.
- Discuss barriers to the implementation and operation of the model.
- Recommend policy changes to enhance the model to better meet the intent of the Legislature.
- Evaluate and recommend whether the state should maintain the original designated pilot BHTH locations or detail the necessity for and recommend the expansion of the model to new partnership sites.

Section 4 amends s. 409.91256, F.S., as created in SB 7016, Regular Session 2024, the "Live Healthy" bill. The section creates the Training, Education, and Clinicals in Health (TEACH) funding program that provides funds to certain qualified facilities to offset administrative costs and loss of revenue associated with training residents and students to become licensed health care practitioners.

The bill adds BHTHs to the definition of "qualified facilities" in that section to allow BHTHs to access those funds.

Section 5 amends s. 1004.44, F.S., to establish the Center within the Louis de la Parte FMHI. The Center is created to address issues of workforce supply and demand in behavioral health professions. The goals of the center are to design and implement a longitudinal study of the state's behavioral health workforce, develop a strategic statewide plan for the behavioral health workforce, and enhance and promote behavioral health professionals in the state.

The bill requires the Center to design and implement a longitudinal study that, at a minimum:
- Produces a biennial data-driven analysis of the supply and demand of the behavioral health workforce by:
  - Identifying and defining specific professions to be considered "behavioral health professions;"
  - Establishing and maintaining a database on supply and demand of the workforce; and
  - Analyzing the current and future supply and demand in the state.
- Develop recommendations and strategies to increase behavioral health professions.

- Develop best practices in academic preparation and continuing education needs for behavioral health professionals.
- Collect data on behavioral health profession employment, distribution, and retention.

The bill requires the Center to develop a strategic plan that:
- Pilots innovative projects to support the recruitment, development, and retention of qualified behavioral health professionals.
- Encourages and coordinates the development of academic-practice partnerships, to support behavioral health faculty employment and advancement.
- Develops distance-learning infrastructure and the evidence-based use of technology, simulation, and distance learning.

To enhance and promote behavioral health professionals, the bill also requires the Center to develop and promote:
- Behavioral health excellence programs;
- Reward, recognition, and renewal activities; and
- Media and image building efforts.

The bill requires the Center to convene various stakeholders to include the Commission on Mental Health and Substance Use Disorder to review the Center's analysis, recommend systemic changes, and evaluate and report the results to the Legislature.

To assist in the implementation of these required duties, the Center may request from the licensing boards of behavioral health professions any information held by the board regarding a professional licensed in the state or holding a multistate license, other than personal identifying information.

The Center must submit an annual report to the Governor, the President of the Senate, and the Speaker of the House by January 10 of each year.

The bill grants the Board of Governors and State Board of Education, in consultation with the Center, rulemaking authority to adopt necessary rules to implement this section beginning in the 2025-2026 fiscal year.

Section 6 requires the DCF to contract for a study of Florida's forensic, voluntary and involuntary civil commitment, and statewide inpatient psychiatric program bed capacity. The study must be completed by January 31, 2025, and at a minimum include:
- An analysis of Florida's bed capacity in forensic, civil commitment, and statewide inpatient psychiatric programs.
- Policy recommendations for ensuring sufficient involuntary commitment bed capacity.
- An evaluation of maintaining civil commitment beds as a requirement for designation as a BHTH to include potential costs related to capital outlay, enhanced bed rate, and staffing requirements.
- Recommendations for promoting coordination between Florida's involuntary commitment system, BHTHs, and other integrated health programs.

Section 7 of the bill provides an appropriation of $1 million in nonrecurring funds from the General Revenue Fund to the DCF to contract for a detailed study of the state's forensic, civil commitment, and state inpatient psychiatric program bed capacity.

Section 8 of the bill provides an appropriation of $5 million in recurring funds from the General Revenue Fund to the University of South Florida/FMHI to implement and operate the Center.

Section 9 of the bill provides an appropriation of $6 million, $2.6 million in recurring funds from the General Revenue Fund and $3.4 million in recurring funds from the Medical Care Trust Fund, to the AHCA to fund 10 Slots for Doctors residency positions for each designated pilot BHTH at an increased rate of $150,000 per position.

Section 10 of the bill provides an appropriation of $100 million in nonrecurring funds from the General Revenue Fund to DCF's Grants and Donation Trust Fund for the development and implementation of the behavioral health teaching hospital model. The funds are to be placed in reserve. The release of the funds is contingent upon the submission of an equitable allocation and detailed spending plan including operating and capital expenditures, developed in consultation with the pilot behavioral health teaching hospitals (BHTHs).

The funds must be used to develop and implement the BHTH model and provided to the pilot BHTHs to meet the requirements necessary for designation and may be used for fixed capital outlay, to include facility upgrades, operations, and other expenses

Section 11 of the bill provides an appropriation of $2 million in recurring funds from the General Revenue Fund to the AHCA to be equitably distributed to each pilot designated BHTH through the Training, Education, and Clinicals in Health (TEACH) Funding Program established in s. 409.91256, Florida Statutes, as created by SB 7016, 2024 Regular Session. Each designated pilot BHTH would have access to $500,000 to offset administrative costs and loss of revenue to train behavioral health workforce professionals.

Section 12 provides an effective date of July 1, 2024, except as otherwise expressly provided in the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has a significant, negative fiscal impact on state expenditures. Specifically, the bill appropriates $114 million to implement provisions of the bill:

- $1 million in nonrecurring funds from the General Revenue Fund to the Department of Children and Families (DCF) to contract for the detailed study of the state's forensic, civil commitment, and state inpatient psychiatric program bed capacity.
- $5 million in recurring funds from the General Revenue Fund to the University of South Florida/Florida Mental Health Institute to implement and operate the Florida Center for Behavioral Health Workforce.
- $6 million ($2,557,800 in recurring funds from the General Revenue Fund and $3,442,200 in recurring funds from the Medical Care Trust Fund) to the Agency for Health Care Administration (AHCA) to fund 10 Slots for Doctors residency positions for each designated pilot BHTH at an increased rate of $150,000 per position.
- $100 million in nonrecurring funds from the General Revenue Fund to the DCF's Grants and Donations Trust Fund for the development and implementation of the behavioral health teaching hospital model. The funds are to be placed in reserve. The release of the funds is contingent upon the submission of an equitable allocation and detailed spending plan including operating and capital expenditures, developed in consultation with the pilot behavioral health teaching hospitals (BHTHs).
- $2 million in recurring funds from the General Revenue Fund to the AHCA to be distributed equitably to each pilot BHTH through the Training, Education, and Clinicals in Health (TEACH) Funding Program established in s. 409.91256, F.S., as created by SB 7016 in the 2024 Legislative Session.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1044.44 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 395.901 and 395.902.

IX. Additional Information:

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

CS by Appropriations Committee on Health and Human Services on February 13, 2024:
The committee substitute:

- Designates specific med school and hospital partnerships as 3-year pilot locations for the new BHTH model.
- Adds behavioral health teaching hospitals to the definition of "qualified facility" to receive funding under the newly created Training, Education, and Clinicals in Health (TEACH) Funding Program in this year's SB 7016, Florida's Live Healthy.
- Details the main goals of the Center to include developing and performing a longitudinal study of and strategic statewide plan to support and increase the state's behavioral health workforce.
- Requires a detailed study of our forensic, civil commitment, and statewide inpatient psychiatric program bed capacity; the potential costs of integrating those beds into the new Behavioral Health Teaching Hospital model; and recommendations to build capacity for safety net services that will mitigate involuntary commitments.
- Provides an appropriation of $114 million to implement provisions of the bill.

B. Amendments:

None.

By the Appropriations Committee on Health and Human Services; and Senators Boyd and Rouson

603-03302-24 2024330c1

A bill to be entitled

An act relating to behavioral health teaching hospitals; creating part VI of ch. 395, F.S., entitled "Behavioral Health Teaching Hospitals"; creating s. 395.901, F.S.; defining the terms "agency" and "behavioral health teaching hospital"; providing legislative findings and intent; creating s. 395.902, F.S.; specifying criteria that a hospital must meet to receive designation as a behavioral health teaching hospital; notwithstanding such criteria, designating specified existing partnerships as pilot behavioral health teaching hospitals for a 3-year period; requiring such hospitals to meet the designation criteria by a specified date; requiring the Department of Children and Families, in collaboration with the Florida Center for Behavioral Health Workforce, the pilot hospitals, and other relevant stakeholders, to submit a report to the Governor and the Legislature by a specified date; specifying requirements for the report; amending s. 409.91256, F.S.; revising the purpose and intent of the Training, Education, and Clinicals in Health (TEACH) Funding Program; revising the definition of the term "qualifying facility"; amending s. 1004.44, F.S.; establishing the Florida Center for Behavioral Health Workforce within the Louis de la Parte Florida Mental Health Institute for a specified purpose; specifying the primary goals of the center; requiring the center to establish and maintain a database on the supply and demand of

603-03302-24 2024330c1

behavioral health professionals in this state for a specified purpose; authorizing the center to request from, and requiring certain boards to provide, certain information regarding behavioral health professionals licensed or practicing in this state; requiring the center to submit an annual report of certain information to the Governor and the Legislature; requiring the Board of Governors and the State Board of Education, in consultation with the center, to adopt certain regulations and rules, as applicable; requiring the Department of Children and Families to contract for a study of the bed capacity in the state's forensic, voluntary and involuntary civil commitment, and statewide inpatient psychiatric programs; requiring that the study be completed by a specified date and include specified information; providing appropriations; providing effective dates.

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

Section 1. Part VI of chapter 395, Florida Statutes, consisting of ss. 395.901 and 395.902, Florida Statutes, is created and entitled "Behavioral Health Teaching Hospitals."

Section 2. Section 395.901, Florida Statutes, is created to read:

395.901 Behavioral health teaching hospitals.—

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

(a) "Agency" means the Agency for Health Care Administration.

(b) "Behavioral health teaching hospital" means a community-based hospital licensed under this chapter which has partnered with a university school of medicine and offers integrated behavioral health education as specified in s. 395.902.

(2) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that there is a critical shortage of behavioral health professionals and recognizes the urgent need to expand the existing behavioral health workforce, prepare for an aging workforce, incentivize entry into behavioral health professions, and train a modernized workforce in innovative integrated care.

(b) The Legislature finds there is a specific need to support a behavioral health education system that not only trains the next generation of professionals in innovative and integrated care for those with behavioral health needs, but also works to modernize the state's overall behavioral health system of care.

(c) Therefore, the Legislature intends to identify and designate multiple behavioral health teaching hospitals that work to provide the necessary research, education, and services to not only enhance this state's behavioral health workforce, but to make that workforce and system of care the national standard. The Legislature intends to establish pilot designated behavioral health teaching hospitals with the intent of developing and implementing a statewide model.

(d) The Legislature further intends to create the Florida Center for Behavioral Health Workforce within the Louis de la Parte Florida Mental Health Institute to address issues of

workforce supply and demand in behavioral health professions, including issues of recruitment, retention, and workforce resources.

(e) The Legislature intends for designated behavioral health teaching hospitals to:

1. Focus on state-of-the-art behavioral health research.

2. Provide leading-edge education and training for this state's behavioral health workforce in innovative and integrated care.

3. Collaborate with other university colleges and schools of nursing, psychology, social work, pharmacy, public health, and other relevant disciplines to promote and enhance a modernized behavioral health system of care.

4. Develop, implement, and promote public-private partnerships throughout this state to support and enhance the intent of this part.

5. Partner with the state to provide inpatient and outpatient behavioral health care, address systemwide behavioral health needs, and support the state in providing treatment and care for those whose need and acuity has resulted in the need for long-term voluntary or involuntary civil commitment.

Section 3. Section 395.902, Florida Statutes, is created to read:

395.902 Designated behavioral health teaching hospitals.—

(1) To be designated as a behavioral health teaching hospital, a hospital must meet all of the following criteria:

(a) Offer a psychiatric residency program accredited through the Residency Review Committee of the Accreditation Council of Graduate Medical Education.

(b) Offer an accredited postdoctoral clinical psychology fellowship program.

(c) Develop and maintain a consultation agreement with the Louis de la Parte Florida Mental Health Institute as established in s. 1004.44, including with the Florida Center for Behavioral Health Workforce.

(d) As part of its partnership with a university school of medicine, develop and submit a plan to the Department of Children and Families and the Florida Center for Behavioral Health Workforce which meets all of the following criteria:

1. Promotes the development of integrated behavioral health workforce educational programs, including, but not limited to, practicums and internships for clinical and nonclinical behavioral and physical health professions.

2. Promotes a coordinated system of care which offers inpatient and outpatient treatment and services for individuals with behavioral health needs, including, but not limited to, prevention, community inpatient care, crisis stabilization, short-term residential treatment, screening, therapeutic and supportive services, and long-term care.

3. Coordinates and promotes innovative partnerships that integrate colleges and schools of nursing, psychology, social work, pharmacy, public health, and other relevant disciplines with existing local and regional programs, clinics, and resources.

4. Develops processes to identify local gaps in access to inpatient care.

5. Partners with the Department of Children and Families and managing entities to build capacity in safety net inpatient

and outpatient behavioral health services.

6. Provides bed capacity to support state hospital needs, when needed.

(2) Notwithstanding subsection (1), to accomplish the stated intent of this section to develop and implement a statewide model of a behavioral health teaching hospital, the following partnerships are designated as pilot behavioral health teaching hospitals for a period of 3 years without meeting the required criteria of this section, with the expectation that they meet all criteria and requirements of subsection (1) by July 1, 2027:

(a) The University of South Florida Morsani College of Medicine and Tampa General Hospital.

(b) The University of Florida School of Medicine and UF Health Shands Hospitals in Gainesville and Jacksonville.

(c) The University of Miami Miller School of Medicine and Jackson Memorial Hospital.

(3)(a) A designated behavioral health teaching hospital must annually report to the Department of Children and Families by December 1, the current status of the designated behavioral health teaching hospital program, including, but not limited to the:

1. Number of psychiatric residents.

2. Number of postdoctoral clinical psychology fellows.

3. Status and details of the consultation agreement with the Louis de la Parte Florida Mental Health Institute and Florida Center for Behavioral Health Workforce.

4. Status and implementation details of the plan required under paragraph (1)(d).

(b) Upon completion of the 3-year pilot period on July 1, 2027, the Department of Children and Families, in collaboration with the Florida Center for Behavioral Health Workforce, the pilot behavioral health teaching hospitals, and other relevant stakeholders must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2028. This report must, at a minimum:

1. Evaluate the effectiveness of the behavioral health teaching hospital model.

2. Discuss barriers to the implementation and operation of the model.

3. Recommend policy changes to enhance the model to better meet the intent of the Legislature.

4. Evaluate and recommend whether the state should maintain the original designated pilot behavioral teaching hospital locations or detail the necessity for and recommend the expansion of the model to new partnership sites.

Section 4. Subsection (1) and paragraph (d) of subsection (2) of section 409.91256, Florida Statutes, as created by SB 7016, Regular Session 2024, are amended to read:

409.91256 Training, Education, and Clinicals in Health (TEACH) Funding Program.—

(1) PURPOSE AND INTENT.—The Training, Education, and Clinicals in Health (TEACH) Funding Program is created to provide a high-quality educational experience while supporting participating federally qualified health centers, community mental health centers, rural health clinics, behavioral health teaching hospitals, and certified community behavioral health clinics by offsetting administrative costs and loss of revenue

associated with training residents and students to become licensed health care practitioners. Further, it is the intent of the Legislature to use the program to support the state Medicaid program and underserved populations by expanding the available health care workforce.

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

(d) "Qualified facility" means a federally qualified health center, a community mental health center, rural health clinic, behavioral health teaching hospital, or a certified community behavioral health clinic.

Section 5. Subsections (6), (7), and (8) are added to section 1004.44, Florida Statutes, to read:

1004.44 Louis de la Parte Florida Mental Health Institute.—There is established the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

(6)(a) There is established, within the institute, the Florida Center for Behavioral Health Workforce to address issues of workforce supply and demand in behavioral health professions, including issues of recruitment, retention, and workforce resources.

(b) The primary goals for the center are to:

1. Design and implement a longitudinal study of the state's behavioral health workforce that, at a minimum:

a. Produces a statistically valid biennial data-driven analysis of the supply and demand of the behavioral health workforce. To achieve such goal, the center must:

(I) Identify and define specific professions to be considered behavioral health professions for analysis.

(II) Establish and maintain a database on the supply and

demand of behavioral health professionals in this state, to include current supply and demand.

(III) Analyze the current and future supply and demand in this state.

b. Develops recommendations and strategies to increase the state's behavioral health workforce, behavioral health profession training and education programs, and behavioral health profession faculty development.

c. Develops best practices in the academic preparation and continuing education needs of behavioral health professionals.

d. Collects data on behavioral health professions, employment, distribution, and retention.

2. Develop a strategic statewide plan for the state's behavioral health workforce that:

a. Pilots innovative projects to support the recruitment, development, and retention of qualified behavioral health professionals, to include behavioral health educators, faculty, and clinical preceptors.

b. Encourages and coordinates the development of academic-practice partnerships that support behavioral health faculty employment and advancement.

c. Develops distance learning infrastructure for behavioral health education and the evidence-based use of technology, simulation, and distance learning techniques.

d. Enhances and promotes behavioral health professions and professionals in this state by developing and promoting:

(I) Behavioral health excellence programs.

(II) Reward, recognition, and renewal activities.

(III) Media and image-building efforts.

3. Convene various groups representative of behavioral health professions, other health care providers, business and industry, consumers, lawmakers, educators, and the Commission on Mental Health and Substance Use Disorder to:

a. Review and comment on the center's behavioral health workforce data analysis.

b. Provide an overview of the state's behavioral health infrastructure and perform a gap analysis to recommend systemic changes, including strategies for implementation of recommended changes.

c. Develop a strategic plan to implement the recommendations of the Commission on Mental Health and Substance Use Disorder to:

(I) Strengthen community networks and cross-agency collaboration.

(II) Enhance the state's crisis care continuum.

(III) Improve data collection and management processes.

(IV) Optimize financial management of the behavioral health system of care.

d. Evaluate how to best promote, integrate, and incentivize the establishment and growth of the behavioral health teaching hospital model.

4. Evaluate and report the results of these efforts to the Legislature and other entities.

(c) The center may request from any board as defined in s. 456.001, and the board must provide to the center upon its request, any information held by the board regarding a behavioral health professional licensed in this state or holding a multistate license pursuant to a professional multistate

licensure compact or information reported to the board by employers of such behavioral health professionals, other than personal identifying information.

(d) By January 10 of each year, the center shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing details of its activities during the preceding calendar year in pursuit of its goals and in the execution of its duties under paragraph (b).

(7) The Board of Governors and the State Board of Education, in consultation with the center, shall expeditiously adopt any necessary regulations and rules, as applicable, to allow the center to perform its responsibilities as soon as practicable.

Section 6. Effective upon this act becoming a law, the Department of Children and Families must contract for a detailed study of bed capacity in this state's forensic, voluntary and involuntary civil commitment, and statewide inpatient psychiatric programs. The study must be completed by January 31, 2025, and must, at a minimum, include all of the following:

(1) An analysis of bed capacity in forensic, voluntary and involuntary civil commitment, and statewide inpatient psychiatric programs.

(2) Policy recommendations for ensuring sufficient bed capacity in these settings.

(3) An evaluation of maintaining civil commitment beds as a requirement for designation as a behavioral health teaching hospital, to include potential costs related to capital outlay, enhanced bed rate, and staffing requirements.

(4) Recommendations for promoting coordination between this

state's civil commitment system and behavioral health teaching hospitals.

(5) Recommendations to build capacity for safety net inpatient and outpatient services that will mitigate involuntary commitments.

Section 7. For the 2024-2025 fiscal year, the sum of $1 million in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Children and Families to contract for a detailed study of bed capacity of this state's forensic, voluntary and involuntary civil commitment, and state inpatient psychiatric programs as required pursuant to section 6 of this act. In order to solicit the expertise of and leverage the partnerships developed between state universities and behavioral health teaching hospitals, the study must include an evaluation of the feasibility of increasing bed capacity for civil commitments within nonstate entities.

Section 8. For the 2024-2025 fiscal year, the sum of $5 million in recurring funds from the General Revenue Fund is appropriated to the Louis de la Parte Florida Mental Health Institute for the operation of the Florida Center for Behavioral Health Workforce as created by this act.

Section 9. For the 2024-2025 fiscal year, the sums of $2,557,800 in recurring funds from the General Revenue Fund and $3,442,200 in recurring funds from the Medical Care Trust Fund are appropriated to the Agency for Health Care Administration for the Slots for Doctors Program established in s. 409.909, Florida Statutes. Each hospital is eligible to receive funding for up to 10 newly created resident positions within each of the pilot behavioral health teaching hospitals designated under part

VI of chapter 395, Florida Statutes, as created by this act. Notwithstanding s. 409.909, Florida Statutes, the agency shall allocate $150,000 for each newly created position.

Section 10. For the 2024-2025 fiscal year, the sum of $100 million in nonrecurring funds from the General Revenue Fund is appropriated to the Grants and Donations Trust Fund in the Designated Behavioral Health Teaching Hospitals Category for the Department of Children and Families to develop and implement the behavioral health teaching hospital model as created by this act. The funds shall be provided to the pilot behavioral health teaching hospitals designated under part VI of chapter 395, Florida Statutes, as created by this act, to help meet the criteria and requirements necessary for designation and may be used for fixed capital outlay, such as facility upgrades, or operations and expenses. The funds shall be placed in reserve. The department is authorized pursuant to chapter 216, Florida Statutes, to submit budget amendments requesting the release of the funds. The release of the funds is contingent upon the submission of an equitable allocation and detailed spending plan, developed in consultation with the pilot behavioral health teaching hospitals, which details the manner in which the funds requested for release will be expended.

Section 11. For the 2024-2025 fiscal year, the sum of $2 million in recurring funds from the General Revenue Fund is appropriated to the Agency for Health Care Administration to implement the Training, Education, and Clinicals in Health (TEACH) Funding Program established in s. 409.91256, Florida Statutes, as created by SB 7016, 2024 Regular Session. Notwithstanding s. 409.91256(5)(b), Florida Statutes, as created

by SB 7016, 2024 Regular Session, the funds appropriated pursuant to this section shall be equitably distributed to the pilot behavioral health teaching hospitals designated under part VI of chapter 395, Florida Statutes, as created by this act.

Section 12. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2024.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Agriculture, *Vice Chair*
Appropriations Committee on Agriculture, Environment, and General Government
Finance and Tax
Fiscal Policy
Judiciary
Rules

SENATOR JIM BOYD
20th District

February 14, 2024

Senator Doug Broxson
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Broxson:

I respectfully request CS/Senate Bill 330: Behavioral Health Teaching Hospitals be scheduled for a hearing in the Committee on Appropriations at your earliest convenience.

If I can assist you on this or any other matter, please do not hesitate to contact me.

I appreciate your consideration of this matter.

Best regards,

Jim Boyd

cc: Tim Sadberry
Alicia Weiss

REPLY TO:
❒ 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
❒ 415 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
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 Appropriations

BILL:	CS/CS/SB 472
INTRODUCER:	Appropriations Committee and Governmental Oversight and Accountability Committee and Senators Brodeur and Rouson
SUBJECT:	Suits Against the Government
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McVaney	GO	**Fav/CS**
2.	Sanders	Sadberry	AP	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 472 increases the cap on the payment of judgments against government entities from $200,000 to $400,000 per individual, and from $300,000 to $600,000 per instance. The bill provides for the annual adjustment of the cap to reflect changes in the Consumer Price Index, beginning on July 1, 2029, recalculated every five years thereafter, and is not to exceed three percent for any adjustment.

The bill allows local government entities to settle a claim in any amount without the approval of a claim bill by the Legislature. If a state agency agrees to settle a claim or has a judgment render against it, the state agency may pay the amount in excess of the waiver of sovereign immunity and any insurance coverage, only by seeking excess payment from the Legislature through a claim bill.

The bill reduces from three years to 18 months the time allotted for pre-suit notice to the state, its agency, or a subdivision thereof, and also reduces the duration that entity has to review the notice from six months to four months.

The bill removes the statute of limitations and statute of repose for civil actions against state entities where the plaintiff in a sexual battery matter was younger than 16 years old at the time of the injury. The bill also reduces the statute of limitations for a negligence claim against the state, its agency, or a subdivision thereof from four years to two years.

The bill will likely have an indeterminate, significant negative fiscal impact on state and local governments. *See* Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2024, and applies to any claim that was not concluded by a final judgment or settlement before then.

II. Present Situation:

Presuit Procedures for a Claim against the Government

Before a claimant files a lawsuit against a government entity, the claimant must present the claim in writing to the government entity within a time period prescribed by law, which is generally three years.[1] If the claim is brought against the state, the claimant must also present the claim to the Department of Financial Services (DFS). The government entity generally then has six-months to review the claim. If the government entity does not dispose of the claim within that six-month period, the claimant may generally proceed with the lawsuit.[2]

Sovereign Immunity

Sovereign immunity is "[a] government's immunity from being sued in its own courts without its consent."[3] The doctrine had its origin with the judge-made law of England. The basis of the existence of the doctrine of sovereign immunity in the United States was explained as follows:

> A sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.[4]

Article X, s. 13 of the Florida Constitution authorizes the Legislature to enact laws that permit suits against the state and its subdivisions, thereby waiving sovereign immunity. Currently, Florida law allows tort lawsuits against the state and its subdivisions[5] for damages that result from the negligence of government employees acting in the scope of their employment, but limits payment of judgments to $200,000 per person and $300,000 per incident.[6] This liability exists only where a private person would be liable for the same conduct.[7] Harmed persons who seek to recover amounts in excess of these limits may request that the Legislature enact a claim

[1] *See* s. 768.28(6)(a), F.S.
[2] *See* s. 768.28(6)(d), F.S.
[3] BLACK'S LAW DICTIONARY (11th ed. 2019).
[4] *Cauley v. City of Jacksonville,* 403 So. 2d 379, 381 (Fla. 1981) (quoting *Kawananakoa v. Polyblank,* 205 U.S. 349, 353 (1907).
[5] Section 768.28(2), F.S., defines "state agencies or subdivisions" to include "executive departments, the Legislature, the judicial branch (including public defenders), and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities, including the Florida Space Authority."
[6] Section 768.28, F.S.
[7] Section 768.28(1), F.S.

bill to appropriate the remainder of their court-awarded judgment.[8] Article VII, s. 1(d) of the State Constitution prohibits funds from being drawn from the State Treasury except in pursuance of an appropriation made by law. However, local governments and municipalities are not subject to this provision, and therefore may appropriate their local funds according to their processes.

History of Florida Sovereign Immunity Law

Florida has adopted the common law of England as it existed on July 4, 1776.[9] This adoption of English common law includes the doctrine of sovereign immunity. The doctrine of sovereign immunity was in existence centuries before the Declaration of Independence.[10]

The Legislature was first expressly authorized to waive the state's sovereign immunity under s. 19, Art. IV of the 1868 Florida Constitution.[11] When the Florida Constitution was amended in 1968, it again expressly authorized the Legislature to waive the state's sovereign immunity under s. 13, Art. X.[12]

Although the first general waiver of the state's sovereign immunity was not adopted until 1969, "one . . . could always petition for legislative relief by means of a claims bill."[13] The first claim bill was passed by the Legislative Council of the Territory of Florida in 1833.[14] The claim bill authorized payment to a person who supplied labor and building materials for the first permanent capitol building.[15]

The 1969 Legislature enacted s. 768.15, F.S., the state's first general waiver of sovereign immunity,[16] which expired after one year.[17] In 1973, the Legislature again adopted a law that waived the state's sovereign immunity.[18] The statute, s. 768.28, F.S., was modeled after the Federal Tort Claims Act and remains substantially the same today.

Under s. 768.28(5), F.S. (1973), the state's ability to pay a tort judgment was limited to $50,000 per person and $100,000 per incident. In 1981, the Legislature increased the amount of damages that could be paid to $100,000 per person and $200,000 per incident.[19] In 2010, the

[8] Section 768.28(5)(a), F.S. *See also*, s. 11.066, F.S., which states that state agencies are not required to pay monetary damaged under a court's judgment except pursuant to an appropriation made by law.
[9] Section 2.01, F.S. English common law that is inconsistent with state or federal law is not included.
[10] *North Carolina Dept. of Transp. v. Davenport*, 432 S.E.2d 303, 305 (N.C. 1993).
[11] FLA. CONST. Art. IV, Section 19 (1868), states: "Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating."
[12] FLA. CONST. Art. X, s. 13 states: "Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating."
[13] *Cauley*, 403 So. 2d at note 5.
[14] D. Stephen Kahn, *Legislative Claim Bills: A Practical Guide to a Potent(ial) Remedy*, THE FLORIDA BAR JOURNAL, 23 (April 1988).
[15] *Id.*
[16] Chapter 69-116, Laws of Fla.
[17] Chapter 69-357, Laws of Fla.
[18] Chapter 73-313, Laws of Fla.
[19] Chapter 81-317, Laws of Fla.

Legislature increased the limits to $200,000 per person and $300,000 per incident.[20] Attorney fees have been limited to 25 percent of the proceeds of judgments or settlements since 1979.[21]

Statutory Waivers of Sovereign Immunity

Section 768.28(1), F.S., allows tort lawsuits to be filed against the state and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28, F.S., applies only to "injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment ...."[22]

Section 768.28(5), F.S., caps tort recovery from a governmental entity at $200,000 per person and $300,000 per accident. Although a court may award a judgment in excess of these statutory limits, a claimant cannot collect more than provided for in statute without passage of a special claim bill passed by the legislature.[23]

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment unless the damages result from the employee's bad faith, malicious purpose, or wanton and willful disregard from human rights, safety, or property.[24] A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.[25]

Damages and Liability Caps

Generally, damages are of two kinds: compensatory and punitive. Compensatory damages are awarded as compensation for the loss sustained to make the party whole, insofar as that is possible. They arise from actual and indirect pecuniary loss. Punitive damages are the payment that a defendant is ordered to pay on top of compensatory damages and are often awarded when compensatory damages are deemed insufficient.[26] Punitive damages are designed to punish defendants whose conduct is considered grossly negligent or intentional.[27] Section 768.28, F.S., does not allow for the recovery of punitive damages, but only for the recovery of compensatory damages.

The liability caps in s. 768.28(5), F.S., of $200,000 per person and $300,000 per incident, apply to "all of the elements of the monetary award to a plaintiff against a sovereignly immune entity."

[20] Chapter 2010-26, Laws of Fla.
[21] Section 768.28(8), F.S.
[22] *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).
[23] *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).
[24] Section 768.28(9)(a), F.S.
[25] *Id*.
[26] Investopedia.com, *What are Punitive Damages?*, https://www.investopedia.com/terms/p/punitive-damages.asp#:~:text=Punitive%20damages%20are%20legal%20recompense,considered%20grossly%20negligent%20or%20intentional (last visited Feb. 14, 2024).
[27] *Id*.

In other words, a plaintiff's entire recovery, including damages, back pay, attorney fees, and any other costs, are limited by the caps in s. 768.28, F.S.

Claim Bill Process

"A claim bill is not an action at law, but rather a legislative measure that directs the Chief Financial Officer of Florida, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation."[28]

Persons who wish to seek the payment of claims in excess of the statutory cap must have a state legislator introduce a claim bill in the Legislature, which must pass both houses. Once a claim bill is filed, the presiding officer of each house of the Legislature may refer the bill to a Special Master,[29] as well as to one or more legislative committees, for review. Senate and House Special Masters typically hold a quasi-judicial, *de novo*[30] hearing to determine whether the elements of negligence have been satisfied: duty, breach, causation, and damages.[31]

The amount awarded by the Legislature in a claim bill is based on the Legislature's concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.[32] "Unlike civil judgments, private relief acts are not obtainable by right upon the claimant's proof of his entitlement. Private relief acts are granted strictly as a matter of legislative grace."[33]

The beneficiary of a claim bill recovers by its enactment, regardless of whether the governmental tortfeasor purchased liability insurance to pay an excess judgment.[34] However, where the governmental tortfeasor has liability insurance above the statutory cap, and the claimant receives compensation above that statutory cap through a claim bill, the claim bill is paid with funds of the insured, not general revenue.[35]

The following table represents the annual summary of all claim bill activity in the Florida Legislature from 2019-2023:

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[28] *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).
[29] The Florida Bar defines a Special Master as "adjuncts of the court who exercise limited judicial authority and appointed by the court to perform specific tasks." The Florida Bar Journal, *Utilizing "Special Masters" in Florida: Unanswered Questions, Practical Considerations, and the Order of Appointment*, Vol. 18, No. 9 (Oct. 2007), p.12, https://www.floridabar.org/the-florida-bar-journal/utilizing-special-masters-in-florida-unanswered-questions-practical-considerations-and-the-order-of-appointment/ (last visited Feb. 8, 2024). *See also*, Cornell Law School, Legal Information Institute, *Special Master*, https://www.law.cornell.edu/wex/special_master (last visited Feb. 8, 2024).
[30] *De novo* meaning anew; afresh; a second time. Black's Law Dictionary, 8th Ed. (Bryan A. Garner, ed. 2004), *available at* https://www.latestlaws.com/wp-content/uploads/2015/04/Blacks-Law-Dictionery.pdf (last visited Feb. 8, 2024).
[31] *See* Fla. Senate R. 4.09(3) (2020-2024). *See also*, Florida Senate, *Legislative Claim Bill Manual*, 8-10 (Aug. 2023), *available at* https://www.flsenate.gov/PublishedContent/ADMINISTRATIVEPUBLICATIONS/leg-claim-manual.pdf (last visited Feb. 16, 2023).
[32] *Wagner*, 960 So. 2d at 788 (citing Kahn, Legislative Claim Bills, Fla. B. Journal (April 1988)).
[33] *United Servs. Auto. Ass'n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).
[34] *Servs. Auto Ass'n v. Phillips*, 740 So. 2d 1205 (Fla. 2d DCA 1999).
[35] *Fla. Mun. Ins. Trust v. Village of Golf*, 850 So. 2d 544, 548 (Fla. 4th DCA 2003), citing *Bonvento v. Bd. of Pub. Instruction*, 194 So. 2d 605 (Fla. 1967).

Session Year	Total Claims Filed	Number of Claims that Became Law	Total Dollar Amount Claimed	Total Dollar Amount Paid
2019	19	5	$30,209,967	$4,000,000
2020	15	2	$59,555,928	$6,650,000
2021	13	2	$46,099,864	$2,800,000
2022	18	5	$43,305,151	$2,297,500
2023	16	8	$54,120,900	$20,112,000

Division of Risk Management

Effect of Insurance Coverage on Damages Cap

A government entity may, without a claim bill, settle a claim against it for an amount above the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.[36]

Cost of Florida's Waiver of Sovereign Immunity

The exact cost of the state's waiver of sovereign immunity under s. 768.28, F.S., is unknown. No centralized location exists for local government entities, such as cities, counties, school boards, sheriff's offices, special districts, and other entities to record the value of the total claims paid under the current sovereign immunity waiver. Information documenting the cost of the sovereign immunity waiver to state government entities is available from the Division of Risk Management (Division). The Division provides general liability insurance to state agencies up to the amount of the sovereign immunity waiver.[37] The Division also settles and defends tort suits filed against the agencies.

In Fiscal Year 2021-2022, the Division paid $7,637,712 for the resolution of 2,080 general liability claims.[38] Additionally, the Division provides auto liability insurance to state agencies for claims arising out of the use of state vehicles. In Fiscal Year 2021-22, the Division paid $6,691,380 for the resolution of 472 automobile liability claims.[39]

Sovereign Immunity in Other Jurisdictions

At least 27 other state legislatures have placed monetary caps on recovery from actions in tort against their state or political subdivisions:

- Colorado: $350,000 per person; $990,000 per occurrence;[40]
- Georgia: One million dollars per person; three million dollars per occurrence;[41]

[36] *Michigan Millers Mut. Ins. Co. v. Burke*, 607 So. 2d 418, 421-22 (Fla. 1992); Section 768.28(5), F.S.
[37] Section 284.30, F.S.
[38] Department of Financial Services, Division of Risk Management, *Fiscal Year 2022 Annual Report*, 8-9 (2022), *available at* https://www.myfloridacfo.com/docs-sf/risk-management-libraries/risk-documents/annual-reports/risk-mgmt-annual-report-2022---final.pdf?sfvrsn=59248690_2 (last visited Feb. 16, 2023).
[39] *Id*.
[40] Colo. Rev. Stat. §24-10-114.
[41] Ga. Code §50-21-29(a)-(b)(1).

- Idaho: $500,000 per occurrence, regardless of the number of people, unless the government is insured above the limit;[42]
- Illinois: $2,000,000;[43]
- Indiana: $700,000 per person; five million dollars per occurrence;[44]
- Kanas: $500,000 per occurrence;[45]
- Louisiana: $500,000 per occurrence;[46]
- Maine: $400,000 per occurrence;[47]
- Maryland: $400,000 per person; $890,000 per occurrence;[48]
- Massachusetts: $100,000;[49]
- Minnesota: $500,000 per person; $1,500,000 per occurrence;[50]
- Mississippi: $500,000;[51]
- Missouri: $300,000 per person and two million dollars per occurrence;[52]
- Montana: $750,000 per claim and $1.5 million per occurrence;[53]
- New Hampshire: $475,000 per claimant and $3.75 million per occurrence;[54]
- New Mexico: $200,000 per claim of property damage; $300,000 per claim of medical expenses; $400,000 for claims other than property damages or medical expenses; all claims limited to $750,000 per occurrence;[55]
- North Carolina: one million dollars per occurrence;[56]
- North Dakota: $375,000 per person; one million dollars per occurrence;[57]
- Oklahoma: $125,000 per person, with higher limits for specific categories; one million dollars per occurrence;[58]
- Pennsylvania: $250,000 per person; one million dollars per occurrence;[59]
- Rhode Island: $100,000;[60]
- South Carolina: $300,000 per person; $600,000 per occurrence;[61]
- Tennessee: $300,000 per person; one million dollars per occurrence;[62]

[42] Idaho Code §6-926.
[43] Ill. Ann. Stat. ch. 705, §505/8.
[44] Ind. Code §34-13-3-4.
[45] Kan. Stat. Ann. §75-6105.
[46] La. Rev. Stat. Ann. §13:5106.
[47] Me. Rev. Stat. Ann. tit. 14, §8105.
[48] Md. State Government Code Ann. §12-104(a)(2).
[49] Mass. Gen. Laws Ann. ch. 258, §2.
[50] Minn. Stat. Ann. §3.736(4).
[51] Miss. Code Ann. 11-46-15.
[52] Mo. Ann. Stat. §537.610.
[53] Mont. Code. Ann. §2-9-108.
[54] N.H. Rev. Stat. Ann. §541-B:14.
[55] N.M. Stat. Ann. §41-4-19.
[56] N.C. Gen. Stat. §143-299.2.
[57] N.D. Cent. Code S32-12.2-02.
[58] Okla. Stat. tit. 51, §154.
[59] Pa. Cons. Stat. Ann. Tit. 42, §8528.
[60] R.I. Gen. Laws §9-31-2.
[61] S.C. Code Ann. §15-78-120.
[62] Tenn. Code Ann. §9-8-307.

- Texas: $250,000 per person; $500,000 per occurrence ($100,000 per claim of destruction of personal property);[63]
- Utah: $233,600 for property damage; $583,900 for personal injury person; three million dollars per occurrence;[64]
- Vermont: $500,000 per person; two million dollars per occurrence; and[65]
- Virginia: $100,000.[66]

Tort Law - Statute of Limitations and Pre-Suit Notice

A statute of limitation prescribes by legislation a specific time period in which a cause of action may be brought upon certain claims or within which certain rights may be enforced.[67] Section 95.11, F.S., provides for statute of limitations for actions other than for recovery or real property. For actions other than recovery or real property the statute of limitations range from one year to 20 years to at any time[68] depending upon the action which arose

Negligence

Under Florida law, negligence action is defined to mean, without limitation, a civil action for damages based upon a theory, strict liability, products liability, professional malpractice, whether couched in terms of contract or tort, or breach of warranty and like theories. The substance of an action, not conclusory terms used by a party, determines whether an action is negligence action.[69] Under s. 95.11, F.S., the statute of limitations for the filing an action founded on negligence is within two years.

Wrongful Death

Wrongful death can be defined as the "death of a human being as the result of a wrongful act of another person."[70] Wrongful death acts can include: negligence; an intentional act, such as assault or battery; a death committed in the course of another crime; vehicular manslaughter; manslaughter; or murder.[71] Under s. 768.17, F.S., legislative intent as it relates to wrongful death, provides "it is the policy of the state to shift the losses resulting when wrongful death occurs from the survivors of the decedent to the wrongdoer." Under s. 95.11, F.S., the statute of limitations for the filing of wrongful death actions is two years.

Medical Negligence

A claim for medical negligence or medical malpractice means a claim arising out of the rendering of, or the failure to render, medical care or services.[72] An action for medical

[63] Tex. Civ. Prac. & Rem. Code Ann. §101.023.
[64] Utah Code. Ann. §63G-7-604.
[65] Vt. Stat. Ann. tit. 12, §5601.
[66] Va. Code §8.01-195.3.
[67] Black's Law Dictionary, 8th Ed. (Bryan A. Garner, ed. 2004), *available at* https://www.latestlaws.com/wp-content/uploads/2015/04/Blacks-Law-Dictionery.pdf (last visited Feb. 8, 2024).
[68] Section 95.11, F.S.
[69] Section 768.81(c), F.S.
[70] Law.com, https://dictionary.law.com/Default.aspx?selected=2268 (last visited Feb. 14, 2024).
[71] *Id*.
[72] Section 766.106, F.S.

negligence or medical malpractice[73] must be filed within two years from the time the incident is discovered, or should have been discovered; however, in no event shall the action be commenced later than four years from the date of the incident or occurrence, except this four year period shall not bar an action brought on behalf of a minor on or before the child's eighth birthday. Should it be revealed fraud, concealment, or intentional misrepresentation of fact prevented discovery of the injury, the statute of limitations is extended forward two years from the time the injury is discovered or should have been discovered, but in no event to exceed seven years from the date of the injury. Injuries which fall under ss. 766.301 and 766.316, F.S., relating to birth-related neurological injuries, are not subject to the statute of limitations within s. 95.11, F.S.

Pre-suit Notice

Medical negligence claims are subject to statutory presuit screening and investigation requirements.[74] A claimant may, and typically does, request the relevant medical records, which must be furnished by the medical providers at a reasonable charge.[75] The claimant must then conduct a reasonable investigation of the claim and obtain a written opinion from a medical expert that malpractice occurred.[76] The claimant may then serve a notice of intent to initiate litigation on every prospective defendant. The suit may not be filed until at least 90 days after service of the notice.[77] During the 90 days, the parties must engage in pretrial discovery[78] and the prospective defendant must conduct an investigation.[79] If not resolved in the 90 days, the claimant may file suit. When filing the suit, the attorney must file a certificate that he or she has reviewed the evidence and has a good faith belief that a medical negligence case is warranted.[80] Failure of the claimant to pursue the pretrial process constitutes grounds for a dismissal of the claim. A failure of any party to the action to cooperate with the presuit process may be grounds to strike any claim or defense raised by the non-cooperative party.[81] After the presuit requirements are met, a claim of medical negligence generally proceeds through the court system like any other tort action.

A medical negligence claim against a practitioner is limited. In general, noneconomic damages may not exceed $500,000 per claimant, and no individual practitioner is liable for more than $500,000 in noneconomic damages, regardless of the number of claimants.[82] However:

- The total noneconomic damages recoverable from all practitioners, regardless of the number of claimants, is one million dollars if:
  - The negligence resulted in a permanent vegetative state or death; or
  - The trial court determines that a manifest injustice would occur unless increased noneconomic damages are awarded, based on a finding that because of the special

[73] Under s. 95.11, F.S., "An action for medical malpractice" is defined as a claim in tort or in contract for damages because of the death, injury, or monetary loss to any person arising out of any medical, dental or surgical diagnosis, treatment, or care by any provider of health care.
[74] Sections 766.104, 766.106 and 766.203, F.S.
[75] Sections 766.104(3) and 766.204, F.S.
[76] Sections 766.104(1) and 766.203(2), F.S.
[77] Section 766.106(4), F.S.
[78] Section 766.106(6) and 766.205, F.S.
[79] Section 766.203(3), F.S.
[80] Section 766.104(1), F.S.
[81] Section 766.106(7), F.S.
[82] Section 766.118(2)(a), F.S.

circumstances of the case, the noneconomic harm sustained by the injured patient was particularly severe; and the trier of fact determines that the defendant's negligence caused a catastrophic injury to the patient.[83]

- If the practitioner was providing emergency services and care to a patient who does not have a then-existing patient-practitioner relationship with that practitioner, then:
  - Regardless of the number of practitioner defendants, noneconomic damages may not exceed $150,000 per claimant, and
  - The total noneconomic damages recoverable by all claimants from all practitioners may not exceed $300,000.[84]
- If the practitioner was providing medical services to a Medicaid recipient, regardless of the number of such practitioner defendants providing the services and care, noneconomic damages may not exceed $200,000 per claimant, unless the claimant pleads and proves, by clear and convincing evidence, that the practitioner acted in a wrongful manner, in which case damages may not exceed $300,000.[85]

For purposes of the Medicaid exception, the term "wrongful manner" means acting "in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property."[86]

A medical negligence claim against a nonpractitioner is limited as follows: In general, noneconomic damages may not exceed $750,000 per claimant, and no individual nonpractitioner is liable for more than $750,000 in noneconomic damages, regardless of the number of claimants.[87] However:

- The total noneconomic damages recoverable by such claimant from all nonpractitioner defendants may not exceed $1.5 million if:
  - The negligence resulted in a permanent vegetative state or death, or
  - The trial court determines that a manifest injustice would occur unless increased noneconomic damages are awarded, based on a finding that because of the special circumstances of the case, the noneconomic harm sustained by the injured patient was particularly severe; and the trier of fact determines that the defendant's negligence caused a catastrophic injury to the patient.[88]
- If the nonpractitioner was a hospital or ambulatory surgical center providing medical services to a Medicaid recipient, regardless of the number of such nonpractitioner defendants providing the services and care, noneconomic damages may not exceed $200,000 per claimant, unless the claimant pleads and proves, by clear and convincing evidence, that the practitioner acted in a wrongful manner, in which case damages may not exceed $300,000.[89]

These limits are commonly referred to as a "per incident" limit as opposed to a "per claimant" limit. These limits are in current statutes but are not enforced because appellate court decisions have ruled them unconstitutional.

[83] Section 766.118(2)(b), F.S.
[84] Section 766.118(4), F.S.
[85] Section 766.118(6), F.S.
[86] Section 766.118(6)(c), F.S.
[87] Section 766.118(3)(a), F.S.
[88] Section 766.118(3)(b), F.S.
[89] Section 766.118(6), F.S.

Sexual Battery on a Person Under 16

Section 95.11, F.S., provides statutes of limitation for various types of civil actions. In 2010, the Legislature amended s. 95.11, F.S., to remove any statute of limitations applying to a civil action against a private entity for sexual battery if the victim was under 16 at the time of the crime.[90] The Legislature provided, however, that this amendment would not resuscitate any civil claims that were already barred by the statute of limitations at the time.[91]

Uniform Contribution Tortfeasors Act

In tort law, contribution refers to the action a defendant may bring in a joint and several liability jurisdiction to recover for damages they paid out but did not cause.[92] In a jurisdiction that follows joint and several liability, a negligent defendant is liable to pay damages for all harm suffered by the plaintiff, even if the negligence of other parties caused some of that harm.[93]

In common law, contribution is the sharing of a loss or payment among several or the act of any one or several of a number of co-debtors, co-sureties, etc., in reimbursing one of their number who has paid the whole debt or suffered the whole liability, each to the extent of his proportionate share.[94]

A tortfeasor is an individual or entity that has been found to have committed a civil offense that injures another party.[95] Negligence, fraud, emotional harm and trespassing are included in civil offenses tortfeasors may have committed.[96] Such matters are resolved through tort law, which covers civil lawsuits. The person claiming damage by the actions of another party, is a plaintiff.[97] Under certain causes of action, more than one party may be found responsible for the tort[98] brought by the Plaintiff in his or her lawsuit. The court may award monetary judgement against the parties according to the proportionate share of the damage each party was responsible for.[99] Such amount may include reimbursement for lost wages, medical expenses, or related losses.[100]

[90] Ch. 2010-54, s. 1, Laws of Fla.; s. 95.11(9), F.S.
[91] *Id*. ("This subsection applies to any such action other than one which would have been time barred on or before July 1, 2010").
[92] Cornell Law School, Legal Information Institute, https://www.law.cornell.edu/wex/contribution#:~:text=In%20the%20field%20of%20tort,out%20but%20did%20not%20cause (last visited Feb. 8, 2024).
[93] *Id*.
[94] Black's Law Dictionary, 8th Ed. (Bryan A. Garner, ed. 2004), *available at* https://www.latestlaws.com/wp-content/uploads/2015/04/Blacks-Law-Dictionery.pdf (last visited Feb. 8, 2024).
[95] Investopedia, *Tortfeasor: What it is, How it Works, Types*, https://www.investopedia.com/terms/t/tortfeasor.asp (last visited Feb. 8, 2024).
[96] *Id.*
[97] *Id.*
[98] *Id.* Tort is defined as "an act or an omission that causes harm to another person or entity."
[99] *Id*.
[100] *Id*.

Actions arising from torts fall into three main categories, each with its own standards: strict liability,[101] intentional torts[102] and negligent torts.[103] In some civil instances, actions involving torts may affect insurance policies; insurance companies that indemnify their policyholders are required to defend them against civil claims and may be responsible for reimbursing tortfeasors for damages[104] settled or awarded.

Under s. 76.81, F.S., when two or more persons become jointly or severally liable in tort for the same injury to person or property, or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them. In addition, the right of contribution exists only in favor of a tortfeasor who has paid more than her or his pro rata share of the common liability, and the tortfeasor's total recovery is limited to the amount paid by her or him in excess of her or his pro rata share.[105] Under Florida law, no tortfeasor is compelled to make contribution beyond her or his own pro rata share of the entire liability;[106] however, in instances of willful and wanton actions which caused or contributed to the injury or death of another, there is no right of contribution in favor of any tortfeasor.

Section 768.31(b), F.S., provides enforcement:

- Whether or not judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced by separate actions;[107]
- When a judgement has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants, by motion upon notice to all parties to the action;
- If there is a judgment for the injury or wrongful death against the tortfeasor seeking contribution, any separate action by her or him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review; and
- If there is no judgment for the injury or wrongful death against the tortfeasor seeking contribution, the tortfeasor's right of contribution is barred unless she or he has either:
    - Discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against her or him and has commenced her or his action for contribution within one year after payment, or
    - Agreed, while action is pending against her or him, to discharge the common liability and has within one year after the agreement paid the liability and commenced her or his action for contribution

[101] *Id*. Strict liability tort seeks to redress damages caused unintentionally by another party, who is, nonetheless, responsible.
[102] *Id*. Intentional torts are committed by tortfeasors who understood that their conduct could result in damage to other parties. Even acts that involve violence can be pursued as intentional torts by victims who seek compensations that cannot be found in a criminal proceeding.
[103] *Id*. Negligent torts are caused by a tortfeasor who caused an injury by failing to take reasonable care.
[104] *Id*.
[105] Section 768.31(3), F.S. Pro rata share of tortfeasors in the entire liability is determined by: (1) The tortfeasors' relative degree of fault shall be the basis for allocation of liability; (2) If equity requires, the collective liability of some as a group shall constitute a single share; and (3) Principles of equity applicable to contribution generally shall apply.
[106] Section 768.31(3), F.S.
[107] Section 768.31(4), F.S.

Florida law provides the recovery of a judgment for an injury or wrongful death against one tortfeasor does not of itself discharge the other tortfeasors from liability for the injury or wrongful death unless the judgment is satisfied.[108] Furthermore, the satisfaction of the judgment does not impair any right of contribution. The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death shall be binding as among such defendants in determining their right to contribution.[109]

III. Effect of Proposed Changes:

Liability Caps

The bill amends s. 786.28, F.S., to increase the limits of the waiver of sovereign immunity for a claim made against the state and its agencies and subdivisions from $200,000 to $400,000 per person, and from $300,000 to $600,000 per incident. Beginning July 1, 2025, the bill provides for the adjustment of the cap every five years to reflect changes in the Southeast Consumer Price Index or a successor index as calculated by the U.S. Department of Labor. A claim's liability limits will be determined on the date that a final judgment is entered on a claim.

Settlement in Excess of Liability Cap

The bill allows a subdivision of the state, but not the state or an agency, to settle a claim in any amount without approval of a claim bill by the Legislature. Under current law, amounts that exceed the sovereign immunity caps may be paid without approval of the Legislature only from the proceeds of an insurance policy.[110]

This provision therefore allows a local government to pay a settled amount in excess of the sovereign immunity caps out of its own coffers, or through its insurance coverage. A state entity, however, is limited in its ability to pay above the sovereign immunity caps by either its insurance policy limit or a legislative appropriation resulting from the claim bill process.[111]

Additionally, the bill prohibits a party from lobbying against any agreed upon settlement brought to the Legislature in the claims bill process and prohibits an insurance company from placing any conditions on the payment of benefits on the enactment of a claim bill.[112]

When determining liability limits for a claim, the limitations of liability in effect on the date when the claim incident occurred apply to the settled claim.

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[108] *Id*.
[109] *Id*.
[110] "No claims bill is necessary if excess insurance is purchased and the plaintiffs find it necessary to proceed directly against the excess carrier." *Hillsborough Co. v. Star Ins. Co.*, 847 F.3d 1296, 1306 (2017).
[111] *See* discussion of FLA. CONST. art. VII, s. 1(d), *infra*.
[112] This provision will likely prevent inclusion of contractual provisions that bar recovery for claimants pursuant to an insurance policy by, e.g., requiring the claimant to first go through the Legislative Claims Bill process before the insurance policy may be used for payment of a settlement. See, *Martin v. Nat'l. Union Fire Ins. Co. of Pittsburgh, Pa*, 616 So. 2d 11433, 1145 (Fla. 4th DCA 1993).

Pre-suit Notice and Statutes of Limitation

The bill reduces the pre-suit notice timeframe from three years to 18 months, therefore requiring that a claimant provide quicker notice to the state, or one of its agencies or subdivisions than required under current law. The bill also reduces the Department of Financial Services' (DFS) or appropriate agency's allotted time to review a claim in the pre-suit notice phase from six-months to four-months—during which the statute of limitations is now tolled for all defendants, not just in cases for medical malpractice and wrongful death actions. After the DFS or state agency issues its final disposition of a claim, or a final denial of a claim has occurred, the claimant has the greater of 60 days or the remainder of the period of the applicable statute of limitations to file suit against the appropriate actor.

The bill imposes varied statutes of limitations (barring the action unless commenced within prescribed timeframe), requiring a claimant to file a civil action against the state or an agency or subdivision of as follows:

- For claims based on negligence, within two years;
- For claims of sexual battery where the plaintiff was younger than 16 years old at the time of the injury (other than one which would have been time barred on or before July 1, 2010), there is no statute of limitations; and
- For any other claim—within four years.

The bill takes effect October 1, 2024, and applies to any claim that was not concluded by a final judgment or settlement before then.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article I, s. 10 of the State Constitution prohibits laws that impair the obligations of existing contracts.[113] Because the bill bars insurance conditioned on the payment of a claim bill, the Legislature should specify that this provision applies to insurance contracts entered into or renewed on or after the effective date of the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may enable more individuals harmed by a state entity-tortfeasor to receive larger payments without the need to pursue a claim bill. The capacity for a larger reward without a claim bill may incentivize private attorneys to represent such claimants.

C. Government Sector Impact:

The bill has an indeterminate impact to state revenue and expenditures.

The cost to local governments is indeterminate as it relates to its ability to settle claims without regard to any statutory limit on damages under s. 768.28, F.S. However, local governments may experience an increase in expenditures due to settlements, awards, and other legal costs.

By reducing the statute of limitations for suits against the government arising in negligence, the bill may reduce the number of cases initiated and the potential damages sought by claimants from the government. Further, by reducing the pre-suit time period for a government entity or the Department of Financial Services (DFS) to review and dispose of a claim against the state, the bill may affect the pre-suit settlement process.

By increasing the statute of limitations for sexual battery on a victim under 16, the bill may increase the number of claims against the government for such sexual battery. The bill may reduce the workload of the Legislature by reducing the number of claim bills filed but may also reduce the legislative oversight of claims against local government entities.

The DFS estimates, in order to establish and maintain a separate section to process the increased claims and defense attorney billings, the bill will require an additional five positions, with recurring salaries and benefits cost of $366,455 and nonrecurring costs

[113] *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181, 1190 (Fla. 2017).

of $58,980.[114] The DFS did not include an estimate for rate associated with the requested positions.[115] The DFS proposes the five positions as follows:[116]

DFS – Division of Risk Management Proposed Staffing to Implement SB 472							
Title	**Pay Grade**	**Class Code**	**Salaries**	**Benefits**	**Expenses**	**TR/DMS**	**Total**
Records Specialist	15	0130	$35,000	$21,958	$11,436	$360	$68,754
Risk Management Program Specialist	22	3545	$46,549	$24,408	$11,436	$360	$82,753
Risk Management Program Specialist	22	3545	$46,549	$24,408	$11,436	$360	$82,753
Risk Management Program Specialist	22	3545	$46,549	$24,408	$11,436	$360	$82,753
Risk Management Program Administrator	424	3546	$75,000	$31,626	$11,436	$360	$118,422
Total			$249,647	$116,808	$57,180	$1,800	$453,435

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 768.28 of the Florida Statutes.

The bill reenacts the following sections of the Florida Statutes: 45.061, 110.504, 111.071, 125.01015, 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395, 375.251, 381.0056, 393.075, 394.9085, 395.1055, 403.706, 409.175, 409.993, 420.504, 420.507, 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1335, 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.351, 1002.37, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261.

[114] *Id* at 4.
[115] *Id* at 4.
[116] *Id* at 4.

IX. Additional Information:

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

CS/CS by Appropriations on February 22, 2024:
The committee substitute:

- Restores the home venue provision to current law;
- Establishes determination of liability limits for a claim is based on the limitations of liability in effect when the claim incident occurred versus the date of final judgment; and
- Provides the DFS shall adjust the limitations of liability every five years based on the changes in the Consumer Price Index for the Southeast or a successor index, not to exceed three percent.

CS by Governmental Oversight and Accountability on January 29, 2024:
The committee substitute:

- Abolishes the common law doctrine of "home venue privilege" in relation to negligence suits against the state.
- Allows a subdivision of the state, but not the state or an agency, to agree to settle a claim in excess of the sovereign immunity cap, and without regard to insurance coverage limits, without further state action.
- Allows the state or an agency to agree to settle a claim pursuant to the sovereign immunity waiver, and seek excess payment from the Legislature through a claim bill, or up to the maximum limit of its insurance coverage without further legislative action.
- Prohibits a party from lobbying the Legislature to vote against a claims bill that it agreed to settle.
- Sets the date on which a claim's liability limits are determined as that on which a final judgment is entered.
- Delays the calculation of an adjusted sovereign immunity cap (based on CPI) to July 1, 2029, and requires a recalculation every five years.
- Requires a claimant to file pre-suit notice of a claim with the appropriate agency no later than 18 months, rather than three years, after the claim accrues in order to pursue an action against the state or one of its agencies or subdivisions.
- Reduces from six months to four months the general pre-suit statutory timeframe for a government entity's review and disposal of a claim.
- Tolls the statute of limitations for all defendants, not just those in medical malpractice and wrongful death actions, for the duration of the Department of Financial Services' (DFS) or agency's pre-suit consideration of a claim.
- Provides 60 days or the remainder of the statute of limitations, whichever is greater, from the date on which the DFS or appropriate agency issues a final disposition of a claim or otherwise is deemed to have issued a final denial, for a claimant to file suit.
- Reduces the statute of limitations for filing a claim against a governmental entity for claims based in negligence from four to two years, but maintains the 4-year statute of limitations for "any other action not specified."

- Removes the statute of limitations for filing a claim against a governmental entity for sexual battery of a victim under the age of 16.
- Changes the effective date to October 1, 2024, and states that it applies to claims that accrue on or after that date.

B. Amendments:

None.

274312

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
	.	
	.	
	.	

The Committee on Appropriations (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete lines 48 - 128
and insert:
Section 1. Subsection (5), paragraphs (a) and (d) of subsection (6), and subsection (14) of section 768.28, Florida Statutes, are amended to read:
768.28 Waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations;

exclusions; indemnification; risk management programs.—

(5)(a) The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of $400,000 ~~$200,000~~ or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of $600,000 ~~$300,000~~. However, a judgment or judgments may be claimed and rendered in excess of these amounts ~~and may be settled~~ and paid pursuant to this act up to $400,000 or $600,000 ~~$200,000 or $300,000~~, as the case may be; and that portion of the judgment that exceeds these amounts may be reported to the Legislature, and ~~but~~ may be paid in part or in whole ~~only~~ by further act of the Legislature.

(b) Notwithstanding the limited waiver of sovereign immunity provided in paragraph (a):

1. ~~herein,~~ The state or an agency ~~or subdivision~~ thereof may agree, within the limits of insurance coverage provided, to settle a claim made or a judgment rendered against it in excess of the waiver provided in paragraph (a) without further action by the Legislature.

2. A subdivision of the state may agree to settle a claim made or a judgment rendered against it in excess of the waiver provided in paragraph (a) without further action by the Legislature.

274312

However, ~~but~~ the state or an agency or subdivision thereof shall not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortious acts in excess of the ~~$200,000 or $300,000~~ waiver provided in paragraph (a). However, a party may not lobby against any agreed upon settlement brought to the Legislature as a settled claim bill ~~above~~. An insurance policy may not condition the payment of benefits, in whole or in part, on the enactment of a claim bill.

(c) The limitations of liability set forth in this subsection shall apply to the state and its agencies and subdivisions whether or not the state or its agencies or subdivisions possessed sovereign immunity before July 1, 1974.

(d) ~~(b)~~ A municipality has a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and property during a riot or an unlawful assembly based on the availability of adequate equipment to its municipal law enforcement officers and relevant state and federal laws. If the governing body of a municipality or a person authorized by the governing body of the municipality breaches that duty, the municipality is civilly liable for any damages, including damages arising from personal injury, wrongful death, or property damages proximately caused by the municipality's breach of duty. The sovereign immunity recovery limits in paragraph (a) do not apply to an action under this paragraph.

(e) When determining liability limits for a claim, the limitations of liability in effect on the date when the claim incident occurred apply to the settled claim.

274312

(f) Beginning July 1, 2029, and on July 1 every 5 years thereafter, the Department of Financial Services shall adjust the limitations of liability in this subsection to reflect changes in the Consumer Price Index for the Southeast or a successor index as calculated by the United States Department of Labor, not to exceed 3 percent for any such adjustment.

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

And the title is amended as follows:

Delete lines 3 - 19

and insert:

amending s. 768.28, F.S.; increasing the statutory limits on liability for tort claims against the state and its agencies and subdivisions; prohibiting insurance policies from placing conditions for payment upon the enactment of a claim bill; authorizing a subdivision of the state to settle a claim in excess of the statutory limit without further action by the Legislature regardless of insurance coverage limits; prohibiting a party from lobbying against any agreed upon settlement brought to the Legislature as a claim bill; specifying that the limitations in effect on the date when the claim incident occurred apply to a settled claim; requiring the Department of Financial Services, beginning on a specified date and every 5 years thereafter, to adjust the limitations of liability for claims, not to exceed a certain percentage for each such adjustment;

By the Committee on Governmental Oversight and Accountability; and Senator Brodeur

585-02597A-24 2024472c1

A bill to be entitled

An act relating to suits against the government; amending s. 47.011, F.S.; abolishing the common-law doctrine of home venue privilege with respect to action against the state; amending s. 768.28, F.S.; increasing the statutory limits on liability for tort claims against the state and its agencies and subdivisions; prohibiting insurance policies from placing conditions for payment upon the enactment of a claim bill; authorizing a subdivision of the state to settle a claim in excess of the statutory limit without further action by the Legislature regardless of insurance coverage limits; prohibiting a party from lobbying against any agreed upon settlement brought to the Legislature as a claim bill; specifying that the limitations in effect on the date a final judgment is entered apply to that claim; requiring the Department of Financial Services to adjust the limitations on tort liability every 5 years after a specified date; revising the period within which certain claims must be presented to certain entities; revising exceptions relating to instituting actions on tort claims against the state or one of its agencies or subdivisions; revising the period after which the failure of certain entities to make final disposition of a claim shall be deemed a final denial of the claim for certain purposes; revising the statute of limitations for tort claims against the state or one of its agencies or subdivisions and exceptions thereto; providing a

585-02597A-24 2024472c1

claimant a specific timeframe to file suit; reenacting ss. 45.061, 110.504, 111.071, 125.01015, 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395, 375.251, 381.0056, 393.075, 394.9085, 395.1055, 403.706, 409.175, 409.993, 420.504, 420.507, 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.351, 1002.37, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to incorporate the amendments made to s. 768.28, F.S., in references thereto; providing applicability; providing an effective date.

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

Section 1. Section 47.011, Florida Statutes, is amended to read:

47.011 Where actions may be begun.—

(1) Actions shall be brought only in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located. This section shall not apply to actions against nonresidents.

(2) The common-law doctrine of home venue privilege is abolished with respect to civil actions brought against the state. This subsection does not affect any venue provision otherwise established in law.

Section 2. Subsection (5), paragraphs (a) and (d) of subsection (6), and subsection (14) of section 768.28, Florida Statutes, are amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(5)(a) The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of $400,000 ~~$200,000~~ or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of $600,000 ~~$300,000~~. However, a judgment or judgments may be claimed and rendered in excess of these amounts ~~and may be settled~~ and paid pursuant to this act up to $400,000 or $600,000 ~~$200,000 or $300,000~~, as the case may be; and that portion of the judgment that exceeds these amounts may be reported to the Legislature, and ~~but~~ may be paid in part or in whole ~~only~~ by further act of the Legislature.

(b) Notwithstanding the limited waiver of sovereign immunity provided in paragraph (a):

1. ~~herein,~~ The state or an agency ~~or subdivision~~ thereof may agree, within the limits of insurance coverage provided, to settle a claim made or a judgment rendered against it in excess

of the waiver provided in paragraph (a) without further action by the Legislature.

2. A subdivision of the state may agree to settle a claim made or a judgment rendered against it in excess of the waiver provided in paragraph (a) without further action by the Legislature.

However, ~~but~~ the state or an agency or subdivision thereof shall not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortious acts in excess of the ~~$200,000 or $300,000~~ waiver provided in paragraph (a). However, a party may not lobby against any agreed upon settlement brought to the Legislature as a settled claim bill ~~above~~. An insurance policy may not condition the payment of benefits, in whole or in part, on the enactment of a claim bill.

(c) The limitations of liability set forth in this subsection shall apply to the state and its agencies and subdivisions whether or not the state or its agencies or subdivisions possessed sovereign immunity before July 1, 1974.

(d) ~~(b)~~ A municipality has a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and property during a riot or an unlawful assembly based on the availability of adequate equipment to its municipal law enforcement officers and relevant state and federal laws. If the governing body of a municipality or a person authorized by the governing body of the municipality breaches that duty, the municipality is civilly liable for any damages, including damages arising from personal injury, wrongful death, or

property damages proximately caused by the municipality's breach of duty. The sovereign immunity recovery limits in paragraph (a) do not apply to an action under this paragraph.

(e) When determining liability limits for a claim, the limitations of liability in effect on the date a final judgment is entered shall apply to the settled claim.

(f) Beginning July 1, 2029, and on July 1 every 5 years thereafter, the Department of Financial Services shall adjust the limitations of liability in this subsection to reflect changes in the Consumer Price Index for the Southeast or a successor index as calculated by the United States Department of Labor.

(6)(a) An action may not be instituted on a claim against the state or one of its agencies or subdivisions unless the claimant presents the claim in writing to the appropriate agency, and also, except as to any claim against a municipality, county, or the Florida Space Authority, presents such claim in writing to the Department of Financial Services, within 18 months ~~3 years~~ after such claim accrues and the Department of Financial Services or the appropriate agency denies the claim in writing; except that, if:

1. Such claim is for contribution pursuant to s. 768.31, it must be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such judgment, within 6 months after the tortfeasor seeking contribution has either discharged the common liability by payment or agreed, while the action is pending against her or him, to discharge the common liability; or

2. Such action arises from a violation of s. 794.011 involving a victim who was younger than 16 years of age at the time of the act, the claimant may present the claim in writing at any time pursuant to s. 95.11(9) ~~is for wrongful death, the claimant must present the claim in writing to the Department of Financial Services within 2 years after the claim accrues~~.

(d) For purposes of this section, complete, accurate, and timely compliance with the requirements of paragraph (c) shall occur prior to settlement payment, close of discovery or commencement of trial, whichever is sooner; provided the ability to plead setoff is not precluded by the delay. This setoff shall apply only against that part of the settlement or judgment payable to the claimant, minus claimant's reasonable attorney's fees and costs. Incomplete or inaccurate disclosure of unpaid adjudicated claims due the state, its agency, officer, or subdivision, may be excused by the court upon a showing by the preponderance of the evidence of the claimant's lack of knowledge of an adjudicated claim and reasonable inquiry by, or on behalf of, the claimant to obtain the information from public records. Unless the appropriate agency had actual notice of the information required to be disclosed by paragraph (c) in time to assert a setoff, an unexcused failure to disclose shall, upon hearing and order of court, cause the claimant to be liable for double the original undisclosed judgment and, upon further motion, the court shall enter judgment for the agency in that amount. Except as provided otherwise in this subsection, the failure of the Department of Financial Services or the appropriate agency to make final disposition of a claim within 4 ~~6~~ months after it is filed shall be deemed a final denial of the

claim for purposes of this section. For purposes of this subsection, in medical malpractice actions and in wrongful death actions, the failure of the Department of Financial Services or the appropriate agency to make final disposition of a claim within 90 days after it is filed shall be deemed a final denial of the claim. The statute of limitations ~~for medical malpractice actions and wrongful death actions~~ is tolled as to all prospective defendants for the period of time taken by the Department of Financial Services or the appropriate agency to deny the claim. The claimant has 60 days from the date of the Department of Financial Services' or the appropriate agency's final disposition of a claim or the date at which final denial of the claim is deemed to have occurred, or the remainder of the period of the statute of limitations, whichever is greater, within which to file suit. The provisions of this subsection do not apply to such claims as may be asserted by counterclaim pursuant to s. 768.14.

(14) Every claim against the state or one of its agencies or subdivisions for damages for a negligent or wrongful act or omission pursuant to this section shall be forever barred unless the civil action is commenced by filing a complaint in the court of appropriate jurisdiction:

(a) Within 2 ~~4~~ years for an action founded on negligence.

(b) Within the limitations provided in s. 768.31(4) for an action for contribution.

(c) Within the limitations provided in s. 95.11(4) for an action for damages arising from medical malpractice or wrongful death.

(d) At any time for an action arising from acts

constituting a violation of s. 794.011 involving a victim who was younger than 16 years of age pursuant to s. 95.11(9).

(e) Within 4 years for any other action not specified in this subsection ~~after such claim accrues; except that an action for contribution must be commenced within the limitations provided in s. 768.31(4), and an action for damages arising from medical malpractice or wrongful death must be commenced within the limitations for such actions in s. 95.11(4)~~.

Section 3. Sections 45.061, 110.504, 111.071, 125.01015, 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395, 375.251, 381.0056, 393.075, 394.9085, 395.1055, 403.706, 409.175, 409.993, 420.504, 420.507, 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.351, 1002.37, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, Florida Statutes, are reenacted for the purpose of incorporating the amendments made by this act to s. 768.28, Florida Statutes, in references thereto.

Section 4. This act applies to claims accruing on or after October 1, 2024.

Section 5. This act shall take effect October 1, 2024.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Agriculture, Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR JASON BRODEUR
10th District

January 30, 2024

The Honorable Doug Broxson, Chair
Committee on Appropriations
202 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Broxson,

I respectfully request that **CS/SB 472**, **Sovereign Immunity**, be placed on the agenda of the Appropriations Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

Jason Brodeur

Senator Jason Brodeur – District 10

CC: Tim Sadberry – Staff Director
John Shettle – Deputy Staff Director
Tonya Money – Deputy Staff Director
Alicia Weiss – Committee Administrative Assistant

REPLY TO:
❒ 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
❒ 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

Department of Financial Services (DFS)
2024 Legislative Bill Analysis

BILL INFORMATION

Bill Number:	SB 472
Bill Title:	Sovereign Immunity
Bill Sponsor:	Senator Brodeur
Effective Date:	July 1, 2024

ANALYSIS INFORMATION

Agency Contact:	Chase Mitchell, Legislative Affairs Director, (850) 413-2890
Division Director:	Molly Merry
Program Analyst:	Kelly Hagenbeck
Analysis Date:	November 27, 2023

POLICY ANALYSIS

I. SUMMARY ANALYSIS – The bill would amend section 768.28, F.S., to modify the limits of liability under tort actions from $200,000 per person and $300,000 for all claims arising out of the same incident or occurrence. The proposed new monetary limit in the bill would change to a cap of $400,000 per person and $600,000 per occurrence. The bill would adjust the cap on July 1st of each year to reflect changes in the Southeastern Consumer Price Index or a successor index. This adjustment would begin on July 1, 2024. When determining the liability limits for a claim, the limits at the time of the final judgment would be used. If passed, the bill would take effect on July 1, 2024.

II. **PRESENT SITUATION -** State of Florida agencies and subdivisions of the state share Florida's waiver of sovereign immunity (section 768.28, F.S.). The joint monetary caps are currently $200,000 per person and $300,000 per occurrence. When determining the liability limits for a claim, the limits in place at the time the incident/accident occurred determine which cap applies.

III. **EFFECT OF PROPOSED CHANGES –**

Line 48 – Removes the wording "shall not" and replaces it with "may not" include punitive damages or interest for the period before judgment. Currently punitive damages and interests are not recoverable in liability claims. It is unclear if this change will be challenged in the courts.

Lines 51-58 -- Increases the current waiver-of-liability limits for the state and its agencies and subdivisions under tort actions from $200,000 per person/$300,000 per occurrence to a cap of $400,000 per person/$600,000 per occurrence. For certain cases with significant damages, the state and its agencies and subdivisions would pay higher judgments or settlements if the bill passes.

Lines 66-67 – Provides the state or an agency or subdivision may agree to settle a claim in excess of the waiver limits without further action by the Legislature. Language in the current law stating "within the limits of insurance coverage provided" is stricken in the bill. It is unclear if the intent of the bill is for the Risk Management Trust Fund to pay large, multimillion-dollar judgments in excess of the caps.

Lines 72-74 – The bill adds statutory language stating that an insurance policy may not condition the payment of benefits, in whole or in part, on the enactment of a claim bill.

Lines 92-94 -- When determining liability limits for a claim, the limitations of liability in effect on the date a final

judgment is entered shall apply to the claim. This will result in increased costs to settle claims as there will be an incentive to delay resolution of a claim. Currently, the applicable limits are those in effect when the incident occurred, not when a judgment is rendered, or a settlement is executed.

Lines 95-99 -- Adjusts the limits of the liability cap on July 1st of each year to reflect changes in the Consumer Price Index for the Southeast or a successor index. This adjustment would begin on July 1, 2025, and every July 1 thereafter. The proposed language could result in additional settlement amounts and/or judgments the longer a case takes to proceed through the court system.

Line 135-138 – Allows an action arising from a violation of section 794.011, F.S., involving a victim who was younger than the age of 16 at the time of the act, may commence a claim at any time pursuant to section 95.11 (9), F.S. For certain cases with significant damages, the state and its agencies and subdivisions would very likely pay higher judgments or settlements if the bill passes.

Lines 156-157 - The act would apply to claims accruing on or after July 1, 2024.

IV. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? **Y☒ N☐**

If yes, explain:	If passed, the proposed legislation would require the Department to amend Rule 69H-2.004, *Florida Administrative Code*, which adopts and incorporates the Certificate of Coverage forms, so that the forms reflect the increased limits of liability.
Is the change consistent with the agency's core mission?	**Y☒ N☐**
Rule(s) impacted (provide references to F.A.C.):	Rule 69H-2, F.A.C.

V. DOES THE BILL REQUIRE REPORTS OR STUDIES? **Y☐ N☒**

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

VI. DOES THE BILL REQUIRE APPOINTMENTS OR MODIFY EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC.? **Y☐ N☒**

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

I. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y☒ N☐

Revenues:	
Expenditures:	The exact cost to local governments due to a change to the state's waiver of sovereign immunity limits under section 768.28, F.S., is unknown, but would increase settlements, awards, and costs.

II. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y☒ N☐

Revenues:	
Expenditures:	The bill would have a fiscal impact on the expenditures of the Risk Management Trust Fund. See a further analysis below.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	

The sovereign immunity limits were last increased effective 10/1/2011, when the limits were increased from $100,000 per person and $200,000 per occurrence to $200,000 per person and $300,000 per occurrence.

The Division of Risk Management previously analyzed the impacts to the Risk Management Trust Fund (RMTF) when the sovereign immunity limits were increased on 10/1/2011. The analysis considered payments for claims with a date of accident for a five-year period prior to 10/1/2011 (when the limits were increased) and payments for claims with a date of accident for five years after the 10/1/2011 increase. Based on our analysis, the number of large cases increased by 31% and the average settlement amount increased by 33% on the large cases. The total settlement amounts for the cases reviewed increased by 74%.

The following chart provides the details of our analysis on the impacts to the RMTF due to the increase in sovereign immunity caps in October 2011:

	Claims with a Date of Accident of 10/1/06-9/30/11 (5 years)	**Claims with a Date of Accident of 10/1/11-9/30/16 (5 years)**	**Percentage Increase**
Number of "Large" Cases (Settlement > $80K)	91	119	31%
Average Settlement Amount on Large Cases	$119,432	$159,301	33%
Total Settlement Amounts on Large Cases	$10,868,275	$18,956,778	74%
Claims Paid Date Range	6/22/07-8/5/20	7/2/12-1/20/21	

If SB 472 were to become law, an increase in expenditures to the RMTF is expected to be more significant than the increase in October of 2011 because the proposed increase in the caps is much greater. The Division of Risk Management previously reviewed high exposure cases settled during FY 2019-20 and reflects that the Trust Fund would have paid multi-million dollars more to settle claims paid in the 2019-20 fiscal year if the new limits had been in place, a significant increase over the $4.0 million paid on those high exposure tort claims that fiscal year. During the FY20-21 fiscal year the Trust Fund paid $4.1 million in settlements and would have likely seen a significant increase in settlement exposure if the new limit had been in place.

This bill provides that the state or an agency or subdivision may agree to settle a claim made or judgement rendered against it in excess of the waiver without further action by the Legislature. It is unclear if the state could be required to pay a judgment in excess of the cap under this proposed provision. This could significantly increase costs if the limits of the sovereign immunity cap were not strictly enforced. Large multimillion-dollar judgments, if required to be paid by the Risk Management Trust Fund, would result in a need to increase premiums charged to state agencies and universities.

In addition, on July 1, 2025, the annual increase in the sovereign immunity limit tied to the Southeastern consumer price index (lines 95-99) would increase defense costs and would increase the sovereign immunity cap by an unknown percentage annually. Plaintiffs would have an incentive to prolong litigation if the sovereign immunity cap limits were close to being increased. This would cause a potential increase in the cost to defend such cases and the ultimate claim costs.

In addition to an increase in the payment of losses, which is paid from nonoperating budget, it is also likely the State would see an increase in the number of lawsuits filed, a significant increase in claims cost, and increasing legal costs (in operating categories 100904 and 100905) to the Risk Management Trust Fund.

If SB 472 is passed an increase in staffing will be required. An initial analysis determined we expect to establish a separate section to process the increased claims and defense attorney billings. This new section would include (1) Records Specialist, (3) additional Risk Management Program Specialists and a Risk Management Program Administrator to oversee the section and handle the increased technical litigation and high exposure cases. Therefore, the passing of SB 472 would result in five (5) new positions and associated costs of $435,435.

Title	PG	Class Code	Salaries	Benefits	Expenses	TR/DMS	Total
Records Specialist	15	0130	$35,000	$21,958	$11,436	$360	$68,754
Risk Management Program Specialist	22	3545	$46,549	$24,408	$11,436	$360	$82,753
Risk Management Program Specialist	22	3545	$46,549	$24,408	$11,436	$360	$82,753
Risk Management Program Specialist	22	3545	$46,549	$24,408	$11,436	$360	$82,753
Risk Management Program Administrator	424	3546	$75,000	$31,626	$11,436	$360	$118,422
Total							$435,435

III. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? **Y☐ N☒**

Revenues:	
Expenditures:	
Other:	

IV. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? **Y☐ N☒**

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

I. DOES THE BILL IMPACT THE DEPARTMENT'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? **Y☐ N☒**

If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

I. DOES THE BILL HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? **Y☐ N☒**

If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations? B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)? C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties? D. Rules:

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Approps
Committee

472
Bill Number or Topic

274312
Amendment Barcode (if applicable)

Name David Cruz

Phone 701-3676

Address P.O. Box 1757
Street

Email DCRUZ@FLCities.com

Tallahassee FL 32302
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida League of Cities

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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02/22/2024
Meeting Date

SB 472
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name HOWARD E. "GENE" ADAMS

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Address 215 SOUTH MONROE ST., 2ND FLOOR
Street

Email GENE@PENNINGTONLAW.COM

TALLAHASSEE FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: PREFERRED GOVERNMENTAL INSURANCE TRUST

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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2-22-24
Meeting Date

Appropriations
Committee

SB 472
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matthew Posgay

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Address 136 E. Bay St.
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Email MJP@cokerlaw.com

Jacksonville, FL 32202
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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2/22/24
Meeting Date

Approps
Committee

SB 472
Bill Number or Topic

Amendment Barcode (if applicable)

Name ~~Bob Harris~~ Adriana Soto

Phone

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~~bharris@lawfla.com~~

Tallahassee FL 32308
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: the Panhandle Area Education Consortium

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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2/22/24
Meeting Date

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Committee

SB 472
Bill Number or Topic

Amendment Barcode (if applicable)

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Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
SafetyNet Hospital Alliance

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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2/22/2024
Meeting Date

Appropriations
Committee

472
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bob McKee

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Street

Email bmckee@fl-counties.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Assoc of Counties

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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 Appropriations

BILL:	CS/CS/SB 808
INTRODUCER:	Appropriations Committee, Criminal Justice Committee, and Senator DiCeglie and others
SUBJECT:	Treatment by a Medical Specialist
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	**Fav/CS**
2.	Sanders	Betta	AEG	**Favorable**
3.	Sanders	Sadberry	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 808 amends s. 112.18, F.S., to authorize firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment for a compensable presumptive condition by his or her selected medical specialist.

The bill requires written notice of the selection of a medical specialist to be given to his or her workers' compensation carrier, self-insured employer, or third-party administrator before he or she begins treatment, except in emergency situations. The bill creates an exception applicable to the usual provider selection process provided under the workers' compensation law.

The bill requires the workers' compensation carrier, self-insured employer, or third-party administrator to authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications within five business days after receipt of written notice and schedule the appointment for treatment to be held within 30 days after receipt of written notice. If after five business days, the carrier has not authorized an alternative medical specialist, the selected medical specialist is authorized. The continuing care and treatment must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension.

Treatment by a medical specialist must be reimbursed at no more than 200 percent of the Medicare rate for a selected medical specialist; and be authorized by the firefighter's or office workers' compensation carrier, self-insured employer, or third-party administrator.

The bill defines "medical specialist" to mean a physician licensed under chs. 458 or 459, F.S., who has board certification in a medical specialty inclusive of care and treatment of tuberculosis, heart disease, or hypertension.

The bill has an indeterminate fiscal impact to local and state government. *See* Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Medical Treatment for Compensable Presumptive Conditions

Section 112.18, F.S., provides that for any condition or impairment of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter,[1] or any law enforcement officer,[2] correctional officer,[3] or correctional probation officer,[4] caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death is to be presumed to have been accidental and to have been suffered in the line of duty unless the contrary can be shown by competent evidence. Any such firefighter or officer must have successfully passed a pre-employment physical exam, which failed to reveal any evidence of any such condition.

Employing fire service providers are required to maintain pre-employment physical examinations for at least five years after the employee's separation from the employing provider. If the employing fire service provider fails to maintain the records, it is presumed the employee has met the requirements.[5]

[1] "Firefighter" means an individual employed as a full-time firefighter or full-time, Florida-certified fire investigator within the fire department or public safety department of an employer whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires; or the investigation of fires and explosives. Section 112.1816(1)(c), F.S.

[2] "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S. Section 943.10(1), F.S.

[3] "Correctional officer" means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution, not including any secretarial, clerical, or professionally trained personnel. Section 943.10(2), F.S.

[4] "Correctional probation officer" means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controlees within institutions of the Department of Corrections or within the community. Section 943.10(3), F.S.

[5] Section 112.18(1)(b)2., F.S.

Pre-employment Physical Examinations

A person applying for certification as a firefighter must be in good physical condition as determined by a medical examination.[6] Section 943.13(6), F.S., states a law enforcement officer, correctional officer, or correctional probation officer must have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse. In order to be eligible for the presumption applied in s. 112.18, F.S., the officer must have successfully passed the physical examination which failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

Eligibility for Workers' Compensation Presumption

In a disputed workers' compensation determination, the legal presumption does not apply if a law enforcement, correctional, or correctional probation officer:

- Departed from the course of treatment prescribed by his or her physician, resulting in a significant aggravation of the disease or disability or need for medical treatment; or
- Was previously compensated for the disabling disease and departed from the treatment prescribed by his or her physician, resulting in disability or increasing the disability or need for medical treatment.[7]

To be eligible for workers' compensation benefits, a law enforcement officer, correctional officer, or correctional probation officer must make a claim for benefits prior to or within 180 days of leaving the employment or the employing agency.[8]

Firefighters are not subject to the exclusion for prior treatment or compensation and they are not covered by the claim-filing deadline that allows a law enforcement officer, correctional officer, or correctional probation officer to file a claim up to 180 days after leaving the employment.

Thus, a firefighter suffering from tuberculosis, heart disease, or hypertension must advise his or her employer of the injury within 90 days of the initial manifestation of the disease or 90 days after the firefighter obtains a medical opinion that the injury (occupational disease) is due to the nature of the firefighter's employment.[9]

Workers' Compensation

Florida's Workers' Compensation laws[10] require employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.[11] The Department of Financial Services (DFS) provides regulatory oversight of Florida's workers' compensation system, including the workers' compensation health care delivery system. The law specifies certain reimbursement formulas and

[6] Section 633.412(5), F.S.
[7] Section 112.18(1)(b)1., F.S.
[8] Section 112.18(1)(b)4., F.S.
[9] Sections 440.151(6) and 440.185(1), F.S.
[10] Chapter 440, F.S.
[11] Section 440.13(2)(a), F.S.

methodologies to compensate workers' compensation health care providers[12] that provide medical services to injured employees. Where a reimbursement amount or methodology is not specifically included in statute, the Three-Member Panel is authorized to annually adopt statewide schedules of maximum reimbursement allowances (MRAs) to provide uniform fee schedules for the reimbursement of various medical services.[13]

In 2023, ch. 2023-144, Laws of Florida, eliminated the authority of the Three-Member Panel (panel) to adopt MRA's for individually licensed health care providers, work-hardening programs, pain programs, and durable medical equipment providers.[14] Instead, it mandates the DFS to annually publish the maximum reimbursement allowance for physician and non-hospital reimbursements on its website by July 1st, effective the following January 1st.[15] The DFS incorporates the statewide schedules of the MRAs through rulemaking.

Reimbursement for Healthcare Providers

In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for similar treatment, services, and care;[16] the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.[17] Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.[18] Annually the panel must adopt schedules of MRAs for hospital inpatient care, hospital outpatient care, and ambulatory surgical centers which are reimbursed either the agreed-upon contract price or the MRA in the appropriate schedule.[19] Maximum reimbursement allowances are as follows:

- Inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.[20]
- Hospital outpatient care is reimbursed at 75 percent of usual and customary charges with exceptions provided in this section.[21]
- Outpatient reimbursement for scheduled surgeries is reimbursed at 60 percent of usual and customary charges.[22]
- For physicians listed under chs. 458 or 459, F.S., the maximum reimbursement must be 110 percent of the reimbursement allowed by Medicare or at the level adopted by the panel, whichever is greater.[23]

[12] The term "health care provider" includes a physician or any recognized practitioner licensed to provide skilled services pursuant to a prescription or under the supervision or direction of a physician. It also includes any hospital licensed under ch. 395, F.S., and any health care institution licensed under chs. 400 or 429, F.S. Section 440.13(1)(g), F.S.
[13] Section 440.13(12), F.S.
[14] Chapter 2023-144, L.O.F.
[15] *Id*.
[16] Section 440.13(12)(i)1., F.S.
[17] Section 440.13(12)(i)2., F.S.
[18] Section 440.13(12)(i)3., F.S.
[19] Section 440.13(12)(a), F.S.
[20] *Id*.
[21] *Id*.
[22] Section 440.13(12)(d), F.S.
[23] Section 440.13(12)(f), F.S.

- For surgical procedures, the maximum reimbursement must be 140 percent of the reimbursement allowed by Medicare or the level adopted by the panel, whichever is greater.[24]
- For prescription medication, the reimbursement must be the average wholesale price plus a $4.18 dispensing fee.[25] Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an $8.00 dispensing fee.[26]

Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the schedule of MRAs as determined by the panel or as otherwise provided.[27]

III. Effect of Proposed Changes:

The bill amends s. 112.18, F.S., to authorize firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment for a compensable presumptive condition by his or her selected medical specialist.

The bill defines "medical specialist" as a physician licensed under chs. 458[28] or 459, F.S.,[29] who has board certification in a medical specialty inclusive of care and treatment of tuberculosis, heart disease, or hypertension.

The bill requires written notice of the selection of a medical specialist to be given to his or her workers' compensation carrier, self-insured employer, or third-party administrator before he or she begins treatment, except in emergency situations. The bill creates an exception applicable to the usual provider selection process provided under the workers' compensation law.

The bill requires the workers' compensation carrier, self-insured employer, or third-party administrator to authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications within five business days after receipt of written notice and schedule the appointment for treatment to be held within 30 days after receipt of written notice. The continuing care and treatment must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension.

Treatment by a medical specialist must be reimbursed at no more than 200 percent of the Medicare rate for a selected medical specialist.

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[24] Section 440.13(12)(g), F.S.
[25] Section 440.13(12)(h), F.S.
[26] *Id*.
[27] Section 440.13(12)(i), F.S.
[28] Section 458.305(4), F.S., defines "physician" as someone who is licensed to diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity, or other physical or mental condition.
[29] Section 459.003(4), F.S., defines "osteopathic physician" as a person who is licensed to diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity, or other physical or mental condition, which practice is based in part upon educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health.

The bill is effective October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because the bill requires county/municipality governments that employ firefighters, law enforcement officers, correctional officers, or correctional probation officers to fund additional expenses related to such employees accessing specialist care for presumed conditions at a rate higher than currently applicable workers' compensation rates; however, an exception may apply. The bill applies to all similarly situated persons, i.e., every county/municipality government that employs such individuals, in addition to the state, which also employs such individuals.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Providers may have less incentive to offer substantial discounts to carriers, possibly resulting in higher costs to the carriers that may be passed through to local and state governments. Authorized medical specialist providers may receive increased fees for treatment of presumed conditions as provided in the bill.

C. Government Sector Impact:

The bill has an indeterminate yet potentially negative impact on state revenues and expenses, specifically the Department of Financial Services' State Risk Management Trust Fund.

The state, as well as local governments, may experience an increase in workers' compensation claims costs related to a firefighter, law enforcement officer, correctional officer or correctional probation officer's ability to seek specialist treatment of presumed conditions. In addition, state and local governments may experience escalated expenses due to the increase in the maximum reimbursement rate of no more than 200 percent of the Medicare rate.

The number of firefighters, law enforcement officers, correctional officers or correctional probation officers who may seek specialist treatment for presumed conditions is unknown; however, should such workers' compensation claims be higher than anticipated, it may adversely impact state and local government workload, necessitating the need for additional staff.

The bill does not impact the state employee group health plan managed by the Division of State Group Health Insurance within the Department of Management Services.[30]

VI. Technical Deficiencies:

Lines 53-55 of the bill requires the treatment by a medical specialist "be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension…" However, the standard in the Workers' Compensation Law, in s. 440.13(2)(a), F.S., requires the following:

> Subject to the limitations specified elsewhere in this chapter, the employer shall furnish to the employee such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require, which is in accordance with established practice parameters and protocols of treatment as provided for in this chapter, including medicines, medical supplies, durable medical equipment, orthoses, prostheses, and other medically necessary apparatus. Remedial treatment, care, and attendance, including work-hardening programs or pain-management programs accredited by an accrediting organization whose standards incorporate comparable regulations required by this state or pain-management program affiliated with medical schools, shall be considered covered treatment only when such care is given based on a referral by a physician as defined in this chapter.

For consistency, a reference to this section as to the standard of care, rather than creating a different standard, would clarify the medical specialist's duty.

[30] Telephone call from Jake Holmgreen, Deputy Director of Legislative Affairs, Department of Management Services, to Niki Davis, Legislative Analyst, Senate Committee on Agriculture, Environment, and General Government (Feb. 1, 2024).

Lines 55-56 relates to specialists providing specified care to a firefighter or officer and provides for compensation at 200 percent of the Medicare rate. The bill does not specifically address whether compensation is specifically applicable to only specialists utilized under authorization by the workers' compensation carrier, self-insured employer, or third party administrator or is applicable to all specialists providing care, including non-authorized specialists.

Lines 59-63 define the term, "medical specialist," and reference a requirement that the specialist have board certification inclusive of care and treatment of specified conditions. However, it does not specify what entity would issue such a certification to a physician licensed under ch. 458 or ch. 459, F.S. A reference to s. 458.33212 and s. 459.0152, F.S., respectively, relating to specialties, would clarify this issue.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 112.18 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 22, 2024:
The committee substitute clarifies the reimbursement rate is no more than 200 percent of the Medicare rate for a selected medical specialist.

CS by Criminal Justice on January 23, 2024:
The committee substitute:

- Requires notice of the selected medical specialist to be written.
- Allows a carrier to authorize an alternative medical specialist with the same or greater qualifications as the selected medical specialist.
- Requires the specialist to be authorized within five business days after receipt of written notice.
- Requires an appointment to be held within 30 days after receipt of written notice.
- Authorizes a selected medical specialist within five days if the carrier fails to authorize an alternative medical specialist.
- Allows for continuing care and treatment.
- Clarifies that the bill creates an exception applicable to the usual provider selection process provided under the workers' compensation law.

B. Amendments:

None.

566208

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
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	.	
	.	

The Committee on Appropriations (DiCeglie) recommended the following:

Senate Amendment

Delete line 56
and insert:
no more than 200 percent of the Medicare rate for a selected medical specialist; and be authorized

By the Committee on Criminal Justice; and Senators DiCeglie, Stewart, Osgood, Powell, and Polsky

591-02395-24 2024808c1

A bill to be entitled

An act relating to treatment by a medical specialist; amending s. 112.18, F.S.; authorizing firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment by a medical specialist for certain conditions under certain circumstances; requiring firefighters, law enforcement officers, correctional officers, and correctional probation officers to notify certain entities of their selection of a medical specialist; providing requirements for the firefighter's or officer's workers' compensation carrier, self-insured employer, or third-party administrator; requiring that the continuing care and treatment by a medical specialist be reasonable, necessary, and related to the firefighter's or officer's condition and authorized by the workers' compensation carrier, self-insured employer, or third-party administrator; specifying a reimbursement percentage for such treatment; defining the term "medical specialist"; providing an effective date.

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

Section 1. Subsection (3) is added to section 112.18, Florida Statutes, to read:

112.18 Firefighters and law enforcement or correctional officers; special provisions relative to disability.—

(3)(a) Notwithstanding s. 440.13(2)(c), a firefighter, law enforcement officer, correctional officer, or correctional probation officer requiring medical treatment for a compensable presumptive condition listed in subsection (1) may be treated by a medical specialist. Except in emergency situations, a firefighter, law enforcement officer, correctional officer, or correctional probation officer entitled to access a medical specialist under this subsection must provide written notice of his or her selection of a medical specialist to the firefighter's or officer's workers' compensation carrier, self-insured employer, or third-party administrator, and the carrier, self-insured employer, or third-party administrator must authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications. Within 5 business days after receipt of the written notice, the workers' compensation carrier, self-insured employer, or third-party administrator must authorize treatment and schedule an appointment, which must be held within 30 days after receipt of the written notice, with the selected medical specialist or the alternative medical specialist. If the workers' compensation carrier, self-insured employer, or third-party administrator fails to authorize an alternative medical specialist within 5 business days after receipt of the written notice, the medical specialist selected by the firefighter or officer is authorized. The continuing care and treatment by a medical specialist must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension; be reimbursed at no more than 200 percent of the Medicare rate; and be authorized by the firefighter's or officer's workers' compensation carrier, self-insured employer, or third-party administrator.

(b) For purposes of this subsection, the term "medical specialist" means a physician licensed under chapter 458 or chapter 459 who has board certification in a medical specialty inclusive of care and treatment of tuberculosis, heart disease, or hypertension.

Section 2. This act shall take effect October 1, 2024.

THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

February 13, 2024

Dear Chair Broxson,

I respectfully request that **SB 808: Treatment by a Medical Specialist** be placed on the agenda of the Committee on Appropriations at your earliest convenience. If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~

Rules Committee ~ Joint Legislative Auditing Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/22/24
Meeting Date

Appropriations
Committee

808
Bill Number or Topic

Amendment Barcode (if applicable)

Name Rocco Salvatori

Phone 850-224-7333

Address 343 W Madison St
Street

Email rocco@fpfp.org

Tallahassee FL 32301
City State Zip

W BS

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:
Florida Professional Firefighters

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

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 Appropriations

BILL:	CS/CS/SB 932
INTRODUCER:	Appropriations Committee; Appropriations Committee on Agriculture, Environment, and General Government; and Senator Berman and others
SUBJECT:	Coverage for Diagnostic and Supplemental Breast Examinations
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Favorable**
2.	Davis	Betta	AEG	**Fav/CS**
3.	Davis	Sadberry	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 932 prohibits the state group insurance program from imposing any cost-sharing liability for diagnostic breast examinations and supplemental breast examinations in any contract or plan for state employee health benefits that provides coverage for diagnostic breast examinations or supplemental breast examinations. The prohibition is effective January 1, 2025, consistent with the start of the new plan year.

The bill provides that if, under federal law, this prohibition would result in health savings account ineligibility under s. 223 of the Internal Revenue Code, the prohibition applies only to health savings account qualified high-deductible health plans with respect to the deductible of such a plan after the person has satisfied the minimum deductible under such plan.
The bill has a significant, negative fiscal impact on the state. See Section V., Fiscal Impact Statement.

The bill provides an effective date of January 1, 2025.

II. Present Situation:

Background

Rates of breast cancer vary among different groups of people. Rates vary between women and men and among people of different ethnicities and ages. Rates of breast cancer incidence (new cases) and mortality (death) are much lower among men than among women. The American Cancer Society made the following estimates regarding cancer among women in the U.S. during 2023:

- 297,790 new cases of invasive breast cancer (This includes new cases of primary breast cancer, but not breast cancer recurrences);
- 55,720 new cases of ductal carcinoma in situ (DCIS), a non-invasive breast cancer; and
- 43,170 breast cancer deaths.[1]

The estimates for men in the U.S. for 2023 were:

- 2,800 new cases of invasive breast cancer (This includes new cases of primary breast cancers, but not breast cancer recurrences); and
- 530 breast cancer deaths.[2]

Breast Cancer Screening

In Florida, a group, blanket, or franchise accident or health insurance policy issued, amended, delivered, or renewed in this state must provide coverage for at least the following:

- A baseline mammogram for any woman who is 35 years of age or older, but younger than 40 years of age.
- A mammogram every two years for any woman who is 40 years of age or older, but younger than 50 years of age, or more frequently based on the patient's physician's recommendation.
- A mammogram every year for any woman who is 50 years of age or older.
- One or more mammograms a year, based upon a physician's recommendation, for any woman who is at risk for breast cancer because of a personal or family history of breast cancer, because of having a history of biopsy-proven benign breast disease, because of having a mother, sister, or daughter who has or has had breast cancer, or because a woman has not given birth before the age of 30.[3]

Each such insurer must offer, for an appropriate additional premium, this same coverage without such coverage being subject to the deductible or coinsurance provisions of the policy.[4]

However, mammography is only the initial step in early detection and, by itself, unable to diagnose cancer. A mammogram is an x-ray of the breast.[5] While screening mammograms are routinely performed to detect breast cancer in women who have no apparent symptoms,

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[1] *Cancer Facts & Figures*, p. 4, American Cancer Society - https://www.cancer.org/cancer-facts-and-statistics (last visited January 30, 2024).
[2] *Id.*
[3] Section 627.6613(1), F.S.
[4] Section 627.6613(3), F.S.
[5] *What Is The Difference Between A Diagnostic Mammogram And A Screening Mammogram?* National Breast Cancer Foundation - https://www.nationalbreastcancer.org/diagnostic-mammogram (last visited January 30, 2024).

diagnostic mammograms are used after suspicious results on a screening mammogram or after some signs of breast cancer alert the physician to check the tissue.[6]

If a mammogram shows something abnormal, early detection of breast cancer requires diagnostic follow-up or additional supplemental imaging required to rule out breast cancer or confirm the need for a biopsy.[7] An estimated 12-16 percent of women screened with modern digital mammography require follow-up imaging.[8] Out-of-pocket costs are particularly burdensome on those who have previously been diagnosed with breast cancer, as diagnostic tests are recommended rather than traditional screening.[9] When breast cancer is detected early, the five-year relative survival rate is ninety-nine percent.[10]

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.[11] As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[12] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[13] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[14] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.[15]

The Agency for Health Care Administration (AHCA) regulates the quality of care by health maintenance organizations (HMO) under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.[16] As part of the certificate process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.[17]

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[6] *Id.*
[7] *Breast Cancer Screening & Early Detection*, Susan G. Komen Organization - https://www.komen.org/breast-cancer/screening/ (last visited January 30, 2024).
[8] *Id.*
[9] *Id.*
[10] *Early Detection*, National Breast Cancer Foundation - Breast Cancer Early Detection - National Breast Cancer Foundation (last visited January 31, 2024).
[11] Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the Financial Services Commission appoints the commissioner of the Office of Insurance Regulation.
[12] Section 624.418, F.S.
[13] Section 624.316(1)(a), F.S.
[14] Section 624.318(2), F.S.
[15] Section 624.3161, F.S.
[16] Section 641.21(1)(1), F.S.
[17] Section 641.495, F.S.

Patient Protection and Affordable Care Act

Essential Benefits

Under the Patient Protection and Affordable Care Act (PPACA),[18] all non-grandfathered health plans in the non-group and small-group private health insurance markets must offer a core package of health care services known as the essential health benefits (EHBs). While the PPACA does not specify the benefits within the EHB, it provides 10 categories of benefits and services that must be covered and it requires the Secretary of Health and Human Services to further define the EHB.[19]

The 10 EHB categories are:
- Ambulatory patient services.
- Emergency services.
- Hospitalization.
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment.
- Prescription drugs.
- Rehabilitation and habilitation services.
- Laboratory services.
- Preventive and wellness services and chronic disease management.
- Pediatric services, including oral and vision care.

The PPACA requires each state to select its own reference benchmark plan as its EHB benchmark plan that all other health plans in the state use as a model. Beginning in 2020, states could choose a new EHB plan using one of three options, including: selecting another's state benchmark plan; replacing one or more categories of EHB benefits; or selecting a set of benefits that would become the State's EHB benchmark plan.[20] Florida selected its EHB plan before 2012 and has not modified that selection.[21]

State Insurance Coverage Mandates

If a state elects to amend its benchmark plan later by imposing a statutory mandate to cover a new service, the PPACA requires the state to pay for the additional costs of that mandate for the entire industry.[22] According to a recent study, only two states have chosen to enhance their EHB benchmark plans and have incurred the additional benefits penalty: Utah and Massachusetts.[23] Utah, for example, added a coverage mandate for applied behavioral analysis therapy for

[18] Affordable Care Act, (March 23, 2010), P.L.111-141, as amended.
[19] 45 CFR 156.100. et seq.
[20] Centers for Medicare and Medicare Services, *Marketplace – Essential Health Benefits,* available at https://www.cms.gov/marketplace/resources/data/essential-health-benefits (last reviewed January 30, 2024).
[21] Centers for Medicare and Medicaid Services, *Information on Essential Health Benefits (EHB) Benchmark Plans,* Florida State Required Benefits, available at https://downloads.cms.gov/ (last viewed on January 30, 2024).
[22] 42 U.S.C. section 1803 U.S. Preventive Services Task Force, *Skin Cancer Prevention: Behavioral Counseling (March 20, 2018)* available at Recommendation: Skin Cancer Prevention: Behavioral Counseling (last reviewed January 30, 2024).
[23] California Health Benefits Program, (CHBRP) (August 2023), *Issue Brief: Essential Health Benefits: Exceeding EHBs and the Defrayal Requirement,* p.2. available at *https://www.chbrp.org/sites/* (last viewed January 30, 2024).

individuals with autism in 2014 and subsequently implemented a state rule to allow the state to reimburse the estimated five affected carriers for the autism claims with state funds.[24]

Annually, the federal Centers for Medicare and Medicaid Services issues a *Notice of Benefit and Payment Parameters (NBPP)* for the next plan year. The NBPP typically includes minor updates to coverage standards, clarifications to prior policy statements, and announcements relating to any major process changes. For the 2025 Plan Year which begins on January 1, 2025, the NBPP proposes to codify that any new, additional benefits included in a state's EHB plan would *not* be considered an addition to the state's EHB, and therefore not subject to the PPACA provision requiring the state to defray the cost for the industry.[25] This change is part of a proposed rule which has not yet been finalized, so it is unclear whether the PPACA state defrayal provision will apply in future.[26]

State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) administers the state group health insurance program (Program).[27] The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.[28] To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s.110.12315, F.S.

Legislative Proposals for Mandated Health Benefit Coverage

Any person or organization proposing legislation which would mandate health coverage or the offering of health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, must submit to the AHCA and the legislative committees having jurisdiction a report which assesses the social and financial impacts of the proposed coverage.[29] Guidelines for assessing the impact of a proposed mandated or mandatorily offered health coverage, to the extent that information is available, include:

- To what extent is the treatment or service generally used by a significant portion of the population?
- To what extent is the insurance coverage generally available?

[24] Utah Admin. Code R590-283 – Notice of Proposed Rule (November 1, 2019), available at https://rules.utah.gov/publicat/bulletin/2019/20191115/44181.htm (last viewed January 30, 2024).
[25] CMS.GOV, *HHS Notice of Benefit and Payment Parameters for 2025 Proposed Rule (November 15, 2023),* available at https://www.cms.gov/newsroom/fact-sheets/ (last viewed January 30, 2024).
[26] Patient Protection and Affordable Care Act, *HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program, and Basic Health Program*, 88 Fed. Reg. 82510, 82553, 82630-82631, 82649, 82653-82654 (November 24, 2023)(to be codified at section 45 CFR 155.170 and 156.11).
[27] Section 110.123, F.S.
[28] A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.
[29] Section 624.215(2), F.S.

- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment?
- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship?
- The level of public demand for the treatment or service.
- The level of public demand for insurance coverage of the treatment or service.
- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.
- To what extent will the coverage increase or decrease the cost of the treatment or service?
- To what extent will the coverage increase the appropriate uses of the treatment or service?
- To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service?
- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders?
- The impact of this coverage on the total cost of health care.[30]

To date, such a report has not been received by the Senate Committee on Banking and Insurance.

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., to provide definitions of "Cost-sharing requirement," "Diagnostic breast examination," and "Supplemental breast examination."

Section 2 amends s. 110.12303, F.S., to prohibit the state group insurance program from imposing on an enrollee any cost-sharing requirement (such as a deductible, copayment, coinsurance, or any other cost-sharing) with respect to coverage for diagnostic breast examinations and supplemental breast examinations in any contract or plan for state employee health benefits that provides coverage for diagnostic breast examinations or supplemental breast examinations. While current plans provide diagnostic breast examinations without cost sharing, cost sharing for supplemental examinations among the current plans vary. The bill provides parameters for what constitutes supplemental breast examinations, prohibiting cost sharing for examinations that are:

- Medically necessary and appropriate breast imaging examinations conducted in accordance with the most recent applicable guidelines of the National Comprehensive Cancer Network, which may include magnetic resonance imaging and ultrasounds and other types of examinations;
- Used when no abnormality is seen or suspected; and
- Based on personal or family medical history or other increased risk factors.

The bill provides that if, under federal law, this prohibition would result in health savings account ineligibility under s. 223 of the Internal Revenue Code, the prohibition applies only to health savings account qualified high-deductible health plans with respect to the deductible of such a plan after the person has satisfied the minimum deductible under such plan.

Section 3 provides that the bill takes effect January 1, 2025.

[30] Section 624.215(2)(a)-(l), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill eliminates out-of-pocket costs for diagnostic and supplemental imaging for breast examinations, which is anticipated to improve access to these tests and likely to result in more patients receiving an earlier diagnosis. Early diagnosis increases the likelihood of successful treatment, which may result in savings for health insurers and HMOs.

C. Government Sector Impact:

The bill's prohibition on out of pocket costs for diagnostic and supplemental breast examinations has the potential to generate a higher insurance premium for the state group health plan. Historically, the state has covered premium inflation in the Program with General Revenue, rather than pass on premium increases to employees.

The Division of State Group Insurance within the Department of Management Services (DMS) estimates the bill will have an estimated fiscal impact of $2.9 million annually in

increased claim costs to state health plans due to the elimination of cost sharing and a projected increase in utilization.[31]

The DMS included the following fiscal impact breakout between the PPO and HMO plans:

- Due to the differences in cost sharing arrangements, the PPO plan will experience a greater fiscal impact estimated at $2.7 million. The removal of cost sharing as it relates to advanced imaging drives most of the estimated impact. The remaining impact is due to an estimated 13-20 percent increase in utilization for both the under age 40 population as well as the over age 40 population.
- HMO impacts are estimated to be lower due to the limited cost share responsibility of the standard HMO plan. Cumulative impacts for the HMO plans are estimated at approximately $220,000. The removal of cost sharing as well as increased utilization drives the estimated impact.[32]

The bill does not appear to implicate the Patient Protection and Affordable Care Act, as it is a cost-sharing bill only and does not mandate any new coverage or service or require any additions to the benchmark plan. Florida's EHB Benchmark Plan already includes diagnostic imaging.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.123 and 100.12303.

IX. 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 Appropriations on February 21, 2024:
The committee substitute is a clarifying amendment to modify the definitions of terms created in the bill. The definitions for the terms "diagnostic breast examination" and "supplemental breast examination" are amended to specify the terms mean an imaging examination of the breast, as determined in accordance with the most recent applicable guidelines of the National Comprehensive Cancer Network.

[31] *See* Department of Management Services, *2024 Agency Legislative Bill Analysis for HB 773* at 5 (Jan. 31, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

[32] *Id.*

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:
The committee substitute prohibits copayments and other cost sharing for supplemental or diagnostic breast imaging within the state employee group health plan, for plans that cover such services. The prohibition is effective January 1, 2025, consistent with the start of the new plan year.

B. Amendments:

None.

240690

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
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	.	
	.	

The Committee on Appropriations (Berman) recommended the following:

Senate Amendment

Delete lines 25 - 38
and insert:
necessary and appropriate imaging examination of the breast, as determined in accordance with the most recent applicable guidelines of the National Comprehensive Cancer Network, including, but not limited to, an examination using diagnostic mammography, breast magnetic resonance imaging, or breast ultrasound, which is used to evaluate an abnormality that is

240690

seen or suspected from a screening examination for breast cancer.

(s) "Supplemental breast examination" means a medically necessary and appropriate imaging examination of the breast, conducted in accordance with the most recent applicable guidelines of the National Comprehensive Cancer Network, including, but not limited to, an examination using breast magnetic resonance imaging or breast ultrasound, which is:

1. Used to screen for breast cancer when there is no abnormality seen or suspected; and

2. Based on personal or family medical history or additional factors that may increase the person's risk of breast cancer.

By the Appropriations Committee on Agriculture, Environment, and General Government; and Senators Berman, Davis, and Stewart

601-03257-24 2024932c1

A bill to be entitled

An act relating to coverage for diagnostic and supplemental breast examinations; amending s. 110.123, F.S.; defining terms; amending s. 110.12303, F.S.; prohibiting the state group insurance program from imposing on an enrollee any cost-sharing requirement with respect to coverage for diagnostic breast examinations and supplemental breast examinations; providing applicability; providing an effective date.

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

Section 1. Present paragraphs (a), (b) through (p), (q), and (r) of subsection (2) of section 110.123, Florida Statutes, are redesignated as paragraphs (b), (d) through (r), (t), and (u), respectively, new paragraphs (a) and (c) and paragraph (s) are added to that subsection, and paragraphs (c) and (d) of subsection (14) of that section are amended, to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in ss. 110.123-110.1239, the term:

(a) "Cost-sharing requirement" means an insured's deductible, coinsurance, copayment, or similar out-of-pocket expense.

(c) "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, including, but not limited to, an examination using diagnostic mammography, breast magnetic resonance imaging, or breast ultrasound, which is used to evaluate an abnormality that is seen or suspected from a screening examination for breast cancer.

601-03257-24 2024932c1

(s) "Supplemental breast examination" means a medically necessary and appropriate examination of the breast, including, but not limited to, an examination using breast magnetic resonance imaging or breast ultrasound, which is:

1. Used to screen for breast cancer when there is no abnormality seen or suspected; and

2. Based on personal or family medical history or additional factors that may increase the person's risk of breast cancer.

(14) OTHER-PERSONAL-SERVICES EMPLOYEES (OPS).—

(c) The initial measurement period used to determine whether an employee hired before April 1, 2013, and paid from OPS funds is a full-time employee described in subparagraph (2)(g)1. ~~(2)(c)1.~~ is the 6-month period from April 1, 2013, through September 30, 2013.

(d) All other measurement periods used to determine whether an employee paid from OPS funds is a full-time employee described in paragraph (2)(g) ~~(2)(c)~~ must be for 12 consecutive months.

Section 2. Subsection (5) is added to section 110.12303, Florida Statutes, to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(5) In any contract or plan for state employee health benefits which provides coverages for diagnostic breast examinations or supplemental breast examinations, the state group insurance program may not impose on an enrollee any cost-sharing requirement. If, under federal law, the application of this subsection would result in health savings account

ineligibility under s. 223 of the Internal Revenue Code, the prohibition under this subsection applies only to health savings account qualified high-deductible health plans with respect to the deductible of such a plan after the person has satisfied the minimum deductible under s. 223 of the Internal Revenue Code, except with respect to items or services that are preventive care pursuant to s. 223(c)(2)(C) of the Internal Revenue Code, in which case the requirements of s. 223(c)(2)(A) of the Internal Revenue Code apply regardless of whether the minimum deductible under s. 223 of the Internal Revenue Code has been satisfied.

Section 3. This act shall take effect January 1, 2025.

The Florida Senate

Committee Agenda Request

To: Senator Doug Broxson, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 13, 2024

I respectfully request that **Senate Bill #932**, relating to Coverage for Diagnostic and Supplemental Breast Examinations, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Lori Berman
Florida Senate, District 26

File signed original with committee office

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

February 22, 2024
Meeting Date

Appropriations
Committee

932
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brian Jogerst

Phone 850-222-0191

Address PO Box 11094
Street

Email brian@bhandassociates.com

Tallahassee FL 32302
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Breast Cancer Foundation

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

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 Appropriations

BILL:	CS/CS/CS/SB 1180
INTRODUCER:	Appropriations Committee; Appropriations Committee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Harrell
SUBJECT:	Substance Abuse Treatment
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hall	Tuszynski	CF	**Fav/CS**
2.	Sneed	McKnight	AHS	**Fav/CS**
3.	Sneed	Sadberry	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1180 amends the definition of certified recovery residences to distinguish residences based on the level of care provided at the facility, to include:

- **Level I**: homes that house individuals in recovery who are post-treatment, with a minimum of nine months of sobriety. These homes are run by the members who reside in them.
- **Level II**: homes that provide oversight from a house manager (typically a senior resident). Residents are expected to follow rules outlined in a resident handbook, pay dues, and work toward achieving milestones.
- **Level III**: homes that offer 24-hour supervision by formally trained staff and peer-support services for residents.
- **Level IV**: homes that are offered, referred to, or provided to patients by licensed services providers. The patients receive intensive outpatient and higher levels of outpatient care. These homes are staffed 24 hours a day.

The bill prohibits any recovery residence from denying an individual access to the residence solely on the basis the individual had been prescribed federally approved medication for the treatment of substance use disorders.

The bill prohibits a local law, ordinance, or regulation from regulating the duration or frequency of a resident stay and exempts certified recovery residences from any transient rental taxes.

The bill allows the Department of Children and Families (DCF) to issue one license for all eligible service components operated by a service provider that offers a continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services, rather than an individual license for each service component.

The bill has no fiscal impact on state and local government revenues and expenditures.

The bill takes effect July 1, 2024.

II. Present Situation:

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.[1] According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.[2] SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.[3] Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use disorder.[4]

Among people aged 12 or older in 2021, 61.2 million people (or 21.9 percent of the population) used illicit drugs in the past year.[5] The most commonly used illicit drug was marijuana, which 52.5 million people used.[6] In the past year:[7]

- Nearly 2 in 5 young adults aged 18 to 25 used illicit drugs;
- 1 in 3 young adults aged 18 to 25 used marijuana;
- 9.2 million people aged 12 and older misused opioids;
- 46.3 million people aged 12 and older (16.5 percent of the population) met the applicable DSM-5 criteria for having a substance use disorder, including 29.5 million who were

[1] The World Health Organization, *Mental Health and Substance Abuse*, available at https://www.afro.who.int/health-topics/substance-abuse (last visited February 7, 2024); *See also* The National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at https://archives.nida.nih.gov/publications/media-guide/science-drug-use-addiction-basics (last visited January 30, 2024).
[2] The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at https://www.naatp.org/resources/clinical/substance-use-disorder (last visited January 30, 2024).
[3] The Substance Abuse and Mental Health Services Administrator (The SAMHSA), *Substance Use Disorders*, available at https://www.samhsa.gov/find-help/disorders (last visited January 30, 2024).
[4] Harvard Medical School, Harvard Health Publishing, *Brain Plasticity in Drug Addiction: Burden and Benefit*, available at https://www.health.harvard.edu/blog/brain-plasticity-in-drug-addiction-burden-and-benefit-2020062620479#:~:text=Experience-dependent%20learning%2C%20including%20repeated%20drug%20use%2C%20might%20increase,drug%20use%2C%20where%20people%20ignore%20the%20negative%20consequences (last visited February 7, 2024).
[5] U.S. Department of Health and Human Services, *SAMHSA Announces National Survey on Drug Use and Health (NSDUH) Results Detailing Mental Illness and Substance Use Levels in 2021*, available at https://www.hhs.gov/about/news/2023/01/04/samhsa-announces-national-survey-drug-use-health-results-detailing-mental-illness-substance-use-levels-2021.html (last visited January 30, 2024).
[6] *Id.*
[7] *Id.*

classified as having an alcohol use disorder and 24 million who were classified as having a drug use disorder. The percentage was highest among young adults aged 18 to 25.

Substance Abuse Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.[8] The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.[9] Each of these laws governed different aspects of addiction, and thus, had different rules promulgated by the state to fully implement the respective pieces of legislation.[10] However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.[11] In 1993, legislation was adopted to combine chs. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).[12]

The Marchman Act encourages individuals to voluntarily seek services within the existing financial and space capacities of a service provider.[13] However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.[14] As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.[15]

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based on state and federally-established priority populations.[16] The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.[17]

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[8] The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).
[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] Chapter 93-39, s. 2, L.O.F., codified as ch. 397, F.S.
[13] *See* ss. 397.601(1) and (2), F.S., An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.
[14] Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act, Risk RX*, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at https://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/ (last visited January 18, 2024)(hereinafter cited as "fundamentals of the Marchman Act").
[15] *Id.*
[16] *See* ch. 394 and 397, F.S.
[17] The DCF, *Treatment for Substance Abuse*, available at https://www.myflfamilies.com/services/samh/treatment (last visited January 18, 2024).

- **Detoxification Services**: Detoxification services use medical and clinical procedures to assist individuals as they withdraw from the physiological and psychological effects of substance abuse.[18]
- **Treatment Services**: Treatment services[19] include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.[20]
- **Recovery Support**: Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.[21]

Licensure of Substance Abuse Service Providers

The DCF regulates substance use disorder treatment by licensing individual treatment components under ch. 397, F.S., and Rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention[22], intervention[23], and clinical treatment services.[24]

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.[25] "Clinical treatment services" include, but are not limited to, the following licensable service components:

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.
- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.
- Outpatient treatment.
- Residential treatment.[26]

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[18] The DCF, *Treatment for Substance Abuse*, available at https://www.myflfamilies.com/services/samh/treatment (last visited January 18, 2024).
[19] *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.
[20] *Id.*
[21] *Id.*
[22] Section 397.311(26)(c), F.S. "Prevention" is defined as "a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles." *See also* The DCF, *Substance Abuse Prevention*, available at https://www.myflfamilies.com/services/samh/substance-abuse-prevention (last visited January 19, 2024).
[23] Section 397.311(26)(b), F.S. "Intervention" is defined as "structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems."
[24] Section 397.311(26), F.S.
[25] Section 397.311(26)(a), F.S.
[26] Section 397.311(26)(a), F.S.

Recovery Residences

Recovery residences (also known as "sober homes, "sober living homes," "Oxford Houses," or "Halfway Houses") are non-medical settings designed to support recovery from substance use disorders, providing a substance-free living environment commonly used to help individuals transition from highly structured residential treatment programs back into their day-to-day lives (e.g., obtaining employment and establishing more permanent residence).[27] Virtually all encourage or require attendance at 12-step mutual-help organizations like Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), but recovery homes have varying degrees of structure and built-in programmatic elements, including:[28]

- **Length of Stay**: some may have a limited or otherwise predetermined, length of stay, while others may allow individuals to live there for as long as necessary provided they follow the house rules.
- **Monitoring**: some, but not all, provide monitoring to maintain substance-free, recovery-supportive living environments and help facilitate house members' progress by implementing a number of rules and requirements (i.e., mutual-help organization attendance, attendance at house meetings, curfews, restrictions on outside employment, and limits on the use of technology). Typically as individuals successfully follow these rules over time, restrictions become more lenient and individuals have greater latitude in their choices both in and outside of the recovery residence.
- **Size**: while recovery residences range in the number of individuals living there at any given time, there are typically at least 6-8 residents of the same gender.

A recovery residence is defined as "a residential unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment."[29]

Recovery residences can be located in single-family and two-family homes, duplexes, and apartment complexes. Most recovery residences are located in single-family homes, zoned in residential neighborhoods.[30] To live in a recovery residence, occupants may be required to pay a monthly fee or rent, which supports the cost of maintaining the home. Generally, recovery residences provide short-term residency, typically a minimum of at least 90 days. However, the

[27] Recovery Research Institute, *Recovery Residences*, available at https://www.recoveryanswers.org/resource/recovery-residences/ (last visited January 31, 2024). Substance abuse prevention is achieved through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural, and community environments.

[28] *Id.*

[29] Section 397.311(38), F.S.

[30] Hearing before the Subcommittee on the Constitution and Civil Justice of the Committee on the Judiciary, House of Representatives, One Hundred Fifteenth Congress, Sept. 28, 2018, available at https://www.govinfo.gov/content/pkg/CHRG-115hhrg33123/html/CHRG-115hhrg33123.htm. *See also* The National Council for Behavioral Health, *Building Recovery: State Policy Guide for Supporting Recovery Housing*, available at https://www.thenationalcouncil.org/wp-content/uploads/2018/05/18_Recovery-Housing-Toolkit_5.3.2018.pdf?daf=375ateTbd56 (last visited January 31, 2024).

length of time a person stays at a recovery residence varies based on the individuals' treatment needs.[31] Because recovery residences essentially provide short-term rental or leasing of living quarters, recovery residences may be classified as transient rental accommodation and subject to taxation of rental fees.

Day or Night Treatment: Community Housing Component

Community housing is a type of group home that provides supportive housing for individuals who are undergoing treatment for substance abuse.

Day or night treatment is one of the licensable service components of clinical treatment services. This service is provided in a nonresidential environment with a structured schedule of treatment and rehabilitative services.[32] Some day or night treatment programs have a community housing component, which is a program intended for individuals who can benefit from living independently in peer community housing which participating in treatment services at a day or night treatment facility for a minimum of five hours a day for a minimum of 25 hours per week.[33]

Prior to 2019, the community housing component of a licensed day or night treatment program was not included in the definition of "recovery residence." After the Legislature amended the definition of "recovery residence" in 2019 to include the community housing component, DCF addressed the statutory change to the definition in a memo. The department stated that, as a result of the change in definition, providers licensed for day or night treatment with community housing must be certified as a recovery residence in order to accept or receive patient referrals from licensed treatment providers or existing recovery residences.[34] The memo did not specifically address whether the community housing component requires certification if the only individuals residing there were clients of the licensed day or night treatment program.

Voluntary Certification of Recovery Residences

A certified recovery residence is a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.[35] Florida has a voluntary certification program for recovery residences and recovery residence administrators, implemented by private credentialing entities.[36] Under the voluntary certification program, two DCF-approved credentialing entities administer certification programs and issue certificates: the Florida Association of Recovery Residences (FARR) certifies the recovery residences and the Florida Certification Board (FCB) certifies recovery residence administrators.[37]

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[31] American Addiction Center, *Length of Stay at a Sober Living Home*, available at https://americanaddictioncenters.org/sober-living/length-of-stay (last visited January 31, 2024).
[32] Section 397.311(26)(a)2., F.S.
[33] Section 397.311(26)(a)3., F.S.
[34] DCF Memo to Substance Abuse Prevention, Intervention, and Treatment Providers, dated July 1, 2019 (on file with the Senate Children, Families, and Elder Affairs Committee).
[35] Sections 397.487-397.4872, F.S.
[36] *Id.*
[37] The DCF, *Recovery Residence Administrators and Recovery Residences*, available at https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences (last visited January 31, 2024).

As the credentialing entity for recovery residences in Florida, the FARR is statutorily authorized to administer certification, recertification, and disciplinary processes as well as monitor and inspect recovery residences to ensure compliance with certification requirements. The FARR is also authorized to deny, revoke, or suspend a certification, or otherwise impose sanctions, if recovery residences are not in compliance or fail to remedy any deficiencies identified. However, any decision that results in an adverse determination is reviewable by the Department.[38]

In order to become certified, a recovery residence must submit the following documents with an application fee to the credentialing entity:[39]

- A policy and procedures manual containing:
- Job descriptions for all staff positions;
- Drug-testing procedures and requirements;
- A prohibition on the premises against alcohol, illegal drugs, and the use of prescription medications by an individual other than for whom the medication is prescribed;
- Policies to support a resident's recovery efforts; and
- A good neighbor policy to address neighborhood concerns and complaints;
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.

There are currently 675 certified recovery residences in Florida.[40] DCF publishes a list of all certified recovery residences and recovery residence administrators on its website.[41]

National Alliance for Recovery Residences

The National Alliance for Recovery Residences (NARR) was established to develop and promote best practices in the operation of recovery residences.[42] The organization works with federal government agencies, national addiction and recovery organizations, state-level recovery housing organizations, and state addiction services agencies to improve the effectiveness and accessibility of recovery housing.

[38] Section 397.487, F.S.
[39] *Id.*
[40] DCF, *2024 Agency Bill Analysis SB 1180*, on file with the Senate Children, Families, and Elder Affairs.
[41] Section 397.4872, F.S.
[42] NARR, *About Us*, available at https://narronline.org/about-us/ (last visited January 31, 2024).

In 2011, NARR established the national standard for all recovery residences. This standard defines the spectrum of recovery oriented housing and services and distinguishes four different types, which are known as "levels" or "levels of support." The standard was developed through a strength-based and collaborative approach that solicited input from all major regional and national recovery housing organizations.[43] NARR's levels of support are included in the Substance Abuse and Mental Health Services Administration's Best Practices for Recovery Housing.[44]

NARR Recovery Residence Levels of Support

A recovery residence is a broad term that describes safe and sober living environments that promote recovery from substance use disorders. These residences may also be referred to as halfway houses, three-quarter houses, transitional living facilities, or sober living homes. Since this is a broad term, to help categorize recovery residences into more specific groups, NARR distinguishes these residences based on their levels of care. There are four levels of care for recovery residences: peer-run, monitored, supervised, and service provider. **[45]**

Level I – Peer-Run

A Peer-Run recovery residence is a home operated by the residents themselves. In this type of residence, there is no external management or oversight from outside sources such as an administrative director. The administration of these facilities is done democratically by the residents. Services may include house meetings for accountability, drug screenings, and self-help meetings. These residences are generally set up in single-family residences like a house.[46]

Level II – Monitored

A monitored recovery residence has an external management structure, usually in the form of an administrative director. The director oversees operations, provides guidance and support, and ensures that all tenants are following rules. These facilities, provide a structured environment with documented rules, policies, and procedures. These residences are typically managed by a house manager or senior resident and may offer peer-run groups, house meetings, drug screenings, and involvement in self-help treatment. These facilities are primarily single=family residences, but they may also be apartments or other dwelling types.[47]

Level III – Supervised

Supervised recovery residences have more intense levels of oversight than monitored residences and typically have an on-site staff member who provides 24/7 support to residents. The staff at a Level III residence includes a facility manager and certified staff or case managers. Staff

[43] NARR, *Standards and Certification Program*, available at https://narronline.org/affiliate-services/standards-and-certification-program/ (last visited January 31, 2024).
[44] Substance Abuse and Mental Health Services Administration, *Best Practices for Recovery Housing*, available at https://store.samhsa.gov/sites/default/files/pep23-10-00-002.pdf (last visited January 31, 2024).
[45] NARR, *Recovery Residence Levels of Support*, available at https://narronline.org/wp-content/uploads/2016/12/NARR_levels_summary.pdf (last visited January 31, 2024).
[46] Isaiah House, *NARR Levels of Care for Addiction Recovery Residences*, available at https://isaiah-house.org/narr-levels-of-care-for-addiction-recovery-residences/ (last visited January 31, 2024).
[47] Isaiah House, *NARR Levels of Care for Addiction Recovery Residences*, available at https://isaiah-house.org/narr-levels-of-care-for-addiction-recovery-residences/ (last visited January 31, 2024).

members may also provide counseling services or facilitate group activities. Residents at Level III houses are expected to adhere to a strict set of rules and guidelines while living in this type of residence. Level III residences have an organizational hierarchy with administrative oversight for service providers, and documented policies and procedures. This type of residence emphasizes life skull development. In these residences, services may be utilized in the outside community while service hours may be provided in-house. The type of dwelling for Level III residences varies and may include all types of residential settings.[48]

Level IV – Service Provider

Service provider recovery residences are typically operated by organizations or corporations. These residences offer a wide range of services and activities for residents. Staff levels in Level IV residences are higher than staff levels for Level I-III residences, and the environments are more structured and institutionalized. These residences have an overseen organizational hierarchy. Level IV recovery residence employ credentialed staff and have both clinical and administrative supervision for residents. These residences also provide clinical services and programming in-house and may offer residents life skill development. While Level IV residences may have a more institutionalized environment, all types of residence may be included as a client moves through the care continuum of a treatment center.[49]

NARR National Association of Recovery Residences		RECOVERY RESIDENCE LEVELS OF SUPPORT			
		LEVEL I Peer-Run	LEVEL II Monitored	LEVEL III Supervised	LEVEL IV Service Provider
STANDARDS CRITERIA	ADMINISTRATION	• Democratically run • Manual or P& P	• House manager or senior resident • Policy and Procedures	• Organizational hierarchy • Administrative oversight for service providers • Policy and Procedures • Licensing varies from state to state	• Overseen organizational hierarchy • Clinical and administrative supervision • Policy and Procedures • Licensing varies from state to state
	SERVICES	• Drug Screening • House meetings • Self help meetings encouraged	• House rules provide structure • Peer run groups • Drug Screening • House meetings • Involvement in self help and/or treatment services	• Life skill development emphasis • Clinical services utilized in outside community • Service hours provided in house	• Clinical services and programming are provided in house • Life skill development
	RESIDENCE	• Generally single family residences	• Primarily single family residences • Possibly apartments or other dwelling types	• Varies – all types of residential settings	• All types – often a step down phase within care continuum of a treatment center • May be a more institutional in environment
	STAFF	• No paid positions within the residence • Perhaps an overseeing officer	• At least 1 compensated position	• Facility manager • Certified staff or case managers	• Credentialed staff

FARR Recovery Residence Levels of Support

The FARR recognizes four distinct support levels for recovery residences which were developed based on the NARR standards.[50] The levels are not a rating scale regarding the efficacy of

[48] *Id.*
[49] *Id.*
[50] FARR, *Levels of Support*, available at https://www.farronline.org/levels-of-support-1 (last visited January 31, 2024).

valuation of any individual certified recovery residence, but instead offer a unique service structure most appropriate for a particular resident.[51] FARR recovery residence levels of support include:[52]

Level I

Level I residences are structured after the Oxford House model.[53] Individuals who enter FARR Level I homes have a high recovery capital with a minimum of nine months of sobriety and the length of stay is determined by the resident. Level I homes are democratically run by the members who reside in the home through a guided policy and procedure manual or charter.

Level II

Level II residences encompass the traditional perspective of sober living homes. Oversight is provided from a house manager with lived experience, typically a senior resident. Residents are expected to follow the rules outlined in the resident handbook, pay dues, and work on achieving milestones within a chosen recovery path. This level of support is a resident driven length of stay, while providers may suggest a minimum commitment length.

Level III

Level III residences offer higher supervision by staff with formal training to ensure resident accountability. Level III homes offer peer-support services and are staff 24 hours a day. No clinical services are performed at the residence. The services offered usually include life skills, mentoring, recovery planning, and meal preparation. This support structure is most appropriate for residents who require a more structured environment during early recovery from addiction. Length of stay is determined by the resident; however, providers may ask for a minimum commitment length of stay to fully complete programming.

Level IV

A Level IV residence is any recovery residence offered or provided by a licensed service provider that provides housing to patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care at facilities that are operated by the same licensed service provider or a recovery residence used as the housing component of a day or night treatment with community housing, license issued pursuant to Rule 65D-40.0081, Florida Administrative Code.

III. Effect of Proposed Changes:

Section 1 amends the definition of "certified recovery residence" in s. 397.311, F.S., to include standards regarding the levels of care offered within those residences. This amendment will help

[51] FARR, *Levels of Support*, available at https://www.farronline.org/levels-of-support-1 (last visited January 31, 2024).
[52] *Id.*
[53] Oxford House Model is a concept and a system of operating in recovery from drug and alcohol addiction. The concept is that recovering individuals can live together and democratically run an alcohol and drug-free living environment which supports the recovery of every resident. Oxford Houses are one of the largest self-help residential programs in the U.S. *See* Oxford House, *The Purpose and Structure of Oxford House*, available at https://oxfordhouse.org/purpose_and_structure (last visited January 31, 2024) and the National Library of Medicine, *Oxford House Recovery Homes: Characteristics and Effectiveness*, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2888149/ (last visited January 31, 2024).

to better align recovery residences in Florida with industry best practices. The levels of care are as follows:

- Level I: these homes house individuals in recovery who are post-treatment, with a minimum of nine months of sobriety. These homes are run by the members who reside in them.
- Level II: these homes have oversight from a house manager (typically, a senior resident). Residents are expected to follow rules outlined in a resident handbook, pay dues, and work toward achieving milestones.
- Level III: these homes offer 24-hour supervision by staff with formal training and peer-support services.
- Level IV: these homes are offered, referred, or provided to patients by licensed service providers. The patients receive intensive outpatient and higher levels of outpatient care. These homes are staffed 24 hours a day.

The bill also defines "community housing" to mean a certified recovery residence offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. The bill also requires a certified recovery residence used by a licensed service provider that meets the definition of community housing to be classified as a Level IV level of support.

Section 2 amends s. 397.407, F.S., to allow the Department of Children and Families (DCF) to issue one license for all service components operated by a service provider that offers a continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services, rather than an individual license for each service component. This includes the following services:

- Addictions receiving facility;
- Day or night treatment;
- Day or night treatment with community housing;
- Detoxification;
- Intensive inpatient treatment;
- Intensive outpatient treatment;
- Medication-assisted treatment for opioid use disorders;
- Outpatient treatment; and
- Residential treatment.

The license is only valid for the specific service components listed for each specific location identified on the license. If service components are added, the service provider must obtain approval from the DCF. If the service provider intends to relocate any of its service sites, the service provider must notify the DCF and provide any required documentation, at least 30 days before such relocation.

Section 3 amends s. 397.487, F.S., to increase the amount of time a certified recovery residence has to retain a certified recovery residence administrator from 30 days to 90 days. The section also requires the recovery residence to retain another administrator within 90 days should the previous administrator, who had been approved to actively manage more than 50 residents pursuant to s. 397.4871(8)(b), F.S., be removed due to termination, resignation, or any other

reason. Should the certified recovery residence not obtain another administrator within the time allowed, the bill requires the credentialing entity to revoke the residence's certificate of compliance.

The bill prohibits any recovery residence from denying an individual access to the residence solely on the basis the individual had been prescribed federally approved medication that assists with treatment for substance use disorders by a licensed physician, physician's assistant, or advanced practice registered nurse.

The bill also prohibits a local law, ordinance, or regulation from regulating the duration or frequency of a resident's stay at a certified recovery residence located within a multifamily zoning district. This provision does not apply to laws, ordinances, or regulations adopted on or before February 1, 2025.

Section 4 amends 397.4871, F.S., to allow an increase in the number of residents actively managed in a recovery residence at any given time from 100 residents to 150 residents so long as the following applies:

- The certified recovery residence is a Level IV resident with a community housing component;
- The residence is actively managed by a certified recovery residence administrator, approved for 100 residents;
- The licensed service provider maintains a service provider personnel-to-patient ratio of 1:8; and
- Maintains onsite supervision at the residences 24 hours a day, 7 days a week, with a personnel-to-resident ratio of 1:10.

The section prohibits a certified recovery residence administrator who has been removed due to termination, resignation, or any other reason from continuing to actively manage more than 50 residents for another service provider or certified recovery residence without being approved by the credentialing entity.

Sections 3 and 4 also make stylistic and conforming changes.

Section 5 provides the bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not reviewed the bill; however, the committee substitute adopted at the Committee on Appropriations removed the exemption from transient rental tax provided to recovery residences certified pursuant to law. Therefore, the bill will not affect state or local tax revenues.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no fiscal impact on state or local government revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 397.311, 397.407, 397.487, and 397.4871.

IX. Additional Information:

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

CS/CS/CS by Appropriations on February 22, 2024:
The committee substitute:

- Removes the proposed exemption from transient rentals taxes imposed on certified recovery residences.
- Restores the membership for the Statewide Council on Opioid Abatement to the current 10 members.

CS/CS by Appropriations Committee on Health and Human Services on February 13, 2024:
The committee substitute:

- Streamlines the licensing process for service providers that provide a continuum of substance abuse treatment, intervention, and prevention services, allowing the Department of Children and Families (DCF) to issue one license for all services rather than an individual license for each service component. This includes the following services:
  - Addictions receiving facility;
  - Day or night treatment;
  - Day or night treatment with community housing;
  - Detoxification;
  - Intensive inpatient treatment;
  - Intensive outpatient treatment;
  - Medication-assisted treatment for opioid use disorders;
  - Outpatient treatment; and
  - Residential treatment.
- Specifies that if service components are added, the service provider must obtain approval from the DCF. If the service provider intends to relocate any of its service sites, the service provider must notify the DCF and provide any required documentation, at least 30 days before such relocation.
- Clarifies that the member of the Statewide Council on Opioid Abatement appointed by the Florida Society of Addiction Medicine does not have to be a medical doctor certified in addiction medicine.

CS by Children, Families and Elder Affairs on February 6, 2024:
The committee substitute:

- Removes the requirement for the DCF to display certain licensure data and information on its website.
- Adds two new members to the Statewide Council on Opioid Abatement to include a representative from the Florida Certification Board and a representative from the Florida Association of Managing Entities.
- Makes technical and conforming changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
	.	
	.	
	.	

The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 59 - 179
and insert:
Section 1. Present subsections (9) through (50) of section 397.311, Florida Statutes, are redesignated as subsections (10) through (51), respectively, a new subsection (9) is added to that section, and subsection (5) of that section is amended, to read:
397.311 Definitions.—As used in this chapter, except part

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VIII, the term:

(5) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.

(a) A Level I certified recovery residence houses individuals in recovery who have completed treatment, with a minimum of 9 months of sobriety. A Level I certified recovery residence is democratically run by the members who reside in the home.

(b) A Level II certified recovery residence encompasses the traditional perspectives of sober living homes. There is oversight from a house manager who has experience with living in recovery. Residents are expected to follow rules outlined in a resident handbook, which is provided by the certified recovery residence administrator. Residents must pay dues, if applicable, and work toward achieving realistic and defined milestones within a chosen recovery path.

(c) A Level III certified recovery residence offers higher supervision by staff with formal training to ensure resident accountability. Such residences are staffed 24 hours a day, 7 days a week, and offer residents peer-support services, which may include, but are not limited to, life skill mentoring, recovery planning, and meal preparation. No clinical services are performed at the residence. Such residences are most appropriate for persons who require a more structured environment during early recovery from addiction.

(d) A Level IV certified recovery residence is a residence offered, referred to, or provided by, a licensed service

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provider to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Such residences are staffed 24 hours a day and combine outpatient licensable services with recovery residential living. Residents are required to follow a treatment plan and attend group and individual sessions, in addition to developing a recovery plan within the social model of living a sober lifestyle. No clinical services are provided at the residence, and all licensable services are provided off-site.

(9) "Community housing" means a certified recovery residence offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. A certified recovery residence used by a licensed service provider that meets the definition of community housing shall be classified as a Level IV level of support, as described in subsection (5).

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

And the title is amended as follows:

Delete lines 3 - 10

and insert:

s. 397.311, F.S.; providing the levels of care at certified recovery residences and their respective levels of care for residents; defining the term "community housing";

By the Appropriations Committee on Health and Human Services; the Committee on Children, Families, and Elder Affairs; and Senator Harrell

603-03305-24 20241180c2

A bill to be entitled

An act relating to substance abuse treatment; amending s. 212.02, F.S.; eliminating certain tax liabilities imposed on certified recovery residences; amending s. 397.311, F.S.; providing the levels of care at certified recovery residences and their respective levels of care for residents; defining the term "community housing"; amending s. 397.335, F.S.; revising the membership of the Statewide Council on Opioid Abatement to include additional members; amending s. 397.407, F.S.; authorizing, rather than requiring, the Department of Children and Families to issue a license for certain service components operated by a service provider; deleting the timeframe in which a licensed service provider must apply for additional services and requiring the service provider to obtain approval prior to relocating to a different service site; removing a requirement that a separate license is required for each service component maintained by a service provider; amending s. 397.487, F.S.; extending the deadline for certified recovery residences to retain a replacement for a certified recovery residence administrator who has been removed from his or her position; requiring certified recovery residences to remove certain individuals from their positions if they are arrested and awaiting disposition for, are found guilty of, or enter a plea of guilty or nolo contendere to certain offenses, regardless if adjudication is withheld; requiring the

603-03305-24 20241180c2

certified recovery residence to retain a certified recovery residence administrator if the previous certified recovery residence administrator has been removed due to any reason; conforming provisions to changes made by the act; prohibiting certified recovery residences, on or after a specified date, from denying an individual access to housing solely for being prescribed federally approved medications from licensed health care professionals; prohibiting local laws, ordinances, or regulations adopted on or after a specified date from regulating the duration or frequency of a resident's stay in a certified recovery residence in certain zoning districts; providing applicability; amending s. 397.4871, F.S.; conforming provisions to changes made by the act; authorizing certain Level IV certified recovery residences owned or controlled by a licensed service provider and managed by a certified recovery residence administrator approved for a specified number of residents to manage a specified greater number of residents, provided that certain criteria are met; prohibiting a certified recovery residence administrator who has been removed by a certified recovery residence from taking on certain other management positions without approval from a credentialing entity; providing an effective date.

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

Section 1. Paragraph (k) is added to subsection (10) of section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(10) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

(k) For purposes of this chapter, recovery residences certified pursuant to s. 397.487 which rent properties are not subject to any taxes imposed on transient accommodations, including taxes imposed under s. 212.03; any locally imposed discretionary sales surtax or any convention development tax imposed under s. 212.0305; any tourist development tax imposed under s. 125.0104; or any tourist impact tax imposed under s. 125.0108.

Section 2. Present subsections (9) through (50) of section 397.311, Florida Statutes, are redesignated as subsections (10) through (51), respectively, a new subsection (9) is added to that section, and subsection (5) of that section is amended, to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(5) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.

(a) A Level I certified recovery residence houses individuals in recovery who have completed treatment, with a minimum of 9 months of sobriety. A Level I certified recovery residence is democratically run by the members who reside in the home.

(b) A Level II certified recovery residence encompasses the traditional perspectives of sober living homes. There is oversight from a house manager who has experience with living in recovery. Residents are expected to follow rules outlined in a resident handbook, which is provided by the certified recovery residence administrator. Residents must pay dues, if applicable, and work toward achieving realistic and defined milestones within a chosen recovery path.

(c) A Level III certified recovery residence offers higher supervision by staff with formal training to ensure resident accountability. Such residences are staffed 24 hours a day, 7 days a week, and offer residents peer-support services, which may include, but are not limited to, life skill mentoring, recovery planning, and meal preparation. No clinical services are performed at the residence. Such residences are most appropriate for persons who require a more structured environment during early recovery from addiction.

(d) A Level IV certified recovery residence is a residence offered, referred to, or provided by, a licensed service provider to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Such residences are staffed 24 hours a day and combine outpatient licensable services with recovery residential living. Residents are required to follow a treatment

plan and attend group and individual sessions, in addition to developing a recovery plan within the social model of living a sober lifestyle. No clinical services are provided at the residence, and all licensable services are provided off-site.

(9) "Community housing" means a certified recovery residence offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. A certified recovery residence used by a licensed service provider that meets the definition of community housing shall be classified as a Level IV level of support, as described in subsection (5).

Section 3. Paragraph (a) of subsection (2) of section 397.335, Florida Statutes, is amended to read:

397.335 Statewide Council on Opioid Abatement.—

(2) MEMBERSHIP.—

(a) Notwithstanding s. 20.052, the council shall be composed of the following members:

1. The Attorney General, or his or her designee, who shall serve as chair.

2. The secretary of the department, or his or her designee, who shall serve as vice chair.

3. One member appointed by the Governor.

4. One member appointed by the President of the Senate.

5. One member appointed by the Speaker of the House of Representatives.

6. Two members appointed by the Florida League of Cities who are commissioners or mayors of municipalities. One member shall be from a municipality with a population of fewer than

50,000 people.

7. Two members appointed by or through the Florida Association of Counties who are county commissioners or mayors. One member shall be appointed from a county with a population of fewer than 200,000, and one member shall be appointed from a county with a population of more than 200,000.

8. One member who is either a county commissioner or county mayor appointed by the Florida Association of Counties or who is a commissioner or mayor of a municipality appointed by the Florida League of Cities. The Florida Association of Counties shall appoint such member for the initial term, and future appointments must alternate between a member appointed by the Florida League of Cities and a member appointed by the Florida Association of Counties.

9. Two members appointed by or through the State Surgeon General. One shall be a staff member from the Department of Health who has experience coordinating state and local efforts to abate the opioid epidemic, and one shall be a licensed physician who is board certified in both addiction medicine and psychiatry.

10. One member appointed by the Florida Association of Recovery Residences.

11. One member appointed by the Florida Association of EMS Medical Directors.

12. One member appointed by the Florida Society of Addiction Medicine who is a licensed physician board certified in addiction medicine.

13. One member appointed by the Florida Behavioral Health Association.

14. One member appointed by Floridians for Recovery.

15. One member appointed by the Florida Certification Board.

16. One member appointed by the Florida Association of Managing Entities.

Section 4. Subsections (6) and (10) of section 397.407, Florida Statutes, are amended to read:

397.407 Licensure process; fees.—

(6) The department may issue probationary, regular, and interim licenses. The department may ~~shall~~ issue one license for all ~~each~~ service components ~~component~~ ~~that is~~ operated by a service provider and defined pursuant to s. 397.311(26). The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for ~~a new license at least 60 days before~~ the addition of any service components and obtain approval prior to initiating additional services. The licensed service provider must notify the department and provide any required documentation at least ~~or~~ 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or

transfer of responsibilities under the license to another entity by contractual arrangement.

~~(10) A separate license is required for each service component maintained by the service provider.~~

Section 5. Present paragraphs (c), (d), and (e) of subsection (8) of section 397.487, Florida Statutes, are redesignated as paragraphs (d), (e), and (f), respectively, a new paragraph (c) is added to that subsection, subsections (13) and (14) are added to that section, and paragraph (b) and present paragraphs (c), (d), and (e) of subsection (8) of that section are amended, to read:

397.487 Voluntary certification of recovery residences.—

(8) Onsite followup monitoring of a certified recovery residence may be conducted by the credentialing entity to determine continuing compliance with certification requirements. The credentialing entity shall inspect each certified recovery residence at least annually to ensure compliance.

(b) A certified recovery residence must notify the credentialing entity within 3 business days after the removal of the recovery residence's certified recovery residence administrator due to termination, resignation, or any other reason. The certified recovery residence has 90 ~~30~~ days to retain a certified recovery residence administrator. The credentialing entity shall revoke the certificate of compliance of any certified recovery residence that fails to comply with this paragraph.

(c) If a certified recovery residence's administrator has been removed due to termination, resignation, or any other reason and had been previously approved to actively manage more

than 50 residents pursuant to s. 397.4871(8)(b), the certified recovery residence has 90 days to retain another certified recovery residence administrator pursuant to that section. The credentialing entity shall revoke the certificate of compliance of any certified recovery residence that fails to comply with this paragraph.

(d) ~~(c)~~ If any owner, director, or chief financial officer of a certified recovery residence is arrested and awaiting disposition for or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, any offense listed in s. 435.04(2) while acting in that capacity, the certified recovery residence must ~~shall~~ immediately remove the person from that position and ~~shall~~ notify the credentialing entity within 3 business days after such removal. The credentialing entity may ~~shall~~ revoke the certificate of compliance of a certified recovery residence that fails to meet these requirements.

(e) ~~(d)~~ A credentialing entity shall revoke a certified recovery residence's certificate of compliance if the certified recovery residence provides false or misleading information to the credentialing entity at any time.

(f) ~~(e)~~ Any decision by a department-recognized credentialing entity to deny, revoke, or suspend a certification, or otherwise impose sanctions on a certified recovery residence, is reviewable by the department. Upon receiving an adverse determination, the certified recovery residence may request an administrative hearing pursuant to ss. 120.569 and 120.57(1) within 30 days after completing any appeals process offered by the credentialing entity or the

department, as applicable.

(13) On or after January 1, 2025, a recovery residence may not deny an individual access to housing solely on the basis that he or she has been prescribed federally approved medication that assists with treatment for substance use disorders by a licensed physician, a physician's assistant, or an advanced practice registered nurse registered under s. 464.0123.

(14) A local law, ordinance, or regulation may not regulate the duration or frequency of a resident's stay in a certified recovery residence located within a multifamily zoning district. This subsection does not apply to any local law, ordinance, or regulation adopted on or before February 1, 2025.

Section 6. Paragraphs (b) and (c) of subsection (6) of section 397.4871, Florida Statutes, are amended, and paragraph (c) is added to subsection (8) of that section, to read:

397.4871 Recovery residence administrator certification.—

(6) The credentialing entity shall issue a certificate of compliance upon approval of a person's application. The certification shall automatically terminate 1 year after issuance if not renewed.

(b) If a certified recovery residence administrator of a recovery residence is arrested and awaiting disposition for or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, any offense listed in s. 435.04(2) while acting in that capacity, the certified recovery residence must ~~shall~~ immediately remove the person from that position and ~~shall~~ notify the credentialing entity within 3 business days after such removal. The certified recovery residence shall ~~have 30 days to~~ retain a certified

recovery residence administrator within 90 days after such removal. The credentialing entity shall revoke the certificate of compliance of any recovery residence that fails to meet these requirements.

(c) A credentialing entity shall revoke a certified recovery residence administrator's certificate of compliance if the recovery residence administrator provides false or misleading information to the credentialing entity at any time.

(8)

(c) Notwithstanding paragraph (b), a Level IV certified recovery residence operating as community housing as defined in s. 397.311(9), which residence is actively managed by a certified recovery residence administrator approved for 100 residents under this section and is wholly owned or controlled by a licensed service provider, may actively manage up to 150 residents so long as the licensed service provider maintains a service provider personnel-to-patient ratio of 1 to 8 and maintains onsite supervision at the residence 24 hours a day, 7 days a week, with a personnel-to-resident ratio of 1 to 10. A certified recovery residence administrator who has been removed by a certified recovery residence due to termination, resignation, or any other reason may not continue to actively manage more than 50 residents for another service provider or certified recovery residence without being approved by the credentialing entity.

Section 7. This act shall take effect July 1, 2024.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Health and Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR GAYLE HARRELL
31st District

February 13, 2024,

Senator Broxson
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Broxson,

I respectfully request that SB 1180 – Substance Abuse Treatment be placed on the next available agenda for the Committee on Appropriations Meeting.

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

Thank you,

Senator Gayle Harrell
Senate District 31

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:
❒ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
❒ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
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 Appropriations

BILL:	CS/CS/SB 1366
INTRODUCER:	Appropriations Committee, Banking and Insurance Committee, and Senators DiCeglie and Pizzo
SUBJECT:	My Safe Florida Condominium Pilot Program
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Fav/CS**
2.	Sanders	Sadberry	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1366 creates the My Safe Florida Condominium Pilot Program (Program) within the Department of Financial Services (DFS), to provide hurricane mitigation inspections and hurricane mitigation grants to eligible condominium associations. Implementation of the Program is subject to annual legislative appropriations. Under the Program, the DFS must provide fiscal accountability, contract management, and strategic leadership for the Program.

The bill provides to condominium associations with 15 miles of the coastline a program similar to that of the My Safe Florida Home Program (MSFH) for owners of site-built, single-family, residential properties in regards to requirements for participation, hurricane mitigation inspectors and inspections, eligibility for mitigation grants, contract management by the DFS, and required annual reports.

Unless funded, the bill has no fiscal impact on state or local governments. *See* Section V, Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

My Safe Florida Home Program

Background

In 2006, the Legislature created the My Safe Florida Home Program (MSFH Program) within the Department of Financial Services (DFS).[1] The MSFH Program was created with the intent to provide trained and certified inspectors to perform mitigation inspections for owners of site-built, single-family, residential properties (mitigation inspections), and mitigation grants to eligible applicants, subject to the availability of funds.[2] The MSFH Program was to "develop and implement a comprehensive and coordinated approach for hurricane damage mitigation…"[3]

From its inception to January 30, 2009, the MSFH Program received approximately 425,193 applications, performed more than 391,000 inspections and awarded 39,000 grants. From July 2007 through January 2009, MSFH Program expenditures totaled approximately $151.9 million.[4] Funding for the MSFH Program ceased on June 30, 2009.

2022 Renewal and Funding of the MSFH Program

In May 2022, during Special Session 2022-D, the Legislature reestablished the MSFH Program within the DFS to provide financial incentives for Florida residential property owners to obtain free home inspections which identify mitigation measures and provide mitigation grants to retrofit such properties, thereby reducing their vulnerability to hurricane damage and helping decrease the cost of residential property insurance.[5] The Legislature appropriated $150 million in nonrecurring funds from the General Revenue Fund for the 2022-2023 fiscal year for mitigation grants and inspections.[6] In the Fiscal Year 2023-2024 General Appropriations Act, ch. 2023-239, Laws of Florida, the Legislature appropriated $100 million for mitigation grants.[7] In November 2023, during Special Session 2023-C, the Legislature appropriated an additional $176.2 million in nonrecurring funds from the General Revenue Fund to provide mitigation grants pursuant to s. 215.5586(2), F.S., for the 2023-2024 fiscal year.[8]

Hurricane Mitigation Inspections

The MSFH Program provides licensed inspectors to perform inspections for owners of site-built, single-family, residential properties, for which a homestead exemption has been granted, to determine what mitigation measures are needed, what insurance premium discounts may be available, and what improvements to existing residential properties are needed to reduce the

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[1] The Legislature initially established the MSFH Program as the Florida Comprehensive Hurricane Damage Mitigation Program (ch. 2006-12, L.O.F.); however, the name was subsequently changed in 2007 (ch. 2007-126, L.O.F.).
[2] Section 215.5586, F.S.
[3] *Id*.
[4] Florida Auditor General, *Department of Financial Services, My Safe Florida Home Program, Operational Audit Report No. 2010-074* (Jan. 1010), *available at* https://flauditor.gov/pages/pdf_files/2010-074.pdf (last visited Feb. 16, 2024).
[5] Section 3, ch. 2022-268, Laws of Fla.
[6] Section 4, ch. 2022-268, Laws of Fla.
[7] Chapter 239, Laws of Fla., *available at* https://laws.flrules.org/2023/239 (last visited Feb. 16, 2024).
[8] Section 6, ch. 2023-349, Laws of Fla.

property's vulnerability to hurricane damage. A townhouse as defined in s. 481.203, F.S.,[9] for which a homestead exemption has been granted, may qualify to receive a mitigation inspection to determine if opening protection[10] mitigation would provide improvements to mitigate hurricane damage. The mitigation inspections must include, at a minimum:

- A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage;
- A range of cost estimates regarding the recommended mitigation improvements; and
- Information regarding estimated premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.[11]

The DFS is authorized to contract with "wind certification entities" as vendors to provide such inspections. Each wind certification entity must, at a minimum, meet the following requirements:

- Use hurricane mitigation inspectors who are licensed or certified as:
  - A building inspector under s. 468.607, F.S.;
  - A general, building, or residential contractor under s. 489.111, F.S.;
  - A professional engineer under s. 471.015, F.S.;
  - A professional architect under s. 481.213, F.S.; or
  - A home inspector under s. 468.8314 and who has completed at least three hours of hurricane mitigation training approved by the Construction Industry Licensing Board, which training must include hurricane mitigation techniques, compliance with the uniform mitigation verification form, and completion of a proficiency exam;
- Use hurricane mitigation inspectors who have undergone drug testing and background screening; and
- Provide a quality assurance program that includes a reinspection component.[12]

Hurricane Mitigation Grants

The homeowner eligibility requirements for the mitigation grants are:

- The homeowner must have been granted a homestead exemption on the home;
- The home must be a dwelling with an insured value of $700,000 or less. Low-income homeowners are exempt from this requirement;
- The home must have undergone an acceptable hurricane mitigation inspection;
- The building permit for the initial construction of the home must have been made before January 1, 2008; and
- The homeowner must agree to make the home available for inspection upon completion of the mitigation project.[13]

The MSFH Program grants must be matched on the basis of one dollar provided by the applicant for two dollars provided by the state, up to a maximum state contribution of $10,000 toward the

[9] "Townhouse" generally means "a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units." Section 481.203(16), F.S.
[10] Opening protection includes windows, exterior doors, and garage doors. *See* s. 215.5586(2)(e), F.S.
[11] Section 215.5586(1)(b), F.S.
[12] Section 215.5586(1)(c), F.S.
[13] Section 215.5586(2)(a), F.S.

actual cost of the mitigation project.[14] Low-income homeowners may receive up to $10,000 in grant funds without providing matching dollars.[15]

Grants may be used for the following improvements recommended by a hurricane mitigation inspection:

- Opening protection;
- Exterior doors, including garage doors;
- Reinforcing roof-to-wall connections;
- Improving the strength of roof-deck attachments; and
- Secondary water barrier for roof.

Grants for townhouses may only be used for opening protection.

Results of the MSFH Program

Between November 2022, and December 2023, the MSFH Program has provided more than 94,000 homeowners with hurricane mitigation inspections and approved more than 23,000 grant applications. Over 73 percent of those homeowners who have completed participation in the grant component of the MSFH Program have seen their homeowners insurance premiums drop or stabilize, and many are paying premiums at or below the state average. According to the DFS, upon applying to the MSFH Program, the average premium of the applicants was 55.1 percent higher than the average Florida homeowner's premium. Based upon the decrease in premium following participation, the DFS has concluded that the MSFH Program participation is comprised of higher-than-average risk homeowners, which is consistent with the goal of helping those with homes at greatest risk.

Condominiums

A condominium is a "form of ownership of real property created under ch. 718, F.S,"[16] the "Condominium Act." Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements, and members of the condominium association.[17] For unit owners, membership in the association is an unalienable right and required condition of unit ownership.[18] There are approximately 1,529,764 condominium units in Florida operated by 27,588 associations.[19]

A condominium association is administered by a board of directors referred to as a "board of administration."[20] The board of administration is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and

[14] Section 215.5586(2)(b), F.S.
[15] Section 215.5586(2)(h), F.S.
[16] Section 718.103(11), F.S.
[17] *See* s. 718.103, F.S., for the terms used in the Condominium Act.
[18] *Id.*
[19] Report of the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force (Task Force Report), p. 4, *available at:* https://www-media.floridabar.org/uploads/2021/10/Condominium-Law-and-Policy-Life-Safety-Advisory-Task-Force-Report.pdf (last visited February 16, 2024).
[20] Section 718.103(4), F.S.

are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.[21]

A condominium association is required to use its best efforts to maintain insurance for the association, the association property, the common elements, and the condominium property.[22] Insurance coverage for the association must insure the condominium property as originally installed and all alterations or additions made to the condominium property.[23] Any portion of the condominium property that must be insured by the association against property loss which is damaged by an insurable event, must be reconstructed, repaired, or replaced as necessary by the association as a common expense to the association.[24]

While the current MSFH Program provides for the inspections of, and some mitigation projects to, townhouses, Florida law does not currently provide a program for condominium owners similar to the MSFH Program.

III. Effect of Proposed Changes:

Section 1 creates s. 215.5587, F.S., to establish the My Safe Florida Condominium Pilot Program (Program) within the Department of Financial Services (DFS), and implement pursuant to appropriations.

The bill provides to condominium associations (association) within the prescribed service area a program similar to that of the MSFH Program in regards to requirements for participation, hurricane mitigation inspectors and inspections, eligibility for mitigation grants, contract management by DFS, and required annual reports. Implementation of the Program is subject to annual legislative appropriations and is intended to provide licensed inspectors to perform inspections for and grants to eligible associations as funding allows.

- The bill limits the Program to associations located in the "service area." The "service area" is the area of the state within 15 miles inward of a coastline as defined in s. 376.031, F.S.[25] The bill provides that the terms "association,"[26] "board of administration,"[27] "condominium,"[28]

[21] Section 718.103(2), F.S.
[22] Section 718.111(11), F.S.
[23] Section 718.111(11)(f), F.S.
[24] Section 718.111(11)(j), F.S.
[25] "'Coastline' means the line of mean low water along the portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters, as determined under the Convention on Territorial Seas and the Contiguous Zone, 15 U.S.T. (Pt. 2) 1606." Section 376.031(4), F.S.
[26] "Association" means, in addition to any entity responsible for the operation of common elements owned in undivided shares by unit owners, any entity which operates or maintains other real property in which unit owners have use rights, where membership in the entity is composed exclusively of unit owners or their elected or appointed representatives and is a required condition of unit ownership. Section 718.103(3), F.S.
[27] "Board of administration" or "board" means the board of directors or other representative body which is responsible for administration of the association. Section 718.103(5), F.S.
[28] "Condominium" means that form of ownership of real property created pursuant to this chapter, which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements. Section 718.103(12), F.S.

"condominium parcel,"[29] "unit,"[30] "unit owner"[31] and "voting interest"[32] have the same meaning as those terms are defined in s. 718.103, F.S. The bill defines "department" as the Department of Financial Services and defines "property" to mean the parcel or parcels whose owners have applied to participate in the program. "

The bill provides only the owners of condominium parcels within the service area and that are three stories or less are eligible to participate in the Program.

Condominium Associations and Unit Owners

In order for an association to apply for an inspection of condominium parcels or a grant under the Program, the association must receive approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association. The president of the association may submit an inspection application for the condominium parcels participating in the Program. In order to apply for a grant the association must also receive both of the following:

- Approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association to participate in a mitigation grant; and
- A unanimous vote of all unit owners within the structure or building that is the subject of the mitigation grant.

The president of the association is authorized to submit a grant application for the condominium parcels participating in the Program. A unit owner may participate in the Program through a mitigation grant awarded to the association but may not participate individually in the Program.

Associations may vote on participation in the Program at either an annual meeting or a unit owner meeting called for the purpose of taking a vote on such participation. The association must provide unit owners with clear disclosure of the Program prior to a vote taking place. The president and treasurer of the board of administration are required to sign the disclosure form indicating a copy of the disclosure form was provided to each unit owner. The association must maintain the signed disclosure form and the minutes from the meeting at which the unit owners voted to participate in the Program as part of the official records of the association.

Within 14 days after an affirmative vote to participate in the Program, the association must provide written notice as required under s. 718.112(2)(d), F.S., to all unit owners of the decision to participate in the Program.

[29] "Condominium parcel" means a unit, together with the undivided share in the common elements appurtenant to the unit, as specified in s. 718.103(13), F.S.
[30] "Unit" means a part of the condominium property which is subject to exclusive ownership. A unit may be in improvements, land, or land and improvements together, as specified in the declaration. Section 718.103(29), F.S.
[31] "Unit owner" or "owner of a unit" means a record owner of legal title to a condominium parcel. Section 718.103(30), F.S.
[32] "Voting interest" means the voting rights distributed to the association members pursuant to s. 718.104(4), F.S. In a multicondominium association, the voting interests of the association are the voting rights distributed to the unit owners in all condominiums operated by the association. On matters related to a specific condominium in a multicondominium association, the voting interests of the condominium are the voting rights distributed to the unit owners in that condominium, as specified in s. 718.103(32), F.S.

Hurricane Mitigation Inspectors

Inspections of the property to determine the mitigation measures that are needed, the insurance premium discounts that may be available, and which identifies recommended improvements the association may take to mitigate hurricane damage must be performed by licensed inspectors. The DFS must contract with wind certification entities to provide the inspections. Eligible wind certification entities must, at a minimum:

- Use inspectors who are licensed or certified as:
  - A building inspector under s. 468.607, F.S.;
  - A general, building, or residential contractor under s. 489.111, F.S.;
  - A professional engineer under s. 471.015, F.S.;
  - A professional architect under s. 481.213, F.S.; or
  - A home inspector under s. 468.8314, F.S., who has completed at least three hours of hurricane mitigation training approved by the Construction Industry Licensing Board, which must include hurricane mitigation techniques, compliance with the uniform mitigation verification form, and completion of a proficiency exam;
- Use inspectors who have undergone drug testing and a background screening that includes submission and processing of fingerprints; and
- Provide a quality assurance program, including a reinspection component.

Hurricane Mitigation Inspections

Hurricane mitigation inspections provided to an association, must, at a minimum, include:

- An inspection of the property, and a report that summarizes the results and identifies recommended improvements the association may take to mitigate hurricane damage;
- A range of cost estimates regarding the recommended mitigation improvements; and
- Information regarding estimated insurance premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.

An application for an inspection must contain a signed or electronically verified statement made under penalty of perjury by the president of the board of administration that the association has submitted only a single application for each property that the association operates or maintains. An association may apply for and receive an inspection without also applying for a grant.

Mitigation Grants

Grants must be used by associations to make improvements recommended by an inspection which increases the condominium parcel's resistance to hurricane damage. An application for a grant must:

- Contain a signed or electronically verified statement made under penalty of perjury by the president of the board of administration that the association has submitted only a single application for each property that the association operates or maintains;
- Include a notarized statement from the president of the board of administration containing the name and license number of the contractor it intends to use for the mitigation project; and
- Include a notarized statement from the president of the board of administration which commits to the DFS that the association will complete the mitigation improvements. If the

grant will be used to improve units, the application must also include an acknowledged statement from each unit owner who is required to provide approval for a grant.

An association may select its own contractor for the mitigation project so long as the contractor meets all qualification, certification, or licensing requirements in general law. A mitigation project must be performed by a properly licensed contractor who has secured all required local permits necessary for the project. The DFS must electronically verify that the contractor's state license number is accurate and up to date before approving a grant application.

All grants must be matched on the basis of one dollar provided by the association for two dollars provided by the state up to a maximum contribution as provided in the General Appropriations Act. An association awarded a grant must complete the entire mitigation project in order to receive the final grant award and must agree to make the property available for a final inspection once the mitigation project is finished. The mitigation project must be completed in a manner consistent with the intent of the Program and must meet or exceed applicable Florida Building Code requirements. The association must submit a request to the DFS for a final inspection, or request an extension of time, within one year after receiving grant approval; otherwise the application is deemed abandoned and the grant money reverts back to the DFS.

When recommended by a hurricane mitigation inspection report, grants may be used for the following improvements:
- Opening protection, including exterior doors, garage doors, windows, and skylights;
- Reinforcing roof-to-wall connections;
- Improving the strength of roof-deck attachments; and
- Secondary water barrier for roof.

If improvements to protect the property which complied with the current applicable building code at the time have been previously installed, the association must use a mitigation grant to install improvements that do both of the following:
- Comply with or exceed the applicable building code in effect at the time the association applied for the grant; and
- Provide more protection than the improvements that the association previously installed.

The association may not use a mitigation grant to:
- Install the same type of improvements that were previously installed; or
- Pay a deductible for a pending insurance claim for damage that is part of the property for which grant funds are being received.

This section does not create an entitlement for associations or unit owners or obligate the state in any way to fund the inspection or retrofitting of condominiums in the state.

Contract Management

The DFS must provide fiscal accountability, contract management, and strategic leadership for the Program. The DFS must develop a process that ensures the most efficient means to collect and verify grant applications to determine eligibility and may direct hurricane mitigation inspectors to collect and verify grant application information or use the Internet or other

electronic means to collect information and determine eligibility. The DFS may contract with third parties for grant management, inspection services, contractor services, information technology, educational outreach, and auditing services. Such contracts are considered direct costs of the Program and are not subject to administrative cost limits. Such contracts must be with providers that have a demonstrated record of successful business operations in areas directly related to the services to be provided and must ensure the highest accountability for use of state funds.

The DFS is required to implement a quality assurance and reinspection program that determines whether initial inspections and mitigation improvements are completed in a manner consistent with the intent of the Program. The DFS may use a valid random sampling in order to perform the quality assurance portion of the Program.

Reports

By February 1 of each year, the DFS must submit a report to the President of the Senate and the Speaker of the House of Representatives on the activities of the Program and the use of state funds. The report must include:

- The number of inspections requested;
- The number of inspections performed;
- The number of grant applications received;
- The number of grants approved and the monetary value of each grant;
- The estimated average annual amount of insurance premium discounts each association received and the total estimated annual amount of insurance premium discounts received by all associations participating in the Program; and
- The estimated average annual amount of insurance premium discounts each unit owner received as a result of the improvements to the building or structure.

Requests for Information

During the application process, the DFS may request an applicant provide additional information. If the DFS does not receive a response for additional information from the applicant within 60 days after the applicant is notified of the error or omission, the application is deemed withdrawn by the applicant.

Rulemaking Authority

The DFS is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to govern the Program, implement the section and carry out the duties of the DFS under the bill.

Effective Date

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Should the grant or inspection application process include detailed descriptions and pictures of the inside and outside of the condominium association's (association) property or specific units within the association's property to include private areas, points of entry and other vulnerabilities, the public availability of this information may increase the risk of criminal or harmful activity. A public records exemption may be required to protect any vulnerable information contained within the association's application for a hurricane mitigation inspection or mitigation grant. Such exemption is subject to the provisions of Art. 1, s. 24(c) of the State Constitution.

Similarly, a public records exemption is contemplated for the My Safe Florida Home Program under SB 988 (2024).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If funded, the My Safe Florida Condominium Program (Program) will provide opportunities for certain condominium associations to receive mitigation credits or premium discounts under their property insurance policies and be less exposed to risk. Hurricane mitigation inspectors and contractors may also see an increase in activity.

Wind certification entities (entities) must meet certain requirements when providing hurricane mitigation inspectors (inspectors). Along with professional licensing requirements, the inspectors are required to have undergone drug testing and a background screening as part of the qualification process. Wind certification entities or even individual mitigation inspectors may be required to pay out of pocket expenses for the required background screening and drug testing.

The cost of pre-employment drug testing varies across the state and depends on which screening panel is selected. Drug testing costs around the state range from a low of $50 to a high of $650.[33]

The total fiscal impact for a state and national criminal history record check is $37.25. Of this total amount, the cost for the national portion of the criminal history record check is $13.25 and the cost for the state portion is $24. Vendors performing fingerprint scans may assess additional processing fees.

C. Government Sector Impact:

The bill may have a significant impact on state revenues or expenditures.

House Bill 1029, similar to SB 1366, establishes the My Safe Florida Condominium Program (Program) and specifies it will be implemented subject to funding in the General Appropriations Act (GAA). Currently HB 5001 appropriates $25 million for grants, $1.4 million for administrative costs, and $600,000 for inspections and provides proviso language establishing the Program; SB 2500 does not appropriate funding to the Program. Should the Program become a Conference Committee issue, funding and proviso language would be decided under Conference rules.

If funded, the bill requires the Department of Financial Services (DFS) to implement various provisions within the bill and to submit an annual report, but does not provide an appropriation. The DFS has not provided an estimate of costs associated with implementing the Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

VIII. None. Statutes Affected:

This bill creates section 215.5587 of the Florida Statutes.

[33] CostHelper.com, Drug or Alcohol Testing Cost, *How Much Does Drug or Alcohol Testing Cost?* https://health.costhelper.com/drug-alcohol-test.html (last visited Feb. 16, 2024). *See also*, RequestATest.com, *Pre-Employment Drug Test in Tallahassee, Florida*, https://requestatest.com/pre-employment-drug-test--tallahassee-florida-545-john-knox-rd-ste-103-32303 (last visited Feb. 16, 2024).

IX. Additional Information:

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

CS by Appropriations on February 22, 2024:
The committee substitute:

- Removes the definitions of "association," "association property," and "rebuild" and revises the definition of property;
- Provides "Condominium parcel" and "Voting Interests" has the same meaning as in s. 718.103, F.S.;
- Provides eligibility requirements for participation in the My Safe Florida Condominium Pilot Program (pilot program) to include: only the owners of condominium parcels within the service area and condominium parcels which are three stories or less;
- Provides grants must be used by associations to make improvements recommended by an inspector which increases the condominium parcel's resistance to hurricane damage;
- Removes a provision which allowed grant funds to apply to a previously inspected existing structure on the property or for a rebuild;
- Provides the Department of Financial Services (DFS) may request additional information from an applicant and if the requested information is not received by the DFS within 60 days, the application is deemed withdrawn;
- Provides the DFS with rulemaking authority to implement and govern pilot program, as well as carry out the duties of the department under the pilot program; and
- Makes technical and clarifying changes.

CS by Banking and Insurance Committee on February 6, 2024:
The committee substitute:

- Limits the application of the Program to the area of the state within 15 miles inward of the coastline; and
- Clarifies the fingerprinting requirement to comport with a recommendation by the FDLE.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
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	.	

The Committee on Appropriations (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete lines 67 - 295

and insert:

(b) "Board of administration" has the same meaning as in s. 718.103.

(c) "Condominium" has the same meaning as in s. 718.103.

(d) "Condominium parcel" has the same meaning as s. 718.103.

(e) "Department" means the Department of Financial

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Services.

(f) "Property" means the parcel or parcels whose owners have applied to participate in the program.

(g) "Service area" means the area of this state within 15 miles inward of a coastline as defined in s. 376.031.

(h) "Unit" has the same meaning as in s. 718.103.

(i) "Unit owner" has the same meaning as in s. 718.103.

(j) "Voting interests" has the same meaning as s. 718.103.

(2) PARTICIPATION.—Only the owners of condominium parcels within the service area and that are 3 stories or less are eligible to participate in the pilot program.

(a) In order to apply for an inspection of condominium parcels under subsection (4), an association must receive approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association to participate in the pilot program. The president of the association may submit an inspection application for the condominium parcels participating in the pilot program.

(b) In order to apply for a grant under subsection (5) which improves one or more units within a condominium parcel, an association must receive both of the following:

1. Approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association to participate in a mitigation grant.

2. A unanimous vote of all unit owners within the structure or building that is the subject of the mitigation grant.

(c) The president of the association shall submit a grant application for the condominium parcels participating in the pilot program. A unit owner may participate in the pilot program

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through a mitigation grant awarded to the association but may not participate individually in the pilot program.

(d) The votes required under this subsection may take place at the annual budget meeting of the association or at a unit owner meeting called for the purpose of taking such vote. Before a vote of the unit owners may be taken, the association must provide to the unit owners a clear disclosure of the pilot program on a form created by the department. The president and the treasurer of the board of administration must sign the disclosure form indicating that a copy of the form was provided to each unit owner of the association. The signed disclosure form and the minutes from the meeting at which the unit owners voted to participate in the pilot program must be maintained as part of the official records of the association. Within 14 days after an affirmative vote to participate in the pilot program, the association must provide written notice in the same manner as required under s. 718.112(2)(d) to all unit owners of the decision to participate in the pilot program.

(3) HURRICANE MITIGATION INSPECTORS.—

(a) Licensed inspectors must be used to provide inspections of the property to determine the mitigation measures that are needed, the insurance premium discounts that may be available to the association, and the improvements to existing properties of the association that are needed to reduce a property's vulnerability to hurricane damage.

(b) The department shall contract with wind certification entities to provide hurricane mitigation inspections. To qualify for selection by the department as a wind certification entity to provide hurricane mitigation inspections, the entity must, at

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a minimum, meet all of the following requirements:

1. Use hurricane mitigation inspectors who are licensed or certified as:

a. A building inspector under s. 468.607;

b. A general, building, or residential contractor under s. 489.111;

c. A professional engineer under s. 471.015;

d. A professional architect under s. 481.213; or

e. A home inspector under s. 468.8314 who has completed at least 3 hours of hurricane mitigation training approved by the Construction Industry Licensing Board, which must include hurricane mitigation techniques, compliance with the uniform mitigation verification form, and completion of a proficiency exam.

2. Use hurricane mitigation inspectors who have undergone drug testing and a background screening. The department may conduct criminal record checks of inspectors used by wind certification entities. Inspectors must submit a full set of fingerprints to the department or to a vendor, an entity, or an agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Fees for state and federal fingerprint processing shall be paid by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e). The results must be returned to the department for screening. The fingerprints must be taken by a law enforcement agency, designated examination

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center, or other department-approved entity.

3. Provide a quality assurance program, including a reinspection component.

(4) HURRICANE MITIGATION INSPECTIONS.—

(a) The inspections provided to an association under this section must, at a minimum, include all of the following:

1. An inspection of the property, and a report that summarizes the results and identifies recommended improvements the association may take to mitigate hurricane damage.

2. A range of cost estimates regarding the recommended mitigation improvements.

3. Information regarding estimated insurance premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.

(b) An application for an inspection must contain a signed or electronically verified statement made under penalty of perjury by the president of the board of administration that the association has submitted only a single application for each property that the association operates or maintains.

(c) An association may apply for and receive an inspection without also applying for a grant under subsection (5).

(5) MITIGATION GRANTS.—Grants must be used by associations to make improvements recommended by an inspection which increase the condominium parcel’s resistance to hurricane damage.

(a) An application for a mitigation grant must:

1. Contain a signed or electronically verified statement made under penalty of perjury by the president of the board of administration that the association has submitted only a single

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application for each condominium parcel that the association operates or maintains.

2. Include a notarized statement from the president of the board of administration containing the name and license number of each contractor the association intends to use for the mitigation project.

3. Include a notarized statement from the president of the board of administration which commits to the department that the association will complete the mitigation improvements. If the grant will be used to improve units, the application must also include an acknowledged statement from each unit owner who is required to provide approval for a grant under paragraph (2)(b).

(b) An association may select its own contractors for the mitigation project as long as each contractor meets all qualification, certification, or licensing requirements in general law. A mitigation project must be performed by a properly licensed contractor who has secured all required local permits necessary for the project. The department must electronically verify that the contractor's state license number is accurate and up to date before approving a grant application.

(c) An association awarded a grant must complete the entire mitigation project in order to receive the final grant award and must agree to make the property available for a final inspection once the mitigation project is finished to ensure the mitigation improvements are completed in a matter consistent with the intent of the pilot program and meet or exceed the applicable Florida Building Code requirements. Construction must be completed and the association must submit a request to the department for a final inspection, or request an extension of

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time, within 1 year after receiving grant approval. If the association fails to comply with this paragraph, the application is deemed abandoned and the grant money reverts back to the department.

(d) All grants must be matched on the basis of $1 provided by the association for $2 provided by the state up to a maximum contribution as provided in the General Appropriations Act.

(e) When recommended by a hurricane mitigation inspection report, grants for eligible associations may be used for the following improvements:

1. Opening protection, including exterior doors, garage doors, windows, and skylights.

2. Reinforcing roof-to-wall connections.

3. Improving the strength of roof-deck attachments.

4. Secondary water barrier for roofs.

(f)1. If improvements to protect the property which complied with the current applicable building code at the time have been previously installed, the association must use a mitigation grant to install improvements that do both of the following:

a. Comply with or exceed the applicable building code in effect at the time the association applied for the grant.

b. Provide more hurricane protection than the improvements that the association previously installed.

2. The association may not use a mitigation grant to:

a. Install the same type of improvements that were previously installed; or

b. Pay a deductible for a pending insurance claim for damage that is part of the property for which grant funds are

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being received.

(g) The department shall develop a process that ensures the most efficient means to collect and verify inspection and grant applications to determine eligibility. The department may direct hurricane mitigation inspectors to collect and verify inspection and grant application information or use the Internet or other electronic means to collect information and determine eligibility.

(6) CONTRACT MANAGEMENT.—

(a) The department may contract with third parties for grant management, inspection services, contractor services, information technology, educational outreach, and auditing services. Such contracts are considered direct costs of the pilot program and are not subject to administrative cost limits. The department shall contract with providers that have a demonstrated record of successful business operations in areas directly related to the services to be provided and shall ensure the highest accountability for use of state funds, consistent with this section.

(b) The department shall implement a quality assurance and reinspection program that determines whether initial inspections and mitigation improvements are completed in a manner consistent with the intent of the pilot program. The department may use a valid random sampling in order to perform the quality assurance portion of the pilot program.

(7) REPORTS.—By February 1 of each year, the department shall submit a report to the President of the Senate and the Speaker of the House of Representatives on the activities of the pilot program and the use of state funds. The report must

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include all of the following information:

(a) The number of inspections requested.

(b) The number of inspections performed.

(c) The number of grant applications received.

(d) The number of grants approved and the monetary value of each grant.

(e) The estimated average annual amount of insurance premium discounts each association received and the total estimated annual amount of insurance premium discounts received by all associations participating in the pilot program.

(f) The estimated average annual amount of insurance premium discounts each unit owner received as a result of the improvements to the building or structure.

(8) REQUESTS FOR INFORMATION.—The department may request that an applicant provide additional information. An application is deemed withdrawn by the applicant if the department does not receive a response to its request for additional information within 60 days after the applicant is notified of any apparent error or omission.

(9) RULES.—The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the program, implement this section, and carry out the duties of the department under this section.

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

And the title is amended as follows:

Delete lines 7 - 45

and insert:

providing that the unit owners of certain condominium

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parcels are eligible to participate in the pilot program; providing requirements for associations to apply for a certain inspection; authorizing the president of the association to submit an inspection application; providing requirements for associations to apply for a certain grant; requiring the president of the association to submit a grant application; authorizing a unit owner to participate in the pilot program under certain circumstances; providing voting requirements; requiring that licensed inspectors be used for a specified purpose; requiring the department to contract with specified entities for certain inspections; providing requirements for such entities; authorizing the department to conduct criminal record checks of certain inspectors; requiring inspectors to submit fingerprints and processing fees to the department; providing requirements for hurricane mitigation inspectors and inspections; requiring that applications for inspections and grants include specified statements; authorizing an association to receive an inspection without applying for a mitigation grant; providing mitigation grants for a specified purpose; providing requirements for an association receiving a mitigation grant; authorizing an association to select its own contractors if each contractor meets certain requirements; requiring the department to electronically verify a contractor's state license; requiring the association to complete construction to receive the final grant award;

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requiring the association to make the property available for final inspection once the project is completed; requiring that such construction be completed and that the association submit a request for a final inspection within a specified timeframe; requiring that mitigation grants be matched by the association; providing a maximum state contribution based on the General Appropriations Act; providing requirements for mitigation projects; providing the manner in which mitigation grants may be used; requiring the department to develop a specified process that ensures the most efficient means to collect and verify inspection and grant applications; authorizing the department to direct hurricane mitigation inspectors to collect and verify certain information; authorizing the department to contract for certain services; providing requirements for such contracts; requiring the department to implement a quality assurance and reinspection program; requiring the department to submit to the Legislature an annual report containing specified information; authorizing the department to request additional information from an applicant; providing that an application is deemed withdrawn under certain circumstances; requiring the department to adopt rules; providing an effective date.

By the Committee on Banking and Insurance; and Senator DiCeglie

597-03009-24 20241366c1

A bill to be entitled

An act relating to the My Safe Florida Condominium Pilot Program; creating s. 215.5587, F.S.; establishing the My Safe Florida Condominium Pilot Program within the Department of Financial Services; providing legislative intent; defining terms; providing requirements for associations and unit owners to participate in the pilot program; providing voting requirements; requiring the department to contract with specified entities for certain inspections; providing requirements for such entities; authorizing the department to conduct criminal record checks of certain inspectors; requiring inspectors to submit fingerprints and processing fees to the department; providing requirements for hurricane mitigation inspectors and inspections; requiring that applications for inspections and grants include specified statements; authorizing an association to receive an inspection without applying for a mitigation grant; providing mitigation grants for a specified purpose; providing requirements for an association receiving a mitigation grant; authorizing an association to select its own contractor if such contractor meets certain requirements; requiring the department to electronically verify a contractor's state license; requiring the association to complete construction to receive the final grant award; requiring the association to make the property available for final inspection once the project is

597-03009-24 20241366c1

completed; requiring that such construction be completed and that the association must submit a request for a final inspection within a specified timeframe; requiring that mitigation grants be matched by the association; providing a maximum state contribution based on the General Appropriations Act; providing requirements for mitigation projects; providing how mitigation grants may be used; requiring the department to develop a specified process to ensure efficiency; authorizing the department to contract for certain services; providing requirements for such contracts; requiring the department to implement a quality assurance and reinspection program; requiring the department to submit to the Legislature an annual report with specified information; providing an effective date.

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

Section 1. Section 215.5587, Florida Statutes, is created to read:

215.5587 My Safe Florida Condominium Pilot Program.—There is established within the Department of Financial Services the My Safe Florida Condominium Pilot Program to be implemented pursuant to appropriations. The department shall provide fiscal accountability, contract management, and strategic leadership for the pilot program, consistent with this section. This section does not create an entitlement for associations or unit owners or obligate the state in any way to fund the inspection

or retrofitting of condominiums in the state. Implementation of this pilot program is subject to annual legislative appropriations. It is the intent of the Legislature that the My Safe Florida Condominium Pilot Program provide licensed inspectors to perform inspections for and grants to eligible associations as funding allows.

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

(a) "Association" has the same meaning as in s. 718.103.

(b) "Association property" means property, whether real or personal, which is owned or leased by, or dedicated by a recorded plat to, the association for the use and benefit of its members and which is located in the service area.

(c) "Board of administration" has the same meaning as in s. 718.103.

(d) "Condominium" has the same meaning as in s. 718.103.

(e) "Condominium property" means the lands, leaseholds, and personal property that are subject to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium and that are located in the service area.

(f) "Department" means the Department of Financial Services.

(g) "Property" means association property and condominium property, as applicable, located in the service area.

(h) "Rebuild" means property under construction to replace a structure that was destroyed or significantly damaged by a hurricane and deemed unlivable by a regulatory authority.

(i) "Service area" means the area of the state within 15

miles inward of a coastline as defined in s. 376.031.

(j) "Unit" has the same meaning as in s. 718.103.

(k) "Unit owner" has the same meaning as in s. 718.103.

(2) PARTICIPATION.—

(a) In order to apply for an inspection under subsection (4) or a grant under subsection (5) for association property or condominium property, an association must receive approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association to participate in the pilot program.

(b) In order to apply for a grant under subsection (5) which improves one or more units within a condominium, an association must receive both of the following:

1. Approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association to participate in a mitigation inspection.

2. A unanimous vote of all unit owners within the structure or building that is the subject of the mitigation grant.

(c) A unit owner may participate in the pilot program through a mitigation grant awarded to the association but may not participate individually in the pilot program.

(d) The votes required under this subsection may take place at the annual budget meeting of the association or at a unit owner meeting called for the purpose of taking such vote. Before a vote of the unit owners may be taken, the association must provide to the unit owners a clear disclosure of the pilot program on a form created by the department. The president and the treasurer of the board of administration must sign the disclosure form indicating that a copy of the form was provided

to each unit owner of the association. The signed disclosure form and the minutes from the meeting at which the unit owners voted to participate in the pilot program must be maintained as part of the official records of the association. Within 14 days after an affirmative vote to participate in the pilot program, the association must provide written notice in the same manner as required under s. 718.112(2)(d) to all unit owners of the decision to participate in the pilot program.

(3) HURRICANE MITIGATION INSPECTORS.—

(a) Licensed inspectors must be used to provide inspections of the property to determine the mitigation measures that are needed, the insurance premium discounts that may be available to the association, and the improvements to existing properties of the association that are needed to reduce a property's vulnerability to hurricane damage.

(b) The department shall contract with wind certification entities to provide hurricane mitigation inspections. To qualify for selection by the department as a wind certification entity to provide hurricane mitigation inspections, the entity must, at a minimum, meet all of the following requirements:

1. Use hurricane mitigation inspectors who are licensed or certified as:

a. A building inspector under s. 468.607;

b. A general, building, or residential contractor under s. 489.111;

c. A professional engineer under s. 471.015;

d. A professional architect under s. 481.213; or

e. A home inspector under s. 468.8314 who has completed at least 3 hours of hurricane mitigation training approved by the

Construction Industry Licensing Board, which must include hurricane mitigation techniques, compliance with the uniform mitigation verification form, and completion of a proficiency exam.

2. Use hurricane mitigation inspectors who have undergone drug testing and a background screening. The department may conduct criminal record checks of inspectors used by wind certification entities. Inspectors must submit a full set of fingerprints to the department or to a vendor, an entity, or an agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Fees for state and federal fingerprint processing shall be paid by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e). The results must be returned to the department for screening. The fingerprints must be taken by a law enforcement agency, designated examination center, or other department-approved entity.

3. Provide a quality assurance program, including a reinspection component.

(4) HURRICANE MITIGATION INSPECTIONS.—

(a) The inspections provided to an association under this section must, at a minimum, include all of the following:

1. An inspection of the property, and a report that summarizes the results and identifies recommended improvements the association may take to mitigate hurricane damage.

2. A range of cost estimates regarding the recommended

mitigation improvements.

3. Information regarding estimated insurance premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.

(b) An application for an inspection must contain a signed or electronically verified statement made under penalty of perjury by the president of the board of administration that the association has submitted only a single application for each property that the association operates or maintains.

(c) An association may apply for and receive an inspection without also applying for a grant under subsection (5).

(5) MITIGATION GRANTS.—Financial grants may be used to encourage associations to retrofit the property the association operates and maintains in order to make such property less vulnerable to hurricane damage.

(a) An application for a mitigation grant must:

1. Contain a signed or electronically verified statement made under penalty of perjury by the president of the board of administration that the association has submitted only a single application for each property that the association operates or maintains.

2. Include a notarized statement from the president of the board of administration containing the name and license number of the contractor the association intends to use for the mitigation project.

3. Include a notarized statement from the president of the board of administration which commits to the department that the association will complete the mitigation improvements. If the

grant will be used to improve units, the application must also include an acknowledged statement from each unit owner who is required to provide approval for a grant under paragraph (2)(b).

(b) An association may select its own contractor for the mitigation project as long as such contractor meets all qualification, certification, or licensing requirements in general law. A mitigation project must be performed by a properly licensed contractor who has secured all required local permits necessary for the project. The department must electronically verify that the contractor's state license number is accurate and up to date before approving a grant application.

(c) An association awarded a grant must complete the entire mitigation project in order to receive the final grant award and must agree to make the property available for a final inspection once the mitigation project is finished to ensure the mitigation improvements are completed in a matter consistent with the intent of the pilot program and meet or exceed the applicable Florida Building Code requirements. Construction must be completed and the association must submit a request to the department for a final inspection, or request an extension of time, within 1 year after receiving grant approval. If the association fails to comply with this paragraph, the application is deemed abandoned and the grant money reverts back to the department.

(d) All grants must be matched on the basis of $1 provided by the association for $2 provided by the state up to a maximum contribution as provided in the General Appropriations Act.

(e) When recommended by a hurricane mitigation inspection report, grants for eligible associations may be used for the

following improvements:

1. Opening protection.

2. Exterior doors, including garage doors.

3. Reinforcing roof-to-wall connections.

4. Improving the strength of roof-deck attachments.

5. Secondary water barrier for roof.

(f) Grants may be used for a previously inspected existing structure on the property or for a rebuild.

(g)1. If improvements to protect the property which complied with the current applicable building code at the time have been previously installed, the association must use a mitigation grant to install improvements that do both of the following:

a. Comply with or exceed the applicable building code in effect at the time the association applied for the grant.

b. Provide more hurricane protection than the improvements that the association previously installed.

2. The association may not use a mitigation grant to:

a. Install the same type of improvements that were previously installed; or

b. Pay a deductible for a pending insurance claim for damage that is part of the property for which grant funds are being received.

(h) The department shall develop a process that ensures the most efficient means to collect and verify grant applications to determine eligibility and may direct hurricane mitigation inspectors to collect and verify grant application information or use the Internet or other electronic means to collect information and determine eligibility.

(6) CONTRACT MANAGEMENT.—

(a) The department may contract with third parties for grant management, inspection services, contractor services, information technology, educational outreach, and auditing services. Such contracts are considered direct costs of the pilot program and are not subject to administrative cost limits. The department shall contract with providers that have a demonstrated record of successful business operations in areas directly related to the services to be provided and shall ensure the highest accountability for use of state funds, consistent with this section.

(b) The department shall implement a quality assurance and reinspection program that determines whether initial inspections and mitigation improvements are completed in a manner consistent with the intent of the pilot program. The department may use a valid random sampling in order to perform the quality assurance portion of the pilot program.

(7) REPORTS.—By February 1 of each year, the department shall submit a report to the President of the Senate and the Speaker of the House of Representatives on the activities of the pilot program and the use of state funds. The report must include all of the following information:

(a) The number of inspections requested.

(b) The number of inspections performed.

(c) The number of grant applications received.

(d) The number of grants approved and the monetary value of each grant.

(e) The estimated average annual amount of insurance premium discounts each association received and the total

estimated annual amount of insurance premium discounts received by all associations participating in the pilot program.

(f) The estimated average annual amount of insurance premium discounts each unit owner received as a result of the improvements to the building or structure.

Section 2. This act shall take effect July 1, 2024.

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 Appropriations

BILL:	CS/HJR 7017
INTRODUCER:	House State Affairs Committee; House Ways & Means Committee; and Representative Buchanan and others
SUBJECT:	Annual Adjustment to Homestead Exemption Value
DATE:	February 21, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shuler	Sadberry	AP	**Favorable**

I. Summary:

The Florida Constitution requires all property to be assessed at just value (fair market value) as of January 1 of each year for purposes of ad valorem taxation. Ad valorem assessments are used to calculate property taxes that fund counties, municipalities, district school boards, and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by any applicable exemptions allowed by the Florida Constitution. One such exemption is on the assessed value between $50,000 and $75,000, which is exempt from all ad valorem taxes other than school district taxes.

This joint resolution proposes an amendment to the Florida Constitution requiring the $25,000 of assessed value that is exempt from all ad valorem taxes other than school district taxes be adjusted annually for positive inflation growth. It would also apply to any future homestead exemption applying only to ad valorem taxes other than school district taxes, if approved by the voters, and would begin on January 1, 2025.

The joint resolution, if passed by the legislature, would be considered by the electorate at the 2024 general election and, if approved by 60 percent of the electors voting on the measure, the joint resolution would take effect on January 1, 2025.

The Revenue Estimating Conference (REC) has not yet adopted an estimate for CS/HJR 7017. However, for the originally filed version of HJR 7017 with similar inflation adjustment provisions, the REC estimated that the joint resolution would have a zero/negative indeterminate impact on local government revenues because it was proposing an amendment to be submitted to the voters for approval. If the amendment proposed by the joint resolution were not approved by the voters, the REC estimated the impact on local government revenues would have been zero. If the amendment were approved by the voters, the REC estimated the impact on non-school local government property taxes in Fiscal Year (FY) 2025-26 (the first year of implementation) would have been approximately -$22.8 million, growing to approximately -$111.7 million in FY 2028-29, assuming current tax rates.

A joint resolution proposing an amendment or revision to the Florida Constitution requires a three-fifths vote of the membership of each house of the Legislature to appear on the next general election ballot.

II. Present Situation:

Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.[1] Ad valorem taxes are annual taxes levied by counties, municipalities, school districts, and certain special districts. These taxes are based on the just value (fair market value) of real and tangible property as determined by county property appraisers on January 1 of each year.[2] The just value may be subject to limitations, such as the "Save Our Homes" limitation on homestead property assessment increases.[3] The value arrived at after accounting for applicable limitations is known as the assessed value. Property appraisers then calculate the taxable value by reducing the assessed value in accordance with any applicable exemptions, such as the exemptions for homestead property.[4] Each year, local governing boards levy millage rates (i.e., tax rates) on the taxable value to generate the property tax revenue contemplated in their annual budgets.

Homestead Exemptions

Certain homestead exemptions are specified in Article VII, Section 6 of the Florida Constitution, which provides that every person who holds legal or equitable title to real estate and uses said real estate as a permanent residence for themselves, or a legal or natural dependent, is entitled to exemption from taxes on the first $25,000 in assessed value.[5] In 2008, Florida voters amended this provision to include an additional $25,000 exemption from all ad valorem taxes, other than school district taxes, on the assessed value greater than $50,000.[6] Overall, the assessed value of $50,000 up to $75,000 is exempt from all taxes other than school district taxes. Currently, this assessed value amount is not adjusted annually for inflation.

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to Article VII, Section 6(a) of the Florida Constitution requiring the existing $25,000 assessed value amount, which is exempt from all ad valorem taxes other than school district taxes, be adjusted annually for positive inflation growth.[7] This inflation adjustment provision would also apply to any future homestead exemption applying only to ad valorem taxes, other than school district taxes, if approved by the voters, and would begin on January 1, 2025.

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[1] FLA. CONST. art. VII, s. 1(a).
[2] FLA. CONST. art. VII, s. 4.
[3] *See generally* s. 193.155, F.S.
[4] Section 196.031, F.S.
[5] FLA. CONST. art. VII s. 6.
[6] *Id.*
[7] The annual inflation adjustment calculation uses the same Consumer Price Index metric as used for the Save Our Homes calculation in Article VII, section 4(a)(1)b. of the Florida Constitution.

The joint resolution, if passed by the Legislature, would place the amendment on the ballot at the 2024 general election, or an earlier special election held for the purpose of proposing the amendment to the voters,[8] where 60 percent of the electors voting on the measure must approve it for passage.[9] If approved, the amendment would take effect on January 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election[10] held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.[11]

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

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[8] Pursuant to Article XI, section 5(a) of the Florida Constitution, placing the joint resolution on a special election ballot requires the legislature to pass a general law by a three-fourths vote of the membership of each house of the legislature.
[9] FLA. CONST. art. XI, s. 5(e).
[10] Section 97.021(17), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.
[11] Section 101.161(1), F.S.

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not yet adopted an estimate for CS/HJR 7017. However, for the originally filed version of HJR 7017 with similar inflation adjustment provisions, the REC estimated that the joint resolution would have a zero/negative indeterminate impact on local government revenues because the proposed amendment was subject to voter approval. If the amendment proposed by the joint resolution were not approved by the voters, the REC estimated the impact on local government revenues would be zero. If the amendment were to be approved by the voters, the REC estimated the impact on non-school local government property taxes in Fiscal Year (FY) 2025-26 (the first year of implementation) would be approximately -$22.8 million, growing to approximately -$111.7 million in FY 2028-29, assuming current tax rates.[12]

B. Private Sector Impact:

If this joint resolution is approved, homestead property owners would realize lower property taxes over time.

C. Government Sector Impact:

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the 6th week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State pays for publication costs to advertise all constitutional amendments in both English and Spanish, [13] typically paid from non-recurring General Revenue funds.[14] Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67

[12] The REC's analysis of HJR 7017 includes a breakdown of the revenue impacts by county and is available on the second to last page at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2024/_pdf/page129-133.pdf.
[13] Pursuant to *Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503).*
[14] *See, e.g.,* Ch. 2022-156, Specific Appropriation 3137, Laws of Fla.

Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution amends Article VII, section 6 of the Florida Constitution.

This resolution creates a new section in Article XII of the Florida Constitution.

IX. Additional Information:

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

None.

B. Amendments:

None.

House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII of the State Constitution and the creation of a new section in Article XII of the State Constitution to require an annual adjustment to the value of certain homestead exemptions and provide an effective date.

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

That the following amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a)(1) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, as follows:

a. Up to the assessed valuation of twenty-five thousand

dollars; and

b. For all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars,

upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(2) The twenty-five thousand dollar amount of assessed valuation exempt from taxation provided in subparagraph (a)(1)b. shall be adjusted annually on January 1 of each year for inflation using the percent change in the Consumer Price Index for All Urban Consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics, if such percent change is positive.

(3) The amount of assessed valuation exempt from taxation for which every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another person legally or naturally dependent upon the owner, is eligible, and which applies solely to levies other than school district levies, that is added to this constitution after January 1, 2025, shall be adjusted annually on January 1 of each year for inflation using the percent change in the Consumer Price Index for All Urban Consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics, if such percent change is positive, beginning the year following the effective date of such exemption.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and

amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant either or both of the following additional homestead tax exemptions:

(1) An exemption not exceeding fifty thousand dollars to a person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age sixty-five, and whose household income, as defined by general law, does not exceed twenty thousand dollars; or

(2) An exemption equal to the assessed value of the property to a person who has the legal or equitable title to real estate with a just value less than two hundred and fifty thousand dollars, as determined in the first tax year that the owner applies and is eligible for the exemption, and who has maintained thereon the permanent residence of the owner for not less than twenty-five years, who has attained age sixty-five, and whose household income does not exceed the income limitation prescribed in paragraph (1).

The general law must allow counties and municipalities to grant these additional exemptions, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes

in the cost of living.

(e)(1) Each veteran who is age 65 or older who is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was combat related and the veteran was honorably discharged upon separation from military service. The discount shall be in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs. To qualify for the discount granted by this paragraph, an applicant must submit to the county property appraiser, by March 1, an official letter from the United States Department of Veterans Affairs stating the percentage of the veteran's service-connected disability and such evidence that reasonably identifies the disability as combat related and a copy of the veteran's honorable discharge. If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply. The Legislature may, by general law, waive the annual application requirement in subsequent years.

(2) If a veteran who receives the discount described in paragraph (1) predeceases his or her spouse, and if, upon the death of the veteran, the surviving spouse holds the legal or beneficial title to the homestead property and permanently

resides thereon, the discount carries over to the surviving spouse until he or she remarries or sells or otherwise disposes of the homestead property. If the surviving spouse sells or otherwise disposes of the property, a discount not to exceed the dollar amount granted from the most recent ad valorem tax roll may be transferred to the surviving spouse's new homestead property, if used as his or her permanent residence and he or she has not remarried.

(3) This subsection is self-executing and does not require implementing legislation.

(f) By general law and subject to conditions and limitations specified therein, the Legislature may provide ad valorem tax relief equal to the total amount or a portion of the ad valorem tax otherwise owed on homestead property to:

(1) The surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces.

(2) The surviving spouse of a first responder who died in the line of duty.

(3) A first responder who is totally and permanently disabled as a result of an injury or injuries sustained in the line of duty. Causal connection between a disability and service in the line of duty shall not be presumed but must be determined as provided by general law. For purposes of this paragraph, the term "disability" does not include a chronic condition or

chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

As used in this subsection and as further defined by general law, the term "first responder" means a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic, and the term "in the line of duty" means arising out of and in the actual performance of duty required by employment as a first responder.

ARTICLE XII

SCHEDULE

Annual adjustment to homestead exemption value.—This section and the amendment to Section 6 of Article VII requiring an annual adjustment for inflation of specified homestead exemptions shall take effect January 1, 2025.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ARTICLE XII

ANNUAL ADJUSTMENTS TO THE VALUE OF CERTAIN HOMESTEAD EXEMPTIONS.—Proposing an amendment to the State Constitution to require an annual adjustment for inflation to the value of current or future homestead exemptions that apply solely to

levies other than school district levies and for which every person who has legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another person legally or naturally dependent upon the owner is eligible. This amendment takes effect January 1, 2025.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/22/24
Meeting Date

Appropriations
Committee

HJR 7017 X
Bill Number or Topic

Amendment Barcode (if applicable)

Name Charles Chapman

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Speaking: ☐ For ☑ Against ☐ Information **OR** **Waive Speaking:** ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida League of Cities

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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2/22/2024
Meeting Date

Appropriations
Committee

7017
Bill Number or Topic

Amendment Barcode (if applicable)

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S-001 (08/10/2021)

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 Appropriations

BILL:	CS/HB 7019
INTRODUCER:	House State Affairs Committee; House Ways & Means Committee; and Representative Buchanan and others
SUBJECT:	Exemption of Homesteads
DATE:	February 21, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shuler	Sadberry	AP	**Favorable**

I. Summary:

The Florida Constitution requires all property to be assessed at just value (fair market value) as of January 1 of each year for purposes of ad valorem taxation. Ad valorem assessments are used to calculate property taxes that fund counties, municipalities, district school boards, and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by any applicable exemptions allowed by the Florida Constitution. One such exemption is on the assessed value between $50,000 and $75,000, which is exempt from all taxes other than school district taxes.

Fiscally constrained counties are counties entirely within a rural area of opportunity or where a 1 mill levy would raise no more than $5 million in annual tax revenue. The Legislature annually appropriates money to fiscally constrained counties to offset ad valorem tax revenue reductions caused by various amendments to the Florida Constitution provided certain requirements are met. Florida's fiscally constrained counties are Baker, Bradford, Calhoun, Columbia, Desoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla, and Washington.

The bill implements an amendment to Article VII, Section 6 of the Florida Constitution proposed by CS/HJR 7017 (2024) by making conforming statutory changes. If CS/HJR 7017 is approved by the voters, this bill amends current law to add an annual positive inflation adjustment to the current exemption on the assessed value for all levies other than school district levies of $50,000 up to $75,000. The inflation adjustment will begin on January 1, 2025.

The bill also directs the Legislature to appropriate funds to offset reductions in ad valorem tax revenue experienced by fiscally constrained counties as a result of the annual positive inflation adjustment. To receive the offset, a qualifying county must annually apply to the Department of Revenue and provide certain documentation.

The Revenue Estimating Conference (REC) has not yet adopted an estimate for CS/HB 7019. However, the REC determined as part of the analysis for HJR 7017 that the revenue losses for fiscally constrained counties resulting from the inflation adjustment provision would be $0.7 million in Fiscal Year (FY) 2025-26, growing to approximately $4.3 million in FY 2028-29. The REC estimated that the originally filed version of HB 7019 had no impact on local government revenues because the constitutional amendment that the bill would have implemented was self-executing. Therefore, revenue impacts would have resulted from approval of the constitutional amendment, not the implementing legislation.

This bill takes effect on January 1, 2025, if the amendment to the State Constitution proposed by CS/HJR 7017 is approved by the voters at the 2024 general election or at an earlier special election.

II. Present Situation:

Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.[1] Ad valorem taxes are annual taxes levied by counties, municipalities, school districts, and certain special districts. These taxes are based on the just value (fair market value) of real and tangible property as determined by county property appraisers on January 1 of each year.[2] The just value may be subject to limitations, such as the "Save Our Homes" limitation on homestead property assessment increases.[3] The value arrived at after accounting for applicable limitations is known as the assessed value. Property appraisers then calculate the taxable value by reducing the assessed value in accordance with any applicable exemptions, such as the exemptions for homestead property.[4] Each year, local governing boards levy millage rates (i.e. tax rates) on the taxable value to generate the property tax revenue contemplated in their annual budgets.

Homestead Exemptions

Certain homestead exemptions are specified in Article VII, Section 6 of the Florida Constitution, which provides that every person who holds legal or equitable title to real estate and uses said real estate as a permanent residence for themselves, or a legal or natural dependent, is entitled to an exemption from taxes on the first $25,000 in assessed value.[5] In 2008, Florida voters amended this provision to include an additional $25,000 exemption from all taxes other than school district taxes on the assessed value greater than $50,000.[6] The constitution also vests the legislature with authority to enact general law establishing the manner in which individuals qualify for an exemption. Accordingly, s. 196.031(1)(b), F.S., automatically grants the additional, non-school homestead exemption, on the assessed value greater than $50,000 to every

[1] FLA. CONST. art. VII, s. 1(a).
[2] FLA. CONST. art. VII, s. 4.
[3] *See generally* s. 193.155, F.S.
[4] Section 196.031, F.S.
[5] FLA. CONST. art. VII s. 6.
[6] *Id.*

individual who qualifies for the initial homestead exemption on the first $25,000 of the assessed value.

Fiscally Constrained Counties

Fiscally constrained counties are counties entirely within a rural area of opportunity or where a 1 mill levy would raise no more than $5 million in annual tax revenue.[7] A "rural area of opportunity" is a rural community or a region, as designated by the Governor, that has been adversely affected by an extraordinary economic event, a severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.[8]

Florida's fiscally constrained counties are Baker, Bradford, Calhoun, Columbia, Desoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla, and Washington.[9]

The Legislature annually appropriates money to fiscally constrained counties to offset ad valorem tax revenue reductions caused by various amendments to the Florida Constitution.[10] In order to receive an offset distribution, fiscally constrained counties must annually provide the Department of Revenue with an estimate of the expected reduction in ad valorem tax revenues that are directly attributable to specified revisions of Article VII of the Florida Constitution.[11] This prevents such amendments related to property tax from negatively affecting fiscally constrained county tax revenues.

CS/HJR 7017 (2024)

CS/HJR 7017 proposes an amendment to the Florida Constitution requiring the existing $25,000 assessed value amount, which is exempt from all ad valorem taxes other than school district taxes, be adjusted annually for positive inflation growth. This inflation adjustment would also apply to any future homestead exemption added to the Florida Constitution applying only to ad valorem taxes other than school district taxes, and would begin on January 1, 2025.

III. Effect of Proposed Changes:

This bill implements an amendment to Art. VII, s. 6 of the Florida Constitution, proposed in CS/HJR 7017, by making conforming statutory changes. If CS/HJR 7017 is approved by the voters, this bill amends s. 196.031, F.S., to add an annual positive inflation adjustment to the current exemption on the assessed value for all levies other than school district levies of $50,000 up to $75,000. The inflation adjustment will begin on January 1, 2025.

[7] Section 218.67(1), F.S.
[8] Section 288.0656, F.S.
[9] Florida Department of Revenue, *Fiscally Constrained Counties, available at* https://www.floridarevenue.com/property/Documents/fcc_map.pdf (last visited Feb. 17, 2024).
[10] *See* ss. 218.12, 218.125, and 218.135, F.S.
[11] Sections 218.12(2), 218.125(2), and 218.135(2), F.S.

The bill creates s. 218.136, F.S., requiring the Legislature to appropriate funds to offset reductions in ad valorem tax revenue experienced by fiscally constrained counties as a result of the annual positive inflation adjustment. To receive the offset, a qualifying county must annually apply to the Department of Revenue and provide documentation regarding the county's estimated reduction in ad valorem tax revenue. If a fiscally constrained county fails to apply for the distribution, its share reverts to the fund from which the appropriation was made.

The bill provides emergency rulemaking authority to the Department of Revenue to administer the provisions of the act.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. The mandate requirement does not apply to laws having an insignificant impact, which for Fiscal Year 2024-2025 is forecast at approximately $2.3 million.

The Revenue Estimating Conference has not reviewed the bill at this time. However, the REC estimated that the originally filed version of HB 7019 had no impact on local government revenues because the constitutional amendment that the bill would have implemented was self-executing. Therefore, revenue impacts would have resulted from approval of the constitutional amendment, not the implementing legislation.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires that legislation that increases or creates taxes or fees be passed by a 2/3 vote of each chamber in a bill with no other subject. The bill does not increase or create new taxes or fees. Thus, the constitutional requirements related to new or increased taxes or fees do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet reviewed this bill.

B. Private Sector Impact:

Homeowners receiving the tax exemption will benefit from the increased exemption value.

C. Government Sector Impact:

The bill will offset negative impacts to the tax revenues for fiscally constrained counties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill amends section 196.031 of the Florida Statutes.

The bill creates section 218.136 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

A bill to be entitled

An act relating to exemption of homesteads; amending s. 196.031, F.S.; requiring the value of a certain homestead exemption be adjusted annually; creating s. 218.136, F.S.; requiring the Legislature to appropriate funds for a specified purpose; requiring such funds be distributed in a specified manner; requiring specified counties to apply for such distribution; providing requirements for application; providing a specified calculation to be used to determine funding; providing for a reversion of funds in specified circumstances; authorizing the Department of Revenue to adopt emergency rules; providing applicability; providing a contingent effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 196.031, Florida Statutes, is amended to read:

196.031 Exemption of homesteads.—

(1)

(b) Every person who qualifies to receive the exemption provided in paragraph (a) is entitled to an additional exemption of up to $25,000 on the assessed valuation greater than $50,000 for all levies other than school district levies. The $25,000

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value of the additional exemption provided in this paragraph shall be adjusted annually on January 1 of each year for inflation using the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics, if such percent change is positive.

Section 2. Section 218.136, Florida Statutes, is created to read:

218.136 Offset for ad valorem revenue loss affecting fiscally constrained counties.—

(1) Beginning in fiscal year 2025-2026, the Legislature shall appropriate moneys to offset the reductions in ad valorem tax revenue experienced by fiscally constrained counties, as defined in s. 218.67(1), which occur as a direct result of the implementation of revisions of s. 6(a) of Art. VII of the State Constitution approved in the November 2024 general election. The moneys appropriated for this purpose shall be distributed in January of each fiscal year among the fiscally constrained counties based on each county's proportion of the total reduction in ad valorem tax revenue resulting from the implementation of the revision of s. 6(a) of Art. VII of the State Constitution.

(2) On or before November 15 of each year, each fiscally constrained county shall apply to the Department of Revenue to

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

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participate in the distribution of the appropriation and provide documentation supporting the county's estimated reduction in ad valorem tax revenue in the form and manner prescribed by the Department of Revenue. The documentation must include an estimate of the reduction in taxable value directly attributable to revisions of s. 6(a) of Art. VII of the State Constitution approved in the November 2024 general election for all county taxing jurisdictions within the county and shall be prepared by the property appraiser in each fiscally constrained county. The documentation must also include the county millage rates applicable in all such jurisdictions for the current year and the prior year, rolled-back rates determined as provided in s. 200.065 for each county taxing jurisdiction, and maximum millage rates that could have been levied by majority vote pursuant to s. 200.065(5). For purposes of this section, each fiscally constrained county's reduction in ad valorem tax revenue shall be calculated as 95 percent of the estimated reduction in taxable value multiplied by the lesser of the 2024 applicable millage rate or the applicable millage rate for each county taxing jurisdiction in the current year. If a fiscally constrained county fails to apply for the distribution, its share shall revert to the fund from which the appropriation was made.

Section 3. (1) The Department of Revenue may, and all conditions are deemed met, to adopt emergency rules pursuant to

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s. 120.54(4), Florida Statutes, to administer this act.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules.

Section 4. The amendments made by this act to s. 196.031, Florida Statutes, and the creation by this act of s. 218.136, Florida Statutes, first apply to the 2025 tax roll.

Section 5. This act shall take effect on the effective date of the amendment to the State Constitution proposed by HJR 7017 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment is approved at the next general election or at an earlier special election specifically authorized by law for that purpose.

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2/22/2024
Meeting Date

Appropriations
Committee

HB 7019
Bill Number or Topic

Amendment Barcode (if applicable)

Name Charles Chapman

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Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☑ Information **OR** Waive Speaking: ☐ In Support ☐ Against

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 7032
INTRODUCER:	Appropriations Committee and Education Postsecondary Committee
SUBJECT:	Education
DATE:	February 26, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Brick/Palazesi	Bouck		**HE Submitted as Comm. Bill/Fav**
1.	Gray	Sadberry	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7032 creates the Graduation Alternative to Traditional Education (GATE) Program, GATE Scholarship Program, GATE Startup Grant Program, and GATE Program Performance Fund. All four programs are aimed at re-engaging students who have withdrawn from high school by providing opportunities to earn valuable career education credentials while also completing a standard high school diploma or equivalent credential.

The bill provides eligibility criteria for students to enroll in the GATE Program and defines the career education programs and certificates that can be offered to students enrolled in the GATE Program. The bill exempts students that are enrolled in the GATE program from the payment of tuition and specified fees and the costs of instructional materials. To assist Florida College System institutions, school districts, and charter technical career centers in administering the GATE Program, the GATE Scholarship and GATE Startup Grant Programs provide funds for implementing the program and reimbursing participating institutions for the tuition and fees and instructional materials for students enrolled in the GATE program.

Additionally, the bill provides program performance funding for institutions through the GATE Program Performance Fund. The performance funding is provided based on the number of students enrolled in the GATE program who earn a standard high school diploma or equivalent credential and a career certification that has been identified as having local, regional, or statewide values.

The bill requires the Department of Education (DOE) to disseminate information about the GATE Program and administer the GATE Startup Grant Program.

The funding provided for in this bill is subject to legislative appropriation. See Section V., Fiscal Impact Statement.

The bill is effective July 1, 2024.

II. Present Situation:

School Attendance

A student who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board. Public school students who have attained the age of 16 years and who have not graduated are subject to compulsory school attendance until the formal declaration of intent is filed with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the student and the student's parent. The school district is required to notify the student's parent of receipt of the student's declaration of intent to terminate school enrollment. The student's certified school counselor or other school personnel is required to conduct an exit interview with the student to determine the reasons for the student's decision to terminate school enrollment and actions that could be taken to keep the student in school. The student's certified school counselor or other school personnel must inform the student of opportunities to continue his or her education in a different environment, including, but not limited to, adult education and high school equivalency examination preparation. Additionally, the student is required to complete a survey in order to provide data on student reasons for terminating enrollment and actions taken by schools to keep students enrolled.[1]

School boards are required to provide opportunities for students at risk of withdrawing to enroll in career-themed courses or participate in career and professional academies.[2]

High School Graduation in Florida

Florida's High School Graduation Requirements

To earn a standard high school diploma a student must complete 24 credits, an International Baccalaureate curriculum, or an Advanced International Certificate of Education curriculum.[3]

All students must pass the statewide, standardized grade 10 ELA assessment, or earn a concordant score, and must pass the statewide, standardized Algebra I end-of-course (EOC) assessment, or earn a comparative score, in order to earn a standard high school diploma.[4] A student enrolled in an Advanced Placement (AP), International Baccalaureate (IB), or Advanced

[1] Section 1003.21(1), F.S.
[2] Section 1003.491(1), F.S.
[3] Section 1003.4282, F.S.
[4] Section 1003.4282(3), F.S. Section 1008.22(3)(b)6., F.S.

International Certificate of Education (AICE) course who takes the respective AP, IB, or AICE assessment and earns a specified score is not required to take the corresponding EOC assessment.[5]

Students who earn the required credits to graduate, but fail to pass the required assessments or achieve a 2.0 grade point average (GPA) are awarded a certificate of completion in a form prescribed by the State Board of Education (SBE). In the 2021-2022 graduation cohort, 5,818 students earned a certificate of completion.[6]

High School Equivalency Diploma Program

The high school equivalency diploma offers students who are no longer enrolled in high school an opportunity to earn a high school diploma by successfully passing the standard GED tests. To be eligible for the high school equivalency diploma program students must meet the following criteria:

- At least 16 years old and currently enrolled in a prekindergarten-12 program.
- Enrolled in and attending high school courses that meet high school graduation requirements.
- In jeopardy of not graduating with their kindergarten cohort because they are overage for grade, behind in credits, or have a low GPA.
- Assessed at a seventh grade reading level or higher at the time of selection as documented by the Test of Adult Basic Education (TABE) reading component or other assessment to determine grade level proficiency.[7]

Each school district is required to offer and administer the high school equivalency diploma examinations and the subject area examination to candidates. A candidate for a high school equivalency diploma must be at least 18 years of age on the date of the examination, except that in extraordinary circumstances, as provided for in rules of the district school board of the district in which the candidate resides or attends school, a candidate may take the examination after reaching the age of 16. School districts may not require a student who has reached the age of 16 to take any course before taking the examination unless the student fails to achieve a passing score on the GED practice test.[8]

In 2022-2023, there were 8,888 students enrolled in a school district GED program, of whom 5,330 were 21 years of age or less. During that same time, there were 1,166 students enrolled in a Florida College System (FCS) institution GED program, of whom 552 were 21 years of age or less.[9]

Florida's High School Graduation Rate

SBE rule provides that the 4-year graduation rate used in the school grades model be based on the "uniform or federal graduation rate" or the four-year adjusted cohort graduation rate outlined

[5] Section 1008.22(3), F.S
[6] Florida Department of Education, *Florida's High School Cohort 2021-22 Graduation Rate*, https://www.fldoe.org/core/fileparse.php/7584/urlt/GradRates2122.pdf, (last visited Feb. 16, 2023).
[7] Rule 6A-6.0212, F.A.C
[8] Section 1003.435, F.S.
[9] Email, Florida Department of Education, Governmental Relations (Dec. 8, 2023) (On file with the Senate Appropriations Committee on Education).

in the Elementary and Secondary Education Act (ESEA).[10] The ESEA defines the cohort for graduation in four years is the number of students in the adjusted cohort for the graduating class that formed based on first time ninth graders that entered in the fall four years prior.[11] The following adjustments are made to the graduation cohort over time to:

- Add incoming transfer students based on their grade level and year of entry;
- Remove deceased students; and
- Remove students who withdrew to attend school in another state, private school, or a home-education program.[12]

Each student in the graduation cohort receives a final classification as a graduate, dropout, or non-graduate. Students who earned a GED-based diploma are counted as non-graduates in the high school graduation rate, because the GED-based diploma is not recognized as a standard diploma.[13] In the 2021-2022 graduation cohort, 392 students earned a GED-based diploma and 4,837 were enrolled in an Adult Education program.[14]

Schools that graduate less than one-third of their students are automatically identified for comprehensive support and improvement (CSI) and may be required to immediately implement a district-managed turnaround plan approved by the Department of Education, and if the graduation rate fails to improve over time, close the school.[15]

Rural Areas of Opportunity

Rural areas of opportunity (RAO) is an area designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster. A rural community means:

- A county with a population of 75,000 or fewer.
- A county with population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer.
- A municipality within a county that continue to face extraordinary challenges to improve their economies, specifically in the terms of personal income, job creation, average wages and strong tax bases. A county that has low per capita income, low per capita taxable values, high unemployment, high underemployment, low earned wages, low housing values, high percentage of individuals receiving public assistance and high levels of poverty compared to the state average.
- An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or

[10] State Board of Education rule 6A-1.09981, F.A.C.
[11] Section 8101(25) of the Elementary and Secondary Education Act.
[12] Florida Department of Education, *2021-22 Information Guide for the 4-year Graduation Rate Cohort,* https://www.fldoe.org/core/fileparse.php/7584/urlt/2122GradRateInfoGuide.pdf, (last visited Jan. 19, 2023).
[13] Section 8101(43) of ESEA defines a "regular high school diploma" and specifies that it may not be aligned to a State's alternate academic achievement standards and does not include a general equivalency diploma, certificate of completion, certificate of attendance, or any other similar or lesser credential.
[14] Florida Department of Education, *Florida's High School Cohort 2021-22 Graduation Rate,* https://www.fldoe.org/core/fileparse.php/7584/urlt/GradRates2122.pdf (last visited Jan. 19, 2023).
[15] *See* 20 U.S.C. s. (c)(4)(D)(i) and s. 1008.33(4), F.S.

resource-based industries, located in an county not defined as rural, which has at least three or more economic distress factors.[16]

Florida's designated RAOs are:

- **Northwest Rural Area of Opportunity:** Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington Counties, and the area within the city limits of Freeport and Walton County north of the Choctawhatchee Bay and intercoastal waterway.
- **South Central Rural Area of Opportunity:** DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Bell Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- **North Central Rural Area of Opportunity:** Baker, Bradford, Columbia, Dixie, Gilchrest, Hamilton, Jefferson, Levy, Madison, Putnam, Suwannee, Taylor and Union Counties.[17]

Florida Workforce Education

At the postsecondary level, the terms "workforce education" and "workforce education program" include:

- Adult general education programs designed to improve the employability skills of the state's workforce.
- Career certificate programs, which are defined as a course of study that leads to one completion point.
- Applied technology diploma programs.
- Continuing workforce education courses.
- Degree career education programs.
- Apprenticeship and preapprenticeship programs.[18]

Adult Education programs in Florida were established to encourage the provision of educational services that will enable adults to acquire:

- The basic skills necessary to attain basic and functional literacy.
- A high school diploma or successfully complete the high school equivalency examination.
- An educational foundation that will enable them to become more employable, productive, and self-sufficient citizens.
- Knowledge and skills they need to enter and succeed in postsecondary education.[19]

"Adult secondary education" is a course through which a person receives high school credit that leads to the award of a high school diploma or a course of instruction through which a student prepares to take the high school equivalency examination.[20]

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[16] Section 288.0656(2), F.S.
[17] Florida Commerce, *Rural Areas of Opportunity*, https://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Feb. 22, 2024).
[18] Section 1011.80(1), F.S.
[19] Florida Department of Education, *Adult Education*, https://www.fldoe.org/academics/career-adult-edu/adult-edu/, (last visited Jan. 10, 2024).
[20] Section 1004.02(4), F.S.

An "applied technology diploma program" (ATD) is a course of study that is part of a technical degree program consisting of either technical or college credit and leads to employment in a specific occupation.[21] A public school district may offer an ATD program only as technical credit, with college credit awarded to a student upon articulation to an FCS institution. Statewide articulation among public schools and FCS institutions is guaranteed.[22]

To qualify for admission to an ATD program, a student must:[23]

- Have a high school diploma, a high school equivalency diploma, or a certificate of completion; or
- Submit a signed affidavit by the student's parent or legal guardian attesting that the student has completed a home education program that satisfies school attendance requirements.[24]

A "career certificate program" is a course of study that leads to at least one occupational completion point. An "occupational completion point" means the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program. The career certificate program may also confer credit that may articulate with a diploma or career degree education program.[25] The DOE has established 29 statewide articulation agreements for career certificate programs to career degree education programs.[26]

One-Stop Delivery System

The one-stop delivery system is the state's primary customer service strategy for offering every Floridian access, through service sites or telephone or computer networks, to the following services:

- Job search, referral, and placement assistance.
- Career counseling and educational planning.
- Consumer reports on service providers.
- Recruitment and eligibility determination.
- Support services, including child care and transportation assistance to gain employment.
- Employability skills training.
- Adult education and basic skills training.
- Technical training leading to a certification and degree.
- Claim filing for reemployment assistance services.
- Temporary income, health, nutritional, and housing assistance.
- Other appropriate and available workforce development services.[27]

[21] Section 1004.02(7), F.S.
[22] Section 1007.23(5), F.S.
[23] Rule 6A-10.024(7), F.A.C.
[24] Section 1002.41, F.S.
[25] Section 1004.02, F.S.
[26] Florida Department of Education, *Statewide Articulation Agreements: Statewide Career Pathways*, https://www.fldoe.org/academics/career-adult-edu/career-technical-edu-agreements/psav-to-aas-as-degree.stml (last visited Feb. 16, 2024).
[27] Section 445.009(1), F.S.

Open Door Grant

The Open Door Grant program is to incentivize current and future workers to enroll in career and technical education that leads to a credential, certificate, or degree. In order to meet eligibility, a student must:

- Meet the general requirements for student eligibility for state financial aid awards and tuition assistance grants.
- Be enrolled in an integrated education and training program, where the institution establishes partnerships with local workforce development boards to provide basic skills instruction with workforce training that results in a credential under CareerSource Florida or a workforce education program that is included on the Master Credentials List.
- Be enrolled at a school district postsecondary technical career enter, a FCS institution, or a charter technical career center.[28]

A student is eligible to receive a maximum award to cover 100 percent of tuition and fees, exam or assessment costs, books and other related materials. The open door grant is awarded after all other federal and state financial aid is applied. In addition to receiving an award to cover all tuition, fees, costs and related materials, a student may receive a stipend of up to $1,500, or an amount specified in the General Appropriations Act, per academic year to cover education expenses related to the cost of attendance.[29]

CAPE Industry Certification Funding List

The State Board of Education is required to adopt, at least annually, based on recommendations by the Commissioner of Education, the CAPE Industry Certification Funding List that assigns additional full-time equivalent membership to certifications identified in the Master Credentials List that meet a statewide, regional, or local demand.[30]

Certifications included on the CAPE Industry Certification Funding List:

- Require at least 150 hours of instruction and
- Can be earned in middle and high school.
- Usually require passage of a subject area examination and some combination of work experience, educational attainment, or on-the-job training.[31]

Funds for Operation of Workforce Education Programs

State funding for workforce education programs is calculated based on weighted student enrollment and program costs, minus tuition and fee revenues, and including various supplemental cost factors.[32]

Annual performance funding distributions to district school boards and state colleges are based on student attainment of the credentials included in the CAPE Industry Certification Funding

[28] Section 1009.895, F.S.
[29] Section 1009.895(3), F.S.
[30] Section 1008.44(1), F.S.
[31] Rule 6A-6.0576(5)-(6), F.S.
[32] Section 1011.80(6)(b), F.S.

List.[33] Performance funding for industry certifications for school district workforce education programs is contingent upon specific appropriation in the General Appropriations Act.[34]

Each district school board or FCS institution is provided $1,000 for each industry certification earned by a workforce education student, or prorated if funds are insufficient to fully fund the calculated total award.[35]

Workforce Education Tuition and Fees

For programs leading to a career certificate or an ATD, the standard tuition is $2.33 per contact hour for residents. A block tuition of $45 per half year or $30 per term is assessed for students enrolled in adult general education, which includes adult secondary education programs. Each district school board and FCS institution may adopt tuition that is within the range of five percent below to five percent above the standard tuition. Institutions may also adopt student financial aid, capital improvement, and technology fees for students that are not enrolled in adult general education programs. The student financial aid fee is capped at ten percent of tuition, while the capital improvement and technology fees are capped at five percent of tuition.[36]

FCS institution boards of trustees and district school boards are also authorized to establish fee schedules for the following user fees and fines: laboratory fees; parking fees and fines; library fees and fines; fees and fines relating to facilities and equipment use or damage; access or identification card fees; duplicating, photocopying, binding, or microfilming fees; standardized testing fees; diploma replacement fees; transcript fees; application fees; graduation fees; and late fees related to registration and payment. Such user fees and fines may not exceed the cost of the services provided and may only be charged to persons receiving the service.[37]

Workforce Education Funding for Co-enrollment

School districts and FCS institutions are permitted to allow students currently enrolled in high school to co-enroll in their Adult High School program.[38] A student who is coenrolled in a K-12 education program and an adult education program may be reported for purposes of funding in an adult education program. If a student is coenrolled in core curricula courses for credit recovery or dropout prevention purposes and does not have a pattern of excessive absenteeism or habitual truancy or a history of disruptive behavior in school, the student may be reported for funding for up to two courses per year. Such a student is exempt from the payment of the block tuition for adult general education programs. The Department of Education is required to develop a list of courses to be designated as core curricula courses for the purposes of coenrollment.[39]

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[33] Section 1008.44(2), F.S.
[34] Section 1011.80(7), F.S.
[35] *Id*. and 1011.81(2)(b), F.S.
[36] Section 1009.22, F.S. and Florida Department of Education, *State Funding for Districts: 2023-24 District Workforce Education Tuition and Fees (Attachment)*, *available at* https://www.fldoe.org/core/fileparse.php/7529/urlt/2023-24-Workforce-Education-Tuition-and-Fees-Attachment.pdf at 1 (last visited Jan. 21, 2024).
[37] Section 1009.22(10), F.S.
[38] Florida Department of Education, *Memorandum: 2022-23 Adult High School Co-Enrollment Program Eligible Course List* (July 12, 2022), *available at* https://www.fldoe.org/core/fileparse.php/7671/urlt/2223-AdultHighCoEnroll-Memo.pdf. (last visited Jan. 21, 2024).
[39] Section 1011.80(10), F.S.

State Financial Aid and Grants

The general requirements for eligibility of students for state financial aid awards and tuition assistance grants consist of the following:

- Achievement of the academic requirements of and acceptance at a state university or state college; a nursing diploma school approved by the Florida Board of Nursing; a Florida college or university which is accredited by an accrediting agency recognized by the SBE; a Florida institution the credits of which are acceptable for transfer to state universities; a career center; or a private career institution accredited by an accrediting agency recognized by the SBE.
- Residency in this state for no less than one year preceding the award of aid or a tuition assistance grant.[40] Residency in this state must be for purposes other than to obtain an education.
- Submission of certification attesting to the accuracy, completeness, and correctness of information provided to demonstrate a student's eligibility to receive state financial aid awards or tuition assistance grants.[41]

III. Effect of Proposed Changes:

This bill creates the Graduation Alternative to Traditional Education (GATE) Program, GATE Scholarship Program, the GATE Startup Grant Program and the GATE Program Performance Fund. All four programs are aimed at re-engaging students who have withdrawn from high school by providing opportunities to earn valuable career education credentials while also completing a standard high school diploma or equivalent credential.

The bill provides eligibility criteria for students to enroll in the GATE Program and defines the career education programs and certificates that can be offered to students enrolled in the GATE Program. The bill exempts students that are enrolled in the GATE program from the payment of tuition and specified fees and the costs of instructional materials.

To assist Florida College System (FCS) institutions, school districts, and charter technical career centers in administering the GATE Program, the GATE Scholarship and GATE Startup Grant Programs provide funds for implementing the programs and reimbursing participating institutions for the tuition and fees and instructional materials for students enrolled in the GATE program.

Additionally, the bill provides program performance funding for institutions through the GATE Program Performance Fund. The program funding is provided based on the number of students enrolled in the GATE program who earn a standard high school diploma or equivalent credential and a career certification that has been identified as having local, regional, or statewide value.

The bill requires the Department of Education (DOE) to disseminate information about the GATE Program and administer the GATE Startup Grant Program.

[40] The residency requirement is specific to awards under ss. 1009.50, 1009.505, 1009.51, 1009.52, 1009.53, 1009.60, 1009.62, 1009.72, 1009.73, 1009.75, 1009.77, 1009.89, and 1009.894, F.S.
[41] Section 1009.40, F.S.

School Attendance

The bill modifies s. 1003.21, F.S., to add to the required notifications to 16 and 17 year old students who withdraw from high school information about the GATE Program.

One-Stop Delivery System

The bill modifies s. 445.009, F.S., to add to the services in the one-stop delivery system integrated education and training and the GATE Program.

Graduation Alternative to Traditional Education (GATE) Program

The bill creates s. 1004.933, F.S., to establish the Graduation Alternative to Traditional Education (GATE) Program within the Department of Education (DOE). In regards to the GATE Program, the bill specifies the intent of the Legislature:

- To create an alternative education pathway to education and workforce opportunities for students who have withdrawn from high school prior to graduation. To affirm the unequivocal value of a standard high school diploma as the primary education credential by which students access higher education and workforce opportunities.
- To expand opportunities for students to complete high school courses and earn a standard high school diploma.
- To recognize that when a student withdraws from high school prior to graduation, the student has not received the full value of taxpayer-funded pre-k-12 education, and therefore lacks the education credential essential to gainful employment and future educational opportunities.
- To provide an alternative pathway program, waiving tuition and fees for the program for participating students who have not earned a standard high school diploma.

The bill creates the Gate Program within the Department of Education (DOE) and sets forth the responsibilities and duties of the DOE. The bill requires the DOE to:

- Disseminate information about the GATE program to eligible institutions, local workforce development boards, and other local, regional, or state initiatives that interact with the GATE Program's target population.
- Connect prospective students directly to eligible institutions.
- Provide access to online career planning tools.
- Annually report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on all aspects of the program.

To be eligible to participate in the GATE Program, the bill specifies that a student must:

- Not have earned a standard high school diploma or a high school equivalency diploma.
- Have been withdrawn from high school.
- Be a resident of this state for tuition purposes.
- Be 16 to 21 years of age at the time of initial enrollment, and if 16 or 17 years of age has withdrawn from school enrollment pursuant to the requirements and safeguards of s. 1003.21, F.S., which require for example, written parental permission and counseling to remain in school.
- Select the adult secondary education program and career education program of his or her choice at the time of admission to the GATE Program, provided that the career education

program is included on the Master Credentials List. The bill requires the student remain in the pathway after enrollment, except that, if necessary, the student may enroll in an adult basic education program prior to enrolling in the adult secondary education program.
- Maintain a 2.0 grade point average (GPA) for career and technical education coursework.
- Complete the adult secondary education program and the career education program within three years unless the institution determines that an extension is warranted due to extenuating circumstances.

The bill provides that students enrolled in the GATE Program are exempt from the payment of registration, tuition, laboratory, and examination fees to a participating institution. Additionally, instructional materials assigned for use under the GATE Program must be made available to GATE Program students free of charge. The bill prohibits an institution from:
- Imposing additional criteria to determine a student's eligibility to receive a fee waiver under the GATE Program.
- Requiring students to pay for instructional materials costs that are eligible for reimbursement under the GATE Scholarship Program.

Subject to availability of funds, a student who meets the requirements of and is enrolled in the GATE program is eligible to receive the stipend under the Open Door Grant program for related costs of attendance.

GATE Scholarship Program

The bill creates 1009.711, F.S., to implement the GATE Scholarship Program. The GATE Scholarship Program is created to financially support institutions in providing the GATE Program.

Under the bill, the GATE Scholarship Program will reimburse eligible institutions for registration, tuition, laboratory, and examination fees and related instructional materials costs for students enrolled in the GATE Program. The bill requires the GATE Scholarship Program to reimburse career centers and Florida College System institutions at their respective in-state resident tuition rates.

Each participating institution is required to report to the DOE all students enrolled in the GATE Program during the fall, spring, or summer terms within 30 days after the end of regular registration. For each eligible student, the institution is required to report the total reimbursable expenses by category, which the DOE must consider in determining an institution's GATE Scholarship Program award. The bill requires the DOE to reimburse each participating institution no later than 30 days after the institution has reported enrollment for that term.

The bill provides that reimbursements from the GATE Scholarship Program are contingent upon an annual appropriation in the General Appropriations Act (GAA). If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts must be prorated among the institutions that have timely reported eligible students.

The bill authorizes the State Board of Education to adopt rules to implement the GATE Program and the GATE Scholarship Program.

GATE Startup Grant Program

The bill creates 1011.804, F.S., to establish the GATE Startup Grant Program within the DOE to fund and support the startup and implementation of the GATE Program. The bill requires the DOE to administer the grants, determine eligibility, and distribute grant awards. The bill specifies that the GATE Startup Grant Program is subject to legislative appropriation.

The bill authorizes the DOE to solicit proposals from career centers and Florida College System institutions without programs that meet the requirements of the GATE Program. Such institutions must be located in or serve a rural area of opportunity as designated by the Governor. The bill requires the DOE to prioritize grant proposals that combine basic education, adult secondary education, and career education programs at one location or allow students to complete programs through distance learning. An applicant may not receive more than ten percent of the total amount appropriated for the program.

The bill requires the DOE to make the application available no later than August 15, 2024, and for grant proposals to include:

- The institution or institutions that will provide the adult basic education, adult secondary education, and career education programs;
- The proposed adult basic and secondary education program the institution will provide and the projected enrollment for such program;
- The proposed career education program the institution will provide and the projected enrollment for such program;
- The credentials associated with the career education program;
- The cost of all instruction for all programs contemplated in the proposal, including costs for tuition, fees, registration, and laboratory, examination, and instructional material costs;
- Outreach strategies, including collaboration with local workforce development boards;
- A plan or timeline for implementing the GATE Program and enrolling students.

The bill specifies that grant funds may be used for planning activities and other related expenses such as expenses related to the program instruction, but may not be used for indirect costs. Grant recipients are required to submit an annual report to the department.

GATE Program Performance Fund

The bill creates s. 1011.8041, F.S., to establish the GATE Program Performance Fund to reward school districts and FCS institutions for the documented success of students participating in the GATE Program. Subject to legislative appropriation, each participating institution must receive $1,000 per student who completes the GATE Program by completing the adult secondary education program and the career education program within three years. The bill specifies, if a student completes the adult secondary education program and the career education programs at different institutions, then each institution must receive $500.

The bill provides that if funding is insufficient to fully fund the calculated total award, such funds must be prorated among the institutions.

Funds for the Operation of Workforce Education

The bill modifies s. 1011.80, F.S., to increase from two to four the number of courses that may be reported for funding for a student who is coenrolled in a K-12 education program and adult education program. The bill also removes the requirement that the courses funded must be core curricula.

High School Equivalency Diploma Program

The bill modifies s. 1003.435, F.S., to require district school boards to notify each candidate for the high school equivalency diploma of the adult secondary and postsecondary education options available in or near the district, including the GATE Program. Additionally, the candidate must be informed of the eligibility requirements and any minimum academic requirements for each available option.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The funding for the GATE Scholarship Program, the GATE Startup Grant Program and the GATE Program Performance is subject to legislative appropriation. SB 2500 provides $14.7 million to implement the program, and to fund the startup grant, the scholarship and the performance program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 445.009, 1003.21, 1003.435, and 1011.80.

This bill creates the following sections of the Florida Statutes: 1004.933, 1009.711, 1011.804, and 1011.8041.

IX. Additional Information:

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

CS by Appropriations on February 22, 2024:
The committee substitute:

- Modifies legislative intent to emphasize the unequivocal value of a standard high school diploma as the primary education credential by which students' access higher education and workforce opportunities.
- Clarifies that eligibility for the GATE Program requires that 16 and 17 year old students received parental permission and counseling to remain in high school prior to their withdrawal from high school and that other students are no longer enrolled in high school.
- Adds to the one-stop delivery system integrated education and training and the GATE Program.
- Specifies that students may also receive a stipend through the Open Door Grant Program for related costs of attendance in the GATE Program.
- Requires the Department of Education to disseminate information about the GATE Program.
- Establishes a Gate Startup Grant Program to fund and support the startup and implementation of new GATE programs in rural areas.
- Modifies the GATE Program Student Success Incentive Fund to the GATE Program Performance Fund. Requires that students that earn both a high school diploma or

equivalent and a career education credential of value for their institutions to qualify for performance-based funding, with a revised award amount of $1,000.

- Removes from the bill a provision modifying the calculation of school grades.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/22/2024	.	
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The Committee on Appropriations (Grall) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 1004.933, Florida Statutes, is created to read:

1004.933 Graduation Alternative to Traditional Education (GATE) Program.—

(1) LEGISLATIVE INTENT.—

(a) It is the intent of the Legislature to create an

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alternative pathway to education and workforce opportunities for students who have withdrawn from high school prior to graduation.

(b) It is the intent of the Legislature to affirm the unequivocal value of a standard high school diploma as the primary education credential by which students access higher education and workforce opportunities. Further, the Legislature affirms that parental consent is required for a student under 18 years of age to withdraw from high school prior to graduation.

(c) Therefore, the Legislature intends to assist students who have challenges completing the requirements for a standard high school diploma by developing mechanisms that provide struggling students opportunities to catch up with their cohort as an alternative to withdrawing from high school prior to obtaining a standard high school diploma.

(d) The Legislature recognizes that when a student withdraws from high school prior to graduation, the student has not received the full value of a taxpayer-funded pre-K-12 education, and therefore lacks the education credential essential to gainful employment and future educational opportunities. Therefore, the Legislature intends to provide an alternative pathway program, waiving tuition and fees for the program for participating students who have not earned a standard high school diploma.

(2) PROGRAM CREATION.—The Graduation Alternative to Traditional Education (GATE) Program is created within the Department of Education.

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

(a) "Career education program" means an applied technology

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diploma program as defined in s. 1004.02(7) or a career certificate program as defined in s. 1004.02(20).

(b) "Institution" means a school district career center established under s. 1001.44, a charter technical career center established under s. 1002.34, or a Florida College System institution identified in s. 1000.21.

(4) PAYMENT WAIVER; ELIGIBILITY.—

(a) Notwithstanding any other provision of state law, an institution shall waive 100 percent of the registration, tuition, laboratory, and examination fees for a student participating in the GATE Program. Instructional materials assigned for use under the GATE Program must be made available to GATE Program students free of charge. An institution may not require payment by students of instructional materials costs eligible for reimbursement under s. 1009.711.

(b) To be eligible for participation in the GATE Program, a student may not have earned a standard high school diploma pursuant to s. 1003.4282 or a high school equivalency diploma pursuant to s. 1003.435 before enrolling in the GATE Program and must:

1. Be a resident of this state as defined in s. 1009.21(1);

2. Be 16 to 21 years of age at the time of initial enrollment;

3. Select the adult secondary education program and career education program of his or her choice at the time of admission to the GATE Program, provided that the program is included on the Master Credentials List under s. 445.004(4). The student may not change the requested pathway after enrollment, except that, if necessary for the student, the student may enroll in an adult

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basic education program prior to enrolling in the adult secondary education program;

4. Maintain a 2.0 GPA for career and technical education coursework; and

5. Notwithstanding s. 1003.435(4), complete the programs under subparagraph 3. within 3 years after his or her initial enrollment unless the institution determines that an extension is warranted due to extenuating circumstances.

(c) Subject to the availability of funds, a student who meets the requirements of paragraph (b) and is enrolled in the GATE Program is eligible to receive the stipend specified in s. 1009.895(3).

(d) An institution may not impose additional criteria to determine a student's eligibility to receive a waiver under this section.

(4) DEPARTMENT RESPONSIBILITIES.—In addition to administering the GATE Program, the Department of Education shall perform the following duties:

(a) Disseminate information about the GATE Program to eligible institutions, local workforce development boards, and other local, regional, or state initiatives that interact with the GATE Program's target population.

(b) Connect prospective students directly to eligible institutions.

(c) Provide access to online career planning tools.

(5) REPORTING.—Beginning October 1, 2025, and each October 1 thereafter, the Department of Education shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the number and value of

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registration, tuition, laboratory, and examination fees and instructional materials costs waived and reimbursed, by institution; the number of students who have obtained a standard high school diploma or high school equivalency diploma while participating in the GATE Program; the number of students completing an applied technology diploma or career certificate while participating in the GATE Program; the number of students participating in the GATE Program who receive a stipend under s. 1009.895(3); the number of students who have earned an industry certification on the CAPE Industry Certification Funding List while participating in the GATE Program; and the number of students who completed the GATE Program. The reporting period shall cover the previous academic year.

(6) RULES.—The State Board of Education may adopt rules to implement this section.

Section 2. Paragraph (g) of subsection (1) of section 445.009, Florida Statutes, is amended to read:

445.009 One-stop delivery system.—

(1) The one-stop delivery system is the state's primary customer-service strategy for offering every Floridian access, through service sites or telephone or computer networks, to the following services:

(g) Adult education, ~~and~~ basic skills training, integrated education and training, and the Graduation Alternative to Traditional Education Program under s. 1004.933.

Section 3. Paragraph (c) of subsection (1) of section 1003.21, Florida Statutes, is amended to read:

1003.21 School attendance.—

(1)

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(c) A student who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board. Public school students who have attained the age of 16 years and who have not graduated are subject to compulsory school attendance until the formal declaration of intent is filed with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the student and the student's parent. The school district shall notify the student's parent of receipt of the student's declaration of intent to terminate school enrollment. The student's certified school counselor or other school personnel shall conduct an exit interview with the student to determine the reasons for the student's decision to terminate school enrollment and actions that could be taken to keep the student in school. The student's certified school counselor or other school personnel shall inform the student of opportunities to continue his or her education in a different environment, including, but not limited to, adult education, ~~and~~ high school equivalency examination preparation, and the Graduation Alternative to Traditional Education Program under s. 1004.933. Additionally, the student shall complete a survey in a format prescribed by the Department of Education to provide data on student reasons for terminating enrollment and actions taken by schools to keep students enrolled.

Section 4. Subsection (3) of section 1003.435, Florida Statutes, is amended to read:

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1003.435 High school equivalency diploma program.—

(3) Each district school board shall:

(a) Offer and administer the high school equivalency diploma examinations and the subject area examinations to all candidates pursuant to rules of the State Board of Education.

(b) Notify each candidate of adult secondary and postsecondary education options available in or near the school district, including the Graduation Alternative to Traditional Education Program under s. 1004.933. The candidate must also be informed of the eligibility requirements and any minimum academic requirements for each available option.

Section 5. Section 1009.711, Florida Statutes, is created to read:

1009.711 GATE Scholarship Program.—

(1) The GATE Scholarship Program is created to financially support institutions participating in the GATE Program established pursuant to s. 1004.933.

(2) The Department of Education shall administer the GATE Scholarship Program in accordance with rules adopted by the State Board of Education.

(3) The GATE Scholarship Program shall reimburse eligible institutions for registration, tuition, laboratory, and examination fees and related instructional materials costs for students enrolled in the GATE Program. School district career centers and Florida College System institutions must be reimbursed at the in-state resident tuition rate established in s. 1009.22(3)(c).

(4) Each participating institution shall report to the department all students enrolled in the GATE Program during the

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fall, spring, or summer terms within 30 days after the end of regular registration. For each eligible student, the institution shall report the total reimbursable expenses by category, which the department must consider in determining an institution's award under this section. The department shall reimburse each participating institution no later than 30 days after the institution has reported enrollment for that term.

(5) Reimbursements from the GATE Scholarship Program are contingent upon an annual appropriation in the General Appropriations Act. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts specified in subsection (3) must be prorated among the institutions that have timely reported eligible students to the department.

(6) The State Board of Education may adopt rules to implement this section.

Section 6. Subsection (10) of section 1011.80, Florida Statutes, is amended to read:

1011.80 Funds for operation of workforce education programs.—

(10) A high school student dually enrolled under s. 1007.271 in a workforce education program operated by a Florida College System institution or school district career center generates the amount calculated for workforce education funding, including any payment of performance funding, and the proportional share of full-time equivalent enrollment generated through the Florida Education Finance Program for the student's enrollment in a high school. If a high school student is dually enrolled in a Florida College System institution program,

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including a program conducted at a high school, the Florida College System institution earns the funds generated for workforce education funding, and the school district earns the proportional share of full-time equivalent funding from the Florida Education Finance Program. If a student is dually enrolled in a career center operated by the same district as the district in which the student attends high school, that district earns the funds generated for workforce education funding and also earns the proportional share of full-time equivalent funding from the Florida Education Finance Program. If a student is dually enrolled in a workforce education program provided by a career center operated by a different school district, the funds must be divided between the two school districts proportionally from the two funding sources. A student may not be reported for funding in a dual enrollment workforce education program unless the student has completed the basic skills assessment pursuant to s. 1004.91. A student who is coenrolled in a K-12 education program and an adult education program may be reported for purposes of funding in an adult education program. If a student is coenrolled in ~~core curricula~~ courses for credit recovery or dropout prevention purposes and does not have a pattern of excessive absenteeism or habitual truancy or a history of disruptive behavior in school, the student may be reported for funding for up to four ~~two~~ courses per year. Such a student is exempt from the payment of the block tuition for adult general education programs provided in s. 1009.22(3)(c). ~~The Department of Education shall develop a list of courses to be designated as core curricula courses for the purposes of coenrollment.~~

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Section 7. Section 1011.804, Florida Statutes, is created to read:

1011.804 GATE Startup Grant Program.—

(1) The GATE Startup Grant Program is established within the Department of Education to fund and support the startup and implementation of the GATE Program, subject to legislative appropriation. The purpose of the grant program is to increase access to programs that support adult learners earning a high school credential, either a high school diploma or its equivalent, and a workforce credential aligned to statewide or regional demand. The department shall administer the grants, determine eligibility, and distribute grant awards.

(2) The department may solicit proposals from school districts and Florida College System institutions without programs that meet the requirements of s. 1004.933(2). Such school districts and institutions must be located in or serve a rural area of opportunity as designated by the Governor.

(3) The department shall prioritize grant proposals that combine adult basic education, adult secondary education, and career education programs at one location or allow students to complete programs through distance learning. An applicant may not receive more than 10 percent of the total amount appropriated for the program.

(4) The department shall make the grant application available to potential applicants no later than August 15, 2024. A grant proposal must include:

(a) The Florida College System institution or institutions that will provide the adult basic education, adult secondary education, and career education programs;

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(b) The proposed adult basic education and adult secondary education program or programs the institution or institutions will provide, and the projected enrollment for such program or programs;

(c) The proposed career education program or programs the institution or institutions will provide and the projected enrollment for such program or programs;

(d) The credential or credentials associated with the career education program or programs. Such credential or credentials must be included on the Master Credentials List under s. 445.004(4);

(e) The cost of instruction for all programs contemplated in the proposal, including costs for tuition, fees, registration, and laboratory, examination, and instructional materials costs;

(f) Outreach strategies, including collaboration with local workforce development boards; and

(g) A plan or timeline for implementing s. 1004.933 and enrolling students.

(5) Grant funds may be used for planning activities and other expenses associated with the creation of the GATE Program, such as expenses related to program instruction, instructional equipment, supplies, instructional personnel, and student services. Grant funds may not be used for indirect costs. Grant recipients must submit an annual report in a format prescribed by the department. The department shall consolidate such annual reports and include the reports in the report required by s. 1004.933(5).

(6) The State Board of Education may adopt rules to

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administer this section.

Section 8. Section 1011.8041, Florida Statutes, is created to read:

1011.8041 GATE Program Performance Fund.—

(1) The GATE Program Performance Fund is created to reward school districts and Florida College System institutions for the documented success of students participating in the GATE Program established under s. 1004.933.

(2) As used in this section, the term "institution" means a school district career center established under s. 1001.44, a charter technical career center established under s. 1002.34, or a Florida College System institution identified in s. 1000.21 which offers the GATE Program pursuant to s. 1004.933.

(3) Subject to legislative appropriation, each participating institution must receive $1,000 per student who completes the GATE Program by completing the adult secondary education program and the career education program within 3 years. If the student completed the adult secondary education program and the career education programs at different institutions, then each institution must receive $500. If funds are insufficient to fully fund the calculated total award, such funds must be prorated among the institutions.

(4) The State Board of Education may adopt rules to implement this section.

Section 9. This act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete everything before the enacting clause

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and insert:

A bill to be entitled

An act relating to education; creating s. 1004.933, F.S.; providing legislative intent; establishing the Graduation Alternative to Traditional Education (GATE) Program within the Department of Education; providing definitions; requiring institutions to waive payments for specified student fees; providing eligibility requirements; providing that students participating in the program are eligible for a specified stipend under certain circumstances; prohibiting an institution from imposing additional eligibility requirements; providing department responsibilities; providing department reporting requirements; authorizing the State Board of Education to adopt rules; amending s. 445.009, F.S.; revising the services to which the one-stop delivery system is intended to provide access; amending s. 1003.21, F.S.; requiring a student's certified school counselor or other school personnel to inform the student of opportunities in the GATE Program; amending s. 1003.435, F.S.; requiring district school boards to notify all candidates for the high school equivalency diploma of adult secondary and postsecondary education options, including specified eligibility requirements; creating s. 1009.711, F.S.; creating the GATE Scholarship Program; requiring the department to administer the program; requiring the program to reimburse eligible institutions for specified student fees and costs;

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requiring participating institutions to report specified information to the department; requiring the department to reimburse participating institutions within a specified timeframe; providing that reimbursements are contingent upon legislative appropriation and must be prorated under certain circumstances; authorizing the state board to adopt rules; amending s. 1011.80, F.S.; revising the number of courses for which certain students may be reported for certain funding purposes; providing that such courses do not have to be core curricula courses; deleting a requirement that the department develop a list of courses to be designated as core curricula courses; creating s. 1011.804, F.S.; establishing the GATE Startup Grant Program within the department for a specified purpose; providing eligibility requirements; providing department duties; providing requirements for grant proposals, grant awards, and the use of grant funds; providing reporting requirements; authorizing the state board to adopt rules; creating s. 1011.8041, F.S.; creating the GATE Program Performance Fund for a specified purpose; defining the term "institution"; subject to legislative appropriation, requiring each participating institution to receive a specified amount of money per student, subject to certain conditions; authorizing the state board to adopt rules; providing an effective date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
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	.	

The Committee on Appropriations (Grall) recommended the following:

Senate Substitute for Amendment (142150) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 1004.933, Florida Statutes, is created to read:

1004.933 Graduation Alternative to Traditional Education (GATE) Program.—

(1) LEGISLATIVE INTENT.—

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(a) It is the intent of the Legislature to create an alternative pathway to education and workforce opportunities for students who have withdrawn from high school prior to graduation.

(b) It is the intent of the Legislature to affirm the unequivocal value of a standard high school diploma as the primary education credential by which students access higher education and workforce opportunities. Further, the Legislature affirms that parental consent is required for a student under 18 years of age to withdraw from high school prior to graduation.

(c) The Legislature intends to expand opportunities for students to complete high school courses and earn a standard high school diploma.

(d) The Legislature recognizes that when a student withdraws from high school prior to graduation, the student has not received the full value of a taxpayer-funded pre-K-12 education, and therefore lacks the education credential essential to gainful employment and future educational opportunities. Therefore, the Legislature intends to provide an alternative pathway program, waiving tuition and fees for the program for participating students who have not earned a standard high school diploma.

(2) PROGRAM CREATION.—The Graduation Alternative to Traditional Education (GATE) Program is created within the Department of Education.

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

(a) "Career education program" means an applied technology diploma program as defined in s. 1004.02(7) or a career certificate program as defined in s. 1004.02(20).

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(b) "Institution" means a school district career center established under s. 1001.44, a charter technical career center established under s. 1002.34, or a Florida College System institution identified in s. 1000.21.

(4) PAYMENT WAIVER; ELIGIBILITY.—

(a) Notwithstanding any other provision of state law, an institution shall waive 100 percent of the registration, tuition, laboratory, and examination fees for a student participating in the GATE Program. Instructional materials assigned for use under the GATE Program must be made available to GATE Program students free of charge. An institution may not require payment by students of instructional materials costs eligible for reimbursement under s. 1009.711.

(b) To be eligible for participation in the GATE Program, a student must:

1. Not have earned a standard high school diploma pursuant to s. 1003.4282 or a high school equivalency diploma pursuant to s. 1003.435 before enrolling in the GATE Program;

2. Have been withdrawn from high school;

3. Be a resident of this state as defined in s. 1009.21(1);

4. Be 16 to 21 years of age at the time of initial enrollment, provided that a student who is 16 or 17 years of age has withdrawn from school enrollment pursuant to the requirements and safeguards in s. 1003.21(1)(c);

5. Select the adult secondary education program and career education program of his or her choice at the time of admission to the GATE Program, provided that the career education program is included on the Master Credentials List under s. 445.004(4). The student may not change the requested pathway after

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enrollment, except that, if necessary for the student, the student may enroll in an adult basic education program prior to enrolling in the adult secondary education program;

6. Maintain a 2.0 GPA for career and technical education coursework; and

7. Notwithstanding s. 1003.435(4), complete the programs under subparagraph 5. within 3 years after his or her initial enrollment unless the institution determines that an extension is warranted due to extenuating circumstances.

(c) Subject to the availability of funds, a student who meets the requirements of paragraph (b) and is enrolled in the GATE Program is eligible to receive the stipend specified in s. 1009.895(3).

(d) An institution may not impose additional criteria to determine a student's eligibility to receive a waiver under this section.

(5) DEPARTMENT RESPONSIBILITIES.—In addition to administering the GATE Program, the Department of Education shall perform the following duties:

(a) Disseminate information about the GATE Program to eligible institutions, local workforce development boards, and other local, regional, or state initiatives that interact with the GATE Program's target population.

(b) Connect prospective students directly to eligible institutions.

(c) Provide access to online career planning tools.

(6) REPORTING.—Beginning October 1, 2025, and each October 1 thereafter, the Department of Education shall submit a report to the Governor, the President of the Senate, and the Speaker of


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the House of Representatives on the number and value of registration, tuition, laboratory, and examination fees and instructional materials costs waived and reimbursed, by institution; the number of students who have obtained a standard high school diploma or high school equivalency diploma while participating in the GATE Program; the number of students completing an applied technology diploma or career certificate while participating in the GATE Program; the number of students participating in the GATE Program who receive a stipend under s. 1009.895(3); the number of students who have earned an industry certification on the CAPE Industry Certification Funding List while participating in the GATE Program; and the number of students who completed the GATE Program. The reporting period shall cover the previous academic year.

(7) RULES.—The State Board of Education may adopt rules to implement this section.

Section 2. Paragraph (g) of subsection (1) of section 445.009, Florida Statutes, is amended to read:

445.009 One-stop delivery system.—

(1) The one-stop delivery system is the state's primary customer-service strategy for offering every Floridian access, through service sites or telephone or computer networks, to the following services:

(g) Adult education, ~~and~~ basic skills training, integrated education and training, and the Graduation Alternative to Traditional Education Program under s. 1004.933.

Section 3. Paragraph (c) of subsection (1) of section 1003.21, Florida Statutes, is amended to read:

1003.21 School attendance.—

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(1)

(c) A student who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board. Public school students who have attained the age of 16 years and who have not graduated are subject to compulsory school attendance until the formal declaration of intent is filed with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the student and the student's parent. The school district shall notify the student's parent of receipt of the student's declaration of intent to terminate school enrollment. The student's certified school counselor or other school personnel shall conduct an exit interview with the student to determine the reasons for the student's decision to terminate school enrollment and actions that could be taken to keep the student in school. The student's certified school counselor or other school personnel shall inform the student of opportunities to continue his or her education in a different environment, including, but not limited to, adult education, ~~and~~ high school equivalency examination preparation, and the Graduation Alternative to Traditional Education Program under s. 1004.933. Additionally, the student shall complete a survey in a format prescribed by the Department of Education to provide data on student reasons for terminating enrollment and actions taken by schools to keep students enrolled.

Section 4. Subsection (3) of section 1003.435, Florida

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Statutes, is amended to read:

1003.435 High school equivalency diploma program.—

(3) Each district school board shall:

(a) Offer and administer the high school equivalency diploma examinations and the subject area examinations to all candidates pursuant to rules of the State Board of Education.

(b) Notify each candidate of adult secondary and postsecondary education options available in or near the school district, including the Graduation Alternative to Traditional Education Program under s. 1004.933. The candidate must also be informed of the eligibility requirements and any minimum academic requirements for each available option.

Section 5. Section 1009.711, Florida Statutes, is created to read:

1009.711 GATE Scholarship Program.—

(1) The GATE Scholarship Program is created to financially support institutions participating in the GATE Program established pursuant to s. 1004.933.

(2) The Department of Education shall administer the GATE Scholarship Program in accordance with rules adopted by the State Board of Education.

(3) The GATE Scholarship Program shall reimburse eligible institutions for registration, tuition, laboratory, and examination fees and related instructional materials costs for students enrolled in the GATE Program. Institutions must be reimbursed at the in-state resident tuition rate established in s. 1009.22(3)(c).

(4) Each participating institution shall report to the department all students enrolled in the GATE Program during the


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fall, spring, or summer terms within 30 days after the end of regular registration. For each eligible student, the institution shall report the total reimbursable expenses by category, which the department must consider in determining an institution's award under this section. The department shall reimburse each participating institution no later than 30 days after the institution has reported enrollment for that term.

(5) Reimbursements from the GATE Scholarship Program are contingent upon an annual appropriation in the General Appropriations Act. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts specified in subsection (3) must be prorated among the institutions that have timely reported eligible students to the department.

(6) The State Board of Education may adopt rules to implement this section.

Section 6. Subsection (10) of section 1011.80, Florida Statutes, is amended to read:

1011.80 Funds for operation of workforce education programs.—

(10) A high school student dually enrolled under s. 1007.271 in a workforce education program operated by a Florida College System institution or school district career center generates the amount calculated for workforce education funding, including any payment of performance funding, and the proportional share of full-time equivalent enrollment generated through the Florida Education Finance Program for the student's enrollment in a high school. If a high school student is dually enrolled in a Florida College System institution program,

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including a program conducted at a high school, the Florida College System institution earns the funds generated for workforce education funding, and the school district earns the proportional share of full-time equivalent funding from the Florida Education Finance Program. If a student is dually enrolled in a career center operated by the same district as the district in which the student attends high school, that district earns the funds generated for workforce education funding and also earns the proportional share of full-time equivalent funding from the Florida Education Finance Program. If a student is dually enrolled in a workforce education program provided by a career center operated by a different school district, the funds must be divided between the two school districts proportionally from the two funding sources. A student may not be reported for funding in a dual enrollment workforce education program unless the student has completed the basic skills assessment pursuant to s. 1004.91. A student who is coenrolled in a K-12 education program and an adult education program may be reported for purposes of funding in an adult education program. If a student is coenrolled in ~~core curricula~~ courses for credit recovery or dropout prevention purposes and does not have a pattern of excessive absenteeism or habitual truancy or a history of disruptive behavior in school, the student may be reported for funding for up to four ~~two~~ courses per year. Such a student is exempt from the payment of the block tuition for adult general education programs provided in s. 1009.22(3)(c). ~~The Department of Education shall develop a list of courses to be designated as core curricula courses for the purposes of coenrollment.~~

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Section 7. Section 1011.804, Florida Statutes, is created to read:

1011.804 GATE Startup Grant Program.—

(1) The GATE Startup Grant Program is established within the Department of Education to fund and support the startup and implementation of the GATE Program, subject to legislative appropriation. The purpose of the grant program is to increase access to programs that support adult learners earning a high school credential, either a high school diploma or its equivalent, and a workforce credential aligned to statewide or regional demand. The department shall administer the grants, determine eligibility, and distribute grant awards.

(2) As used in this section, the term "institution" means a school district career center established under s. 1001.44, a charter technical career center established under s. 1002.34, or a Florida College System institution identified in s. 1000.21 which offers the GATE Program pursuant to s. 1004.933.

(3) The department may solicit proposals from institutions without programs that meet the requirements of s. 1004.933(2). Such institutions must be located in or serve a rural area of opportunity as designated by the Governor.

(4) The department shall prioritize grant proposals that combine adult basic education, adult secondary education, and career education programs at one location or allow students to complete programs through distance learning. An applicant may not receive more than 10 percent of the total amount appropriated for the program.

(5) The department shall make the grant application available to potential applicants no later than August 15, 2024.


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A grant proposal must include:

(a) The institution or institutions that will provide the adult basic education, adult secondary education, and career education programs;

(b) The proposed adult basic education and adult secondary education program or programs the institution or institutions will provide, and the projected enrollment for such program or programs;

(c) The proposed career education program or programs the institution or institutions will provide and the projected enrollment for such program or programs;

(d) The credential or credentials associated with the career education program or programs. Such credential or credentials must be included on the Master Credentials List under s. 445.004(4);

(e) The cost of instruction for all programs contemplated in the proposal, including costs for tuition, fees, registration, and laboratory, examination, and instructional materials costs;

(f) Outreach strategies, including collaboration with local workforce development boards; and

(g) A plan or timeline for implementing s. 1004.933 and enrolling students.

(6) Grant funds may be used for planning activities and other expenses associated with the creation of the GATE Program, such as expenses related to program instruction, instructional equipment, supplies, instructional personnel, and student services. Grant funds may not be used for indirect costs. Grant recipients must submit an annual report in a format prescribed


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by the department. The department shall consolidate such annual reports and include the reports in the report required by s. 1004.933(5).

(7) The State Board of Education may adopt rules to administer this section.

Section 8. Section 1011.8041, Florida Statutes, is created to read:

1011.8041 GATE Program Performance Fund.—

(1) The GATE Program Performance Fund is created to reward institutions for the documented success of students participating in the GATE Program established under s. 1004.933.

(2) As used in this section, the term "institution" means a school district career center established under s. 1001.44, a charter technical career center established under s. 1002.34, or a Florida College System institution identified in s. 1000.21 which offers the GATE Program pursuant to s. 1004.933.

(3) Subject to legislative appropriation, each participating institution must receive $1,000 per student who completes the GATE Program by completing the adult secondary education program and the career education program within 3 years. If the student completed the adult secondary education program and the career education programs at different institutions, then each institution must receive $500. If funds are insufficient to fully fund the calculated total award, such funds must be prorated among the institutions.

(4) The State Board of Education may adopt rules to implement this section.

Section 9. This act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to education; creating s. 1004.933, F.S.; providing legislative intent; establishing the Graduation Alternative to Traditional Education (GATE) Program within the Department of Education; providing definitions; requiring institutions to waive payments for specified student fees; providing eligibility requirements; providing that students participating in the program are eligible for a specified stipend under certain circumstances; prohibiting an institution from imposing additional eligibility requirements; providing department responsibilities; providing department reporting requirements; authorizing the State Board of Education to adopt rules; amending s. 445.009, F.S.; revising the services to which the one-stop delivery system is intended to provide access; amending s. 1003.21, F.S.; requiring a student's certified school counselor or other school personnel to inform the student of opportunities in the GATE Program; amending s. 1003.435, F.S.; requiring district school boards to notify all candidates for the high school equivalency diploma of adult secondary and postsecondary education options, including specified eligibility requirements; creating s. 1009.711, F.S.; creating the GATE Scholarship Program;

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requiring the department to administer the program; requiring the program to reimburse eligible institutions for specified student fees and costs; requiring participating institutions to report specified information to the department; requiring the department to reimburse participating institutions within a specified timeframe; providing that reimbursements are contingent upon legislative appropriation and must be prorated under certain circumstances; authorizing the state board to adopt rules; amending s. 1011.80, F.S.; revising the number of courses for which certain students may be reported for certain funding purposes; providing that such courses do not have to be core curricula courses; deleting a requirement that the department develop a list of courses to be designated as core curricula courses; creating s. 1011.804, F.S.; establishing the GATE Startup Grant Program within the department for a specified purpose; defining the term "institution"; providing eligibility requirements; providing department duties; providing requirements for grant proposals, grant awards, and the use of grant funds; providing reporting requirements; authorizing the state board to adopt rules; creating s. 1011.8041, F.S.; creating the GATE Program Performance Fund for a specified purpose; defining the term "institution"; subject to legislative appropriation, requiring each participating institution to receive a specified amount of money per student, subject to certain


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conditions; authorizing the state board to adopt rules; providing an effective date.

By the Committee on Education Postsecondary

589-02143-24 20247032__

A bill to be entitled

An act relating to education; amending s. 1003.435, F.S.; requiring district school boards to notify all candidates for the high school equivalency diploma of adult secondary and postsecondary education options; creating s. 1004.933, F.S.; providing legislative intent; defining the terms "career education program" and "institution"; establishing the Graduation Alternative to Traditional Education (GATE) Program; providing the purpose of the program; providing that students enrolled in the program are exempt from payments for registration, tuition, laboratory, and examination fees; providing eligibility requirements; prohibiting an institution from imposing additional eligibility requirements; requiring the State Board of Education to adopt rules; amending s. 1008.34, F.S.; providing that high school students enrolled in the GATE Program are not included in a high school's graduation rate; creating s. 1009.711, F.S.; creating the GATE Scholarship Program; requiring the Department of Education to administer the program; requiring the program to reimburse eligible institutions for student costs; requiring participating institutions to report to the department all students enrolled in the program; providing that reimbursements are contingent on legislative appropriations and may be prorated in the event that total reimbursements owed exceed available funds; requiring the state board to adopt rules; amending s. 1011.80, F.S.; revising the number

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of courses certain students may be reported for relating to funding purposes; providing that such courses do not have to be core curricula courses; deleting a requirement for the department to develop a list of courses to be designated as core curricula courses; creating s. 1011.804, F.S.; creating the GATE Program Student Success Incentive Fund; defining the term "institution"; providing that, subject to the appropriation of funds by the Legislature, each participating institution must receive specified allocations; providing for proration of funds, as necessary; providing an effective date.

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

Section 1. Subsection (3) of section 1003.435, Florida Statutes, is amended to read:

1003.435 High school equivalency diploma program.—

(3) Each district school board shall:

(a) Offer and administer the high school equivalency diploma examinations and the subject area examinations to all candidates pursuant to rules of the State Board of Education.

(b) Notify each candidate of adult secondary and postsecondary education options available in or near the district. The candidate must also be informed of the eligibility requirements and any minimum academic requirements for each available option.

Section 2. Section 1004.933, Florida Statutes, is created to read:

1004.933 Graduation Alternative to Traditional Education (GATE) Program.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature that each high school student have the opportunity to earn postsecondary course credits at no cost to the student while pursuing the completion of a standard high school diploma or equivalent credential. Furthermore, to help meet this state's workforce skill needs, it is the intent of the Legislature that high school students have access to high-quality workforce education programs that can help them build their basic education abilities and attain industry-recognized postsecondary credentials.

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

(a) "Career education program" means an applied technology diploma program as defined in s. 1004.02(7) or a career certificate program as defined in s. 1004.02(20).

(b) "Institution" means a school district career center established under s. 1001.44, a charter technical career center established under s. 1002.34, or a Florida College System institution identified in s. 1000.21.

(3) ESTABLISHMENT; PURPOSE.—The Graduation Alternative to Traditional Education (GATE) Program is created within the Department of Education for the following purposes:

(a) Assisting students who may have challenges in completing the requirements for a standard high school diploma in a traditional setting.

(b) Creating an alternative education pathway that supports this state's commitment to educational accessibility for all students by providing additional opportunities for students 16

to 21 years of age who have discontinued enrollment in traditional high school programs.

(c) Increasing the number of students who successfully earn a high school credential in this state.

(d) Increasing the interest and participation of students in career and technical education (CTE) programs.

(4) PAYMENT EXEMPTION; ELIGIBILITY.—

(a) Any student enrolled in the GATE Program is exempt from the payment of registration, tuition, laboratory, and examination fees to a participating institution. Instructional materials assigned for use under the GATE program must be made available to GATE Program students free of charge. An institution may not require payment by students of instructional material costs eligible for reimbursement under s. 1009.711.

(b) To be eligible for participation in the GATE Program, a student may not have earned a standard high school diploma pursuant to s. 1003.4282 or a high school equivalency diploma pursuant to s. 1003.435 before enrolling in the GATE Program and must:

1. Be a resident of this state as defined under s. 1009.21;

2. Be concurrently enrolled in an adult secondary education program as defined in s. 1004.02(4) and a career education program at a Florida College System institution, a school district career center, or a charter technical career center;

3. Be 16 to 21 years of age at the time of initial enrollment;

4. Select the CTE pathway or program of his or her choice at the time of enrollment. The student may not change the requested pathway after enrollment;

5. Maintain a 2.0 GPA for CTE coursework; and

6. Complete the programs under subparagraph 2. within 3 years after initial enrollment unless the institution determines that an extension is warranted due to extenuating circumstances.

(c) An institution may not impose additional criteria to determine a student's eligibility to receive a waiver under this section.

(5) RULES.—The State Board of Education shall adopt rules to implement this section.

Section 3. Paragraph (b) of subsection (3) of section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—

(3) DESIGNATION OF SCHOOL GRADES.—

(b)1. A school's grade shall be based on the following components, each worth 100 points:

a. The percentage of eligible students passing statewide, standardized assessments in English Language Arts under s. 1008.22(3).

b. The percentage of eligible students passing statewide, standardized assessments in mathematics under s. 1008.22(3).

c. The percentage of eligible students passing statewide, standardized assessments in science under s. 1008.22(3).

d. The percentage of eligible students passing statewide, standardized assessments in social studies under s. 1008.22(3).

e. The percentage of eligible students who make Learning Gains in English Language Arts as measured by statewide, standardized assessments administered under s. 1008.22(3).

f. The percentage of eligible students who make Learning

Gains in mathematics as measured by statewide, standardized assessments administered under s. 1008.22(3).

g. The percentage of eligible students in the lowest 25 percent in English Language Arts, as identified by prior year performance on statewide, standardized assessments, who make Learning Gains as measured by statewide, standardized English Language Arts assessments administered under s. 1008.22(3).

h. The percentage of eligible students in the lowest 25 percent in mathematics, as identified by prior year performance on statewide, standardized assessments, who make Learning Gains as measured by statewide, standardized Mathematics assessments administered under s. 1008.22(3).

i. For schools comprised of middle grades 6 through 8 or grades 7 and 8, the percentage of eligible students passing high school level statewide, standardized end-of-course assessments or attaining national industry certifications identified in the CAPE Industry Certification Funding List pursuant to state board rule.

j. Beginning in the 2023-2024 school year, for schools comprised of grade levels that include grade 3, the percentage of eligible students who score an achievement level 3 or higher on the grade 3 statewide, standardized English Language Arts assessment administered under s. 1008.22(3).

In calculating Learning Gains for the components listed in sub-subparagraphs e.-h., the State Board of Education shall require that learning growth toward achievement levels 3, 4, and 5 is demonstrated by students who scored below each of those levels in the prior year. In calculating the components in sub-

subparagraphs a.-d., the state board shall include the performance of English language learners only if they have been enrolled in a school in the United States for more than 2 years.

2. For a school comprised of grades 9, 10, 11, and 12, or grades 10, 11, and 12, the school's grade shall also be based on the following components, each worth 100 points:

a. The 4-year high school graduation rate of the school as defined by state board rule. Students enrolled in high school who choose to enroll in the GATE Program, pursuant to s. 1004.933, may not be included in the graduation rate.

b. The percentage of students who were eligible to earn college and career credit through an assessment identified pursuant to s. 1007.27(2), College Board Advanced Placement examinations, International Baccalaureate examinations, dual enrollment courses, including career dual enrollment courses resulting in the completion of 300 or more clock hours during high school which are approved by the state board as meeting the requirements of s. 1007.271, or Advanced International Certificate of Education examinations; who, at any time during high school, earned national industry certification identified in the CAPE Industry Certification Funding List, pursuant to rules adopted by the state board; or who earned an Armed Services Qualification Test score that falls within Category II or higher on the Armed Services Vocational Aptitude Battery and earned a minimum of two credits in Junior Reserve Officers' Training Corps courses from the same branch of the United States Armed Forces.

Section 4. Section 1009.711, Florida Statutes, is created to read:

1009.711 GATE Scholarship Program.—

(1) The GATE Scholarship Program is created to financially support institutions in providing the GATE Program established pursuant to s. 1004.933.

(2) The Department of Education shall administer the GATE Scholarship Program in accordance with rules adopted by the State Board of Education pursuant to subsection (6).

(3) The program shall reimburse eligible institutions for registration, tuition, laboratory, and examination fees and related instructional materials costs for students enrolled in the GATE Program. School district career centers and Florida College System institutions must be reimbursed at the in-state resident tuition rate established in s. 1009.22(3)(c).

(4) Each participating institution shall report to the department all students enrolled in the GATE Program during the fall, spring, or summer terms within 30 days after the end of regular registration. For each eligible student, the institution shall report the total reimbursable expenses by category, which the department must consider in determining an institution's award under this section. The department shall reimburse each participating institution no later than 30 days after the institution has reported enrollment for that term.

(5) Reimbursements from the GATE Scholarship Program are contingent upon an annual appropriation in the General Appropriations Act. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts specified in subsection (3) must be prorated among the institutions that have timely reported eligible students to the department.

(6) The State Board of Education shall adopt rules to implement this section.

Section 5. Subsection (10) of section 1011.80, Florida Statutes, is amended to read:

1011.80 Funds for operation of workforce education programs.—

(10) A high school student dually enrolled under s. 1007.271 in a workforce education program operated by a Florida College System institution or school district career center generates the amount calculated for workforce education funding, including any payment of performance funding, and the proportional share of full-time equivalent enrollment generated through the Florida Education Finance Program for the student's enrollment in a high school. If a high school student is dually enrolled in a Florida College System institution program, including a program conducted at a high school, the Florida College System institution earns the funds generated for workforce education funding, and the school district earns the proportional share of full-time equivalent funding from the Florida Education Finance Program. If a student is dually enrolled in a career center operated by the same district as the district in which the student attends high school, that district earns the funds generated for workforce education funding and also earns the proportional share of full-time equivalent funding from the Florida Education Finance Program. If a student is dually enrolled in a workforce education program provided by a career center operated by a different school district, the funds must be divided between the two school districts proportionally from the two funding sources. A student may not

be reported for funding in a dual enrollment workforce education program unless the student has completed the basic skills assessment pursuant to s. 1004.91. A student who is coenrolled in a K-12 education program and an adult education program may be reported for purposes of funding in an adult education program. If a student is coenrolled in ~~core curricula~~ courses for credit recovery or dropout prevention purposes and does not have a pattern of excessive absenteeism or habitual truancy or a history of disruptive behavior in school, the student may be reported for funding for up to four ~~two~~ courses per year. Such a student is exempt from the payment of the block tuition for adult general education programs provided in s. 1009.22(3)(c). ~~The Department of Education shall develop a list of courses to be designated as core curricula courses for the purposes of coenrollment.~~

Section 6. Section 1011.804, Florida Statutes, is created to read:

1011.804 GATE Program Student Success Incentive Fund.—

(1) A GATE Program Student Success Incentive Fund is created to reward school districts and Florida College System institutions for the documented success of students participating in the GATE Program established under s. 1004.933.

(2) As used in this section, the term "institution" means a school district career center established under s. 1001.44, a charter technical career center established under s. 1002.34, or a Florida College System institution identified in s. 1000.21 which offers the GATE Program pursuant to s. 1004.933.

(3) Subject to legislative appropriation, each participating institution must receive an allocation based on

the performance of students in its GATE Program according to the following metrics:

(a) The number of students obtaining a standard high school diploma or high school equivalency diploma while participating in the program.

(b) The number of postsecondary industry certifications or other program completion credentials earned by students participating in the program. Eligible industry certifications must be identified on the CAPE Industry Certification Funding List approved by the State Board of Education under s. 1008.44.

(c) Unless otherwise specified in the General Appropriations Act, each institution must be provided $750 per student described in paragraph (a) and $1,000 per student earning certificates or credentials as provided in paragraph (b). If funds are insufficient to fully fund the calculated total award, such funds must be prorated among the institutions.

Section 7. This act shall take effect July 1, 2024.

The Florida Senate

Committee Agenda Request

To: Senator Doug Broxson, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 22, 2024

I respectfully request that **Senate Bill #7032**, relating to Education, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

File signed original with committee office

S-020 (03/2004)

Gray, Heather

From: Ellinger1, Daniel <Daniel.Ellinger1@fldoe.org>
Sent: Friday, December 8, 2023 2:46 PM
To: Elwell, Tim; Dowd, Cory
Cc: Washington, Karl; Mizereck, Kathy; Gray, Heather
Subject: RE: One more small request

Hey Tim,

Please see the requested GED data below.

SCHOOL DISTRICT ENROLLMENT INFORMATION

Students Enrolled in WDIS GED Program
2020-21 through 2022-23

Note: Unduplicated headcount of students in GED. WDIS Program #9900130

Year	District #	District Name	# Students enrolled in GED	TOTAL GED Instructional Hours	# Students enrolled in GED who are 21 years of age or less	GED FTE - Age 21 and Under
2021	00	FLORIDA	5,256	601,264	2,851	354.34
2122	00	FLORIDA	7,499	916,706	4,123	571.13
2223	00	FLORIDA	8,888	1,219,556	5,330	830.49

FLORIDA COLLEGE SYSTEM ENROLLMENT INFORMATION

Students Enrolled in FCS GED Program
2020-21 through 2022-23

Note: Unduplicated headcount of students in GED. FCS CIP#: 1532020207 (2020 CIP), 1532010207 (2010 CIP)

Year	College #	College Name	# Students enrolled in GED	TOTAL GED Instructional Hours	# Students enrolled in GED who are 21 years of age or less	GED FTE - Age 21 and Under
2021	00	FLORIDA	780	100,168	353	37.46
2022	00	FLORIDA	1,034	136,748	525	62.03
2023	00	FLORIDA	1,166	133,865	552	63.47

Daniel Ellinger

The Florida Senate

APPEARANCE RECORD

2.22.24
Meeting Date

Appropriations
Health & Human Services
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

~~HB~~ 7032
Bill Number or Topic

Amendment Barcode (if applicable)

Name Damaris Allen, Florida PTA

Phone 407.855.7604

Address 1747 Orlando Central Pkwy
Street

Email legislation@flpta.org

Orlando, Fl 32809
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

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 Appropriations

BILL:	SB 7048
INTRODUCER:	Education Pre-K -12 Committee
SUBJECT:	Education
DATE:	February 21, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazesi	Bouck		**ED Submitted as Comm. Bill/Fav**
2.	Gray	Sadberry	AP	**Favorable**

I. Summary:

SB 7048 builds upon the school choice provisions in House Bill 1 (ch. 2023-16, L.O.F.) and clarifies student eligibility for Florida's K-12 scholarship programs, requirements for scholarship funding organizations (SFO), the Department of Education (DOE), and parents. Specifically, the bill:

- Expands eligibility for scholarship programs to the dependent children of an active duty member of the United States Armed Forces who meet specified requirements.
- Increases the maximum number of students participating in the Family Empowerment Scholarship for students with disabilities (FES-UA) scholarship program from three percent to five percent of the state's total exceptional student education membership, while also including an automatic increase of an additional one percent based on demand.
- Establishes deadlines for SFOs and parents related to the application and renewal of the Florida Tax Credit (FTC), personalized education program (PEP), and Family Empowerment Scholarship (FES) programs.
- Codifies deadlines and responsibilities of SFOs and the DOE regarding the disbursement of funds for the FES scholarship program.
- Updates the quarterly reporting requirements for SFOs to include information on applications received, application review timeframes, reimbursements received, and reimbursement processing timeframes.
- Requires an SFO to establish a process to collect input and feedback from parents, private schools, and providers before implementing substantial modifications or enhancements to the reimbursement process.
- Requires an SFO to make payment for tuition and fees for full-time enrollment within seven business days after approval by the parent and school.
- Clarifies the authorized uses of scholarship funds.
- Repeals the scholarship funding portion of the Hope Scholarship Program, but maintains the tax credits, program eligibility, and requirements.

The bill has a significant impact on state revenues and expenditures. See Section V, Fiscal Impact Statement.

The bill takes effect July 1, 2024, except as otherwise expressly provided.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Florida offers several scholarship programs that allow parents of eligible students to register in and attend a private school that may better serve a student's particular needs or to provide educational options for students with disabilities or receiving parent-directed instruction. The three scholarship programs, include:

- The Family Empowerment Scholarships, which include:
  - The Family Empowerment Scholarship for students attending a private school (FES-EO).
  - The Family Empowerment Scholarship for students with disabilities (FES-UA).[1]
- The Florida Tax Credit (FTC),[2] consisting of a scholarship for students attending private school and a scholarship for students in a personalized education program.[3]
- The Hope Scholarship Program (HSP).[4]

Private schools must meet specific criteria in order to be eligible to participate in Florida's scholarship programs and the Department of Education (DOE) and Commissioner of Education[5] are tasked with implementation and oversight responsibilities. Florida's scholarship programs are administered by scholarship funding organizations (SFO) approved by the DOE.[6]

Private School Participation in Scholarship Programs

Present Situation

Each scholarship program has unique requirements for private schools, but there are common criteria that each private school must meet in order to participate in any of the state's scholarship programs.[7] A private school may be sectarian or nonsectarian, must meet Florida's definition of a private school,[8] be registered with the state, and be in compliance with all the requirements of a private school. A private school that participates in the scholarship program must also:[9]

- Comply with 42 U.S.C. s. 2000d which prohibits excluding a person from participation in federally assisted programs on the grounds of race, color, or national origin.

[1] Section 1002.394, F.S.; *see also* Rule 6A-6.0952, F.A.C.
[2] Section 1002.395, F.S.; *see also* Rule 6A-6.0960, F.A.C.
[3] Section 1002.395(7), F.S.
[4] Section 1002.40, F.S.; *see also* Rule 6A-6.0951, F.A.C.
[5] Section 1002.421, F.S.
[6] *See* ss. 1002.394(11) and 1002.395(6) and (15), F.S.
[7] *See* s. 1002.421, F.S.
[8] *See* s. 1002.01(3), F.S.
[9] Section 1002.421(1), F.S.; *see also* Rule 6A-6.03315, F.A.C.

- Notify the Department of Education (DOE) of its intent to participate in a scholarship program.
- Notify the DOE of any changes in the school's name, director, mailing address, or physical location within 15 days of the change.
- Provide the DOE or the scholarship funding organization (SFO) all required documentation for student registration and payment.
- Provide to the SFO the school's fee schedule.
- Annually complete and submit to the DOE a notarized scholarship compliance statement verifying compliance with background screening requirements.
- Demonstrate fiscal soundness in accordance with statutory requirements.
- Meet applicable state and local health, safety, and welfare laws, codes, and rules.
- Employ or contract with teachers that meet specified requirements.
- Maintain a physical location in the state at which each student has regular and direct contact with teachers.
- Provide to parents information regarding the school's programs, services, classroom teacher qualifications, and a statement that a private school student with a disability does not have a right to all of the services that the student would receive if enrolled in a public school under the Individuals with Disabilities Education Act (IDEA).
- Provide the parent, at least on a quarterly basis, a written report of the student's progress;
- Cooperate with a parent who wants a student to participate in Florida's statewide, standardized assessments.
- Adopt policies establishing standards of ethical conduct for educational support employees, instructional personnel, and school administrators.
- Not be owned or operated by a person or an entity domiciled in, owned by, or in any way controlled by a foreign country of concern or foreign principal, as identified in law.[10]

Regular and direct contact with a teacher at an eligible private school is defined as a program of instruction that provides for a minimum of 170 actual school instruction days with the required instructional hours under the direct instruction of the private school teacher at the school's approved physical location. This may include occasional off-site activities including the FES-UA transition-to-work plan under the supervision of the private school teacher.[11]

If a private school receives more than $250,000 in scholarship funds in one year, the school must hire an independent certified public accountant (CPA) who must verify that the school meets the requirements for eligibility, accounting and financial controls, and expenditures.[12]

If a school fails to meet any of the requirements in law or has consecutive years of material exceptions listed in the CPA's report, the commissioner may determine that the private school is ineligible to participate in a scholarship program.[13]

The Commissioner of Education (commissioner) is authorized to permanently deny or revoke the authority of an owner, officer or director to establish or operate a private school in the state and

[10] Section 1002.421(1), F.S.; *see also* Rule 6A-6.03315, F.A.C.
[11] Rule 6A-6.03315, F.A.C.
[12] Section 1002.395(6), F.S.
[13] Section 1002.421(1), F.S.

include such individual on the disqualification list[14], if the commissioner decides that the owner, officer, or director:

- Is operating or has operated an educational institution in the state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.
- Has operated an educational institution that closed during the school year.[15]

Effect of Proposed Changes

The bill amends s. 1002.421, F.S., to authorize that regular and direct contact may be satisfied, for a student receiving a personalized education program (PEP) scholarship, by maintaining contact with teachers at the private school's physical location at least two school days per week and requires that the remaining instructional time is addressed in the student learning plan.

The bill also amends ss. 1002.394 and 1002.395, F.S., to add requirements for private schools participating in the state scholarships, which includes:

- Confirmation of the student's admission to the private school.
- Any other information required by the SFO to process scholarship payment. Private schools must provide such information by the deadlines established by the SFO.

The bill clarifies that a student is not eligible to receive a quarterly scholarship payment under the state's choice scholarship programs if the private school fails to meet the deadlines.

Transition-to-work

Present Situation

A transition-to-work program consists of academic instruction, work skills training, and a volunteer or paid work experience. A recipient of the Family Empowerment Scholarship for students with disabilities (FES-UA) who has not received a high school diploma or certificate of completion and who is at least 17 years old, but not older than 22 years old, may enroll in a private school's transition-to-work program. A student enrolled in the program must, at a minimum, receive 15 instructional hours at the private school, including both academic and work skills training, and participate in 10 hours of work at a volunteer or paid work experience.

Among other requirements, to offer the program, a participating private school must:

- Develop a program plan, which includes a description of the academic instruction and work skills training a student will received and goals for students in the program.
- Submit the program plan to the Department of Education (DOE).[16]

Effect of Proposed Changes

The bill amends s. 1002.395, F.S., to authorize the DOE to provide guidance to a participating private school that submits a transition-to-work program plan. The bill requires that a school must consider any guidance if provided by the DOE, regarding the school's plan.

[14] *See* s. 1001.10(4), F.S.
[15] Section 1002.421(3), F.S.
[16] Section 1002.394(16), F.S.

Florida Tax Credit Scholarship

Present Situation

The Florida Tax Credit (FTC) scholarship was created in 2001 and enables taxpayers to make private, voluntary contributions to a scholarship funding organization (SFO), to expand educational opportunities for families, to include those with limited financial resources, and enables Florida's children to achieve a greater level of excellence in their education.[17] The FTC scholarship is funded with contributions to SFOs from taxpayers who receive a tax credit for use against their liability for corporate income tax, insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders or alcoholic beverage taxes on beer, wine, and spirits and rental or license fees.[18] The tax credit is equal to 100 percent of the eligible contributions made.[19] SFOs use these contributions to award scholarships for the cost of tuition and fees at an eligible private school or transportation expenses to a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned.[20]

In 2023, the Legislature expanded eligibility for an FTC scholarship for all Floridians eligible to attend public school in Florida while simultaneously turning the scholarship into an education savings account (ESA) by expanding the authorized uses for the FTC scholarship.[21]

Florida Tax Credit Scholarship Eligibility

The FTC scholarship program provides scholarships to students, with priority given to children from low-income families and those who are in foster care or out-of-home care. Contingent upon available funds, a student is initially eligible for an FTC scholarship if the student is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a public school in Florida.[22]

An FTC scholarship may also be awarded to an eligible public school student enrolled in a Florida public school which is different from the school to which the student was assigned or in a lab school, if the school district does not provide the student with transportation to the school. Such a scholarship is the greater of $750 or an amount equal to the school district expenditure per student riding a bus.[23]

An FTC scholarship remains in force until the:
- SFO determines that the student is not eligible for program renewal.
- Commissioner suspends or revokes program participation or use of funds.
- Student's parent has forfeited participation in the program for failure to comply with statutorily required parental and student responsibilities.

[17] Section 1002.395(1), F.S.
[18] Section 1002.395(1) and (5) and s. 212.099(2), F.S. Information and documentation provided to the DOE and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times. Section 1002.395(6), F.S. (flush left provision at end of subsection).
[19] Sections 220.1875(1), 212.099(2), and 1002.395(5), F.S.
[20] Section 1002.395(6)(l), F.S. An eligible contribution is a monetary contribution from a taxpayer to an eligible nonprofit SFO. The taxpayer may not designate a specific child as the beneficiary of the contribution. Section 1002.395(2)(f), F.S.
[21] Chapter 2023-16, s. 6, L.O.F.
[22] Section 1002.395(3)(b), F.S.
[23] Section 1002.395, F.S. The district expenditure per student riding a school bus is the amount determined by the DOE.

- Student enrolls in a public school, except for a student who enters a Department of Juvenile Justice (DJJ) detention center for no more than 21 days.
- Student graduates from high school or attains 21 years of age, whichever occurs first.[24]

A student is not eligible for an FTC scholarship while he or she is:

- Enrolled in a public school, including a 3- or 4-year-old child who receives services funded through the Florida Education Finance Program (FEFP).
- Enrolled in a school operating for the purpose of providing educational services to youth in a DJJ commitment program.
- Receiving any other state-sponsored K-12 educational choice scholarship.
- Not having regular and direct contact with his or her private school teachers unless he or she is enrolled in a personalized education program (PEP).
- Participating in a home education program.
- Participating in a private tutoring program unless he or she is enrolled in a PEP; or
- Participating in virtual instruction that receives state-funding for the student's participation.[25]

Florida Tax Credit Scholarship Authorized Uses

Authorized uses of FTC scholarship funds include:[26]

- Tuition and fees for enrollment in an eligible private school.
- Instructional materials, including digital materials and Internet resources.
- Curriculum, which is a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction.
- Tuition and fees associated with full- or part-time enrollment in a home education instructional program, an eligible postsecondary educational institution or a program offered by such institution, an approved preapprenticeship program, a private tutoring program, a virtual program offered by a DOE-approved private online provider, the Florida Virtual School as a private paying student, or an approved online course.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contracted services provided by a public school or school district, including classes. A student who receives services under a contract is not considered enrolled in a public school for scholarship eligibility purposes but rather attending a public school on a part-time basis.
- Tuition and fees for part-time tutoring services or fees for services by a choice navigator.[27]

Personalized Education Program (PEP)

In 2023 the Legislature expanded options for FTC scholarship participation by creating the PEP, a parent directed educational choice option that must be registered with a SFO that administers FTC scholarships.[28] Students enrolled in a PEP are authorized to participate in the FTC

[24] Section 1002.395(11), F.S.
[25] Section 1002.395(4), F.S.
[26] Section 1002.395(6)(d)2., F.S.
[27] Section 1002.395(6), F.S.
[28] Section 1002.01(2), F.S.

scholarship program and the program satisfies mandatory school attendance requirements.[29] Students in PEP are provided access to the same programs and services as home education program students.[30]

Parents and students receiving an FTC scholarship while participating in a PEP must comply with the following requirements:

- Apply to an eligible SFO to participate in the program by a date set by the SFO. The request must be communicated directly to the SFO in a manner that creates a written or electronic record of the request and the date of receipt of the request.
- Sign an agreement with the SFO and annually submit a sworn compliance statement to the SFO to satisfy or maintain program eligibility, including eligibility to receive and spend program payments, by:
  - Affirming that the program funds are used only for authorized purposes serving the student's educational needs and that the parent will not receive a payment, refund, or rebate of any funds provided under this section.
  - Affirming that the parent is responsible for all eligible expenses in excess of the amount of the scholarship and for the education of his or her student.
  - Submitting a student learning plan to the SFO and revising the plan, at least annually before program renewal.
  - Requiring the student to take a nationally norm-referenced test identified by the DOE or a statewide, standardized assessment and provide results to the SFO before renewal.
  - Renewing participation in the program each year.
  - Procuring the services necessary to educate the student. When the student receives a scholarship, the district school board is not obligated to provide the student with a free appropriate public education.[31]

For a scholarship student participating in a PEP, an SFO must:

- Maintain a signed agreement from the parent which constitutes as complying with the state's attendance requirements.
- Receive eligible student test scores, and beginning with the 2027-2028 school year, annually report the assessment data to the state university selected by the DOE to analyze such data.
- Provide parents with information, guidance, and support to create and annually update a customized student learning plan for their student. The SFO must maintain the plan and allow parents to electronically submit, access, and revise the plan continuously.
- Upon submission by the parent of an annual student learning plan, fund a scholarship for a student determined eligible.[32]

Regarding a student participating in a PEP, the SFO is prohibited from further regulating, exercising control over, or requiring documentation beyond the requirements prescribed in law.[33]

[29] Sections 1002.395(7)(b) and 1003.01(16), F.S.
[30] Section 1002.01, F.S.
[31] Section 1002.395(7)(b), F.S.
[32] Section 1002.395(6)(e), F.S.
[33] Section 1002.395(7)(b), F.S. (flush left provision at the end of the paragraph).

The law provides SFOs with the following schedule for funding FTC scholarships to eligible students that are enrolled in PEP:

- For the 2023-2024 school year, no more than 20,000 scholarships may be funded.
- For the 2024-2025 through 2026-2027 school years, the number of funded scholarships may increase by 40,000 each year.[34]

After July 1, 2027, there are no restrictions on the number of FTC scholarships that may be awarded to PEP students.[35] For the 2023-2024 school year, as of January 8, 2024, 18,081 PEP scholarships have been funded.[36]

Responsibilities of FTC Scholarship Recipients Enrolled in Private School Full-Time

Participation in the FTC scholarship program for a student enrolled full-time in a private school requires parents and students to fulfill the following responsibilities:

- Select an eligible private school,[37] apply for admission, and notify the school district when the student is withdrawn from a public school.
- Students must attend school (unless excused by the school for illness or good cause).
- Students and parents must comply with the private school's published policies.
- Meet with the private school's principal or the principal's designee to review the school's academic programs and policies, specialized services, code of student conduct, and attendance policies before enrollment in the private school.
- Require that the student participating in the scholarship program takes the norm-referenced assessment offered by the private school.[38]
- Parents must approve each payment before the scholarship funds may be deposited.
- Parents must authorize the SFO to access information necessary to determine income eligibility, including information held by state and federal agencies.
- Agree to have the SFO commit scholarship funds on behalf of his or her student for tuition and fees for which the parent is responsible for payment at the private school before using account funds for additional authorized uses. A parent is responsible for all eligible expenses in excess of the amount of the scholarship.[39]

Florida Tax Credit Scholarship Disbursement and Award Amount

For students initially eligible in the 2019-2020 and thereafter, the calculated scholarship amount is 100 percent of the unweighted full-time equivalent (FTE) basic program funds the student would generate in the school district in which the student resides based on grade level, plus a per-full-time equivalent share of funds for specified FEFP categorical programs.[40]

[34] Section 1002.395(6)(d), F.S.
[35] Id.
[36] Email, Step Up for Students (January 8, 2024), and email, AAA (January 8, 2024).
[37] A private school is eligible to participate in the FTC if they meet statutory criteria for participation in state scholarship programs under s. 1002.421(1), F.S.
[38] The parent and student may also elect to participate in the statewide, standardized assessment administered by the school district. The parent is responsible for transporting the student to the assessment. Section 1003.394(10)(a)6., F.S.
[39] Section 1002.395(7)(a), F.S.
[40] Section 1002.395(11)(a), F.S.

For the 2022-2023 school year, 100,025 students were funded a FTC private school scholarship[41] and 1,645 students were funded a FTC transportation scholarship.[42] As of January 8, 2024, 129,228 FTC scholarships for students attending private school have been funded for the 2023-2024 school year.[43]

Each SFO must establish and maintain an education savings account (ESA) for each eligible student and must maintain records of accrued interest retained in the student's account.[44] The SFO must make a scholarship payment no less frequently than quarterly. An SFO must make scholarship payments by funds transfer (including debit cards, electronic payment cards, or any other means the DOE deems commercially viable or cost-effective).[45] The parent of an eligible student must approve each payment prior to the SFO transferring funds to the account.[46]

The SFO may permit eligible students to use program funds by paying for the authorized use directly, then submitting a reimbursement request to the eligible SFO. However, an SFO is authorized to require the use of an online platform for direct purchases of products so long as this does not limit a parent's choice of curriculum or academic programs. Additionally, if a parent purchases a product identical to one offered by an SFO's online platform for a lower price, the SFO must reimburse the parent the cost of the product. Reimbursements are allowed for items not on the platform.[47]

Additionally, the SFO is required to verify a student's eligibility each fiscal year, prior to funding a scholarship for that fiscal year.[48] The law establishes $24,000 as the maximum amount an SFO is permitted to maintain in an individual student's ESA for an FTC scholarship.[49]

The law permits reimbursements for scholarship program expenditures to continue until the account balance is expended or remaining funds have reverted to the state.[50] However, a student's ESA must be closed, and any remaining funds will revert to the state, after:

- Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services; or
- Two consecutive fiscal years in which an account has been inactive.[51]

[41] Florida Department of Education, *Florida Tax Credit Scholarship Program: June 2023 Quarterly Report* (June 2023), *available at* https://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Jun-2023-Q-Report.pdf [hereinafter *June Quarterly Report*] (last visited Feb. 7, 2024).
[42] Email, Step Up for Students (January 8, 2024) and email, AAA (January 9, 2024).
[43] Email, Step Up for Students (January 8, 2024) and email, AAA (January 8, 2024).
[44] Section 1002.395(6)(d), F.S.
[45] Section 1002.395(11), F.S.
[46] Section 1002.395(7)(a) and (11)(b), F.S.
[47] Section 1002.395(6)(u), F.S.
[48] Section 1002.395(6)(l), F.S.
[49] Section 1002.395(11)(e), F.S.
[50] Section 1002.395(11)(g), F.S.
[51] Section 1002.395(11)(h), F.S.

Effect of Proposed Changes

The bill modifies s. 1002.395, F.S., to expand eligibility for the a Florida Tax Credit (FTC) scholarship to the dependent children of an active duty member of the United States Armed Forces who has received permanent change of station orders to Florida or whose home of record or state of residence, at the time of renewal, is Florida. Additionally, the bill provides that any student that received a scholarship under the Hope Scholarship Program scholarship during the 2023-2024 school year is deemed eligible for an FTC scholarship.

The bill clarifies that "enrolled in a public school" for the purposes of scholarship eligibility includes enrollment in the Florida School for Competitive Academics,[52] the Florida Virtual School,[53] and the Florida Scholars Academy.[54] The bill also clarifies that a public school student receiving a scholarship under the New Worlds Scholarship program[55] is authorized to receive a transportation scholarship.

The bill provides that a student receiving an FTC scholarship who uses scholarship funds to enroll full-time in a private school will have his or her scholarship account closed and remaining funds reverted to the state if the student remains unenrolled at an eligible private school for 30 days. Additionally, the bill clarifies that a student no longer eligible for a scholarship award if a student enrolls full-time in public school.

FTC Scholarship Award

The bill requires that a scholarship funding organization (SFO) establish a process for parents receiving an FTC scholarship for full time private school enrollment to renew their participation, beginning with the 2025-2026 school year, with a renewal timeline beginning February 1 and ending April 30 of the prior school year. Renewal must be contingent on confirmation of admission to an eligible private school. The process must require that parents confirm that the scholarship is being renewed or declined by May 31.

The SFO must establish a process for parents to apply for a new FTC scholarship for the purpose of full time private school enrollment. The process must require that parents confirm that the scholarship is being accepted or declined by a date set by the SFO.

Similarly, the bill requires an SFO to establish a process for parents of students participating in the personalized education program (PEP) to apply for a new scholarship or renew an existing scholarship. The process must require that renewals and new applications be made between February 1 and April 30, beginning with the school year prior to 2025-2026. The process must require that parents confirm that the scholarship is being accepted, renewed, or declined, as appropriate, by May 31.

The following table presents the new and renewal scholarship application process required under the bill:

[52] Section 1002.351, F.S.
[53] Section 1002.37, F.S.
[54] Section 985.619, F.S.
[55] Section 1002.411, F.S.

Type of Application	Scholarship Program	Application Window	Parent must Accept or Decline by
NEW	FTC PEP	Feb 1-April 30	May 31
	FTC-Full-time Private	None	Date set by the SFO
RENEWAL	FTC PEP	Feb 1-April 30	May 31
	FTC-Full-time Private		

Authorized Uses of an FTC Scholarship

The bill clarifies the authorized use of scholarship funds for instructional materials. Specifically, equipment used as instructional materials may only be purchased for subjects in language arts and reading, mathematics, social studies, and science.

Personalized Education Program (PEP)

The bill provides that a middle grades student who transfers into a public school from a PEP after the beginning of the second term of grade 8 is not required to meet the civics education requirement for promotion from the middle grades if the student's transcript documents passage of three courses in social studies or two year-long courses in social studies that include coverage of civics education. This change aligns requirements for PEP students to the current requirements for out of country, out of state, a private school, or a home education program who transfer into the public school system, after the beginning of the second term of grade 8.

Additionally, the bill provides that if a PEP student transfers to a Florida public high school and the student's transcript shows only course credit in Algebra I or high school reading or English Language Arts (ELA) II or III, the student must pass the statewide, standardized Algebra I end-of-course (EOC) assessment and grade 10 ELA assessment in order to earn a standard high school diploma unless the student earned a comparative or concordant score. If the student's transcript shows a final course grade and course credit in Algebra I, Geometry, Biology I, or United States History, the transferring course final grade and credit must be honored without the student taking the requisite statewide, standardized EOC assessment and without the assessment results constituting 30 percent of the student's final course grade.

Responsibilities of FTC Scholarship Recipients

The bill requires that a parent applying for, or renewing, an FTC scholarship must comply with the scholarship application or renewal processes and requirements established by the SFO, including, but not limited to, application and acceptance deadlines. A parent forfeits participation in the FTC scholarship program for failure to comply with these responsibilities.

The bill clarifies that a parent can only apply for one scholarship at a time, whether under the FTC or FES scholarship programs.

Disbursement of FTC Scholarship Awards

The bill requires that the Department of Education (DOE) notify the SFOs of the deadlines for submitting the verified list of eligible students. A SFO must submit the verified list of students and any information requested by the DOE in a timely manner.

The bill aligns the FTC program with the Family Empowerment Scholarship program by stating that funds received by parents under the FTC scholarship programs are not income for tax purposes.

Family Empowerment Scholarship Program

Present Situation

The Family Empowerment Scholarship (FES) program provides children of families in Florida with educational options to achieve success in their education, including children of families with limited financial resources, children of law enforcement and military families, and children with disabilities.[56] The FES program includes two types of scholarships to assist eligible students to pay for the tuition and fees associated with attendance at a private school or transportation to another public school (FES-EO), and to provide access to additional education options for a student with a disability by covering the cost of a variety of approved items, including: contracted services, curriculum, instructional materials, tutoring, specified education programs, and specialized services (FES-UA).[57] Each scholarship has unique student eligibility requirements, program requirements, award calculation methodologies, and allowable expenditures.[58]

In 2023, the Legislature expanded eligibility for the FES-EO scholarship for all Floridians eligible to attend public school in Florida while simultaneously turning the scholarship into an educational savings account (ESA) by expanding the authorized uses for the FES-EO scholarship.[59] Additionally, while convened in special session in November 2023, the Legislature enabled all applicants determined eligible by the scholarship funding organization and the Department of Education to receive an FES-UA scholarship, notwithstanding any other provision of law, for the 2023-2024 school year.[60]

Eligibility for the FES-EO

A student is eligible for a scholarship to attend private school if the student is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a Florida public school.[61]

A FES-EO scholarship remains in force until the:
- SFO determines that the student is not eligible for program renewal.
- Commissioner of Education (commissioner) suspends or revokes program participation or use of funds.
- Student's parent has forfeited participation in the program for failure to comply with statutorily required parental and student responsibilities.
- Student enrolls in a public school, however, if a student enters a Department of Juvenile Justice (DJJ) detention center for a period of no more than 21 days, the student is not considered to have returned to a public school on a full-time basis for that purpose.

[56] Section 1002.394, F.S.; *see also* Rule 6A-6.0952, F.A.C.
[57] Section 1002.394(3), F.S.
[58] Section 1002.394, F.S.
[59] Chapter 2023-16, s. 5, L.O.F.
[60] Chapter 2023-350, s. 1, L.O.F.
[61] Section 1002.394(3)(a), F.S.

- Student graduates from high school or attains 21 years of age, whichever occurs first.[62]

FES-UA Eligibility

A student is eligible for an FES-UA scholarship if the student:
- Is a resident of Florida.
- Is 3 or 4 years of age on or before September 1 of the year in which the student applies for program participation or is eligible to enroll in kindergarten through grade 12 in a Florida public school.
- Has a disability as provided for in law.
- Is the subject of an IEP written in accordance with rules of the State Board of Education (SBE) or with the applicable rules of another state or has received a diagnosis of a disability from a licensed physician, a licensed psychologist, or a physician with a specified out-of-state license.[63]

An FES-UA scholarship remains in force until the:
- Parent does not renew program eligibility.
- SFO determines that the student is not eligible for program renewal.
- Commissioner suspends or revokes program participation or use of funds.
- Student's parent has forfeited participation in the program for failure to comply with statutorily required parental and student responsibilities.
- Student enrolls in a public school.
- Student graduates from high school or attains 22 years of age, whichever occurs first.[64]

Ineligibility for a FES-EO or FES-UA Scholarship

A student is ineligible for a scholarship under the FES-EO or FES-UA if the student is:
- Enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, a developmental research school, or a charter school.
- Enrolled in a DJJ commitment program.
- Receiving any other state-sponsored K-12 educational choice scholarship.
- Not having regular and direct contact with his or her private school teacher, unless the student has an eligible disability and is awarded an FES-UA scholarship and the student is enrolled in the private school's transition-to-work program or a home education program.
- Participating in a private tutoring program, unless the student has an eligible disability and is awarded a scholarship under the FES-UA.
- Participating in a virtual instruction program that receives state funding pursuant to the student's participation.[65]

[62] Section 1002.394(5)(a), F.S.
[63] Section 1002.394(3)(b), F.S.
[64] Section 1002.394(5)(b), F.S.
[65] Section 1002.394(6), F.S.

Family Empowerment Scholarship Awards

In 2023, the Legislature removed the cap on FES-EO scholarship awards[66] and expanded eligibility for the FES-EO scholarship for all Floridians eligible to attend public school in Florida.

In the 2022-2023 school year, 88,010 FES-EO scholarships were funded to eligible students attending a private school[67] and 696 FES-EO transportation scholarships were funded.[68] In the 2023-2024 school year, as of January 8, 2024, 133,969 FES-private school scholarships have been funded[69] and 4,504 FES-EO transportation scholarships have been funded.[70]

In 2023, the Legislature increased the cap on FES-UA scholarship awards from 1 percent of the number of exceptional student education students, excluding gifted students, to 3 percent.[71] During special session in November 2023 the Legislature further expanded the cap on FES-UA scholarships to include all the students determined eligible by the SFO and the DOE for the 2023-2024 school year. For the 2024-2025 school year, and subsequent years, the growth rate for the FES-UA scholarships will return to the 3 percent established during the 2023 regular session.[72]

Family Empowerment Scholarship – EO Awards

The FES-EO is funded through the Florida Education Finance Program (FEFP) with a scholarship awarded by an SFO.[73] An FES-EO scholarship award amount for a student to attend an eligible private school is calculated as 100 percent of the school districts funding per student, including specified categorical funds.[74] The DOE determines the appropriate student scholarship funding amount and cross-checks scholarship students with public school enrollment to avoid duplication.[75]

Upon receiving documentation which verifies a student's participation in the scholarship from the SFO, the DOE must transfer, beginning August 1, scholarship funds to the SFO for disbursement to parents of participating FES-EO students. Initial scholarship payments are made after the SFO verifies the student's admission acceptance to an eligible private school, with all subsequent scholarship payments occurring upon verification of continued enrollment and

[66] Chapter 2023-16, s. 5, L.O.F.
[67] Department of Education, *2022-23 FES EO by District*
[68] Department of Education, *2022-23 Florida Education Finance Program Fourth Calculation, Transportation, 4/14/23,* available at https://www.fldoe.org/core/fileparse.php/7507/urlt/22-23FEFPFourthCalc.pdf.
[69] Department of Education, *2023-24 FES Educational Options*.
[70] Email, Department of Education, (January 8, 2024).
[71] Section 1002.394(12)(b), F.S.
[72] Chapter 2023-350, s. 1, L.O.F.
[73] Section 1002.394(8)(a), (11)(a), (11)(b), and (12)(a), F.S. The department must notify the SFO that scholarships may not be awarded in a school district in which the scholarship award will exceed 99 percent of the school district's share of the state FEFP funds as calculated by the department. Section 1002.394(8)(a)13., F.S.
[74] Section 1002.394(12)(a)1., F.S.; s*ee also* Step Up For Students, *Basic Scholarship Amounts for 2023-24, available at* https://go.stepupforstudents.org/hubfs/Scholarship%20Info/FTC-FES-EO-Scholarship-Award-Amounts-2023-24.pdf. The categoricals included in this calculation are the Discretionary Millage Compression Supplement, the Educational Enrichment Allocation, and the State-Funded Discretionary Supplement. Section 1011.62(5), (7)(a), and (16), F.S.
[75] Section 1002.394(12)(a)3., F.S.

attendance at the private school.[76] Parents must approve all payments before the SFO is authorized to transfer funds.[77]

For each FES-EO scholarship, the DOE must cross-check the list of participating scholarship students with public school enrollment and adjust payments to a SFO and school districts based upon these results when the FEFP is recalculated.[78]

When awarding an FES-EO scholarship a participating SFO must award an FES-EO scholarship in accordance with the priorities established in law. For a student seeking a scholarship to attend private school, the award priority must be given to a student whose household income level does not exceed 185 percent of the federal poverty level (FPL) or who is in foster care or out-of-home care. A secondary priority must be given to a student whose household income level does exceeds 185 percent of the FPL but is does not exceed 400 percent of the FPL.[79]

An SFO is required to establish and maintain an education savings account for each eligible student and must maintain records of accrued interest retained in the student's account.[80] The parent of an eligible student must approve each payment prior to the SFO transferring funds to the account by funds transfer.[81]

A SFO may permit a FES-EO student to use program funds by paying for the authorized use directly, then submitting a reimbursement request to the eligible SFO. However, an SFO is authorized to require the use of an online platform for direct purchases of products so long as this does not limit a parent's choice of curriculum or academic programs. Additionally, if a parent purchases a product identical to one offered by an SFO's online platform for a lower price, the SFO must reimburse the parent the cost of the product. Reimbursements are allowed for items not on the platform.[82]

Reimbursements for program expenditures continue until the account balance is expended or remaining funds have reverted to the state. A student's account must be closed, and any remaining funds will revert to the state, after:

- Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services; or
- Two consecutive fiscal years in which an account has been inactive.[83]

[76] Section 1002.394(12)(a)4., F.S. Scholarship payments are made to the SFO on or before August 1, November 1, February 1, and April 1 of each year. Rule 6A-6.0952, F.A.C.
[77] Section 1002.394(10)(a) and (12)(a)., F.S.
[78] Section 1002.394(8)(a)13., F.S. The FEFP is calculated five times throughout the year to arrive at each year's final appropriations. *See* Florida Department of Education, *2021-22 Funding for Florida School Districts*, at 25, *available at* https://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf. (last visited Feb. 16, 2024).
[79] Section 1002.394(3)(a), F.S.
[80] Section 1002.394(11)(a), F.S.
[81] Section 1002.394(10)(a), F.S.
[82] Section 1002.394(11)(a), F.S.
[83] Section 1002.394(5)(a), F.S.

Additionally, the SFO is required to verify a student's eligibility each fiscal year, prior to granting a scholarship for that fiscal year[84] and the DOE is required to transfer eligible student scholarship funds, beginning August 1, to an SFO. The cap of $24,000 is the maximum amount a SFO is permitted to maintain in an individual student's education savings account for a FES-EO scholarship.[85]

Family Empowerment Scholarship –UA Awards

The FES-UA is funded through the FEFP with a scholarship awarded by a SFO.[86] For a student who has a Level I to Level III matrix of services or a diagnosis by a physician or psychologist, a FES-UA scholarship award amount is calculated as 100 percent of the school districts funding per student in the basic exceptional student education (ESE) program, including specified categorical funds.[87] For a student who has a Level IV or Level V matrix of services, a FES-UA scholarship award amount is calculated as 100 percent of the school districts funding per student in the Level IV or Level V ESE program, including specified categorical funds.[88]

Upon receiving documentation which verifies a student's participation in the scholarship from the SFO, the DOE must transfer, beginning September 1, scholarship funds to the SFO for disbursement to parents of participating FES-UA students.[89] Initial scholarship payments are made after the SFO verifies the student's participation.[90]

While eligible to participate in the FES-UA program, the following types of students are excluded from the maximum program capacity:

- Students who received specialized instructional services under the VPK program during the previous school year;
- Students who are a dependent child of a law enforcement officer or a member of the United States Armed Forces, a foster child, or an adopted child; or
- Students who spent the prior school year in attendance at a Florida public school or received a McKay Scholarship in the 2021-2022 school year.[91]

In the 2022-2023 school year, 67,326 FES-UA scholarships were funded to eligible students with a disability.[92] In the 2023-2024 school year, as of December 20, 2023, 93,682 FES-UA

[84] Section 1002.394(11)(a), F.S.
[85] Section 1002.391(12)(a), F.S.
[86] Section 1002.394(8)(a), (11)(a), (11)(b), and (12)(a), F.S. The department must notify the SFO that scholarships may not be awarded in a school district in which the scholarship award will exceed 99 percent of the school district's share of the state FEFP funds as calculated by the department. Section 1002.394(8)(a)13., F.S.
[87] Section 1002.394(12)(b)2., F.S.; s*ee also* Step Up For Students, *Basic Scholarship Amounts for 2023-24, available at* https://go.stepupforstudents.org/hubfs/Scholarship%20Info/FES-UA-Scholarship-Award-Amounts-2023-24.pdf. (last visited Feb. 16, 2024).
[88] Section 1002.394(12)(b)3., F.S.; s*ee also* Step Up For Students, *Basic Scholarship Amounts for 2023-24, available at* https://go.stepupforstudents.org/hubfs/Scholarship%20Info/FES-UA-Scholarship-Award-Amounts-2023-24.pdf. (last visited Feb. 16, 2024).
[89] Section 1002.394(12)(b)7., F.S. Scholarship payments are made to the SFO on or before September 1, November 1, February 1, and April 1 of each year. Rule 6A-6.0952, F.A.C.
[90] Section 1002.394(12)(b)6., F.S.
[91] Section 1002.394(12)(b)1., F.S.
[92] Email, Department of Education, *2022-23 FES UA by Eligibility and Grade*, (Jan 5, 2024).

scholarships have been funded.[93] The law establishes a cap of $50,000 as the maximum amount a SFO is permitted to maintain in an individual student's education savings account for a FES-UA scholarship.[94]

Family Empowerment Scholarships – Parental and Student Responsibilities

Parents and students receiving an FES-EO scholarship must:

- Select the private school and apply for the admission of his or her student.
- Request the scholarship by a date established by the SFO, in a manner that creates a written or electronic record of the request and the date of receipt of the request.
- Inform the applicable school district when the parent withdraws his or her student from a public school to attend an eligible private school.
- Require his or her student participating in the program to remain in attendance throughout the school year unless excused by the school for illness or other good cause.
- Meet with the private school's principal or the principal's designee to review the school's academic programs and policies, customized educational programs, code of student conduct, and attendance policies prior to enrollment.
- Require that the student participating in the scholarship program takes the norm-referenced assessment offered by the private school.[95]
- Approve each payment before the scholarship funds may be deposited by funds transfer. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant.
- Agree to have the organization commit scholarship funds on behalf of his or her student for tuition and fees for which the parent is responsible for payment at the private school before using account funds for additional authorized uses.[96]

Parents and students receiving an FES-UA scholarship must:

- Apply to an eligible SFO to participate in the program by a date set by the SFO in a manner that creates a written or electronic record of the request and the date of receipt of the request.
- Sign an agreement with the SFO and annually submit a sworn compliance statement to the SFO to satisfy or maintain program eligibility, including eligibility to receive and spend program payments by:
  - Affirming that the student is enrolled in a program that meets regular school attendance requirements.
  - Affirming that the program funds are used only for authorized purposes serving the student's educational needs.
  - Affirming that the parent is responsible for all eligible expenses in excess of the amount of the scholarship and for the education of his or her student by, as applicable:
    - Requiring the student to take a norm-referenced assessment or the statewide, standardized assessment.[97]

[93] Email, Department of Education, *2023-24 FES Unique Abilities*, (Jan 5, 2024).
[94] Section 1002.394(12)(b)10., F.S.
[95] The parent and student may also elect to participate in the statewide, standardized assessment administered by the school district. The parent is responsible for transporting the student to the assessment. Section 1003.394(10)(a)6., F.S.
[96] Section 1003.394(10)(a), F.S.
[97] However, students with disabilities for whom the physician or psychologist who issued the diagnosis or the IEP team determines that standardized testing is not appropriate are exempt from this requirement. Section 1002.394(9)(c), F.S.

- Providing an annual home education program evaluation.
- Requiring the child to take any preassessments and postassessments selected by the provider if the child is 4 years of age and is enrolled in a program provided by an eligible VPK program provider.[98]

- Affirming that the student remains in good standing with the provider or school if those options are selected by the parent.
- Enrolling his or her child in a program from a VPK program provider, a school readiness provider, or an eligible private school if either option is selected by the parent.
- Renewing participation in the program each year.
- Procuring the services necessary to educate the student. [99]

Family Empowerment Scholarships – Authorized Uses

Authorized uses of FES-EO scholarship funds in an education savings account include:

- Tuition and fees at an eligible private school.
- Instructional materials, including digital materials and Internet resources.
- Curriculum, which is a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction.
- Tuition and fees associated with full-time or part-time enrollment in an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, an approved preapprenticeship program, a private tutoring program, a virtual program offered by a department-approved private online provider, the Florida Virtual School as a private paying student, or an approved online course.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contracted services provided by a public school or school district, including classes. A student who receives services under a contract is not considered enrolled in a public school for scholarship eligibility purposes but rather attending a public school on a part-time basis.
- Tuition and fees for part-time tutoring services or fees for services by a choice navigator.[100]

A scholarship in the amount of $750 or an amount equal to the school district expenditure per student riding a bus, whichever is greater, may also be awarded to an eligible public school student enrolled in a Florida public school which is different from the school to which the student was assigned or in a lab school, if the school district does not provide the student with transportation to the school.[101]

A FES-UA scholarship for an eligible student with a disability may be used to cover the following expenses:

[98] A student with disabilities for whom the physician or psychologist who issued the diagnosis or the IEP team determines that a preassessment and postassessment is not appropriate is exempt from this requirement. Section 1003.394(10)(b)2.c.(III), F.S.
[99] If such services include enrollment in an eligible private school, the parent must meet with the private school's principal or the principal's designee to review the school's academic programs and policies, specialized services, code of student conduct, and attendance policies before his or her student is enrolled. Section 1002.394(10)(b)2.g., F.S.
[100] Section 1002.394(4)(a), F.S.
[101] Section 1002.394(12)(a), F.S. The district expenditure per student riding a school bus is the amount determined by the DOE.

- Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices.
- Curriculum, which is a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction.
- Specialized services by approved providers or by a hospital in this state which are selected by the parent. Specialized services may include, but are not limited to, applied behavior analysis services, services provided by speech-language pathologists, occupational therapy services, services provided by physical therapists, or services provided by listening and spoken language specialists.
- Tuition or fees associated with full-time or part-time enrollment in a home education program; an eligible private school; an eligible postsecondary educational institution or a program offered by the postsecondary educational institution; an approved preapprenticeship program; a private tutoring program authorized; a virtual program offered by an approved private online provider; the Florida Virtual School as a private paying student; or an approved online course.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contributions to the Stanley G. Tate Florida Prepaid College Program or the Florida College Savings Program for the benefit of the eligible student.
- Contracted services provided by a public school or school district, including classes.
- Tuition and fees for part-time tutoring services or fees for services provided by a choice navigator.
- Fees for specialized summer education programs or specialized after-school education programs.
- Transition services provided by job coaches.
- Fees for a home education student's annual evaluation of educational progress by a state-certified teacher.
- Tuition and fees for a VPK program or school readiness program offered by an eligible provider.
- Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International.
- Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.[102]

Effect of Proposed Changes

Family Empowerment Scholarships (FES-EO and FES-UA) Eligibility

The bill amends s. 1002.394, F.S., to clarify that the ineligibility of a student based on enrollment in a public school only applies if the student enrolls full-time and that "enrolled in a public school" for the purposes of scholarship eligibility includes enrollment in the Florida School for

[102] Section 1002.394(4)(b), F.S.

Competitive Academics, [103] the Florida Virtual School, [104] and the Florida Scholars Academy. [105] The bill also clarifies that a public school student receiving a scholarship under the New Worlds Scholarship program[106] is authorized to receive a transportation scholarship.

The bill expands eligibility for a FES scholarship to the dependent children of an active duty member of the United States Armed Forces who has received permanent change of station orders to Florida or whose home of record or state of residence, at the time of renewal, is Florida and clarifies that a student need only be 3 or 4 years of age during the year in which his or her parent applies for a FES-UA scholarship.

The bill requires that a scholarship funding organization (SFO) establish a process for parents receiving a Family Empowerment Scholarship (FES) scholarship to renew their participation, beginning with the 2025-2026 school year, with a renewal timeline beginning February 1 and ending April 30 of the prior school year. Renewal must be contingent on confirmation of admission to an eligible private school. The process must require that a parent confirm that the scholarship will be renewed or declined by May 31.

The SFO must establish a process for new FES scholarship applicants, beginning with the 2025-2026 school year, to submit their application beginning no earlier than February 1 of the prior school year until November 15. Applications received by the SFO after this date will be considered, on a first-come-first-served basis, for the following fiscal year. The process must require that a parent confirm that the scholarship will be accepted or declined by December 15.

The bill requires that the SFO, for each renewing scholarship student, verify the student's continued eligibility to participate in the program at least 30 days prior to each quarterly payment. The SFO must submit a verified list of eligible scholarship students to the DOE, by a deadline set by the DOE. Upon receiving the verified list, the DOE must release to the SFO for deposit into the student's account in quarterly payments no later than August 1, November 1, February 1 and April 1.

The bill requires that for new scholarship applicants, the SFO must verify a student's eligibility to participate in the program at least 30 days prior to each quarterly payment. The SFO must submit a verified list of eligible scholarship students to the DOE, by a deadline set by the DOE. Upon receiving the verified list, the DOE must release to the SFO for deposit into the student's account in quarterly payments no later than September 1, November 1, February 1, and April 1.

The following table presents the new and renewal scholarship application process and payment schedule required under the bill:

Type of Application	Scholarship Program	Application Window	Parent must Accept or Decline by	1st Quarterly Payment
NEW	FES-EO and FES-UA	Feb 1 - Nov 15	December 15	September 1
RENEWAL	FES-EO and FES-UA	Feb 1-April 30	May 31	August 1

[103] Section 1002.351, F.S.
[104] Section 1002.37, F.S.
[105] Section 985.619, F.S.
[106] Section 1002.411, F.S.

Parent Responsibilities

The bill clarifies that a parent can only apply for one scholarship at a time, whether under the FES or FTC scholarship programs, and requires a parent applying for, or renewing, an FES to comply with the scholarship application or renewal processes and requirements established by the SFO, including, but not limited to, application and acceptance deadlines as a part of the parents' responsibilities for program participation. A parent forfeits participation in the scholarship program for failure to comply with these responsibilities.

Private School Responsibilities

The bill requires that a participating private school must confirm a student's admission to the private school and provide any other information required by an SFO to process scholarship payments for full-time tuition and fees at the private school. The DOE's release of state funds for any scholarship under FES is contingent on verification that the SFO follows the spend down requirements for eligible contributions under the FTC scholarship program based upon the SFO's submitted verified list of eligible scholarship students.

Scholarship Funding Organization Responsibilities

The bill requires the SFO to make payment for tuition and fees for students enrolled full-time in eligible private schools within 7 days of approval by the parent and private school. Additionally, the bill requires that within 30 days of the release of funds to the SFO, the SFO must report to the DOE the amount of funds distributed for student scholarships. If the amount of funds distributed is less than the amount received by the SFO, the DOE is authorized to adjust the amount of subsequent quarterly payments to account for the overpayment.

FES-EO Scholarship Specific Provisions

The bill expands eligibility for an FES-EO scholarship to the dependent children of an active duty member of the United States Armed Forces who has received permanent change of station orders to Florida. The bill also provides that any student that received a Hope scholarship during the 2023-2024 school year is deemed eligible for an FES-EO scholarship.

The bill clarifies the authorized use of scholarship funds for instructional materials. Specifically, equipment used as instructional materials may only be purchased for subjects in language arts and reading, mathematics, social studies, and science.

The bill requires that an FES-EO scholarship account for a student attending private school full-time must be closed and remaining funds reverted to the state if the student is unenrolled from an eligible private school for 30 days.

FES-UA Scholarship Specific Provisions

The bill increases the cap on the number of eligible FES-UA scholarships to 5 percent of the state's total exceptional student education full-time equivalent student population, not including

gifted students.[107] Additionally, the bill provides an acceleration mechanism whereby the cap will increase by 1 percent for any year where more than 95 percent of the available FES-UA scholarships were funded the prior year.

The bill removes the provision of law relating to the FES-UA wait list as the newly created application and renewal deadlines and required SFO processes provide the framework for handling all FES-UA applications.

The bill expands eligibility for an FES-UA scholarship to the dependent children of an active duty member of the United States Armed Forces who has received permanent change of station orders to Florida, or whose home of record or state of residence, at the time of renewal, is Florida. The bill also specifies that a student need only be 3 or 4 years of age during the year in which his or her parent applies for an FES-UA scholarship, rather than by September 1.
The bill expands the authorized uses for FES-UA scholarship funds to include prekindergarten programs offered by eligible private schools which participate in the state's scholarship programs and offers education to students in any grades K-12.

The bill requires an SFO to notify parents of students receiving a FES-UA scholarship of available state and local services, including, but not limited to, vocational rehabilitation and blind services and defines transition services as a coordinated set of activities which are focused on improving the academic and functional achievement of a student with a disability to facilitate the student's movement from school to post-school activities, based on the specific student's needs.

The bill requires that the parent of a student receiving a FES-UA scholarship that enrolls full-time in a private school, to approve each payment to the eligible private school before scholarship funds may be released to the school. The parent is prohibited from designating any entity or individual associated with the eligible private school as the parent's attorney in fact to approve the transfer. This change aligns the requirements of FES-UA with other scholarship requirements used to pay eligible private school tuition and fees.

The Hope Scholarship Program

Present Situation

In 2018, the Legislature created the Hope Scholarship Program (HSP) to provide the parent of a public school student subjected to a specified incident[108] at school the opportunity to transfer the child to another public school or to request a scholarship for the child to enroll in and attend an eligible private school.[109] A parent may also choose to enroll their child in a public school located outside the district in which the student resides and request a transportation scholarship.[110] The HSP is funded by taxpayers who make eligible contributions to SFOs, and in turn, receive a credit against any tax due as a result of the purchase or acquisition of a motor

[107] In 2022-2023 the total statewide number of students in exceptional student education programs, not including gifted, was 428,213. *Membership in Programs for Exceptional Students, Survey 2, 2022-23, available at* https://www.fldoe.org/core/fileparse.php/7584/urlt/MPES2223.xlsx (Last visited Feb. 16, 2024).
[108] Section 1002.40(3), F.S. A specified incident includes: battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school.
[109] Section 1002.40(1), F.S.
[110] Section 1002.40(6), F.S.

vehicle.[111] Contingent upon available funds, scholarships are awarded on a first-come, first-served basis to eligible students in kindergarten through grade 12 who report an incident to the school principal.[112] Unallocated HSP funds beyond the authorized 5 percent carry forward may be used to fund the FTC Program under certain circumstances.[113]

As of January 8, 2024, 538 HSP scholarships have been funded for the 2023-2024.[114]

Effect of Proposed Changes

The bill amends s. 1002.40, F.S., to repeal the scholarship funding portion of the Hope Scholarship Program (HSP), but maintains requirements for parental notification of the opportunity to enroll at another public school and scholarship eligibility to attend an eligible private school under the Family Empowerment Scholarship (FES) and Florida Tax Credit (FTC) scholarship programs for students subjected to a specified incident, such as bullying or harassment. The bill clarifies that all students who received a HSP scholarship in the 2023-2024 school year are eligible for scholarships under the FTC and FES-EO scholarship programs.

The bill maintains the tax credits created for the HSP and transfers the tax credit revenue to the FTC scholarship program to provide additional funding for scholarships under that program. The bill updates the provisions of law governing eligible contributions to the FTC scholarship program to include those eligible contributions previously allocated to the HSP.

Department of Education and Scholarship Funding Organization Responsibilities

Present Situation

Department of Education Responsibilities

The Department of Education (DOE) must fulfill the following responsibilities for all state scholarship programs:[115]

- Annually verify the private schools eligible to participate.
- Establish a toll-free hotline to provide parents and private schools with information about participating in the scholarship programs.
- Establish a process to allow individuals to notify the DOE of violations of state law relating to a scholarship program.
- Annually receive and retain from every participating private school a notarized, sworn compliance statement certifying compliance with state law.
- Coordinate with the entities conducting the health inspections and fire inspections for private schools to obtain copies of the inspection reports directly from the entities.
- Provide, at no cost to the school, the statewide, standardized assessments and any related materials for administering the assessments.

[111] Section 1002.40(2)(d) and (13), F.S.
[112] Section 1002.40(3) and (6), F.S.
[113] *See* s. 1002.40(13), F.S.
[114] Email, Step Up for Students (January 8, 2024).
[115] Section 1002.421(2)(a), F.S.

- Conduct site visits to schools entering a scholarship program for the first time. A school is not eligible to receive scholarship funds until a satisfactory site visit is completed and the school complies with all other requirements in law.
- Maintain, and annually publish, a list of nationally norm-referenced tests identified for purposes of satisfying scholarship program assessment requirements.[116]

The DOE is authorized to conduct site visits to any private school participating in a state scholarship program that has received a complaint about a violation of state law or SBE rule or has received a notice of noncompliance or a notice of proposed action within the previous two years.[117] The DOE must annually submit, by December 15, a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which describes its implementation of the accountability measures in the scholarship programs, any substantiated allegations or violations of law or rule by a private school, and the corrective action taken.[118]

The DOE is required to issue a project grant award to a state university, to which participating private schools and Scholarship Funding Organizations (SFO) must report the scores of participating scholarship students and personalized education plan (PEP) students, respectively, on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10. The state university must annually report to the DOE on the student performance of participating students and, beginning with the 2027-2028 school year, on the performance of PEP students:

- On a statewide basis, the report is required to include, to the extent possible, a comparison of scholarship students' performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program.
- On an individual school basis, the annual report is required to include student performance for each participating private school with any enrolled students participating in the FTC, Family Empowerment Scholarship for students attending private school (FES-EO), or HSP program in the prior school year.[119]

The DOE must report, as part of the determination of full-time equivalent membership, all students who are receiving a Family Empowerment Scholarship (FES) scholarship program and are funded in the FEFP. The DOE must inform SFOs that students may not be submitted for FES funding after February 1, each year.[120] To assist school districts in their budgeting processes, the DOE must report to school districts the consensus estimate of FTC and FES-EO enrollment in the subsequent school year.[121]

[116] Section 1002.421(2)(a), F.S.
[117] Section 1002.421(2)(b), F.S.
[118] Section 1002.421(2)(c), F.S.
[119] Section 1002.395(9)(f), F.S.
[120] Section 1002.394(8)(a), F.S.
[121] Section 1002.394(8)(c), F.S.

Scholarship Funding Organization Responsibilities

Florida's scholarship programs are administered by DOE-approved SFOs.[122] The DOE is required to have at least two application periods each year in which charitable organizations may apply to participate in the Florida's scholarship programs.[123] A SFO must be a state university; or an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is a Florida based charitable organization that complies with scholarship program requirements.[124] There are currently two SFOs approved to administer the FES-EO, the FES-UA, the FTC, the HSP, and the New Worlds Scholarship programs.[125]
Each SFO administering FES scholarships is required to submit a quarterly report to the DOE containing, at a minimum the following:

- The number of students participating in the program;
- The demographics of program participants;
- The disability category of program participants;
- The matrix level of services, if known;
- The program award amount per student;
- The total expenditures for the FES-UA authorized purposes;
- The types of providers of services to students; and
- Any other information deemed necessary by the department.[126]

Each SFO administering FTC scholarships is required to submit a quarterly report to the DOE containing, at a minimum the following:

- The number of students participating in the program;
- The private schools at which participating students are enrolled; and
- Any other information deemed necessary by the department.[127]

A SFO administering FTC and FES-EO scholarships is required to expend an amount equal to or greater than 75 percent of all estimated net eligible contributions, and all funds carried forward from the prior state fiscal year remaining after administrative expenses before funding any FES-EO scholarships. No more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year.[128]

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[122] Florida Department of Education, *Scholarship Funding Organizations*, https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/ (last visited Feb. 16, 2024).
[123] Section 1002.395(15), F.S.
[124] Section 1002.395(2)(g), F.S.
[125] Florida Department of Education, *Scholarship Funding Organizations*, https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/ (last visited Feb. 16, 2024). Specifically, the A.A.A. Scholarship Foundation administers FTC, FES-EO, PEP, and FES-UA scholarships while Step Up for Students administers FTC, PEP, FES-EO, FES-UA, HOPE, and New Worlds Scholarship Program scholarships. *See* A.A.A. Scholarship Foundation, *Florida Parents*, https://www.aaascholarships.org/parents/florida/ (last visited Feb. 16, 2024) and Step Up For Students, *Scholarships to Give Florida Students Educational* Options, https://www.stepupforstudents.org/scholarships/ (last visited Feb. 16, 2024).
[126] Section 1002.394(8)(a)11., F.S.
[127] Section 1002.395(9)(i), F.S.
[128] Section 1002.395(6)(l)2., F.S.

As a part of their duties of management and distribution of scholarships, a SFO is authorized to use, from tax credit contributions received, up to 3 percent of the total amount of scholarships funded by the SFO for administrative expenses.[129]

To provide guidance to scholarship recipients on allowable expenditures under Florida's scholarship programs, SFOs must participate in a joint development of agreed-upon purchasing guidelines. The jointly developed purchasing guidelines must be provided to the commissioner and published to the SFO's website by December 31, 2023, and annually thereafter. The guidelines remain in effect until there is unanimous agreement to revise the guidelines, which must be provided to the commissioner and published within 30 days of any such revisions.[130]

Effect of Proposed Changes

Department of Education Responsibilities

The bill amends sections 1002.395 and 1002.394, F.S., to require that the Department of Education (DOE) notify all Scholarship Funding Organizations (SFO) of the deadlines for submitting the verified list of scholarship students and clarifies that in conducting its cross-check of the list of scholarship students provided by a SFO, the DOE must use the full-time equivalent student membership data to avoid duplication.

The bill updates the requirements for the annual report the DOE must require from SFOs to include the following information:

- The number of scholarship applications received, the number of applications processed within 30 days after receipt, and the number of incomplete applications received.
- Data related to reimbursement submissions, including the average number of days for a reimbursement to be reviewed and approved.
- Any parent input and feedback collected regarding the program.

Scholarship Funding Organization Responsibilities

The bill amends sections 1002.395 and 1002.394, F.S., to require each SFO establish a process to collect input and feedback from parents, private schools, and providers before implementing substantial modifications or enhancements to the reimbursement process.

For an SFO administering the FTC scholarship program, the bill requires that a SFO annually expend 100 percent of any eligible contributions from the prior fiscal year and at least 75 percent of eligible contributions during the fiscal year in which they are received.

The bill requires that the calculation of the 25 percent authorized to be carried forward occur on June 30, rather than September 30, as previously authorized. Any funds that are in excess of the authorized 25 percent must be used to provide scholarships or transferred to other SFOs to provide scholarships. The early deadline provided for in the bill will assist in getting available

[129] Sections 1003.394(11)(a)4. and 1003.395(6)(j)1., F.S. For SFOs offering FTC scholarships, the organization may use eligible contributions for administrative expenses only if they have had no findings of material weakness or material noncompliance in its annual financial audit for the preceding 3 fiscal years. Section 1003.395(6)(j)1., F.S.
[130] Section 1002.395(6)(t), F.S.

funds to a SFO that can use them for scholarships earlier. These changes will maximize the number of FTC scholarships awarded prior to the award of FES-EO scholarships.

The bill clarifies that new scholarships are awarded on a first-come, first served basis unless income prioritization is selected. The SFO is only required to verify income of parents seeking a priority award.

The bill clarifies the prohibition on an SFO owner or operator also owning or operating a participating private school or for his or her child to receive a choice scholarship.

The bill revises the requirements for the development of purchasing guidelines by requiring the joint-development of such guidelines for FTC and FES-EO by all approved SFOs and requiring that all SFOs assist the Florida Center for Students with Unique Abilities with the development of purchasing guidelines for FES-UA scholarships and to publish the guidelines on the SFO website.

The bill authorizes a charitable organization seeking to be an approved SFO to apply with the DOE at any time, rather than the previous requirement that the DOE have at least two application periods.

Florida Center for Students with Unique Abilities

Present Situation

The responsibilities of the Florida Center for Students with Unique Abilities (center) include, but are not limited to disseminating information regarding: education programs, services and resources available at eligible institutions; supports, accommodations, technical assistance or training provided by eligible institutions, the advisory council or regional autism centers; and mentoring, networking and employment opportunities; and coordinating, facilitating and overseeing statewide implementation of the Florida Postsecondary Comprehensive Transition Program (FPCTP).[131]

The center provides technical assistance regarding programs and services for students with intellectual disabilities to administrators, instructors and staff at eligible institutions by holding meetings and annual workshops, facilitating collaboration between institutions and school districts, private schools, and parents of students enrolled in home education programs, assisting eligible institutions with applications, and monitoring federal and state law relating to the program.[132]

Effect of Proposed Changes

The bill amends s.1004.6495, F.S., to require that, effective upon becoming law, the Florida Center for Students with Unique Abilities, in collaboration with scholarship funding organizations (SFO) and scholarship parents of a student with a disability develop the purchasing guidelines to be used by the SFOs administering FES-UA scholarships. The initial purchasing

[131] Section 1004.6495(5)(a)-(b), F.S.
[132] Section 1004.6495(5)(d), F.S.

guidelines must be published by July 1, 2024, and, thereafter, revised guidelines must be published annually by July 1.

Virtual Instruction Programs

Present Situation

Virtual instruction programs are programs of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time, space, or both.[133] Under Florida law,[134] a school district must establish multiple opportunities for student participation in part-time and full-time kindergarten through grade 12 virtual instruction. Options include, but are not limited to:

- School district operated part-time or full-time virtual instruction programs for kindergarten through grade 12 students enrolled in the school district. A full-time program must operate under its own Master School Identification Number.
- Florida Virtual School instructional services.
- Blended learning instruction provided by charter schools.
- Virtual charter school instruction.
- Courses delivered in the traditional school setting by personnel providing direct instruction through virtual instruction or through blended learning courses consisting of both traditional classroom and online instructional techniques.
- Virtual courses offered in the course code directory to students within the school district or to students in other school districts throughout the state.[135]

School districts are required to provide at least one option for part-time and full-time virtual instruction for students residing within the school district. School districts must also provide parents with timely written notification of at least one open enrollment period for full-time students of 90 days or more which ends 30 days before the first day of the school year.[136] The DOE must annually publish on its website a list of providers approved by the SBE to offer virtual instruction programs in this state. To be approved, a virtual instruction program provider must document that it is nonsectarian in its programs, admission policies, employment practices, and operations.[137]

Effect of Proposed Changes

The bill amends s. 1002.45, F.S., to remove the requirement for a virtual provider to document that it is nonsectarian in its programs, admission policies, employment practices, and operations.

The bill takes effect July 1, 2024, except as otherwise expressly provided.

[133] Section 1002.45(1)(a)3, F.S.
[134] Chapter 2011-137, L.O.F.
[135] Section 1002.321(3), F.S.
[136] Section 1002.45(1)(b), F.S.
[137] Section 1002.45(2)(a), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill changes the annual increase of the maximum number of students participating, or cap, in the FES-UA program from 3 percent to 5 percent of the state's total exceptional student education full-time equivalent student membership, not including gifted students.[138]

During Special Session 2023C, HB 3C became chapter 2023-350, Laws of Florida, which amended the cap for Fiscal Year 2023-2024 to the number of students the scholarship-funding organizations (SFO) and the Department of Education (DOE) determined eligible. The deadline for applying for a Fiscal Year 2023-2024 FES-UA scholarship was December 15, 2023. As of December 20, 2023, the Department of Education provided

[138] Section 1002.394(12)(b), F.S., exempts the following types of student from the maximum number of students requirement: (1) students who received instructional services under the Voluntary Prekindergarten Education program during the previous school year and have a current IEP, (2) is a dependent child of a law enforcement officer or a member of the United States Armed Forces, a foster child, or an adopted child, or spent the prior school year in attendance at a Florida public school.

scholarship payment data that shows 45,039 FES-UA scholarships that are included in the cap have been funded. It is expected that this number will increase once the SFOs and the DOE have completed their respective review and eligibility verification; however, for purposes of this fiscal analysis, 45,039 scholarships have been used.

Estimated Fiscal Impact of the Bill	
Changing the 3 percent annual increase to 5 percent	$106.0 million
Estimated Number of Students Within Cap for Fiscal Year 2024-2025	70,772

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.1832, 213.053, 1002.394, 1002.395, 1002.40, 1002.421, 1002.45, 1003.4156, 1003.4282, 1003.485, and 1004.6495.

IX. Additional Information:

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

None.

B. Amendments:

None.

By the Committee on Education Pre-K -12

581-02693-24 20247048__

A bill to be entitled

An act relating to education; amending s. 212.1832, F.S.; providing definitions; expanding the credit contributions for eligible nonprofit scholarship-funding organizations; providing requirements for such contributions; providing requirements for dealers, designated agents, private tag agents, and such organizations relating to such contributions; providing criminal penalties; requiring persons convicted of a specified offense to make restitutions to certain eligible nonprofit scholarship-funding organizations; requiring the Department of Revenue to notify affected organizations of specified dealer information under certain circumstances; providing penalties for certain dealers, designated agents, private tag agents, and such organizations; amending s. 213.053, F.S.; conforming cross-references to changes made by the act; amending s. 1002.394, F.S.; revising eligibility requirements for the Family Empowerment Scholarship Program; providing that equipment used as instructional materials may only be purchased for specified academic subjects; providing that transition services are a coordinated set of specified activities; authorizing funds to be used for certain prekindergarten programs; prohibiting certain eligible students from enrolling in public schools; providing an exemption to a prohibition against receiving other educational scholarships; providing additional criteria for the closure of scholarship

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accounts and the reversion of funds to the state; revising the information that such organizations must include in their quarterly reports; authorizing the Department of Education to provide guidance to certain private schools; revising the documentation that private schools must provide to such organizations; revising the process for parents to provide certain notification to such organizations; prohibiting a parent from applying for multiple scholarships under specified programs for a single student at the same time; requiring such organizations to establish certain processes; requiring such organizations to submit specified information to the department; deleting a requirement that certain students be placed on a wait list; requiring such organizations to provide certain notification to parents; revising provisions relating to a specified administrative fee; revising provisions relating to increasing the number of certain scholarships; revising provisions relating to the payment and disbursement of funds; amending s. 1002.395, F.S.; revising eligibility requirements for the Florida Tax Credit Scholarship Program; prohibiting certain eligible students from enrolling in public schools; providing an exemption to a prohibition against receiving other educational scholarships; providing that equipment used as instructional materials may only be purchased for specified academic subjects; revising the process for parents to provide certain notification to such

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

organizations; prohibiting a parent from applying for multiple scholarships under specified programs for a single student at the same time; requiring such organizations to establish certain processes; requiring such organizations to assist the Florida Center for Students with Unique Abilities with the development of specified guidelines and to publish such guidelines on their websites; revising department notification requirements; revising the information that such organizations must include in their quarterly reports; revising provisions relating to the payment and disbursement of funds; authorizing a charitable organization to apply at any time to participate in the program as a scholarship-funding organization; amending s. 1002.40, F.S.; revising requirements for the Hope Scholarship Program; amending s. 1002.421, F.S.; revising requirements for regular and direct contact for certain students; amending s. 1002.45, F.S.; deleting a requirement that virtual instruction program providers be nonsectarian; amending s. 1003.4156, F.S.; providing that certain requirements apply to middle grade students transferring from a personalized education program; amending s. 1003.4282, F.S.; providing that certain requirements apply to high school students transferring from a personalized education program; amending s. 1003.485, F.S.; conforming cross-references to changes made by the act; amending s. 1004.6495, F.S.; requiring the Florida Center for

Students with Unique Abilities to develop specified purchasing guidelines by a specified date and annually revise such guidelines; providing requirements for the development and revision of such guidelines; requiring that such guidelines be provided to specified eligible nonprofit scholarship-funding organizations; providing effective dates.

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

Section 1. Section 212.1832, Florida Statutes, is amended to read:

212.1832 Credit for contributions to eligible nonprofit scholarship-funding organizations.—

(1) As used in this section, the term:

(a) "Designated agent" has the same meaning as in s. 212.06(10).

(b) "Eligible contribution" or "contribution" means a monetary contribution from a person purchasing a motor vehicle, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. The person making the contribution may not designate a specific student as the beneficiary of the contribution.

(c) "Eligible nonprofit scholarship-funding organization" or "organization" has the same meaning as in s. 1002.395(2).

(d) "Motor vehicle" has the same meaning as in s. 320.01(1)(a), but does not include a heavy truck, truck tractor, trailer, or motorcycle.

(2)~~(1)~~ The purchaser of a motor vehicle shall be granted a

credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization under this section ~~s. 1002.40~~ against any tax imposed by the state under this chapter and collected from the purchaser by a dealer, designated agent, or private tag agent as a result of the purchase or acquisition of a motor vehicle, except that a credit may not exceed the tax that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Each eligible contribution is limited to a single payment of $105 per motor vehicle purchased at the time of purchase of a motor vehicle or a single payment of $105 per motor vehicle purchased at the time of registration of a motor vehicle that was not purchased from a dealer, except that a contribution may not exceed the state tax imposed under this chapter that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Payments of contributions shall be made to a dealer at the time of purchase of a motor vehicle or to a designated agent or private tag agent at the time of registration of a motor vehicle that was not purchased from a dealer. An eligible contribution shall be accompanied by a contribution election form provided by the Department of Revenue. The form shall include, at a minimum, the following brief description of the Florida Tax Credit Scholarship Program: "THE FLORIDA TAX CREDIT SCHOLARSHIP PROGRAM PROVIDES A STUDENT THE OPPORTUNITY TO APPLY FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE PRIVATE SCHOOL OR PERSONALIZE HIS OR HER EDUCATION." The form shall also include, at a minimum, a section allowing the consumer to designate, from all participating scholarship-funding organizations, which organization will

receive his or her donation. For purposes of this subsection, the term "purchase" does not include the lease or rental of a motor vehicle.

(3) ~~(2)~~ A dealer shall take a credit against any tax imposed by the state under this chapter on the purchase of a motor vehicle in an amount equal to the credit granted to the purchaser under subsection (2) ~~(1)~~.

(a) A dealer, designated agent, or private tag agent shall:

1. Provide the purchaser the contribution election form, as provided by the department, at the time of purchase of a motor vehicle or at the time of registration of a motor vehicle that was not purchased from a dealer.

2. Collect eligible contributions.

3. Using a form provided by the department, which shall include the dealer's or agent's federal employer identification number, remit to an organization no later than the date the return filed pursuant to s. 212.11 is due the total amount of contributions made to that organization and collected during the preceding reporting period. Using the same form, the dealer or agent shall also report this information to the department no later than the date the return filed pursuant to s. 212.11 is due.

4. Report to the department on each return filed pursuant to s. 212.11 the total amount of credits granted under this section for the preceding reporting period.

(b) An eligible nonprofit scholarship-funding organization shall report to the department, on or before the 20th day of each month, the total amount of contributions received pursuant to paragraph (a) in the preceding calendar month on a form

provided by the department. Such report shall include:

1. The federal employer identification number of each designated agent, private tag agent, or dealer who remitted contributions to the organization during that reporting period.

2. The amount of contributions received from each designated agent, private tag agent, or dealer during that reporting period.

(c) A person who, with the intent to unlawfully deprive or defraud the program of its moneys or the use or benefit thereof, fails to remit a contribution collected under this section is guilty of theft, punishable as follows:

1. If the total amount stolen is less than $300, the offense is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Upon a second conviction, the offender commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Upon a third or subsequent conviction, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the total amount stolen is $300 or more, but less than $20,000, the offense is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. If the total amount stolen is $20,000 or more, but less than $100,000, the offense is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. If the total amount stolen is $100,000 or more, the offense is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A person convicted of an offense under paragraph (c)

shall be ordered by the sentencing judge to make restitution to the organization in the amount that was stolen from the program.

(e) Upon a finding that a dealer failed to remit a contribution under subparagraph (a)3. for which the dealer claimed a credit pursuant to this subsection, the department shall notify the affected organizations of the dealer's name, address, federal employer identification number, and information related to differences between credits taken by the dealer pursuant to this subsection and amounts remitted to the eligible nonprofit scholarship-funding organization under subparagraph (a)3.

(f) Any dealer, designated agent, private tag agent, or organization that fails to timely submit reports to the department as required in paragraphs (a) and (b) is subject to a penalty of $1,000 for every month, or part thereof, the report is not submitted, up to a maximum amount of $10,000. Such penalty shall be collected by the department and shall be transferred into the General Revenue Fund. Such penalty must be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not due to willful negligence, willful neglect, or fraud.

(4) ~~(3)~~ For purposes of the distributions of tax revenue under s. 212.20, the department shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received that is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. Section 1002.395 applies ~~The provisions of s. 1002.40 apply~~ to the credit authorized by this section.

Section 2. Paragraph (a) of subsection (22) of section

213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(22)(a) The department may provide to an eligible nonprofit scholarship-funding organization, as defined in s. 1002.395 ~~s. 1002.40~~, a dealer's name, address, federal employer identification number, and information related to differences between credits taken by the dealer pursuant to s. 212.1832(2) and amounts remitted to the eligible nonprofit scholarship-funding organization pursuant to s. 212.1832(3)(a)3. ~~under s. 1002.40(13)(b)3.~~ The eligible nonprofit scholarship-funding organization may use the information for purposes of recovering eligible contributions designated for that organization that were collected by the dealer but never remitted to the organization.

Section 3. Subsections (3) and (4), paragraphs (a), (b), and (c) of subsection (5), paragraphs (a), (c), and (d) of subsection (6), paragraph (d) of subsection (7), paragraph (a) of subsection (8), paragraph (b) of subsection (9), and subsections (10), (11), (12), and (16) of section 1002.394, Florida Statutes, as amended by chapter 2023-350, Laws of Florida, are amended, and paragraph (d) is added to subsection (8) of that section, to read:

1002.394 The Family Empowerment Scholarship Program.—

(3) SCHOLARSHIP ELIGIBILITY.—

(a)1. A parent of a student may apply for ~~request~~ and receive from the state a scholarship for the purposes specified in paragraph (4)(a) if the student:

a. Is a resident of this state or the dependent child of an active duty member of the United States Armed Forces who has

received permanent change of station orders to this state; and

b. Is eligible to enroll in kindergarten through grade 12 in a public school in this state or received a scholarship under the Hope Scholarship Program in the 2023-2024 school year.

2. Priority must be given in the following order:

a. A student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

b. A student whose household income level exceeds 185 percent of the federal poverty level, but does not exceed 400 percent of the federal poverty level.

(b) A parent of a student with a disability may apply for ~~request~~ and receive from the state a scholarship for the purposes specified in paragraph (4)(b) if the student:

1. Is a resident of this state or the dependent child of an active duty member of the United States Armed Forces who has received permanent change of station orders to this state or, at the time of renewal, whose home of record or state of legal residence is Florida;

2. Is 3 or 4 years of age during ~~on or before September 1 of~~ the year in which the student applies for program participation or is eligible to enroll in kindergarten through grade 12 in a public school in this state;

3. Has a disability as defined in subsection (2); and

4. Is the subject of an IEP written in accordance with rules of the State Board of Education or with the applicable rules of another state or has received a diagnosis of a disability from a physician who is licensed under chapter 458 or chapter 459, a psychologist who is licensed under chapter 490,

or a physician who holds an active license issued by another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

~~(c) An approved student who does not receive a scholarship must be placed on the wait list in the order in which the student is approved. An eligible student who does not receive a scholarship within the fiscal year must be retained on the wait list for the subsequent year.~~

(4) AUTHORIZED USES OF PROGRAM FUNDS.—

(a) Program funds awarded to a student determined eligible pursuant to paragraph (3)(a) may be used for:

1. Tuition and fees at an eligible private school.

2. Transportation to a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned or to a lab school as defined in s. 1002.32.

3. Instructional materials, including digital materials and Internet resources. Equipment used as instructional materials may only be purchased for subjects in language arts and reading, mathematics, social studies, and science.

4. Curriculum as defined in subsection (2).

5. Tuition and fees associated with full-time or part-time enrollment in an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, unless the program is subject to s. 1009.25 or reimbursed pursuant to s. 1009.30; an approved preapprenticeship program as defined in s. 446.021(5) which is not subject to s. 1009.25 and complies with all applicable requirements of the department pursuant to chapter 1005; a private tutoring program

authorized under s. 1002.43; a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a); the Florida Virtual School as a private paying student; or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

6. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

7. Contracted services provided by a public school or school district, including classes. A student who receives contracted services under this subparagraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (6) but rather attending a public school on a part-time basis as authorized under s. 1002.44.

8. Tuition and fees for part-time tutoring services or fees for services provided by a choice navigator. Such services must be provided by a person who holds a valid Florida educator's certificate pursuant to s. 1012.56, a person who holds an adjunct teaching certificate pursuant to s. 1012.57, a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given, a person who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5), or a person certified by a nationally or internationally recognized research-based training program as approved by the department. As used in this subparagraph, the term "part-time tutoring services" does not qualify as regular school attendance as defined in s. 1003.01(16)(e).

(b) Program funds awarded to a student with a disability determined eligible pursuant to paragraph (3)(b) may be used for the following purposes:

1. Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices.

2. Curriculum as defined in subsection (2).

3. Specialized services by approved providers or by a hospital in this state which are selected by the parent. These specialized services may include, but are not limited to:

a. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.

b. Services provided by speech-language pathologists as defined in s. 468.1125(8).

c. Occupational therapy as defined in s. 468.203.

d. Services provided by physical therapists as defined in s. 486.021(8).

e. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who has a hearing impairment, including deafness, and who has received an implant or assistive hearing device.

4. Tuition and fees associated with full-time or part-time enrollment in a home education program; an eligible private school; an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, unless the program is subject to s. 1009.25 or reimbursed pursuant to s. 1009.30; an approved preapprenticeship program as

defined in s. 446.021(5) which is not subject to s. 1009.25 and complies with all applicable requirements of the department pursuant to chapter 1005; a private tutoring program authorized under s. 1002.43; a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a); the Florida Virtual School as a private paying student; or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

5. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

6. Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98 or the Florida College Savings Program pursuant to s. 1009.981 for the benefit of the eligible student.

7. Contracted services provided by a public school or school district, including classes. A student who receives services under a contract under this paragraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (6) but rather attending a public school on a part-time basis as authorized under s. 1002.44.

8. Tuition and fees for part-time tutoring services or fees for services provided by a choice navigator. Such services must be provided by a person who holds a valid Florida educator's certificate pursuant to s. 1012.56, a person who holds an adjunct teaching certificate pursuant to s. 1012.57, a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given, a person who has

demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5), or a person certified by a nationally or internationally recognized research-based training program as approved by the department. As used in this subparagraph, the term "part-time tutoring services" does not qualify as regular school attendance as defined in s. 1003.01(16)(e).

9. Fees for specialized summer education programs.

10. Fees for specialized after-school education programs.

11. Transition services provided by job coaches. Transition services are a coordinated set of activities which are focused on improving the academic and functional achievement of a student with a disability to facilitate the student's movement from school to postschool activities and are based on the student's needs.

12. Fees for an annual evaluation of educational progress by a state-certified teacher under s. 1002.41(1)(f), if this option is chosen for a home education student.

13. Tuition and fees associated with programs offered by Voluntary Prekindergarten Education Program providers approved pursuant to s. 1002.55, ~~and~~ school readiness providers approved pursuant to s. 1002.88, and prekindergarten programs offered by an eligible private school.

14. Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International.

15. Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.

(5) TERM OF SCHOLARSHIP.—For purposes of continuity of

educational choice:

(a)1. A scholarship funded ~~awarded~~ to an eligible student pursuant to paragraph (3)(a) shall remain in force until:

a. The organization determines that the student is not eligible for program renewal;

b. The Commissioner of Education suspends or revokes program participation or use of funds;

c. The student's parent has forfeited participation in the program for failure to comply with subsection (10);

d. The student, who uses the scholarship for tuition and fees pursuant to subparagraph (4)(a)1., enrolls in a public school. However, if a student enters a Department of Juvenile Justice detention center for a period of no more than 21 days, the student is not considered to have returned to a public school on a full-time basis for that purpose; or

e. The student graduates from high school or attains 21 years of age, whichever occurs first.

2.a. The student's scholarship account must be closed and any remaining funds shall revert to the state after:

(I) Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services received pursuant to paragraph (4)(a); ~~or~~

(II) Two consecutive fiscal years in which an account has been inactive; or

(III) A student remains unenrolled in an eligible private school for 30 days while receiving a scholarship that requires full-time enrollment.

b. Reimbursements for program expenditures may continue until the account balance is expended or remaining funds have reverted to the state.

(b)1. A scholarship funded ~~awarded~~ to an eligible student pursuant to paragraph (3)(b) shall remain in force until:

a. The parent does not renew program eligibility;

b. The organization determines that the student is not eligible for program renewal;

c. The Commissioner of Education suspends or revokes program participation or use of funds;

d. The student's parent has forfeited participation in the program for failure to comply with subsection (10);

e. The student enrolls full time in a public school; or

f. The student graduates from high school or attains 22 years of age, whichever occurs first.

2. Reimbursements for program expenditures may continue until the account balance is expended or the account is closed.

3. A student's scholarship account must be closed and any remaining funds, including, but not limited to, contributions made to the Stanley G. Tate Florida Prepaid College Program or earnings from or contributions made to the Florida College Savings Program using program funds pursuant to subparagraph (4)(b)6., shall revert to the state after:

a. Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services received pursuant to subsection (4);

b. Any period of 3 consecutive years after high school

completion or graduation during which the student has not been enrolled in an eligible postsecondary educational institution or a program offered by the institution; or

c. Two consecutive fiscal years in which an account has been inactive.

(c) Upon reasonable notice to the organization and the school district, the student's parent may remove the student from the participating private school and place the student in a public school in accordance with this section.

(6) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a Family Empowerment Scholarship while he or she is:

(a) Enrolled full time in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, the Florida School for Competitive Academics, the Florida Virtual School, the Florida Scholars Academy, a developmental research school authorized under s. 1002.32, or a charter school authorized under this chapter. For purposes of this paragraph, a 3- or 4-year-old child who receives services funded through the Florida Education Finance Program is considered to be a student enrolled in a public school;

(c) Receiving any other educational scholarship pursuant to this chapter. However, an eligible public school student receiving a scholarship under s. 1002.411 may receive a scholarship for transportation pursuant to subparagraph (4)(a)2.;

(d) Not having regular and direct contact with his or her private school teachers pursuant to s. 1002.421(1)(i), unless he or she is eligible pursuant to paragraph (3)(b) and enrolled in

the participating private school's transition-to-work program pursuant to subsection (16) or a home education program pursuant to s. 1002.41;

(7) SCHOOL DISTRICT OBLIGATIONS.—

(d) Upon the request of the department, a school district shall coordinate with the department to provide to a participating private school the statewide assessments administered under s. 1008.22 and any related materials for administering the assessments. For a student who participates in the Family Empowerment Scholarship Program whose parent requests that the student take the statewide assessments under s. 1008.22, the district in which the student attends a participating private school shall provide locations and times to take all statewide assessments. A school district is responsible for implementing test administrations at a participating private school, including the:

1. Provision of training for private school staff on test security and assessment administration procedures;

2. Distribution of testing materials to a private school;

3. Retrieval of testing materials from a private school;

4. Provision of the required format for a private school to submit information to the district for test administration and enrollment purposes; and

5. Provision of any required assistance, monitoring, or investigation at a private school.

(8) DEPARTMENT OF EDUCATION OBLIGATIONS.—

(a) The department shall:

1. Publish and update, as necessary, information on the department website about the Family Empowerment Scholarship

Program, including, but not limited to, student eligibility criteria, parental responsibilities, and relevant data.

2. Report, as part of the determination of full-time equivalent membership pursuant to s. 1011.62(1)(a), all scholarship students ~~who are receiving a scholarship under the program and are~~ funded through the Florida Education Finance Program, and cross-check the list of ~~participating~~ scholarship students submitted by the eligible nonprofit scholarship-funding organization with the full-time equivalent student membership survey data ~~public school enrollment lists~~ to avoid duplication.

3. Maintain and annually publish a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (9)(c)1. The tests must meet industry standards of quality in accordance with state board rule.

4. Notify eligible nonprofit scholarship-funding organizations of the deadlines for submitting the verified list of eligible scholarship students ~~determined to be eligible for a scholarship~~. ~~An eligible nonprofit scholarship-funding organization may not submit a student for funding after February 1.~~

5. Deny or terminate program participation upon a parent's failure to comply with subsection (10).

6. Notify the parent and the organization when a scholarship account is closed and program funds revert to the state.

7. Notify an eligible nonprofit scholarship-funding organization of any of the organization's or other organization's identified students who are receiving

scholarships under this chapter.

8. Maintain on its website a list of approved providers as required by s. 1002.66, eligible postsecondary educational institutions, eligible private schools, and eligible organizations and may identify or provide links to lists of other approved providers.

9. Require each organization to verify eligible expenditures before the distribution of funds for any expenditures made pursuant to subparagraphs (4)(b)1. and 2. Review of expenditures made for services specified in subparagraphs (4)(b)3.-15. may be completed after the purchase is made.

10. Investigate any written complaint of a violation of this section by a parent, a student, a participating private school, a public school, a school district, an organization, a provider, or another appropriate party in accordance with the process established under s. 1002.421.

11. Require quarterly reports by an organization, which must include, at a minimum, the number of students participating in the program; the demographics of program participants; the disability category of program participants; the matrix level of services, if known; the program award amount per student; the total expenditures for the purposes specified in paragraph (4)(b); the types of providers of services to students; the number of scholarship applications received, the number of applications processed within 30 days after receipt, and the number of incomplete applications received; data related to reimbursement submissions, including the average number of days for a reimbursement to be reviewed and the average number of

days for a reimbursement to be approved; any parent input and feedback collected regarding the program; and any other information deemed necessary by the department.

12. Notify eligible nonprofit scholarship-funding organizations that scholarships may not be awarded in a school district in which the award will exceed 99 percent of the school district's share of state funding through the Florida Education Finance Program as calculated by the department.

13. Adjust payments to eligible nonprofit scholarship-funding organizations and, when the Florida Education Finance Program is recalculated, adjust the amount of state funds allocated to school districts through the Florida Education Finance Program based upon the results of the cross-check completed pursuant to subparagraph 2.

(d) The department may provide guidance to a participating private school that submits a transition-to-work program plan pursuant to subsection (16).

(9) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be eligible to participate in the Family Empowerment Scholarship Program, a private school may be sectarian or nonsectarian and must:

(b) Provide to the organization all documentation required for a student's participation, including confirmation of the student's admission to the private school, the private school's and student's fee schedules, and any other information required by the organization to process scholarship payment under subparagraph (12)(a)4. Such information must be provided by the deadlines established by the organization and in accordance with the requirements of this section ~~at least 30 days before any~~

~~quarterly scholarship payment is made for the student pursuant to paragraph (12)(a)~~. A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet the ~~this~~ deadline.

If a private school fails to meet the requirements of this subsection or s. 1002.421, the commissioner may determine that the private school is ineligible to participate in the scholarship program.

(10) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—

(a) A parent who applies for a scholarship ~~applies for program participation~~ under paragraph (3)(a) whose student will be enrolled full time in an eligible ~~a~~ private school must:

1. Select an eligible ~~the~~ private school and apply for the admission of his or her student.

2. Request the scholarship by the ~~a~~ date established by the organization~~,~~ in a manner that creates a written or electronic record of the request and the date of receipt of the request.

3.a. Beginning with new applications for the 2025-2026 school year and thereafter, notify the organization by December 15 that the scholarship is being accepted or declined.

b. Beginning with renewal applications for the 2025-2026 school year and thereafter, notify the organization by May 31 that the scholarship is being renewed or declined.

4.~~3.~~ Inform the applicable school district when the parent withdraws his or her student from a public school to attend an eligible private school.

5.~~4.~~ Require his or her student participating in the

program to remain in attendance at the eligible private school throughout the school year unless excused by the school for illness or other good cause.

6.~~5.~~ Meet with the eligible private school's principal or the principal's designee to review the school's academic programs and policies, specialized services, code of student conduct, and attendance policies before enrollment.

7.~~6.~~ Require his or her ~~that the~~ student participating in the ~~scholarship~~ program to take ~~takes~~ the norm-referenced assessment offered by the eligible private school. The parent may also choose to have the student participate in the statewide assessments pursuant to paragraph (7)(d). If the parent requests that the student participating in the program take all statewide assessments required pursuant to s. 1008.22, the parent is responsible for transporting the student to the assessment site designated by the school district.

8.~~7.~~ Approve each payment before the scholarship funds may be deposited by funds transfer pursuant to subparagraph (12)(a)4. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to approve a funds transfer. A participant who fails to comply with this paragraph forfeits the scholarship.

9.~~8.~~ Agree to have the organization commit scholarship funds on behalf of his or her student for tuition and fees for which the parent is responsible for payment at the eligible private school before using scholarship ~~empowerment~~ account funds for additional authorized uses under paragraph (4)(a). A parent is responsible for all eligible expenses in excess of the amount of the scholarship.

10. Comply with the scholarship application and renewal processes and requirements established by the organization.

(b) A parent who applies for a scholarship ~~applies for program participation~~ under paragraph (3)(b) is exercising his or her parental option to determine the appropriate placement or the services that best meet the needs of his or her child and must:

1. Apply to an eligible nonprofit scholarship-funding organization to participate in the program by a date set by the organization. The request must be communicated directly to the organization in a manner that creates a written or electronic record of the request and the date of receipt of the request.

2.a. Beginning with new applications for the 2025-2026 school year and thereafter, notify the organization by December 15 that the scholarship is being accepted or declined.

b. Beginning with renewal applications for the 2025-2026 school year and thereafter, notify the organization by May 31 that the scholarship is being renewed or declined.

3.~~2.~~ Sign an agreement with the organization and annually submit a sworn compliance statement to the organization to satisfy or maintain program eligibility, including eligibility to receive and spend program payments by:

a. Affirming that the student is enrolled in a program that meets regular school attendance requirements as provided in s. 1003.01(16)(b), (c), or (d).

b. Affirming that the program funds are used only for authorized purposes serving the student's educational needs, as described in paragraph (4)(b); that any prepaid college plan or college savings plan funds contributed pursuant to subparagraph

(4)(b)6. will not be transferred to another beneficiary while the plan contains funds contributed pursuant to this section; and that they will not receive a payment, refund, or rebate of any funds provided under this section.

c. Affirming that the parent is responsible for all eligible expenses in excess of the amount of the scholarship and for the education of his or her student by, as applicable:

(I) Requiring the student to take an assessment in accordance with paragraph (9)(c);

(II) Providing an annual evaluation in accordance with s. 1002.41(1)(f); or

(III) Requiring the child to take any preassessments and postassessments selected by the provider if the child is 4 years of age and is enrolled in a program provided by an eligible Voluntary Prekindergarten Education Program provider. A student with disabilities for whom the physician or psychologist who issued the diagnosis or the IEP team determines that a preassessment and postassessment is not appropriate is exempt from this requirement. A participating provider shall report a student's scores to the parent.

d. Affirming that the student remains in good standing with the provider or school if those options are selected by the parent.

e. Enrolling his or her child in a program from a Voluntary Prekindergarten Education Program provider authorized under s. 1002.55, a school readiness provider authorized under s. 1002.88, a prekindergarten program offered by an eligible private school, or an eligible private school if ~~either option is~~ selected by the parent.

f. Comply with the scholarship application and renewal processes and requirements established by the organization ~~Renewing participation in the program each year~~. A student whose participation in the program is not renewed may continue to spend scholarship funds that are in his or her account from prior years unless the account must be closed pursuant to subparagraph (5)(b)3. Notwithstanding any changes to the student's IEP, a student who was previously eligible for participation in the program shall remain eligible to apply for renewal. However, for a high-risk child to continue to participate in the program in the school year after he or she reaches 6 years of age, the child's application for renewal of program participation must contain documentation that the child has a disability defined in paragraph (2)(e) other than high-risk status.

g. Procuring the services necessary to educate the student. If such services include enrollment in an eligible private school, the parent must meet with the private school's principal or the principal's designee to review the school's academic programs and policies, specialized services, code of student conduct, and attendance policies before his or her student is enrolled. The parent must also approve each payment to the eligible private school before the scholarship funds may be deposited by funds transfer pursuant to subparagraph (12)(a)4. The parent may not designate any entity or individual associated with the eligible private school as the parent's attorney in fact to approve a funds transfer. When the student receives a scholarship, the district school board is not obligated to provide the student with a free appropriate public education.

For purposes of s. 1003.57 and the Individuals with Disabilities in Education Act, a participating student has only those rights that apply to all other unilaterally parentally placed students, except that, when requested by the parent, school district personnel must develop an IEP or matrix level of services.

(c) A parent may not apply for multiple scholarships under this section and s. 1002.395 for an individual student at the same time.

(d) ~~(c)~~ A participant who fails to comply with this subsection forfeits the scholarship.

(11) OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING ORGANIZATIONS.—

(a) An eligible nonprofit scholarship-funding organization awarding scholarships to eligible students pursuant to paragraph (3)(a) shall:

1. Establish a process for parents who are in compliance with paragraph (10)(a) to renew their students' scholarships. Renewal applications for the 2025-2026 school year and thereafter must provide for a renewal timeline beginning February 1 of the prior school year and ending April 30 of the prior school year. A student's renewal is contingent upon an eligible private school providing confirmation of student admission pursuant to subsection (9). The process must require that parents confirm that the scholarship is being renewed or declined by May 31.

2. Establish a process that allows a parent to apply for a new scholarship. The process may begin no earlier than February 1 of the prior school year and must authorize submission of applications until November 15. The process must be in a manner

that creates a written or electronic record of the application request and the date of receipt of the application request. Applications received after the deadline may be considered for scholarship award in the subsequent fiscal year. The process must require that parents confirm that the scholarship is being accepted or declined by December 15 ~~Must receive applications, determine student eligibility, notify parents in accordance with the requirements of this section, and provide the department with information on the student to enable the department to determine student funding in accordance with paragraph (12)(a)~~.

3.~~2.~~ ~~Shall~~ Verify the household income level of students seeking priority eligibility and submit the verified list of students ~~and related documentation~~ to the department ~~when necessary~~.

4.~~3.~~ ~~Shall~~ Award scholarships in priority order pursuant to paragraph (3)(a).

5.~~4.~~ ~~Shall~~ Establish and maintain separate scholarship ~~empowerment~~ accounts for each eligible student. For each account, the organization must maintain a record of accrued interest that is retained in the student's account and available only for authorized program expenditures.

6.~~5.~~ ~~May~~ Permit eligible students to use program funds for the purposes specified in paragraph (4)(a) by paying for the authorized use directly, then submitting a reimbursement request to the eligible nonprofit scholarship-funding organization. However, an eligible nonprofit scholarship-funding organization may require the use of an online platform for direct purchases of products so long as such use does not limit a parent's choice of curriculum or academic programs. If a parent purchases a

product identical to one offered by an organization's online platform for a lower price, the organization shall reimburse the parent the cost of the product.

~~6. May, from eligible contributions received pursuant to s. 1002.395(6)(l)1., use an amount not to exceed 2.5 percent of the total amount of all scholarships funded under this section for administrative expenses associated with performing functions under this section. An eligible nonprofit scholarship-funding organization that has, for the prior fiscal year, complied with the expenditure requirements of s. 1002.395(6)(l)2., may use an amount not to exceed 3 percent. Such administrative expense amount is considered within the 3 percent limit on the total amount an organization may use to administer scholarships under this chapter.~~

7. ~~Must,~~ In a timely manner, submit the verified list of students and any information requested by the department relating to the scholarship under this section.

8. ~~Must~~ Notify the department about any violation of this section.

9. ~~Must~~ Document each student's eligibility for a fiscal year before granting a scholarship for that fiscal year. A student is ineligible for a scholarship if the student's account has been inactive for 2 consecutive fiscal years.

10. ~~Must~~ Notify each parent that participation in the scholarship program does not guarantee enrollment.

11. ~~Shall~~ Commit scholarship funds on behalf of the student for tuition and fees for which the parent is responsible for payment at the participating private school before using scholarship ~~empowerment~~ account funds for additional authorized

uses under paragraph (4)(a).

(b) An eligible nonprofit scholarship-funding organization awarding scholarships to eligible students pursuant to paragraph (3)(b) shall:

1. Establish a process for parents who are in compliance with paragraph (10)(b) to renew their students' scholarships. Renewal applications for the 2025-2026 school year and thereafter must provide for a renewal timeline beginning February 1 of the prior school year and ending April 30 of the prior school year. A student's renewal is contingent upon an eligible private school providing confirmation of student admission pursuant to subsection (9), if applicable. The process must require that parents confirm that the scholarship is being renewed or declined by May 31.

2. Establish a process that allows a parent to apply for a new scholarship. The process may begin no earlier than February 1 of the prior school year and must authorize the submission of applications until November 15. The process must be in a manner that creates a written or electronic record of the application request and the date of receipt of the application request. Applications received after the deadline may be considered for scholarship award in the subsequent fiscal year. The process must require that parents confirm that the scholarship is being accepted or declined by December 15

~~1. Receive applications, determine student eligibility, and notify parents in accordance with the requirements of this section. When an application is approved, the organization must provide the department with information on the student to enable the department to determine student funding in accordance with~~

~~paragraph (12)(b).~~

~~2. Establish a date by which a parent must confirm initial or continuing participation in the program~~.

3. Review applications and award scholarships using the following priorities:

~~a. For the 2021-2022 school year, a student who received a Gardiner Scholarship in the 2020-2021 school year and meets the eligibility requirements in paragraph (3)(b).~~

a.~~b.~~ Renewing students from the previous school year.

~~c. Students retained on the previous school year's wait list.~~

b.~~d.~~ An eligible student who meets the criteria for an initial award pursuant to paragraph (3)(b) on a first-come, first-served basis.

~~An approved student who does not receive a scholarship must be placed on the wait list in the order in which his or her application is approved. A student who does not receive a scholarship within the fiscal year shall be retained on the wait list for the subsequent fiscal year.~~

4. Establish and maintain separate accounts for each eligible student. For each account, the organization must maintain a record of accrued interest that is retained in the student's account and available only for authorized program expenditures.

5. Verify qualifying educational expenditures pursuant to the requirements of paragraph (4)(b).

6. Return any remaining program funds to the department pursuant to paragraph (6)(b).

7. Notify the parent about the availability of, and the requirements associated with requesting, an initial IEP or IEP reevaluation every 3 years for each student participating in the program.

8. Notify the parent of available state and local services, including, but not limited to, services under chapter 413.

9. In a timely manner, submit to the department the verified list of eligible scholarship students and any information requested by the department relating to the scholarship under this section.

10.~~8.~~ Notify the department of any violation of this section.

11.~~9.~~ Document each scholarship student's eligibility for a fiscal year before granting a scholarship for that fiscal year pursuant to paragraph (3)(b). A student is ineligible for a scholarship if the student's account has been inactive for 2 consecutive fiscal years.

(c) An eligible nonprofit scholarship-funding organization may, from eligible contributions received pursuant to s. 1002.395(6)(l)1., use an amount not to exceed 2.5 percent of the total amount of all scholarships funded under this section for administrative expenses associated with performing functions under this section. An organization that has, for the prior fiscal year, complied with the expenditure requirements of s. 1002.395(6)(l)3. may use an amount not to exceed 3 percent. Such administrative expense amount is considered within the 3-percent limit on the total amount an organization may use to administer scholarships under this chapter.

(d) An eligible nonprofit scholarship-funding organization

shall establish a process to collect input and feedback from parents, private schools, and providers before implementing substantial modifications or enhancements to the reimbursement process.

(12) SCHOLARSHIP FUNDING AND PAYMENT.—

(a)1. ~~Scholarships for students determined eligible pursuant to paragraph (3)(a) may be funded once all scholarships have been funded in accordance with s. 1002.395(6)(l)2.~~ The calculated scholarship amount for a participating student determined eligible pursuant to paragraph (3)(a) shall be based upon the grade level and school district in which the student was assigned as 100 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic program established pursuant to s. 1011.62(1)(c)1., plus a per-full-time equivalent share of funds for the categorical programs established in s. 1011.62(5), (7)(a), and (16), as funded in the General Appropriations Act.

2. A scholarship of $750 or an amount equal to the school district expenditure per student riding a school bus, as determined by the department, whichever is greater, may be awarded to an eligible student who is enrolled in a Florida public school that is different from the school to which the student was assigned or in a lab school as defined in s. 1002.32 if the school district does not provide the student with transportation to the school.

3.a. For renewing scholarship students, the organization must ~~provide the department with the documentation necessary to~~ verify the student's continued eligibility to participate in the scholarship program at least 30 days before each payment

~~participation~~. Upon receiving the verified list of eligible scholarship students ~~documentation~~, the department shall release ~~transfer, beginning August 1~~, from state funds only, the amount calculated pursuant to subparagraph 1. ~~2.~~ to the organization for deposit into the student's account in quarterly payments no later than August 1, November 1, February 1, and April 1 of ~~quarterly disbursement to parents of participating students~~ each school year in which the scholarship is in force.

b. For new scholarship students, the organization must verify the student's eligibility to participate in the scholarship program at least 30 days before each payment. Upon receiving the verified list of eligible scholarship students, the department shall release, from state funds only, the amount calculated pursuant to subparagraph 1. to the organization for deposit into the student's account in quarterly payments no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force. For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount calculated pursuant to subparagraph 1. must be transferred from the school district in which the student last attended a public school before commitment to the Department of Juvenile Justice.

c. The department is authorized to release the state funds contingent upon verification that the organization will comply with s. 1002.395(6)(l) based upon the organization's submitted verified list of eligible scholarship students pursuant to s. 1002.395 ~~For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship~~

~~program, the amount of the Family Empowerment Scholarship calculated pursuant to subparagraph 2. must be transferred from the school district in which the student last attended a public school before commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the organization must receive all documentation required for the student's participation, including the private school's and the student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student~~.

4. The initial payment shall be made after the organization's verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the participating private school. Payments for tuition and fees for full-time enrollment shall be made within 7 business days after approval by the parent pursuant to paragraph (10)(a) and the private school pursuant to paragraph (9)(b). Payment must be by funds transfer or any other means of payment that the department deems to be commercially viable or cost-effective. An organization shall ensure that the parent has approved a funds transfer before any scholarship funds are deposited.

5. An organization may not transfer any funds to an account of a student determined eligible pursuant to paragraph (3)(a) which has a balance in excess of $24,000.

(b)1. For the 2023-2024 school year, the maximum number of students participating in the scholarship program under paragraph (3)(b) shall be the number of students the organization and the department determined eligible pursuant to this section. Beginning in the 2024-2025 school year, the

maximum number of scholarships funded ~~students participating in the scholarship program~~ under paragraph (3)(b) shall annually increase by 5.0 ~~3.0~~ percent of the state's total exceptional student education full-time equivalent student membership, not including gifted students. The maximum number of scholarships funded shall increase by 1.0 percent of the state's total exceptional student education full-time equivalent student membership, not including gifted students, in the school year following any school year in which the number of scholarships funded exceeds 95 percent of the number of available scholarships for that school year. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:

a. Received specialized instructional services under the Voluntary Prekindergarten Education Program pursuant to s. 1002.66 during the previous school year and the student has a current IEP developed by the district school board in accordance with rules of the State Board of Education;

b. Is a dependent child of a law enforcement officer or a member of the United States Armed Forces, a foster child, or an adopted child; or

c. Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. For purposes of this subparagraph, the term "prior school year in attendance" means that the student was enrolled and reported by:

(I) A school district for funding during either the preceding October or February full-time equivalent student membership surveys in kindergarten through grade 12, which

includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program;

(II) The Florida School for the Deaf and the Blind during the preceding October or February full-time equivalent student membership surveys in kindergarten through grade 12;

(III) A school district for funding during the preceding October or February full-time equivalent student membership surveys, was at least 4 years of age when enrolled and reported, and was eligible for services under s. 1003.21(1)(e); or

(IV) Received a John M. McKay Scholarship for Students with Disabilities in the 2021-2022 school year.

2. For a student who has a Level I to Level III matrix of services or a diagnosis by a physician or psychologist, the calculated scholarship amount for a student participating in the program must be based upon the grade level and school district in which the student would have been enrolled as the total funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic exceptional student education program pursuant to s. 1011.62(1)(c) and (d), plus a per full-time equivalent share of funds for the categorical programs established in s. 1011.62(5), (7)(a), (8), and (16), as funded in the General Appropriations Act. For the categorical program established in s. 1011.62(8), the funds must be allocated based on the school district's average exceptional student education guaranteed allocation funds per exceptional student education full-time equivalent student.

3. For a student with a Level IV or Level V matrix of services, the calculated scholarship amount must be based upon

the school district to which the student would have been assigned as the total funds per full-time equivalent for the Level IV or Level V exceptional student education program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full time equivalent share of funds for the categorical programs established in s. 1011.62(5), (7)(a), and (16), as funded in the General Appropriations Act.

4. For a student who received a Gardiner Scholarship pursuant to former s. 1002.385 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

5. For a student who received a John M. McKay Scholarship pursuant to former s. 1002.39 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

6. The organization must ~~provide the department with the documentation necessary to~~ verify the student's eligibility to participate in the scholarship program at least 30 days before each payment ~~participation~~.

7.a. For renewing scholarship students, upon receiving the verified list of eligible scholarship students, the department shall release, from state funds only, the amount calculated pursuant to subparagraph 1. to the organization for deposit into the student's account in quarterly payments no later than August 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force.

b. For new scholarship students, upon receiving the

verified list of eligible scholarship students ~~documentation~~, the department shall release, from state funds only, the amount calculated pursuant to subparagraph 1. ~~student's scholarship funds~~ to the organization for deposit~~, to be deposited~~ into the student's account in quarterly payments ~~four equal amounts~~ no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force.

8. If a scholarship student is attending an eligible private school full time, the initial payment shall be made after the organization's verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the eligible private school. Payments for tuition and fees for full-time enrollment shall be made within 7 business days after approval by the parent pursuant to paragraph (10)(b) and the private school pursuant to paragraph (9)(b).

9.~~8.~~ Accrued interest in the student's account is in addition to, and not part of, the awarded funds. Program funds include both the awarded funds and accrued interest.

10.~~9.~~ The organization may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment which the department deems to be commercially viable or cost-effective. A student's scholarship award may not be reduced for debit card or electronic payment fees. Commodities or services related to the development of such a system must be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

11.~~10.~~ An organization may not transfer any funds to an

account of a student determined to be eligible pursuant to paragraph (3)(b) which has a balance in excess of $50,000.

12.~~11.~~ Moneys received pursuant to this section do not constitute taxable income to the qualified student or the parent of the qualified student.

(c) An organization may not submit a new scholarship student for funding after February 1.

(d) Within 30 days after the release of state funds pursuant to paragraphs (a) and (b), the eligible scholarship-funding organization shall certify to the department the amount of funds distributed for student scholarships. If the amount of funds released by the department is more than the amount distributed by the organization, the department is authorized to adjust the amount of the overpayment in the subsequent quarterly payment release.

(16) TRANSITION-TO-WORK PROGRAM.—A student with a disability who is determined eligible pursuant to paragraph (3)(b) who is at least 17 years, but not older than 22 years of age and who has not received a high school diploma or certificate of completion is eligible for enrollment in his or her participating private school's transition-to-work program. A transition-to-work program shall consist of academic instruction, work skills training, and a volunteer or paid work experience.

(a) To offer a transition-to-work program, a participating private school must:

1. Develop a transition-to-work program plan, which must include a written description of the academic instruction and work skills training students will receive and the goals for

students in the program.

2. Submit the transition-to-work program plan to the Office of Independent Education and Parental Choice and consider any guidance provided by the department pursuant to paragraph (8)(d) relating to the plan.

3. Develop a personalized transition-to-work program plan for each student enrolled in the program. The student's parent, the student, and the school principal must sign the personalized plan. The personalized plan must be submitted to the Office of Independent Education and Parental Choice upon request by the office.

4. Provide a release of liability form that must be signed by the student's parent, the student, and a representative of the business offering the volunteer or paid work experience.

5. Assign a case manager or job coach to visit the student's job site on a weekly basis to observe the student and, if necessary, provide support and guidance to the student.

6. Provide to the parent and student a quarterly report that documents and explains the student's progress and performance in the program.

7. Maintain accurate attendance and performance records for the student.

(b) A student enrolled in a transition-to-work program must, at a minimum:

1. Receive 15 instructional hours at the participating private school's physical facility, which must include academic instruction and work skills training.

2. Participate in 10 hours of work at the student's volunteer or paid work experience.

(c) To participate in a transition-to-work program, a business must:

1. Maintain an accurate record of the student's performance and hours worked and provide the information to the participating private school.

2. Comply with all state and federal child labor laws.

Section 4. Paragraph (c) of subsection (1), paragraphs (b) and (f) of subsection (2), subsection (3), paragraphs (a) and (c) of subsection (4), paragraphs (c) through (i) and (l), (p), (q), (t), and (w) of subsection (6), subsections (7) and (8), paragraphs (d), (e), (f), and (i) of subsection (9), paragraph (b) of subsection (10), paragraphs (c), (f), and (h) of subsection (11), and subsection (15) of section 1002.395, Florida Statutes, are amended, paragraph (y) is added to subsection (6), and paragraph (i) is added to subsection (11) of that section, to read:

1002.395 Florida Tax Credit Scholarship Program.—

(1) FINDINGS AND PURPOSE.—

(c) The purpose of this section is not to prescribe the standards or curriculum for participating private schools. A participating private school retains the authority to determine its own standards and curriculum.

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

(b) "Choice navigator" means an individual who meets the requirements of sub-subparagraph (6)(d)4.h. ~~(6)(d)2.h.~~ and who provides consultations, at a mutually agreed upon location, on the selection of, application for, and enrollment in educational options addressing the academic needs of a student; curriculum selection; and advice on career and postsecondary education

opportunities. However, nothing in this section authorizes a choice navigator to oversee or exercise control over the curricula or academic programs of a personalized education program.

(f) "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization pursuant to this section and ss. 212.099, 212.1831, and 212.1832~~, and 1002.40~~. The taxpayer making the contribution may not designate a specific child as the beneficiary of the contribution.

(3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

(a) The Florida Tax Credit Scholarship Program is established.

(b)1. A student is eligible for a Florida tax credit scholarship under this section if the student:

a. Is a resident of this state or the dependent child of an active duty member of the United States Armed Forces who has received permanent change of station orders to this state or, at the time of renewal, whose home of record or state of legal residence is Florida; and

b. Is eligible to enroll in kindergarten through grade 12 in a public school in this state or received a scholarship under the Hope Scholarship Program in the 2023-2024 school year.

2. Priority must be given in the following order:

a. A student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

b. A student whose household income level exceeds 185

percent of the federal poverty level, but does not exceed 400 percent of the federal poverty level.

(4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a scholarship while he or she is:

(a) Enrolled full time in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, the Florida School for Competitive Academics, the Florida Virtual School, the Florida Scholars Academy, a developmental research school authorized under s. 1002.32, or a charter school authorized under this chapter. For purposes of this paragraph, a 3- or 4-year-old child who receives services funded through the Florida Education Finance Program is considered a student enrolled full-time in a public school;

(c) Receiving any other educational scholarship pursuant to this chapter. However, an eligible public school student receiving a scholarship under s. 1002.411 may receive a scholarship for transportation pursuant to subparagraph (6)(d)4.;

(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization:

(c) Must not have an owner or operator, as defined in subparagraph (2)(k)1., who owns or operates an eligible private school that is participating in the scholarship program.

(d)1. For the 2023-2024 school year, may fund no more than 20,000 scholarships for students who are enrolled pursuant to paragraph (7)(b). The number of scholarships funded for such students may increase by 40,000 in each subsequent school year.

This subparagraph is repealed July 1, 2027.

2. Shall establish a process for parents who are in compliance with paragraph (7)(a) to renew their students' scholarships. Renewal applications for the 2025-2026 school year and thereafter must provide for a renewal timeline beginning February 1 of the prior school year and ending April 30 of the prior school year. A student's renewal is contingent upon an eligible private school providing confirmation of admission pursuant to subsection (8). The process must require that parents confirm that the scholarship is being renewed or declined by May 31.

3. Shall establish a process that allows a parent to apply for a new scholarship. The process must be in a manner that creates a written or electronic record of the application request and the date of receipt of the application request. The process must require that parents confirm that the scholarship is being accepted or declined by a date set by the organization.

4.~~2~~. Must establish and maintain separate scholarship ~~empowerment~~ accounts from eligible contributions for each eligible student. For each account, the organization must maintain a record of accrued interest retained in the student's account. The organization must verify that scholarship funds are used for:

a. Tuition and fees for full-time or part-time enrollment in an eligible private school.

b. Transportation to a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned or to a lab school as defined in s. 1002.32.

c. Instructional materials, including digital materials and Internet resources. Equipment used as instructional materials may only be purchased for subjects in language arts and reading, mathematics, social studies, and science.

d. Curriculum as defined in s. 1002.394(2).

e. Tuition and fees associated with full-time or part-time enrollment in a home education instructional program; an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, unless the program is subject to s. 1009.25 or reimbursed pursuant to s. 1009.30; an approved preapprenticeship program as defined in s. 446.021(5) which is not subject to s. 1009.25 and complies with all applicable requirements of the Department of Education pursuant to chapter 1005; a private tutoring program authorized under s. 1002.43; a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a); the Florida Virtual School as a private paying student; or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

f. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

g. Contracted services provided by a public school or school district, including classes. A student who receives contracted services under this sub-subparagraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (11) but rather attending a public school on a part-time basis as authorized under s. 1002.44.

h. Tuition and fees for part-time tutoring services or fees for services provided by a choice navigator. Such services must be provided by a person who holds a valid Florida educator's certificate pursuant to s. 1012.56, a person who holds an adjunct teaching certificate pursuant to s. 1012.57, a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given, a person who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5), or a person certified by a nationally or internationally recognized research-based training program as approved by the Department of Education. As used in this paragraph, the term "part-time tutoring services" does not qualify as regular school attendance as defined in s. 1003.01(16)(e).

(e) For students determined eligible pursuant to paragraph (7)(b), must:

1. Establish a process for parents who are in compliance with subparagraph (7)(b)1. to apply for a new scholarship. New scholarship applications for the 2025-2026 school year and thereafter must provide for an application timeline beginning February 1 of the prior school year and ending April 30 of the prior school year. The process must require that parents confirm that the scholarship is being accepted or declined by May 31.

2. Establish a process for parents who are in compliance with paragraph (7)(b) to renew their students' scholarships. Renewal scholarship applications for the 2025-2026 school year and thereafter must provide for a renewal timeline beginning February 1 of the prior school year and ending April 30 of the prior school year. The process must require that parents confirm

that the scholarship is being renewed or declined by May 31.

3.~~1.~~ Maintain a signed agreement from the parent which constitutes compliance with the attendance requirements under ss. 1003.01(16) and 1003.21(1).

4.~~2.~~ Receive eligible student test scores and, beginning with the 2027-2028 school year, by August 15, annually report test scores for students pursuant to paragraph (7)(b) to a state university pursuant to paragraph (9)(f).

5.~~3.~~ Provide parents with information, guidance, and support to create and annually update a student learning plan for their student. The organization must maintain the plan and allow parents to electronically submit, access, and revise the plan continuously.

6.~~4.~~ Upon submission by the parent of an annual student learning plan, fund a scholarship for a student determined eligible.

(f) Must give first priority to eligible renewal students who received a scholarship from an eligible nonprofit scholarship-funding organization ~~or from the State of Florida~~ during the previous school year. The eligible nonprofit scholarship-funding organization must fully apply and exhaust all funds available under this section ~~and s. 1002.40(11)(i)~~ for renewal scholarship awards before awarding any initial scholarships.

(g) Must provide a new ~~renewal or initial~~ scholarship to an eligible student on a first-come, first-served basis unless the student is seeking priority eligibility ~~qualifies for priority~~ pursuant to subsection (3) ~~paragraph (f)~~.

(h) ~~Each eligible nonprofit scholarship-funding~~

~~organization~~ Must refer any student eligible for a scholarship pursuant to this section who did not receive a renewal or initial scholarship based solely on the lack of available funds under this section ~~and s. 1002.40(11)(i)~~ to another eligible nonprofit scholarship-funding organization that may have funds available.

(i) May not restrict or reserve scholarships for use at a particular eligible private school or provide scholarships to a child of an owner or operator as defined in subparagraph (2)(k)1.

(l)1. May use eligible contributions received pursuant to this section and ss. 212.099, 212.1831, and 212.1832~~, and 1002.40~~ during the state fiscal year in which such contributions are collected for administrative expenses if the organization has operated as an eligible nonprofit scholarship-funding organization for at least the preceding 3 fiscal years and did not have any findings of material weakness or material noncompliance in its most recent audit under paragraph (o) or is in good standing in each state in which it administers a scholarship program and the audited financial statements for the preceding 3 fiscal years are free of material misstatements and going concern issues. Administrative expenses from eligible contributions may not exceed 3 percent of the total amount of all scholarships funded by an eligible scholarship-funding organization under this chapter. Such administrative expenses must be reasonable and necessary for the organization's management and distribution of scholarships funded under this chapter. Administrative expenses may include developing or contracting with rideshare programs or facilitating carpool

strategies for recipients of a transportation scholarship under s. 1002.394. No funds authorized under this subparagraph shall be used for lobbying or political activity or expenses related to lobbying or political activity. Up to one-third of the funds authorized for administrative expenses under this subparagraph may be used for expenses related to the recruitment of contributions from taxpayers. An eligible nonprofit scholarship-funding organization may not charge an application fee.

2. Must expend for annual or partial-year scholarships 100 percent of any eligible contributions from the prior fiscal year.

3.~~2.~~ Must expend ~~award~~ for annual or partial-year scholarships an amount equal to or greater than 75 percent of all ~~estimated~~ net eligible contributions, as defined in subsection (2), ~~and all funds carried forward from the prior state fiscal year~~ remaining after administrative expenses during the state fiscal year in which such eligible contributions are collected ~~before funding any scholarships to students determined eligible pursuant to s. 1002.394(3)(a)~~. No more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year. All amounts carried forward, for audit purposes, must be specifically identified for particular students, by student name and the name of the school to which the student is admitted, subject to the requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, and the applicable rules and regulations issued pursuant thereto. Any amounts carried forward shall be expended for annual or partial-year scholarships in the following state fiscal year. ~~No later than September 30 of each year, net~~ Eligible contributions remaining

on June 30 of each year that are in excess of the 25 percent that may be carried forward shall be used to provide scholarships to eligible students or transferred to other eligible nonprofit scholarship-funding organizations to provide scholarships for eligible students. All transferred funds must be deposited by each eligible nonprofit scholarship-funding organization receiving such funds into its scholarship account. All transferred amounts received by any eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit required under paragraph (o).

4.~~3.~~ Must, before granting a scholarship for an academic year, document each scholarship student's eligibility for that academic year. A scholarship-funding organization may not grant multiyear scholarships in one approval process.

(p) Must prepare and submit quarterly reports to the Department of Education pursuant to paragraph (9)(i). In addition, an eligible nonprofit scholarship-funding organization must submit in a timely manner the verified list of eligible scholarship students and any information requested by the Department of Education relating to the scholarship program.

(q)1.a. Must participate in the joint development of agreed-upon procedures during the 2009-2010 state fiscal year. The agreed-upon procedures must uniformly apply to all private schools and must determine, at a minimum, whether the private school has been verified as eligible by the Department of Education under s. 1002.421; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education-related expenses. During the

development of the procedures, the participating scholarship-funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant's performance of the procedures. The procedures and guidelines shall be provided to private schools and the Commissioner of Education by March 15, 2011.

b. Must participate in a joint review of the agreed-upon procedures and guidelines developed under sub-subparagraph a., by February of each biennium, if the scholarship-funding organization provided more than $250,000 in scholarship funds under this chapter during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to private schools and the Commissioner of Education by March 15 of the year in which the revisions were completed. The revised agreed-upon procedures and guidelines shall take effect the subsequent school year.

c. Must monitor the compliance of a participating private school with s. 1002.421(1)(q) if the scholarship-funding organization provided the majority of the scholarship funding to the school. For each participating private school subject to s. 1002.421(1)(q), the appropriate scholarship-funding organization shall annually notify the Commissioner of Education by October 30 of:

(I) A private school's failure to submit a report required under s. 1002.421(1)(q); or

(II) Any material exceptions set forth in the report required under s. 1002.421(1)(q).

2. Must seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic

Schools and the Department of Education when jointly developing the agreed-upon procedures and guidelines under sub-subparagraph 1.a. and conducting a review of those procedures and guidelines under sub-subparagraph 1.b.

(t) Must participate in the joint development of agreed-upon purchasing guidelines for authorized uses of scholarship funds under paragraph (d) and s. 1002.394(4)(a) ~~this chapter~~. By December 31, 2023, and by each December 31 thereafter, the purchasing guidelines must be provided to the Commissioner of Education and published on the eligible nonprofit scholarship-funding organization's website. Published purchasing guidelines shall remain in effect until there is unanimous agreement to revise the guidelines, and the revisions must be provided to the commissioner and published on the organization's website within 30 days after such revisions. The organization shall assist the Florida Center for Students with Unique Abilities under s. 1004.6495 with the development of purchasing guidelines for authorized uses of scholarship funds under s. 1002.394(4)(b) and publish the guidelines on the organization's website.

(w) Shall commit scholarship funds on behalf of the student for tuition and fees for which the parent is responsible for payment at the participating private school before using scholarship ~~empowerment~~ account funds for additional authorized uses under paragraph (d).

(y) Must establish a process to collect input and feedback from parents, private schools, and providers before implementing substantial modifications or enhancements to the reimbursement process.

Information and documentation provided to the Department of Education and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times in accordance with s. 213.053.

(7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—

(a) A parent who applies for a scholarship whose student will be enrolled full time in an eligible ~~a~~ private school must:

1. Select an eligible private school and apply for the admission of his or her child.

2. Request the scholarship by the date established by the organization in a manner that creates a written or electronic record of the request and the date of receipt of the request.

3.a. Beginning with new applications for the 2025-2026 school year and thereafter, notify the organization by a date set by the organization that the scholarship is being accepted or declined.

b. Beginning with renewal applications for the 2025-2026 school year and thereafter, notify the organization by May 31 that the scholarship is being renewed or declined.

4.~~2.~~ Inform the applicable ~~child's~~ school district when the parent withdraws his or her student from a public school ~~child~~ to attend an eligible private school.

5.~~3.~~ Require his or her student participating in the program to remain in attendance at the eligible private school throughout the school year unless excused by the school for illness or other good cause and comply with the private school's published policies.

6.~~4.~~ Meet with the eligible private school's principal or the principal's designee to review the school's academic programs and policies, specialized services, code of student conduct, and attendance policies before enrollment ~~in the private school~~.

7.~~5.~~ Require his or her student participating in the program to take the norm-referenced assessment offered by the participating private school. The parent may also choose to have the student participate in the statewide assessments pursuant to s. 1008.22. If the parent requests that the student participating in the ~~scholarship~~ program take statewide assessments pursuant to s. 1008.22 and the participating private school has not chosen to offer and administer the statewide assessments, the parent is responsible for transporting the student to the assessment site designated by the school district.

8.~~6.~~ Approve each payment before the scholarship funds may be deposited by funds transfer. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to approve a funds transfer. A participant who fails to comply with this paragraph forfeits the scholarship.

9.~~7.~~ Authorize the nonprofit scholarship-funding organization to access information needed for income eligibility determination and verification held by other state or federal agencies, including the Department of Revenue, the Department of Children and Families, the Department of Education, the Department of Commerce ~~Economic Opportunity~~, and the Agency for Health Care Administration, for students seeking priority

eligibility.

10.~~8.~~ Agree to have the organization commit scholarship funds on behalf of his or her student for tuition and fees for which the parent is responsible for payment at the participating private school before using scholarship ~~empowerment~~ account funds for additional authorized uses under paragraph (6)(d). A parent is responsible for all eligible expenses in excess of the amount of the scholarship.

11. Comply with the scholarship application and renewal processes and requirements established by the organization.

(b) A parent whose student will not be enrolled full time in a public or private school must:

1. Apply to an eligible nonprofit scholarship-funding organization to participate in the program as a personalized education student by a date set by the organization. The request must be communicated directly to the organization in a manner that creates a written or electronic record of the request and the date of receipt of the request. Beginning with new and renewal applications for the 2025-2026 school year and thereafter, notify the organization by May 31 that the scholarship is being accepted, renewed, or declined.

2. Sign an agreement with the organization and annually submit a sworn compliance statement to the organization to satisfy or maintain program eligibility, including eligibility to receive and spend program payments, by:

a. Affirming that the program funds are used only for authorized purposes serving the student's educational needs, as described in paragraph (6)(d), and that they will not receive a payment, refund, or rebate of any funds provided under this

section.

b. Affirming that the parent is responsible for all eligible expenses in excess of the amount of the scholarship and for the education of his or her student.

c. Submitting a student learning plan to the organization and revising the plan at least annually before program renewal.

d. Requiring his or her student to take a nationally norm-referenced test identified by the Department of Education, or a statewide assessment under s. 1008.22, and provide assessment results to the organization before the student's program renewal.

e. Complying with the scholarship application and renewal processes and requirements established by the organization ~~Renewing participation in the program each year~~. A student whose participation in the program is not renewed may continue to spend scholarship funds that are in his or her account from prior years unless the account must be closed pursuant to s. 1002.394(5)(a)2.

f. Procuring the services necessary to educate the student. When the student receives a scholarship, the district school board is not obligated to provide the student with a free appropriate public education.

(c) A parent may not apply for multiple scholarships under this section and s. 1002.394 for an individual student at the same time.

An eligible nonprofit scholarship-funding organization may not further regulate, exercise control over, or require documentation beyond the requirements of this subsection unless

the regulation, control, or documentation is necessary for participation in the program.

(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible private school may be sectarian or nonsectarian and must:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide to the organization all documentation required for a student's participation, including confirmation of the student's admission to the private school, the private school's and student's fee schedules, and any other information required by the organization to process scholarship payment pursuant to paragraph (11)(c). Such information must be provided by the deadlines established by the organization and in accordance with the requirements of this section. A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet the deadline.

(c) ~~(b)~~1. Annually administer or make provision for students participating in the scholarship program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the department ~~of Education~~ or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school must report a student's scores to the parent. A participating private school must annually report by August 15 the scores of all participating students to a state university described in paragraph (9)(f).

2. Administer the statewide assessments pursuant to s.

1008.22 if a participating private school chooses to offer the statewide assessments. A participating private school may choose to offer and administer the statewide assessments to all students who attend the participating private school in grades 3 through 10 and must submit a request in writing to the Department of Education by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

If a participating private school fails to meet the requirements of this subsection or s. 1002.421, the commissioner may determine that the participating private school is ineligible to participate in the scholarship program.

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

(d) Notify eligible nonprofit scholarship-funding organizations of the deadlines for submitting the verified list of eligible scholarship students; cross-check the verified list ~~of participating scholarship students~~ with the public school enrollment lists to avoid duplication; and, when the Florida Education Finance Program is recalculated, adjust the amount of state funds allocated to school districts through the Florida Education Finance Program based upon the results of the cross-check.

(e) Maintain and annually publish a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (8)(c)1. ~~(8)(b)1.~~ The tests must meet industry standards of quality in accordance with State Board of Education rule.

(f) Issue a project grant award to a state university, to which participating private schools and eligible nonprofit scholarship-funding organizations must report the scores of participating students on the nationally norm-referenced tests or the statewide assessments administered in grades 3 through 10. The project term is 2 years, and the amount of the project is up to $250,000 per year. The project grant award must be reissued in 2-year intervals in accordance with this paragraph.

1. The state university must annually report to the Department of Education on the student performance of participating students and, beginning with the 2027-2028 school year, on the performance of personalized education students:

a. On a statewide basis. The report shall also include, to the extent possible, a comparison of scholarship students' performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program. To minimize costs and reduce time required for the state university's analysis and evaluation, the Department of Education shall coordinate with the state university to provide data to the state university in order to conduct analyses of matched students from public school assessment data and calculate control group student performance using an agreed-upon methodology with the state university; and

b. On an individual school basis for students enrolled full time in a private school. The annual report must include student performance for each participating private school in which enrolled students in the private school participated in a scholarship program under this section or~~,~~ s. 1002.394(12)(a)~~,~~

~~or s. 1002.40~~ in the prior school year. The report shall be according to each participating private school, and for participating students, in which there are at least 30 participating students who have scores for tests administered. If the state university determines that the 30-participating-student cell size may be reduced without disclosing personally identifiable information, as described in 34 C.F.R. s. 99.12, of a participating student, the state university may reduce the participating-student cell size, but the cell size must not be reduced to less than 10 participating students. The department shall provide each participating private school's prior school year's student enrollment information to the state university no later than June 15 of each year, or as requested by the state university.

2. The sharing and reporting of student performance data under this paragraph must be in accordance with requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act, and the applicable rules and regulations issued pursuant thereto, and shall be for the sole purpose of creating the annual report required by subparagraph 1. All parties must preserve the confidentiality of such information as required by law. The annual report must not disaggregate data to a level that will identify individual participating schools, except as required under sub-subparagraph 1.b., or disclose the academic level of individual students.

3. The annual report required by subparagraph 1. shall be published by the Department of Education on its website.

(i) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of

students participating in the ~~scholarship~~ program~~;~~ ~~,~~ the private schools at which the students are enrolled; the number of scholarship applications received, the number of applications processed within 30 days after receipt, and the number of incomplete applications received; data related to reimbursement submissions, including the average number of days for a reimbursement to be reviewed and the average number of days for a reimbursement to be approved; any parent input and feedback collected regarding the program~~;~~ ~~,~~ and any other information deemed necessary by the Department of Education.

(10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

(b) Upon the request of the Department of Education, a school district shall coordinate with the department to provide to a participating private school the statewide assessments administered under s. 1008.22 and any related materials for administering the assessments. A school district is responsible for implementing test administrations at a participating private school, including the:

1. Provision of training for participating private school staff on test security and assessment administration procedures;

2. Distribution of testing materials to a participating private school;

3. Retrieval of testing materials from a participating private school;

4. Provision of the required format for a participating private school to submit information to the district for test administration and enrollment purposes; and

5. Provision of any required assistance, monitoring, or investigation at a participating private school.

(11) SCHOLARSHIP AMOUNT AND PAYMENT.—

(c) If a scholarship student is attending an eligible private school full time, the initial payment shall be made after the organization's verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the eligible private school. Payments shall be made within 7 business days after approval by the parent pursuant to paragraph (7)(a) and the private school pursuant to paragraph (8)(b) ~~An eligible nonprofit scholarship-funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment~~.

(f) A scholarship awarded to an eligible student shall remain in force until:

1. The organization determines that the student is not eligible for program renewal;

2. The Commissioner of Education suspends or revokes program participation or use of funds;

3. The student's parent has forfeited participation in the program for failure to comply with subsection (7);

4. The student who uses the scholarship for full-time tuition and fees at an eligible private school pursuant to subparagraph (6)(d)2. enrolls full time in a public school. However, if a student enters a Department of Juvenile Justice detention center for a period of no more than 21 days, the student is not considered to have returned to a public school on a full-time basis for that purpose; or

5. The student graduates from high school or attains 21

years of age, whichever occurs first.

(h) A student's scholarship account must be closed and any remaining funds shall revert to the state after:

1. Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services received pursuant to paragraph (6)(d); ~~or~~

2. Two consecutive fiscal years in which an account has been inactive; or

3. The student remains unenrolled in an eligible private school for 30 days while receiving a scholarship that requires full-time enrollment.

(i) Moneys received pursuant to this section do not constitute taxable income to the qualified student or the parent of the qualified student.

(15) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS; APPLICATION.—In order to participate in the scholarship program created under this section, a charitable organization that seeks to be a nonprofit scholarship-funding organization must submit an application for initial approval or renewal to the Office of Independent Education and Parental Choice. ~~The office shall provide at least two application periods in which~~ Charitable organizations may apply at any time to participate in the program.

(a) An application for initial approval must include:

1. A copy of the organization's incorporation documents and registration with the Division of Corporations of the Department of State.

2. A copy of the organization's Internal Revenue Service determination letter as a s. 501(c)(3) not-for-profit organization.

3. A description of the organization's financial plan that demonstrates sufficient funds to operate throughout the school year.

4. A description of the geographic region that the organization intends to serve and an analysis of the demand and unmet need for eligible students in that area.

5. The organization's organizational chart.

6. A description of the criteria and methodology that the organization will use to evaluate scholarship eligibility.

7. A description of the application process, including deadlines and any associated fees.

8. A description of the deadlines for attendance verification and scholarship payments.

9. A copy of the organization's policies on conflict of interest and whistleblowers.

10. A copy of a surety bond or letter of credit to secure the faithful performance of the obligations of the eligible nonprofit scholarship-funding organization in accordance with this section in an amount equal to 25 percent of the scholarship funds anticipated for each school year or $100,000, whichever is greater. The surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only by an eligible nonprofit scholarship-funding organization to provide scholarships to and on behalf of students who would have had scholarships funded if it were not for the diversion of funds giving rise to the claim against the bond or letter of

credit.

(b) In addition to the information required by subparagraphs (a)1.-9., an application for renewal must include:

1. A surety bond or letter of credit to secure the faithful performance of the obligations of the eligible nonprofit scholarship-funding organization in accordance with this section equal to the amount of undisbursed donations held by the organization based on the annual report submitted pursuant to paragraph (6)(o). The amount of the surety bond or letter of credit must be at least $100,000, but not more than $25 million. The surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only by an eligible nonprofit scholarship-funding organization to provide scholarships to and on behalf of students who would have had scholarships funded if it were not for the diversion of funds giving rise to the claim against the bond or letter of credit.

2. The organization's completed Internal Revenue Service Form 990 submitted no later than November 30 of the year before the school year that the organization intends to offer the scholarships, notwithstanding the department's application deadline.

3. A copy of the statutorily required audit to the Department of Education and Auditor General.

4. An annual report that includes:

a. The number of students who completed applications, by county and by grade.

b. The number of students who were approved for scholarships, by county and by grade.

c. The number of students who received funding for

scholarships within each funding category, by county and by grade.

d. The amount of funds received, the amount of funds distributed in scholarships, and an accounting of remaining funds and the obligation of those funds.

e. A detailed accounting of how the organization spent the administrative funds allowable under paragraph (6)(l).

(c) In consultation with the Department of Revenue and the Chief Financial Officer, the Office of Independent Education and Parental Choice shall review the application. The Department of Education shall notify the organization in writing of any deficiencies within 30 days after receipt of the application and allow the organization 30 days to correct any deficiencies.

(d) Within 30 days after receipt of the finalized application by the Office of Independent Education and Parental Choice, the Commissioner of Education shall recommend approval or disapproval of the application to the State Board of Education. The State Board of Education shall consider the application and recommendation at the next scheduled meeting, adhering to appropriate meeting notice requirements. If the State Board of Education disapproves the organization's application, it shall provide the organization with a written explanation of that determination. The State Board of Education's action is not subject to chapter 120.

(e) If the State Board of Education disapproves the renewal of a nonprofit scholarship-funding organization, the organization must notify the affected eligible students and parents of the decision within 15 days after disapproval. An eligible student affected by the disapproval of an

organization's participation remains eligible under this section until the end of the school year in which the organization was disapproved. The student must apply and be accepted by another eligible nonprofit scholarship-funding organization for the upcoming school year. The student shall be given priority in accordance with paragraph (6)(g).

(f) All remaining funds held by a nonprofit scholarship-funding organization that is disapproved for participation must be transferred to other eligible nonprofit scholarship-funding organizations to provide scholarships for eligible students. All transferred funds must be deposited by each eligible nonprofit scholarship-funding organization receiving such funds into its scholarship account. All transferred amounts received by any eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit required under subsection (6).

(g) A nonprofit scholarship-funding organization is a renewing organization if it maintains continuous approval and participation in the program. An organization that chooses not to participate for 1 year or more or is disapproved to participate for 1 year or more must submit an application for initial approval in order to participate in the program again.

(h) The State Board of Education shall adopt rules providing guidelines for receiving, reviewing, and approving applications for new and renewing nonprofit scholarship-funding organizations. The rules must include a process for compiling input and recommendations from the Chief Financial Officer, the Department of Revenue, and the Department of Education. The rules must also require that the nonprofit scholarship-funding

organization make a brief presentation to assist the State Board of Education in its decision.

(i) A state university; or an independent college or university which is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, is exempt from the initial or renewal application process, but must file a registration notice with the Department of Education to be an eligible nonprofit scholarship-funding organization. The State Board of Education shall adopt rules that identify the procedure for filing the registration notice with the department. The rules must identify appropriate reporting requirements for fiscal, programmatic, and performance accountability purposes consistent with this section, but shall not exceed the requirements for eligible nonprofit scholarship-funding organizations for charitable organizations.

Section 5. Section 1002.40, Florida Statutes, is amended to read:

1002.40 The Hope Scholarship Program.—

(1) PURPOSE.—The Hope Scholarship Program is established to provide the parent of a public school student who was subjected to an incident listed in subsection (3) an opportunity to transfer the student to another public school or to request a scholarship for the student to enroll in and attend an eligible private school.

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

~~(a) "Dealer" has the same meaning as provided in s. 212.06.~~

~~(b) "Department" means the Department of Education.~~

~~(c) "Designated agent" has the same meaning as provided in s. 212.06(10).~~

~~(d) "Eligible contribution" or "contribution" means a monetary contribution from a person purchasing a motor vehicle, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. The person making the contribution may not designate a specific student as the beneficiary of the contribution.~~

~~(e) "Eligible nonprofit scholarship-funding organization" or "organization" has the same meaning as provided in s. 1002.395(2).~~

~~(f) "Eligible private school" has the same meaning as provided in s. 1002.395(2).~~

~~(g) "Motor vehicle" has the same meaning as provided in s. 320.01(1)(a), but does not include a heavy truck, truck tractor, trailer, or motorcycle.~~

(a) ~~(h)~~ "Parent" means a resident of this state who is a parent, as defined in s. 1000.21, and whose student reported an incident in accordance with subsection (4) ~~(6)~~.

(b) ~~(i)~~ "Program" means the Hope Scholarship Program.

(c) ~~(j)~~ "School" means any educational program or activity conducted by a public K-12 educational institution, any school-related or school-sponsored program or activity, and riding on a school bus, as defined in s. 1006.25(1), including waiting at a school bus stop.

~~(k) "Unweighted FTE funding amount" means the statewide average total funds per unweighted full-time equivalent funding amount that is incorporated by reference in the General~~

~~Appropriations Act, or by a subsequent special appropriations act, for the applicable state fiscal year.~~

(3) PROGRAM ELIGIBILITY. ~~Beginning with the 2018-2019 school year, contingent upon available funds, and on a first-come, first-served basis,~~ A student enrolled in a Florida public school in kindergarten through grade 12 is eligible for the educational options described in subsection (4) ~~a scholarship under this program~~ if the student reported an incident in accordance with that subsection ~~(6)~~. For purposes of this section, the term "incident" means battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school, as defined by the department in accordance with s. 1006.09(6).

~~(4) PROGRAM PROHIBITIONS.—Payment of a scholarship to a student enrolled in a private school may not be made if a student is:~~

~~(a) Enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind; the College-Preparatory Boarding Academy; a developmental research school authorized under s. 1002.32; or a charter school authorized under s. 1002.33, s. 1002.331, or s. 1002.332;~~

~~(b) Enrolled in a school operating for the purpose of providing educational services to youth in the Department of Juvenile Justice commitment programs;~~

~~(c) Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year; or~~

~~(d) Receiving any other educational scholarship pursuant to this chapter.~~

~~(5) TERM OF HOPE SCHOLARSHIP.—For purposes of continuity of educational choice, a Hope scholarship shall remain in force until the student returns to public school or graduates from high school, whichever occurs first. A scholarship student who enrolls in a public school or public school program is considered to have returned to a public school for the purpose of determining the end of the scholarship's term.~~

(4)~~(6)~~ SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

~~(a)~~ Upon receipt of a report of an incident, the school principal, or his or her designee, shall provide a copy of the report to the parent and investigate the incident to determine if the incident must be reported as required by s. 1006.09(6). Within 24 hours after receipt of the report, the principal or his or her designee shall provide a copy of the report to the parent of the alleged offender and to the superintendent. Upon conclusion of the investigation or within 15 days after the incident was reported, whichever occurs first, the school district shall notify the parent of the program, ~~and~~ offer the parent an opportunity to enroll his or her student in another public school that has capacity, and notify the parent of their eligibility ~~or~~ to apply for ~~request and receive~~ a scholarship to attend an eligible private school under ss. 1002.394 and 1002.395~~, subject to available funding~~. ~~A parent who chooses to enroll his or her student in a public school located outside the district in which the student resides pursuant to s. 1002.31 shall be eligible for a scholarship to transport the student as provided in paragraph (11)(b)~~.

~~(b) For each student participating in the program in an eligible private school who chooses to participate in the statewide assessments under s. 1008.22 or the Florida Alternate Assessment, the school district in which the student resides must notify the student and his or her parent about the locations and times to take all statewide assessments.~~

~~(7) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible private school may be sectarian or nonsectarian and shall:~~

~~(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to this section and s. 1002.421.~~

~~(b)1. Annually administer or make provision for students participating in the program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the department or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school shall report a student's scores to his or her parent.~~

~~2. Administer the statewide assessments pursuant to s. 1008.22 if a private school chooses to offer the statewide assessments. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10 and must submit a request in writing to the department by March 1 of each year in order to administer the statewide assessments in the subsequent school year.~~

~~If a private school fails to meet the requirements of this~~

~~subsection or s. 1002.421, the commissioner may determine that the private school is ineligible to participate in the program.~~

~~(8) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:~~

~~(a) Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication and, when the Florida Education Finance Program is recalculated, adjust the amount of state funds allocated to school districts through the Florida Education Finance Program based upon the results of the cross-check.~~

~~(b) Maintain a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in paragraph (9)(f). The tests must meet industry standards of quality in accordance with State Board of Education rule.~~

~~(c) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of students participating in the program, the private schools in which the students are enrolled, and other information deemed necessary by the department.~~

~~(d) Contract with an independent entity to provide an annual evaluation of the program by:~~

~~1. Reviewing the school bullying prevention education program, climate, and code of student conduct of each public school from which 10 or more students transferred to another public school or private school using the Hope scholarship to determine areas in the school or school district procedures involving reporting, investigating, and communicating a parent's and student's rights that are in need of improvement. At a minimum, the review must include:~~

~~a. An assessment of the investigation time and quality of the response of the school and the school district.~~

~~b. An assessment of the effectiveness of communication procedures with the students involved in an incident, the students' parents, and the school and school district personnel.~~

~~c. An analysis of school incident and discipline data.~~

~~d. The challenges and obstacles relating to implementing recommendations from the review.~~

~~2. Reviewing the school bullying prevention education program, climate, and code of student conduct of each public school to which a student transferred if the student was from a school identified in subparagraph 1. in order to identify best practices and make recommendations to a public school at which the incidents occurred.~~

~~3. Reviewing the performance of participating students enrolled in a private school in which at least 51 percent of the total enrolled students in the prior school year participated in the program and in which there are at least 10 participating students who have scores for tests administered.~~

~~4. Surveying the parents of participating students to determine academic, safety, and school climate satisfaction and to identify any challenges to or obstacles in addressing the incident or relating to the use of the scholarship.~~

~~(9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for a Hope scholarship is exercising his or her parental option to place his or her student in an eligible private school.~~

~~(a) The parent must select an eligible private school and apply for the admission of his or her student.~~

~~(b) The parent must inform the student's school district when the parent withdraws his or her student to attend an eligible private school.~~

~~(c) Any student participating in the program must remain in attendance throughout the school year unless excused by the school for illness or other good cause.~~

~~(d) Each parent and each student has an obligation to the private school to comply with such school's published policies.~~

~~(e) Upon reasonable notice to the department and the school district, the parent may remove the student from the private school and place the student in a public school in accordance with this section.~~

~~(f) The parent must ensure that the student participating in the program takes the norm-referenced assessment offered by the private school. The parent may also choose to have the student participate in the statewide assessments pursuant to s. 1008.22. If the parent requests that the student take the statewide assessments pursuant to s. 1008.22 and the private school has not chosen to offer and administer the statewide assessments, the parent is responsible for transporting the student to the assessment site designated by the school district.~~

~~(g) Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of such school. If payment is made by funds transfer in accordance with paragraph (11)(d), the parent must approve each payment before the scholarship funds may be deposited. The parent may not designate any entity or individual associated with the~~

~~participating private school as the parent's attorney in fact to endorse a scholarship warrant or approve a funds transfer. A parent who fails to comply with this paragraph forfeits the scholarship.~~

~~(10) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization may establish scholarships for eligible students by:~~

~~(a) Receiving applications and determining student eligibility in accordance with the requirements of this section.~~

~~(b) Notifying parents of their receipt of a scholarship on a first-come, first-served basis, based upon available funds.~~

~~(c) Establishing a date by which the parent of a participating student must confirm continuing participation in the program.~~

~~(d) Awarding scholarship funds to eligible students, giving priority to renewing students from the previous year.~~

~~(e) Preparing and submitting quarterly reports to the department pursuant to paragraph (8)(c). In addition, an eligible nonprofit scholarship-funding organization must submit in a timely manner any information requested by the department relating to the program.~~

~~(f) Notifying the department of any violation of this section.~~

~~(11) FUNDING AND PAYMENT.—~~

~~(a) For students initially eligible in the 2019-2020 school year or thereafter, the calculated amount for a student to attend an eligible private school shall be calculated in accordance with s. 1002.394(12)(a).~~

~~(b) The maximum amount awarded to a student enrolled in a public school located outside of the district in which the student resides shall be $750.~~

~~(c) When a student enters the program, the eligible nonprofit scholarship-funding organization must receive all documentation required for the student's participation, including a copy of the report of the incident received pursuant to subsection (6) and the private school's and student's fee schedules. The initial payment shall be made after verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school.~~

~~(d) Payment of the scholarship by the eligible nonprofit scholarship-funding organization may be by individual warrant made payable to the student's parent or by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment that the department deems to be commercially viable or cost-effective. If payment is made by warrant, the warrant must be delivered by the eligible nonprofit scholarship-funding organization to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school. If payments are made by funds transfer, the parent must approve each payment before the scholarship funds may be deposited. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant or approve a funds transfer.~~

~~(e) An eligible nonprofit scholarship-funding organization shall obtain verification from the private school of a student's~~

~~continued attendance at the school for each period covered by a scholarship payment.~~

~~(f) Payment of the scholarship shall be made by the eligible nonprofit scholarship-funding organization no less frequently than on a quarterly basis.~~

~~(g) An eligible nonprofit scholarship-funding organization, subject to the limitations of s. 1002.395(6)(l)1., may use eligible contributions received during the state fiscal year in which such contributions are collected for administrative expenses.~~

~~(h) Moneys received pursuant to this section do not constitute taxable income to the qualified student or his or her parent.~~

~~(i) Notwithstanding s. 1002.395(6)(l)2., no more than 5 percent of net eligible contributions may be carried forward to the following state fiscal year by an eligible scholarship-funding organization. For audit purposes, all amounts carried forward must be specifically identified for individual students by student name and by the name of the school to which the student is admitted, subject to the requirements of ss. 1002.21 and 1002.22 and 20 U.S.C. s. 1232g, and the applicable rules and regulations issued pursuant to such requirements. Any amounts carried forward shall be expended for annual scholarships or partial-year scholarships in the following state fiscal year. Net eligible contributions remaining on June 30 of each year which are in excess of the 5 percent that may be carried forward shall be transferred to other eligible nonprofit scholarship-funding organizations participating in the Hope Scholarship Program to provide scholarships for eligible students. All~~

~~transferred funds must be deposited by each eligible nonprofit scholarship-funding organization receiving such funds into the scholarship account of eligible students. All transferred amounts received by an eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit requirement under s. 1002.395(6)(o). If no other eligible nonprofit scholarship-funding organization participates in the Hope Scholarship Program, net eligible contributions in excess of the 5 percent may be used to fund scholarships for students eligible under s. 1002.395 only after fully exhausting all contributions made in support of scholarships under that section in accordance with the priority established in s. 1002.395(6)(f) before awarding any initial scholarships.~~

~~(12) OBLIGATIONS OF THE AUDITOR GENERAL.—~~

~~(a) The Auditor General shall conduct an annual operational audit of accounts and records of each organization that participates in the program. As part of this audit, the Auditor General shall verify, at a minimum, the total number of students served and transmit that information to the department. The Auditor General shall provide the commissioner with a copy of each annual operational audit performed pursuant to this paragraph within 10 days after the audit is finalized.~~

~~(b) The Auditor General shall notify the department of any organization that fails to comply with a request for information.~~

~~(13) SCHOLARSHIP-FUNDING TAX CREDITS.—~~

~~(a) A tax credit is available under s. 212.1832(1) for use by a person that makes an eligible contribution. Eligible contributions shall be used to fund scholarships under this~~

~~section and may be used to fund scholarships under s. 1002.395. Each eligible contribution is limited to a single payment of $105 per motor vehicle purchased at the time of purchase of a motor vehicle or a single payment of $105 per motor vehicle purchased at the time of registration of a motor vehicle that was not purchased from a dealer, except that a contribution may not exceed the state tax imposed under chapter 212 that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Payments of contributions shall be made to a dealer at the time of purchase of a motor vehicle or to a designated agent or private tag agent at the time of registration of a motor vehicle that was not purchased from a dealer. An eligible contribution shall be accompanied by a contribution election form provided by the Department of Revenue. The form shall include, at a minimum, the following brief description of the Hope Scholarship Program and the Florida Tax Credit Scholarship Program: "THE HOPE SCHOLARSHIP PROGRAM PROVIDES A PUBLIC SCHOOL STUDENT WHO WAS SUBJECTED TO AN INCIDENT OF VIOLENCE OR BULLYING AT SCHOOL THE OPPORTUNITY TO APPLY FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE PRIVATE SCHOOL RATHER THAN REMAIN IN AN UNSAFE SCHOOL ENVIRONMENT. THE FLORIDA TAX CREDIT SCHOLARSHIP PROGRAM PROVIDES A LOW-INCOME STUDENT THE OPPORTUNITY TO APPLY FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE PRIVATE SCHOOL." The form shall also include, at a minimum, a section allowing the consumer to designate, from all participating scholarship-funding organizations, which organization will receive his or her donation. For purposes of this subsection, the term "purchase" does not include the lease or rental of a motor vehicle.~~

~~(b) A dealer, designated agent, or private tag agent shall:~~

~~1. Provide the purchaser the contribution election form, as provided by the Department of Revenue, at the time of purchase of a motor vehicle or at the time of registration of a motor vehicle that was not purchased from a dealer.~~

~~2. Collect eligible contributions.~~

~~3. Using a form provided by the Department of Revenue, which shall include the dealer's or agent's federal employer identification number, remit to an organization no later than the date the return filed pursuant to s. 212.11 is due the total amount of contributions made to that organization and collected during the preceding reporting period. Using the same form, the dealer or agent shall also report this information to the Department of Revenue no later than the date the return filed pursuant to s. 212.11 is due.~~

~~4. Report to the Department of Revenue on each return filed pursuant to s. 212.11 the total amount of credits granted under s. 212.1832 for the preceding reporting period.~~

~~(c) An organization shall report to the Department of Revenue, on or before the 20th day of each month, the total amount of contributions received pursuant to paragraph (b) in the preceding calendar month on a form provided by the Department of Revenue. Such report shall include:~~

~~1. The federal employer identification number of each designated agent, private tag agent, or dealer who remitted contributions to the organization during that reporting period.~~

~~2. The amount of contributions received from each designated agent, private tag agent, or dealer during that reporting period.~~

~~(d) A person who, with the intent to unlawfully deprive or defraud the program of its moneys or the use or benefit thereof, fails to remit a contribution collected under this section is guilty of theft, punishable as follows:~~

~~1. If the total amount stolen is less than $300, the offense is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Upon a second conviction, the offender is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Upon a third or subsequent conviction, the offender is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~2. If the total amount stolen is $300 or more, but less than $20,000, the offense is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~3. If the total amount stolen is $20,000 or more, but less than $100,000, the offense is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~4. If the total amount stolen is $100,000 or more, the offense is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(e) A person convicted of an offense under paragraph (d) shall be ordered by the sentencing judge to make restitution to the organization in the amount that was stolen from the program.~~

~~(f) Upon a finding that a dealer failed to remit a contribution under subparagraph (b)3. for which the dealer claimed a credit pursuant to s. 212.1832(2), the Department of Revenue shall notify the affected organizations of the dealer's name, address, federal employer identification number, and~~

~~information related to differences between credits taken by the dealer pursuant to s. 212.1832(2) and amounts remitted to the eligible nonprofit scholarship-funding organization under subparagraph (b)3.~~

~~(g) Any dealer, designated agent, private tag agent, or organization that fails to timely submit reports to the Department of Revenue as required in paragraphs (b) and (c) is subject to a penalty of $1,000 for every month, or part thereof, the report is not provided, up to a maximum amount of $10,000. Such penalty shall be collected by the Department of Revenue and shall be transferred into the General Revenue Fund. Such penalty must be settled or compromised if it is determined by the Department of Revenue that the noncompliance is due to reasonable cause and not due to willful negligence, willful neglect, or fraud.~~

~~(14) LIABILITY.—The state is not liable for the award of or any use of awarded funds under this section.~~

~~(15) SCOPE OF AUTHORITY.—This section does not expand the regulatory authority of this state, its officers, or any school district to impose additional regulation on participating private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.~~

(5)~~(16)~~ RULES.—The State Board of Education shall adopt rules to administer this section~~, except the Department of Revenue shall adopt rules to administer subsection (13)~~.

Section 6. Paragraph (i) of subsection (1) of section 1002.421, Florida Statutes, is amended to read:

1002.421 State school choice scholarship program accountability and oversight.—

(1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private school participating in an educational scholarship program established pursuant to this chapter must be a private school as defined in s. 1002.01 in this state, be registered, and be in compliance with all requirements of this section in addition to private school requirements outlined in s. 1002.42, specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools, and must:

(i) Maintain a physical location in the state at which each student has regular and direct contact with teachers. Regular and direct contact with teachers may be satisfied for students enrolled in a personalized education program if students have regular and direct contact with teachers at the physical location at least two school days per week and the student learning plan addresses the remaining instructional time.

The department shall suspend the payment of funds to a private school that knowingly fails to comply with this subsection, and shall prohibit the school from enrolling new scholarship students, for 1 fiscal year and until the school complies. If a private school fails to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (q), the commissioner may determine that the private school is ineligible to participate in a scholarship program.

Section 7. Paragraph (a) of subsection (2) of section 1002.45, Florida Statutes, is amended to read:

1002.45 Virtual instruction programs.—

(2) PROVIDER QUALIFICATIONS.—

(a) The department shall annually publish on its website a list of providers approved by the State Board of Education to offer virtual instruction programs. To be approved, a virtual instruction program provider must document that it:

~~1. Is nonsectarian in its programs, admission policies, employment practices, and operations;~~

1.~~2.~~ Complies with the antidiscrimination provisions of s. 1000.05;

2.~~3.~~ Locates an administrative office or offices in this state, requires its administrative staff to be state residents, requires all instructional staff to be Florida-certified teachers under chapter 1012 and conducts background screenings for all employees or contracted personnel, as required by s. 1012.32, using state and national criminal history records;

3.~~4.~~ Electronically provides to parents and students specific information that includes, but is not limited to, the following teacher-parent and teacher-student contact information for each course:

a. How to contact the instructor via phone, e-mail, or online messaging tools.

b. How to contact technical support via phone, e-mail, or online messaging tools.

c. How to contact the administration office via phone, e-mail, or online messaging tools.

d. Any requirement for regular contact with the instructor for the course and clear expectations for meeting the requirement.

e. The requirement that the instructor in each course must,

at a minimum, conduct one contact with the parent and the student each month;

4.~~5.~~ Possesses prior, successful experience offering virtual instruction courses to elementary, middle, or high school students as demonstrated by quantified student learning gains in each subject area and grade level provided for consideration as an instructional program option. However, for a virtual instruction program provider without sufficient prior, successful experience offering online courses, the State Board of Education may conditionally approve the virtual instruction program provider to offer courses measured pursuant to subparagraph (7)(a)2. Conditional approval shall be valid for 1 school year only and, based on the virtual instruction program provider's experience in offering the courses, the State Board of Education may grant approval to offer a virtual instruction program;

5.~~6.~~ Is accredited by a regional accrediting association as defined by State Board of Education rule;

6.~~7.~~ Ensures instructional and curricular quality through a detailed curriculum and student performance accountability plan that addresses every subject and grade level it intends to provide through contract with the school district, including:

a. Courses and programs that meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board.

b. Instructional content and services that align with, and measure student attainment of, student proficiency in the state academic standards.

c. Mechanisms that determine and ensure that a student has

satisfied requirements for grade level promotion and high school graduation with a standard diploma, as appropriate;

7.~~8.~~ Publishes, in accordance with disclosure requirements adopted in rule by the State Board of Education, as part of its application as an approved virtual instruction program provider and in all contracts negotiated pursuant to this section:

a. Information and data about the curriculum of each full-time and part-time virtual instruction program.

b. School policies and procedures.

c. Certification status and physical location of all administrative and instructional personnel.

d. Hours and times of availability of instructional personnel.

e. Student-teacher ratios.

f. Student completion and promotion rates.

g. Student, educator, and school performance accountability outcomes;

8.~~9.~~ If the approved virtual instruction program provider is a Florida College System institution, employs instructors who meet the certification requirements for instructional staff under chapter 1012; and

9.~~10.~~ Performs an annual financial audit of its accounts and records conducted by an independent auditor who is a certified public accountant licensed under chapter 473. The independent auditor shall conduct the audit in accordance with rules adopted by the Auditor General and in compliance with generally accepted auditing standards, and include a report on financial statements presented in accordance with generally accepted accounting principles. The audit report shall be

accompanied by a written statement from the approved virtual instruction program provider in response to any deficiencies identified within the audit report and shall be submitted by the approved virtual instruction program provider to the State Board of Education and the Auditor General no later than 9 months after the end of the preceding fiscal year.

Section 8. Paragraph (c) of subsection (1) of section 1003.4156, Florida Statutes, is amended to read:

1003.4156 General requirements for middle grades promotion.—

(1) In order for a student to be promoted to high school from a school that includes middle grades 6, 7, and 8, the student must successfully complete the following courses:

(c) Three middle grades or higher courses in social studies. One of these courses must be at least a one-semester civics education course that includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States. All instructional materials for the civics education course must be reviewed and approved by the Commissioner of Education, in consultation with organizations that may include, but are not limited to, the Florida Joint Center for Citizenship, the Bill of Rights Institute, Hillsdale College, the Gilder Lehrman Institute of American History, iCivics, and the Constitutional Sources Project, and with educators, school administrators,

postsecondary education representatives, elected officials, business and industry leaders, parents, and the public. Any errors and inaccuracies the commissioner identifies in state-adopted materials must be corrected pursuant to s. 1006.35. After consulting with such entities and individuals, the commissioner shall review the current state-approved civics education course instructional materials and the test specifications for the statewide, standardized EOC assessment in civics education and shall make recommendations for improvements to the materials and test specifications by December 31, 2019. By December 31, 2020, the department shall complete a review of the statewide civics education course standards. Each student's performance on the statewide, standardized EOC assessment in civics education required under s. 1008.22 constitutes 30 percent of the student's final course grade. A middle grades student who transfers into the state's public school system from out of country, out of state, a private school, a personalized education program, or a home education program after the beginning of the second term of grade 8 is not required to meet the civics education requirement for promotion from the middle grades if the student's transcript documents passage of three courses in social studies or two year-long courses in social studies that include coverage of civics education.

Section 9. Subsection (6) of section 1003.4282, Florida Statutes, is amended to read:

1003.4282 Requirements for a standard high school diploma.—

(6) UNIFORM TRANSFER OF HIGH SCHOOL CREDITS.—Beginning with the 2012-2013 school year, if a student transfers to a Florida public high school from out of country, out of state, a private

school, a personalized education program, or a home education program and the student's transcript shows a credit in Algebra I, the student must pass the statewide, standardized Algebra I EOC assessment in order to earn a standard high school diploma unless the student earned a comparative score, passed a statewide assessment in Algebra I administered by the transferring entity, or passed the statewide mathematics assessment the transferring entity uses to satisfy the requirements of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (ESSA), 20 U.S.C. ss. 6301 et seq. If a student's transcript shows a credit in high school reading or English Language Arts II or III, in order to earn a standard high school diploma, the student must take and pass the statewide, standardized grade 10 ELA assessment, or earn a concordant score. If a transfer student's transcript shows a final course grade and course credit in Algebra I, Geometry, Biology I, or United States History, the transferring course final grade and credit shall be honored without the student taking the requisite statewide, standardized EOC assessment and without the assessment results constituting 30 percent of the student's final course grade.

Section 10. Paragraph (l) of subsection (4) of section 1003.485, Florida Statutes, is amended to read:

1003.485 The New Worlds Reading Initiative.—

(4) ADMINISTRATOR RESPONSIBILITIES.—The administrator shall:

(l) Expend eligible contributions received only for the purchase and delivery of books and to implement the requirements of this section, as well as for administrative expenses not to

exceed 2 percent of total eligible contributions. Notwithstanding s. 1002.395(6)(l)3. ~~s. 1002.395(6)(l)2.~~, the administrator may carry forward up to 25 percent of eligible contributions made before January 1 of each state fiscal year and 100 percent of eligible contributions made on or after January 1 of each state fiscal year to the following state fiscal year for purposes authorized by this subsection. Any eligible contributions in excess of the allowable carry forward not used to provide additional books throughout the year to eligible students shall revert to the state treasury.

Section 11. Effective upon this act becoming a law, paragraph (e) is added to subsection (5) of section 1004.6495, Florida Statutes, to read:

1004.6495 Florida Postsecondary Comprehensive Transition Program and Florida Center for Students with Unique Abilities.—

(5) CENTER RESPONSIBILITIES.—The Florida Center for Students with Unique Abilities is established within the University of Central Florida. At a minimum, the center shall:

(e) By July 1, 2024, develop the purchasing guidelines for authorized uses of scholarship funds for the Family Empowerment Scholarship Program under s. 1002.394(4)(b) and by each July 1 thereafter, revise such guidelines. The center must consult with parents of a student with a disability participating in the scholarship program in the development and revision of the guidelines and must provide the guidelines to each eligible nonprofit scholarship-funding organization that awards scholarships to a student eligible for the scholarship program under s. 1002.394(3)(b) for publishing on each organization's website.

Section 12. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2024.

The Florida Senate

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2/22/24
Meeting Date

Senate Appropriations
Committee

SB 7048 X
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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22 Feb 2024
Meeting Date

Senate Appropriations
Committee

SB 7048
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☑ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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2.22.24
Meeting Date

APPROPRIATIONS
Committee

SB 7048
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☑ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

EQUIPMENT PROVISIONS

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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22 Feb 2024
Meeting Date

Appropriations
Committee

7048
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Stranburg

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City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Americans for Prosperity

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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2-22-2024
Meeting Date

Appropriations
Committee

SB 7048
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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2-22-24
Meeting Date

Appropriations
Committee

SB 7048
Bill Number or Topic

Amendment Barcode (if applicable)

Name Crystal Crawford

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City State Zip

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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2/22/24
Meeting Date

Senate Appropriations
Committee

SB 7048 X
Bill Number or Topic

Amendment Barcode (if applicable)

Name Justin Hughes

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City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:
VERITAS CHRISTIAN ACADEMY (Tallahassee)

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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2-22-24
Meeting Date

Appropriations
Committee

SB 7048
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

Speaking: [X] For [X] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:
The Home Education Foundation

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Approps.
Committee

7048
Bill Number or Topic

Amendment Barcode (if applicable)

Name Alexis Larue, Step Up for Students Phone

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Street

Tallahassee FL 32303
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Step Up for Students

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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2/22/24
Meeting Date

Appropriations
Committee

7048
Bill Number or Topic

Amendment Barcode (if applicable)

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Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/22/24
Meeting Date

Senate Appropriations
Committee

SB 7048
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ethan Merchant

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Street

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Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

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

S-001 (08/10/2021)

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 Appropriations

BILL:	CS/SB 7054
INTRODUCER:	Appropriations Committee and Community Affairs Committee
SUBJECT:	Private Activity Bonds
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Hackett	Ryon		**CA Submitted as Comm. Bill/Fav**
1.	Shettle	Sadberry	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7054 substantially revises Part VI, Private Activity Bonds, of ch. 159, F.S. The bill modernizes, updates, and streamlines out-of-date provisions throughout the part, and codifies certain Division of Bond Finance (Division) rules related to the administration of private activity bonds. Specifically, the bill:

- Provides legislative intent to maximize the annual use of private activity bonds to finance improvements, projects, and programs serving public purposes and benefitting the social and economic well-being of Floridians;
- Refines and adds definitions used throughout;
- Revises the regions, pools, and timelines related to bond allocations to consolidate infrequently used pools and expedite usage of bonds;
- Codifies current rules and procedures related to requests for volume limitation by notice of intent to issue, evaluating such notices, and the division's role in final certification of bond issuance;
- Allows for all volume cap allocated in a confirmation to be entitled to be carried forward, rather than limiting to specific types of projects or basing it on the amount of the confirmation;
- Replaces the existing processes for requesting and granting allocation of volume cap with an electronic application wherein all Notices and Issuance Reports will be submitted on the Division's website in lieu of via certified/overnight mail;
- Repeals the Division's rulemaking authority; and
- Amends related statutes to correct cross references and outdated references.

The bill has an indeterminate, likely insignificant fiscal impact to state revenues and expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect January 1, 2025.

II. Present Situation:

Private Activity Bonds

State and local governments receive direct and indirect tax benefits under the Internal Revenue Code (the "Code") and associated federal tax regulations that typically result in lower borrowing costs for capital projects through the issuance of tax-exempt bonds.[1] The tax exemption lowers the cost of capital because the interest earnings on taxable bonds carry a tax liability, allowing investors to receive the same rate of return while charging a lower interest rate.[2]

Tax-Exempt Status of Governmental & Private Activity Bonds

Bonds issued by state and local governments, and conduit issuers on their behalf,[3] are classified as either governmental bonds,[4] or private activity bonds ("PABs").[5] Governmental bonds are those bonds which are issued to finance programs and projects that are owned, operated, or used by, governmental entities, including construction, maintenance, and repair of public infrastructure;[6] and which have only a *de minimis* benefit to private businesses.[7] All other bonds issued by state and local governments are considered PABs.[8] PABs can be issued by designated state agencies and units of local government, including conduit issuers, to finance projects that are owned, operated, or used by, nongovernmental, private businesses, that provide a public benefit.

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[1] United States Department of the Treasury, Internal Revenue Service "Publication 4078, Tax-Exempt PABs" (Rev. 9-2019) Catalog Number 34662G, available at https://www.irs.gov/pub/irs-pdf/p4078.pdf (last visited Feb. 2, 2024).
[2] For example, if the interest earnings on taxable bonds carry a tax liability of 35% of the interest earnings, the after-tax rate of return on taxable bonds that yield a 10% rate of return before taxes is equivalent to tax-exempt bonds that yield a 6.5% rate of return; the investor receives the same return in both instances but, by issuing tax-exempt bonds capital can be raised at an interest cost that is 3.5 percentage points lower. The greater the yield spread between taxable and tax-exempt bonds, the greater the nominal savings. *See* Congressional Research Service, "Tax-Exempt Bonds: A Description of State and Local Government Debt," updated February 15, 2018, available at: https://crsreports.congress.gov/product/pdf/RL/RL30638 (last visited Feb. 2, 2024).
[3] Conduit issuers include governmental and quasi-governmental agencies and corporations, such as special districts, industrial development authorities, local housing finance authorities, and other agencies statutorily authorized to issue PABs (e.g., the Florida Housing Finance Corporation and the Florida Development Finance Corporation).
[4] Treas. Reg. § 1.141-1(b).
[5] I.R.C. § 141(a).
[6] United States Department of the Treasury, Internal Revenue Service "Publication 4079, Tax-Exempt Governmental Bonds" (Rev. 9-2019) Catalog Number 34663R, available at https://www.irs.gov/pub/irs-pdf/p4079.pdf (last visited Feb. 2, 2024).
[7] If more than 10% of the proceeds will be used by a private business (the "private business use test") and more than 10% of the proceeds will be secured by property used by a private business (the "the private security or payment test"), then the bonds will satisfy both prongs of the private business tests will be considered PABs and not governmental bonds. Additionally, if more than the lesser of 5% of the proceeds or $5 million will be used to make or finance loans to persons or entities other than governmental units, then the bonds will satisfy the private loan financing test and will be considered PABs and not governmental bonds. *See* I.R.C. § 141(b)-(c).
[8] I.R.C. § 141(a).

Generally, interest on governmental bonds excluded from gross income for federal income tax purposes[9] and the interest on PABs is taxable; [10] however, Congress has authorized the issuance of tax-exempt PABs as a mechanism to subsidize the development of capital projects by private businesses that provide a public purpose by affording such projects the same tax benefits as governmental bonds.[11] Such projects include affordable housing projects, public works projects (e.g., utility, water, sewage, solid waste facilities), and projects that will be used by 501(c)(3) non-profit organizations.[12] These types of projects are deemed to provide sufficient public benefits to merit excluding the interest on the PABs issued to finance such projects from gross income for federal income tax purposes.[13] As such, governments can incentivize the private sector to invest in infrastructure and develop programs and projects that benefit their citizens by providing those private businesses with a more affordable (lower interest rate) source of funds through the issuance of tax-exempt PABs.[14]

The Division of Bond Finance

The Division of Bond Finance of the State Board of Administration of Florida (the "Division") was created to provide capital financing for state agencies and associated entities by issuing and administering a variety of bonds authorized by s. 11, art. VII of the state constitution for education, environmental, transportation, state facilities, and insurance programs.[15] The Division is administratively housed within the State Board of Administration, and is governed by the Governor and Cabinet.

Included in their duties is the administration of PABs, which includes calculating the volume cap, allocating those bonds from the federal grant of authority to end users across the state, and reporting their ultimate usage to the Internal Revenue Service to maintain tax exempt status.[16] The Division receives and executes applications for use of PABs from local governments, end users, and conduit issuers such as the Florida Housing Finance Corporation and the Florida Development Finance Corporation.

Types of Tax-Exempt PABs

Since PABs were defined in 1968, Congress has more than doubled the purposes for which PABs can qualify for the tax exemption.[17] A "qualified bond" (i.e., one that may be issued as

[9] I.R.C. § 103(a).
[10] I.R.C. § 103(b)(1).
[11] Congressional Research Service, "PABs: An Introduction," updated January 31, 2022, available at: https://crsreports.congress.gov/product/pdf/RL/RL31457 (last visited Feb. 2, 2024).
[12] I.R.C. §§ 142-145.
[13] Tax-exempt status only applies to PABs that are "qualified bonds" as defined in I.R.C. § 141. *See* I.R.C. § 103(b).
[14] *Supra*, note 7.
[15] The Division currently reports ratings for more than 30 different bonds. *See* State of Florida Division of Bond Finance, *Summary of Bond Program Ratings*, available at https://www.flabonds.com/state-of-florida-investor-relations-fl/additional-info/i678?i=3 (last visited Feb. 5, 2024).
[16] *See Generally*, "Florida Private Activity Bond Allocation Act," Part VI, Ch. 159, F.S.; *Office of Program Policy Analysis and Government Accountability*, State Board of Administration of Florida, Bond Finance, available at https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4041 (last visited Feb. 5, 2024).
[17] *Supra*, note 12.

tax-exempt) is any one of the following types of PABs[18] that also meets the applicable requirements of Sections 146 and 147 of the Code:

- Exempt facility bonds[19] that are issued to finance airports, docks and wharves, ***mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, qualified residential rental projects, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities, qualified hazardous waste facilities, high-speed intercity rail facilities***, environmental enhancements of hydro-electric generating facilities, qualified public educational facilities, qualified green building and sustainable design projects, qualified highway or surface freight transfer facilities, ***qualified broadband projects, and qualified carbon dioxide capture facilities***.
- ***Qualified mortgage bonds***.[20]
- Qualified veterans' mortgage bonds.[21]
- ***Qualified small issue bonds***.[22]
- ***Qualified student loan bonds***.[23]
- ***Qualified redevelopment bonds***.[24]
- Qualified 501(c)(3) bonds.[25]

PAB Volume Cap and State Ceiling

The federal government imposes an annual limit ("volume cap" or "volume limitation") on the aggregate amount of certain types of tax-exempt PABs), that may be issued in each state and U.S. territory (the "state ceiling").[26] The state ceiling is based on the state's population and may be adjusted for inflation.[27] The inflation adjustments are published in a revenue procedure issued prior to the beginning of each calendar year.[28] The formula for calculating the state ceiling for 2024 is the greater of $125 multiplied by the state population or $378.23 million.[29] The Division has calculated Florida's state ceiling for 2024 to be $2,826,340,750.[30] The following table shows

[18] Those that are in ***bold italics*** are the ones that are subject to allocation of volume cap by the Division.
[19] I.R.C. § 142(a) identifies 17 types of facilities that may be financed with exempt facility bonds. Additionally, Congress has identified two other types of bonds that are to be treated as if they were exempt facility bonds, enterprise zone facility bonds and empowerment zone facility bonds. *See* I.R.C. § 1394.
[20] I.R.C. § 143(a).
[21] I.R.C. § 143(b).
[22] I.R.C. §§ 144(a) and 7871(c). Qualified small issue bonds are frequently referred to as industrial revenue bonds ("IRBs") or industrial development bonds ("IBDs") and are issued to finance manufacturing facilities and farm property.
[23] I.R.C. § 144(b). Additionally, qualified scholarship funding bonds, established in I.R.C. § 150(d)(2), are analyzed under I.R.C. § 144(b)
[24] I.R.C. § 144(c).
[25] I.R.C. § 145.
[26] I.R.C. § 146. The economic rationale for the limitation on the amount tax-exempt PABs that may be issued stems from the inefficiency of the mechanism to subsidize private activity and the lack of congressional control of the subsidy absent such a limitation. *Supra*, note 12.
[27] I.R.C. § 146(d).
[28] In 2022 the formula for the state ceiling was the greater of $110 multiplied by the state population or $335,115,000. This amount increased in calendar year 2023 to the greater of $120 multiplied by the state population or $358,845,000. *See* § 3.20, Rev. Proc. 2021-45, available at: https://www.irs.gov/pub/irs-drop/rp-21-45.pdf and § 3.20, Rev. Proc. 2022-38, available at: https://www.irs.gov/pub/irs-drop/rp-22-38.pdf (last visited Feb. 2, 2024).
[29] *See* § 3.20, Rev. Proc. 2023-34, available at: https://www.irs.gov/pub/irs-drop/rp-23-34.pdf (last visited Feb. 2, 2024).
[30] Division of Bond Finance, *Act Summary*, available at https://www.sbafla.com/bond/Other-Functions/Private-Activity-Bond-Allocation-Programs (last visited Feb. 2, 2024).

the historical increase to the state ceiling as the per capita rate and state population have increased.

Florida's State Ceiling 2014-2023										
Calendar Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
IRS Per Capita	$100	$100	$100	$100	$105	$105	$105	$110	$110	$120
State Pop.	19.55M	19.89M	20.27M	20.61M	20.98M	21.30M	21.48M	21.73M	21.78M	22.24M
State Ceiling	$1.96B	$1.99B	$2.03B	$2.06B	$2.15B	$2.24B	$2.26B	$2.39B	$2.40B	$2.67B

While the Code provides a default formula for the allocation of volume cap, each state may, by law, provide its own formula for allocating its state ceiling.[31] The Division is statutorily designated to allocate volume limitation to those entities authorized to issue PABs in Florida pursuant to the Florida Private Activity Bond Allocation Act[32] and the rules promulgated thereunder.[33]

Allocation of State Ceiling

For PABs subject to the state ceiling,[34] issuers must have sufficient volume cap under the Code or their state's formula for allocating its state ceiling in order in order for the interest on those bonds to be excluded from gross income for federal income tax purposes.[35] States have a variety of methods for distributing their state ceiling at the beginning of each year based on the purpose or type of the proposed PABs, the location of the project, and the issuer requesting an allocation of volume cap; additionally, the timeframe within which state ceiling is available for various types of projects varies greatly from state to state. There are two predominant methods for how volume cap is allocated in each state; one in which broad discretion is given to the program

[31] I.R.C. § 146(e).
[32] Part VI of chapter 159, F.S.
[33] Chapter 19A-4, F.A.C.
[34] The amounts of tax-exempt PABs issued as exempt facility bonds to finance mass commuting facilities, facilities for the furnishing of water, sewage facilities, privately owned solid waste disposal facilities, qualified residential rental projects, facilities for the furnishing local electric energy or gas, local district heating and cooling facilities, qualified hazardous waste facilities, privately owned high-speed intercity rail facilities, privately owned qualified broadband projects, and qualified carbon capture facilities, qualified mortgage revenue bonds, qualified small issue bonds, qualified student loan bonds, and qualified redevelopment bonds are subject to an annual volume cap and cannot exceed the amount allocated. Tax-exempt PABs issued to finance privately owned high-speed intercity rail facilities, privately owned qualified broadband projects, and qualified carbon capture facilities only need an allocation for 25% of the amount of any tax-exempt exempt facility bonds issued. I.R.C. §§ 142(a), 143, 144, and 146(g)(4)-(5). Certain types of PABs are not subject to the state ceiling but are subject to other annual or lifetime caps under the Code. The amounts of tax-exempt PABs issued to finance qualified public educational facilities, qualified green building and sustainable design projects, and qualified highway or surface freight transfer facilities are separately limited in I.R.C. § 142. Qualified public educational facilities are subject to a separate annual state volume cap, which is the greater of $10 per capita or $5 million, as allotted in the manner the state determines appropriate pursuant to I.R.C. § 142(k)(5). *See*, s. 159.834, F.S. Qualified green building and sustainable design projects must receive designation from the United States Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency; exempt facility bonds issued to finance such project are subject to a lifetime volume cap of $2 billion, allocated by the Secretary of the Treasury pursuant to I.R.C. §142(l)(7)(B). Exempt facility bonds for qualified transfer facilities are subject to a lifetime volume cap of $30 billion, allocated by the United States Secretary of Transportation pursuant to I.R.C. §142(m)(2)(C).
[35] The aggregate face amount of tax-exempt PABs issued by a particular issuing authority during a calendar year cannot exceed such authority's volume cap for such calendar year. I.R.C. §146(a).

administrator to determine which issuers and projects should be allowed to access the tax-exempt market, and one in which the state legislature has established a detailed framework making the administration of the program a ministerial function based on legislative priorities.[36] Additionally, a number of state legislatures have designated percentages or set amounts of their state ceiling for affordable housing projects (multifamily and single-family housing bonds and mortgage credit certificates ("MCCs"), for low- and moderate-income families),[37] industrial development projects (manufacturing facility bonds), and public works projects (exempt facility bonds). The Division's administration of Florida's state ceiling falls is ministerial pursuant to a detailed legislative framework, with a first-come, first-served system with discrete pools reserved, for at least part of the year, for specific purposes and/or projects located in specified regions.

Current Allocation of Florida's State Ceiling by the Division

The Division has calculated Florida's state ceiling and allocated volume cap to issuers throughout the state pursuant to the Act since 1986. Prior to January 1 of each year, the Division calculates the state ceiling for the upcoming calendar year; then, on January 1 of each year, the Division allocates the state ceiling to the Manufacturing Facility Bond Pool ("MFBP"), among the 17 Regional Allocation Pools, to the Florida Housing Finance Corporation ("FHFC"), to the Florida First Business allocation pool ("FFBP"), and to the state allocation pool (the "State Pool"), all as described in the following table:[38]

[36] California's Debt Limit Allocation Committee has been delegated broad discretion to annually set priorities and method of allocation. *See e.g.*, Cal. Govt. Code § 8869.80 et seq. (2021); Cal. Code Regs. Tit. 4, §§ 5010, 5020-5022, and 5150-5155; *California Debt Limit Allocation Committee (CDLAC)*, CALIFORNIA STATE TREASURER, available at https://www.treasurer.ca.gov/cdlac/index.asp (last visited Feb. 2, 2024). Some states have a hybrid approach, either setting aside only a portion of their state ceiling to be allocated at the discretion of the program administrator, or giving the program administrator discretion in the event that requests exceed the available state ceiling. *See*, Ga. Code Ann. §§ 36-82-195 – 36-82-196, Ariz. Rev. Stat. §§ 35-901 – 35-913, Va. Code Ann. § 15.2-5002, and Rule 122-4-02, Ohio Admin. Code. Comparatively, states including Texas and Washington allocate volume cap in accordance with prescriptive legislative frameworks similar to Florida.

[37] Typically, states that designate a portion of their state ceiling for affordable housing split it into two parts; either based on purpose (single-family housing bonds and MCCs vs. multifamily housing bonds) or based on the issuer (state-level housing agency vs. local HFAs). *See*, Ariz. Rev. Stat. §§ 35-901 – 35-913; Code Ann. § 15.2-5002; Me. Stat. tit. 10, § 363; Iowa Code § 7C, available at https://www.legis.iowa.gov/docs/ico/chapter/7C.pdfW; Wash. Rev. Code §39.86.120; and *Bond Cap Allocation Program*, WASHINGTON DEPARTMENT OF COMMERCE, https://www.commerce.wa.gov/about-us/research-services/bond-cap-allocation-program/ (last visited Feb. 2, 2024).

[38] Section 159.804, F.S.

Current Allocation of Florida's State Ceiling		
Pool/Entity	**Amount** [39]	**Purpose/Limitations**
MFBP	$97.5 million	• Available Jan 1 – Nov 15 to finance manufacturing facility projects ○ Amount remaining on Nov 16 is transferred to the state pool • The first $73,125,000 available to issuers on first come, first served basis, with $14,620,000 is reserve for small counties Jan 1 – June 30; and the final $24,375,000 requires Department of Commerce review and approval
Regional Allocation Pools	50% after MFBP *($1,364,420,375)*	• Available local issuers on first come, first served basis from Jan 1 – June 30 to finance projects within that region ○ Any amounts remaining on July 1 are transferred to FFBP • The amount distributed to each region is proportional to its share of the state population
FHFC	25% after MFBP *($682,210,187.50)*	• Available for FHFC to use to issue housing bonds; FHFC may assign a portion to other issuers to issue housing bonds ○ Amount remaining on July 1 is transferred to the state pool
FFBP	20% after MFBP *($545,768,150)*	• Available Jan 1 – Nov 15 to finance "Florida First Business projects"[40] ○ Amount remaining on Nov 16 is transferred to the state pool • Issuer must have project certified as a Florida first business project by Department of Commerce prior to requesting allocation
State Pool	5% after MFBP *($136,442,037.50)*	• Available Jan 1 – May 30 to finance "Priority Projects,"[41] which may be subject to Governor's review and approval ○ Amount remaining on June 1 is transferred to FFBP • Following inflows from FFBP available to all issuers after Nov 16 • Balance remaining on Dec 30 is available for carryforward

[39] Amounts shown for each pool are for calendar year 2024. *See* "2024 Private Activity Bond State Volume Cap Allocation By Pool," available at https://www.sbafla.com/bond/Portals/0/Content/FinancialInformation/2024%20PAB%20State%20Volume%20Cap%20Allocation%20By%20Pool%20with%20MAP.pdf?ver=2023-12-28-090525-327 (last visited Feb. 2, 2024).

[40] "Florida First Business project" means (1) any project proposed by a business which qualifies as a target industry business or (2) any project providing a substantial economic benefit to this state. The department shall develop measurement protocols and performance measures to determine what competitive value a project by a target industry business will bring to the state which is certified by the Department of Commerce as eligible to receive an allocation from the FFBP. Section 159.803(11), F.S.

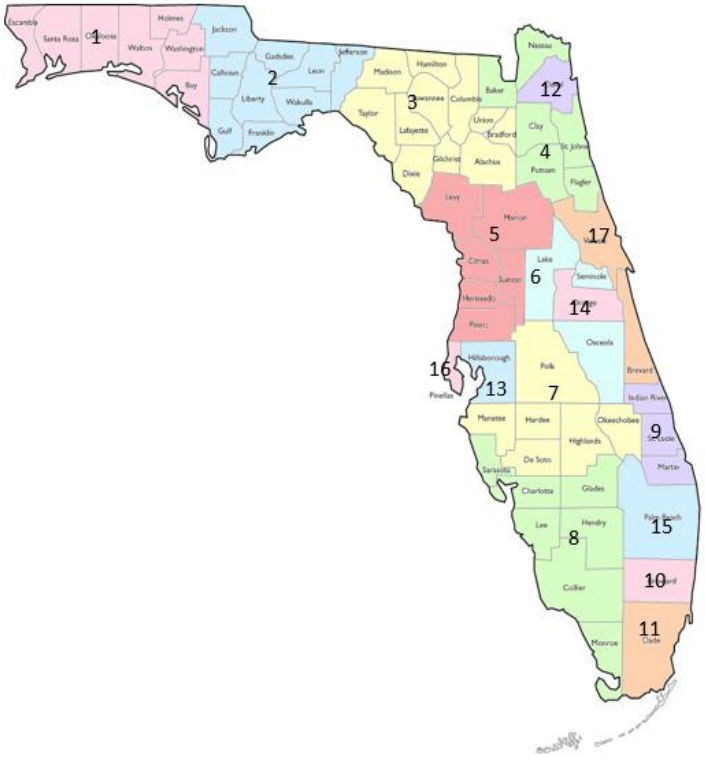
[41] "Priority project" means (1) a solid waste disposal facility, (2) a sewage facility, (3) a water facility, which is operated by a member-owned, not-for-profit utility, or (4) any project which is to be located in an area which is an enterprise zone. Section 159.803(5), F.S.

Manufacturing Facility Bond Pool

When first created for the 1993 calendar year,[42] $75 million of the state ceiling was distributed to the MFBP.[43] Currently, $97.5 million is distributed to the MFBP annually.[44] Following a large amount of PABs issued to finance manufacturing facilities in the late 1990s, requests for and issuances of PABs with volume cap for such projects has steadily declined over the past 20 years.[45]

Regional Allocation Pools

Prior to the establishment of the regions for the Regional Allocation Pools, each county received a *pro rata* share of 50 percent of the state ceiling.[46] The Legislature created the Regional Allocation Pools for the 1988 calendar year,[47] and last revised the regions effective in 2000.[48]



[42] Section 2, ch. 92-127, LAWS OF FLA.
[43] Section 159.804(1)(a), F.S.
[44] The portion of the state ceiling distributed to the MFBP increased by $7.5 million on January 1, 1997, 1998, and 1999, pursuant to s. 159.804(1)(a), F.S., because more than 75 percent of the state ceiling distributed to the MFBP was used to issue qualified small issue bonds for manufacturing facilities prior to November 15 in each of the preceding years. There has not been a change to the amount of the state ceiling distributed to the MFBP since 1999.
[45] Approximately 70% of the state ceiling distributed to the MFBP for manufacturing facilities was allocated and issued in 1999; thereafter, PABs issued to finance manufacturing facilities steadily declined (65% of the state ceiling distributed to the MFBP was utilized in 2000, decreasing to 55% in 2005, and further decreasing to 17% in 2010, 13% in 2015, and then 10% in 2020).
[46] Section 1, ch. 85-282, Laws of Fla.
[47] Section 3, ch. 87-222, Laws of Fla.
[48] Section 1, ch. 99-173, Laws of Fla. (effective Jan. 1, 2000).

Currently, there are currently 17 statutorily created single- and multi-county regions (10 multi-county and seven single county geographic regions) that receive a *pro rata* share of the state ceiling.[49]

In 2024, the three regions receiving the most volume cap were region 11 (Miami-Dade County) with over $166.91 million, region 8 (Charlotte, Collier, Glades, Hendry, Lee, Monroe, and Sarasota Counties) with over $120.97 million, and region 10 (Broward County) with over $118.97 million.[50]

The regional allocation pools are the only pools from which issuers located within a region, including housing finance authorities created pursuant to s. 159.604 F.S. ("HFAs"), can be allocated volume cap, subject to availability, for a majority of the calendar year, unless the proposed PABs will be issued to finance a project that is certified by the Department of Commerce as a Florida First Business project,[51] or that meets the statutory definition of manufacturing facility[52] project or priority project.[53] The majority of requests for and issuance of PABs with volume cap by from the regional allocation pools are for the issuance of multifamily and single-family housing bonds for low- and moderate-income families.

Florida Housing Finance Corporation

The volume cap allocated to FHFC must be used for "housing bonds" as defined in s. 159.803, F.S., these include both multifamily and single-family housing bonds for low- and moderate-income families.[54] During the first six months of the calendar year, FHFC may, in its discretion, assign any portion of its volume cap to any HFA for the issuance of housing bonds, taking into consideration the ability of the HFA to timely issue such PABs, the need and public purpose to be served by the issue, and the ability of the HFA to comply with the requirements of federal and state law.[55] This is the only provision in the Act that allows one issuer to transfer any portion of its volume cap to another issuer. However, FHFC has never transferred a portion of their volume cap to another issuer.

[49] Section 159.804(2)(b), F.S.
[50] Annual allocation information for calendar year 2024 by pool, including each of the regions, is available on the Division's website at https://www.sbafla.com/bond/Portals/0/Content/FinancialInformation/2024%20PAB%20State%20Volume%20Cap%20Allocation%20By%20Pool%20with%20MAP.pdf and https://www.sbafla.com/bond/Other-Functions/Private-Activity-Bond-Allocation-Programs (last visited Feb. 2, 2024).
[51] Section 159.803(11), F.S. "Florida First Business project" means any project which is certified by DEO as eligible to receive an allocation from the FFBP because it either (1) meets the criteria set forth in s. 288.106(4)(b), F.S., or (2) will provide a substantial economic benefit to this state.
[52] Section 159.803(10), F.S. A "manufacturing facility" is a facility that meets the definition of "manufacturing facility" in I.R.C. § 144(a)(12)(C).
[53] Section 159.803(5), F.S. A "priority project" means (1) a solid waste disposal facility; (2) a sewage facility; (3) a facility for the furnishing of water, which is operated by a member-owned, not-for-profit utility; or (4) any project located in an enterprise zone designated pursuant to section 290.0065, F.S.
[54] Section 159.804(3)(a), F.S.
[55] Section 159.804(c)(3), F.S.

Florida First Business Allocation Pool

Established beginning in the 1996 calendar year,[56] the FFBP is available solely for those projects certified by Department of Commerce as "Florida First Business projects;" Department of Commerce must certify that the project either meets the criteria for targeted business industries or will provide a substantial economic benefit to this state.[57] From 1996-2002, the FFBP was used for a variety of solid waste disposal facility projects and qualified student loan bonds that were certified as Florida First Business projects. Thereafter, there were no projects certified as Florida First Business projects from 2003-2008, 2010-2017, or 2020 and the pool was not used. The amount of projects certified as Florida First Business projects has substantially increased over the last few years.[58]

State Allocation Pool

The State Pool is available exclusively to finance Priority Projects from January 1 to June 1; except that it is available at all times for allocations to state agencies, and for those portions of governmental bonds requiring an allocation of volume cap under Code.[59] Priority Projects are unable to receive an allocation of volume cap prior to May 1 of any calendar year; the Division is required evaluate all requests submitted from January 1 through April 30 on May 1 to determine whether the total amount of volume requested exceeds the portion of the state ceiling allocated to the state pool.[60] If there is a sufficient amount, all requests for Priority Projects submitted before May 1 will receive an allocation of volume cap by May 15; however, if there is not a sufficient amount, the Division is required to forward all such requests to the Governor, who is required to establish an order within which such projects should receive an allocation of volume cap by June 1.[61] The Division has only had to forward requests to the Governor for consideration twice in the past 20 years, in 2004 and 2023.[62]

Annually on November 16, any state ceiling remaining in either the MFBP or FFBP is transferred to the state pool.[63] Such amount is available on first-come, first-served basis, except that those projects that weren't selected by the Governor to receive an allocation on June 1, receive priority, in the order established by the Governor, for allocation of volume cap from any portion of the state ceiling transferred to the State Pool later in the calendar year; such projects would receive priority over non-priority projects already on the pending list.[64]

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[56] Section 11, ch. 95-416, Laws of Fla.
[57] Section 159.803(11), F.S.
[58] Florida First Business projects receiving volume cap from the FFBP since 2021 include high-speed rail facility projects ($125M in 2021 and $125M in 2023), a solid waste disposal facility project ($350M in 2022), and a sewage facility project ($250M in 2022).
[59] The Division has not received any requests for volume cap from state agencies, and for those portions of governmental bonds requiring an allocation of volume cap pursuant to section 146(m) of the Code.
[60] Section 159.807(2), F.S.
[61] *Id.*
[62] From 2005 through 2022, there were 1-2 Priority Projects requesting an allocation of volume cap from the State Pool prior to June 1 in 2006–09, 2014–16, and 2019–21, all of which were for solid waste and sewage facilities; in each of these years there was sufficient volume cap to fill all requests without sending to the Governor for ranking and all such requests received allocation by June 1.
[63] Section 159.809(4), F.S.
[64] Section 159.807(2), F.S.

Process to Obtain an Allocation of Volume Cap

After the project has obtained the public approval (by the applicable elected official or voter referendum of the appropriate governmental unit), if any, required by section 147(f) of the Code (the "TEFRA approval"), the issuer can request an allocation of volume cap by submitting an application, called a notice of intent to issue private activity bonds (a "Notice"), to the Division. Each Notice filed with the Division must include a certification that TEFRA approval has been obtained and be accompanied by an opinion or statement of bond counsel that the project to be financed with the requested allocation of volume cap may be financed with PABs and that allocation is required under the Code to issue such Bonds and a nonrefundable filing fee.[65] The fee is $100.00.The Division allocates volume cap, subject to availability, through written confirmations of allocation ("Confirmations").

The majority of notices are processed on a first-come, first-served basis based on a twenty-four-hour period from noon on one business day to noon the next business day.[66] This system applies to the Regional Allocation Pools, the first 75% of the volume cap in the MFBP,[67] and volume cap in the State after June 1. If there is insufficient volume cap available in the FFBP, the Division will forward all Notices to Department of Commerce, which will determine which one(s) will receive a Confirmation.[68] On any day when there is insufficient volume cap available in the appropriate pool(s) to issue Confirmations for all Notices, a random selection is held to determine the Notice(s) that will receive the available volume cap.[69] Any Notices for which there is insufficient volume cap following the random selection are placed on a pending list in case volume cap becomes available at a later date in the calendar year and will receive priority from the next available volume cap that may become available during the calendar year, prior to Notices received by the Division after that day's random selection, except that Notices on the pending list for Priority Projects pursuant to Section 159.807(2), F.S., will take priority from the next available volume cap available in the State Allocation Pool, regardless of when such other Notices were placed on the pending list.[70]

Deadlines for Issuing PABs Pursuant to a Confirmation

Generally, PABs must be issued within 155 days of allocation or by December 29, whichever is earlier; after such time, the Confirmation ceases to be effective and the volume cap reverts to the appropriate pool.[71] Confirmations from the FFBP expire on either October 1 or November 15, depending on the date on which they are issued,[72] and confirmations from the MFBP expire the earlier of 90 days after issued or November 15.[73] These limits are tolled during a validation

[65] Section 159.805(1), F.S., Except that FHFC is not required to submit a Notice to use the volume cap in its pool for PABs it issues prior to July 1 of any year and is not subject to the fee; However, FHFC most submit a Notice for volume cap it intends to use for PABs issued after July 1 no later than June 30 of such year. Section 159.804(3)(b), F.S.
[66] Section 159.805(1), F.S.
[67] All Notices that are eligible to receive Confirmation using the final 25% of volume cap in the MFBP are forwarded to the Department of Commerce to determine which ones will receive a Confirmation. Section 159.8081(2)(a), F.S.
[68] Section 159.8083, F.S.
[69] Section 159.805(6), F.S.
[70] *Id.*
[71] Section 159.805(2), F.S.
[72] Sections 159.809(2) and (3), F.S.
[73] Section 159.8081(3), F.S.

proceeding, if written notice is provided to the Division prior to the expiration.[74] Confirmations for Priority Projects and those of $50 million or more are not subject to these time limitations and are valid through December 30.[75]

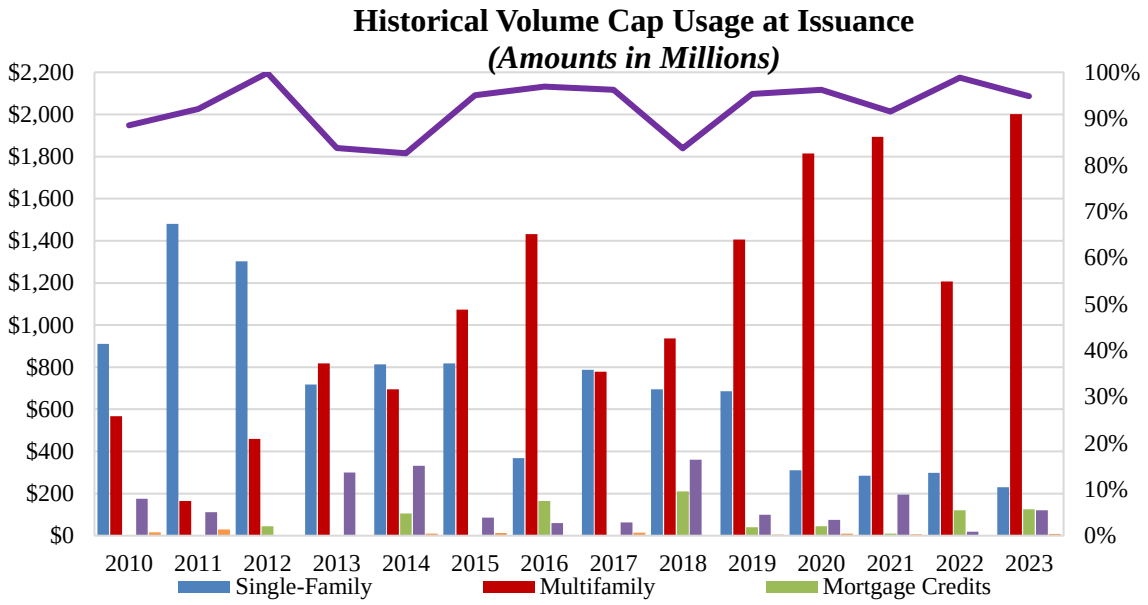
End of Year Allocation and Carryforward Lottery

Unused allocations of volume cap may be carried forward for up to three years. The Code permits carryforward for the following types of projects that require an allocation of volume cap from the Division: mass commuting facilities, facilities for the furnishing of water, sewerage facilities, solid waste disposal facilities, multi-family housing projects, local electric or gas generating facilities, local district heating or cooling facilities, hazardous waste facilities, high speed rail facilities, single family housing bonds, student loan bonds, and redevelopment bonds.[76] Volume cap that is allocated for a Florida First Business project is entitled to be carried forward at the request of the Agency, if the Department of Commerce has approved the project to receive carryforward.[77] Additionally, volume cap that is allocated for Priority Projects and those projects of $50 million or more are entitled to be carried forward at the request of the Agency.[78] All other requests for carryforward are subject to availability on December 30; such volume cap is allocated on a lottery basis to fund carryforward projects as defined by the Code.[79]

Historical Utilization of Volume Cap in Florida

The majority of volume cap is allocated and used to issue multifamily and single-family housing bonds for low- and moderate-income families. From 2010 through 2023, approximately 92.5% of all volume cap (current year and carryforward) has been used for affordable housing (multifamily and single-family housing bonds and MCCs for low- and moderate-income families).

[74] Section 159.805(4), F.S. Except that pendency of a validation proceeding does not extend a Confirmation beyond December 29 of such year. Rule 19A-4.007(2), F.A.C.
[75] Section 159.805(4), F.S.
[76] I.R.C. § 146(f).
[77] Section 159.81(1), F.S.
[78] Section 159.81(2)(a)1., F.S.
[79] *Id.*



Increasing Demand

In recent years, demand for volume cap has exceeded the state ceiling. Since 2020, a growing number of regions have had requests for volume cap in excess of the portion of the state ceiling available in their Regional Allocation Pool.[80] When requests for volume cap exceed the amount available, the request is placed on a pending list to receive an allocation of volume cap if and when available; this is usually from the state pool after November 15. The number of requests and the amount on the pending list had increased dramatically over the past five years. As of January 26, 2024, there were 11 Notices, 10 of which are eligible for volume cap allocation from a Regional Allocation Pool and one of which is a Priority Project eligible for allocation from the State Pool after May 1, totaling $1,214,725,019.72 on the pending list.[81]

III. Effect of Proposed Changes:

The bill substantially revises Part VI, Private Activity Bonds, of ch. 159, F.S. The bill modernizes, updates, and streamlines out-of-date provisions throughout the part, and codifies certain provisions from the Division's rules related to the administration of private activity bonds. Specifically, the bill:

- Provides legislative intent to maximize the annual use of private activity bonds to finance improvements, projects, and programs serving public purposes and benefitting the social and economic well-being of Floridians;
- Refines and adds definitions used throughout;
- Revises the regions, pools, and timelines related to bond allocations to consolidate infrequently used pools and expedite usage of bonds, detailed below;

[80] Data on file with the Division.
[81] Division of Bond Finance, Act Summary, available at https://www.sbafla.com/bond/Other-Functions/Private-Activity-Bond-Allocation-Programs (last visited Feb. 2, 2024).

- Codifies current rules and procedures related to requests for volume limitation by notice of intent to issue, evaluating such notices, and the division's role in final certification of bond issuance;
- Allows for all volume cap allocated in a Confirmation to be entitled to be carried forward, rather than limiting to specific types of projects or basing it on the amount of the Confirmation;
- Replaces the existing processes for requesting and granting allocation of volume cap with an electronic application wherein all Notices and Issuance Reports will be submitted on the Division's website in lieu of via certified/overnight mail;
- Repeals the Division's rulemaking authority; and
- Amends related statutes to correct cross references and outdated references.

Bond Allocation Regions, Pools, and Timeline Amendments

The bill combines the purposes of FFBP, MFBP, and the existing State Pool (prior to June 1, when available for Priority Projects). Into a single pool, the Economic Development Allocation Pool, which is available for all PABs other than those issued to finance affordable housing projects. The bill also consolidates a number of regions from the existing Regional Allocation Pools and specifies that the regional pools are specific to affordable housing projects. The following table describes new pools under the bill with amounts of volume cap shown as what they would be for calendar year 2024:

Pool	Amount	Purpose/Availability

Affordable Housing Allocation Pools	50% *(approx. $1.413B)*	Available 1/1 – 9/30 for affordable housing projects
		• 1/1 – 5/31: Regional Affordable Housing Allocation Pools (11 regions)
		  ○ Available on a first-come, first-served basis to issuers within each region for projects within such region
		• 6/1 – 9/30: Statewide Affordable Housing Allocation Pools (no regions)
		  ○ Available for single and multifamily housing projects statewide
		  ○ Initial priority for unfilled requests for allocation from the Regional Affordable Housing Allocation Pools (first pending multifamily, then pending single-family), available on first-come, first-served basis thereafter

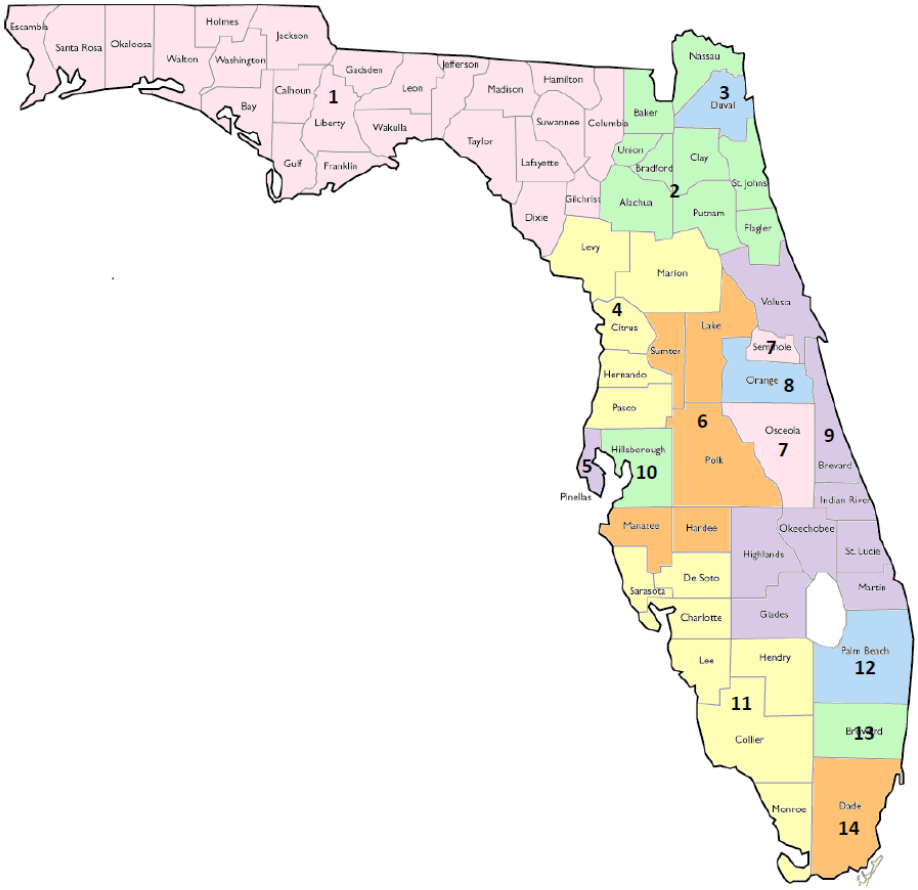
FHFC Pool	25% *(approx. $706.6M)*	Available 1/1 – 9/30 to FHFC for affordable housing projects

Economic Development Allocation Pool	25% *(approx. $706.6M)*	Available 1/1 – 9/30 for all non-affordable housing projects
		• 1/1 – 5/31: Available following ranking by Secretary of Commerce
		  ○ Applications received by 5/31 sent to the Department of Commerce
		  ○ Secretary of Commerce has 15 days to rank order applications
		• 6/1 – 9/30: Available on a first-come, first-served basis with notification to the Department of Commerce

State Allocation Pool	Rollover on 9/30	Available 10/1 – 11/30 for all PABs on a first-come, first-served basis
Carryforward Allocation Pool	Rollover on 11/30	Carryforward requests submitted Dec 1 – 15; processed on Dec 15 (lottery)

Based on the changes to the regions that increase the number of counties within seven regions, a number of counties (small, medium, and large) will have access to more volume cap.[82] The new regions for the Regional Affordable Housing Allocation Pools are shown in the following map:

[82] Under the bill the regions would have the following amounts of volume cap in 2024: Region 1, $107,642,700; Region 2, $73,462,066; Region 3, $63,370,600; Region 4, $85,988,646; Region 5, $58,753,847; Region 6, $110,486,088; Region 7, $55,822,753; Region 8, $89,994,465; Region 9, $125,387,623; Region 10, $92,922,847; Region 11, $122,319,212; Region 12, $92,391,603; Region 13, $118,966,521; and Region 14, $166,911,396.



The bill takes effect January 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Bond Finance will see an indeterminate impact, with potential costs related to administering the changes and potential savings related to increased efficiency in the process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 159.608, 159.802, 159.803, 159.811, 159.814, 159.816, 420.504, and 163.2520.

This bill creates the following sections of the Florida Statutes: 159.8041, 159.8051, 159.8052, 159.8053, 159.8061, 159.8062, 159.8063, 159.8071, 159.80751, 159.8091, and 159.8101.

This bill repeals the following sections of the Florida Statutes: 159.804, 159.805, 159.806, 159.807, 159.8075, 159.8081, 159.8083, 159.809, 159.81, 159.8105, 159.812, and 159.815.

IX. Additional Information:

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

CS by Appropriations on February 22, 2024:
The CS revises the regions used for allocating the local pool of private activity bonds to provide three single-county regions consisting of Duval, Orange, and Pinellas counties.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
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The Committee on Appropriations (Calatayud) recommended the following:

Senate Amendment

Delete lines 658 - 673
and insert:
Flagler, Nassau, Putnam, St. Johns, and Union Counties.
3. Region 3, consisting of Duval County.
4. Region 4, consisting of Citrus, Hernando, Levy, Marion, and Pasco Counties.
5. Region 5, consisting of Pinellas County.
6. Region 6, consisting of Hardee, Lake, Manatee, Polk, and

Sumter Counties.

7. Region 7, consisting of Osceola, and Seminole Counties.

8. Region 8, consisting of Orange County.

9. Region 9, consisting of Brevard, Glades, Highlands, Indian River, Martin, Okeechobee, St. Lucie, and Volusia Counties.

10. Region 10, consisting of Hillsborough County.

11. Region 11, consisting of Charlotte, Collier, DeSoto, Hendry, Lee, Monroe, and Sarasota Counties.

12. Region 12, consisting of Palm Beach County.

13. Region 13, consisting of Broward County.

14. Region 14, consisting of Miami-Dade County.

By the Committee on Community Affairs

578-03041-24 20247054__

A bill to be entitled

An act relating to private activity bonds; amending s. 159.608, F.S.; conforming a cross-reference; amending s. 159.802, F.S.; providing legislative findings and intent; amending s. 159.803, F.S.; revising and defining terms; repealing s. 159.804, F.S., relating to allocation of state volume limitation; creating s. 159.8041, F.S.; requiring the Division of Bond Finance of the State Board of Administration to annually determine the state volume limitation and publicize such information; requiring the division, on a specified date each year, to initially allocate the state volume limitation in a specified manner among specified pools; requiring that any portion of each allocation of state volume limitation made to certain pools for which the division has not issued a confirmation be added to either the state allocation pool or carryforward allocation pool, respectively, by a certain date; requiring that any portion of the state volume limitation used to issue confirmation which has not been used in a specified manner or has not received a carryforward confirmation or been converted for the issuance of mortgage certificates be added to the carryforward allocation pool; repealing s. 159.805, F.S., relating to procedures for obtaining allocations, requirements, limitations on allocations, and issuance reports; creating s. 159.8051, F.S.; establishing procedures for the issuance of private activity bonds; providing requirements for notices of

578-03041-24 20247054__

intent to issue private activity bonds; requiring that a separate notice of intent to issue be filed for each proposed issuance of a private activity bond; creating s. 159.8052, F.S.; providing procedures for the evaluation, approval, and confirmation of notices of intent to issue private activity bonds; providing procedures for the division to follow if the amount of state volume limitation requested in notices of intent to issue private activity bonds exceeds the state volume limitation available to issuers; providing procedures for the allocation of state volume limitation that subsequently becomes available for allocation; providing that certain confirmations expire on a specified date unless a certain requirement is met; requiring that certain confirmations include certain information; providing that a confirmation is effective as to certain private activity bonds only in specified circumstances; prohibiting the effectiveness of a confirmation of allocation when more private activity bonds are issued than set forth in such confirmation; providing requirements for the issuance of private activity bonds in excess of the amount set forth in the confirmation; requiring the division to cancel a confirmation of allocation and reallocate the state volume limitation under certain circumstances; creating s. 159.8053, F.S.; prohibiting the allocation of state volume limitation before an issuance report is filed by or on behalf of the issuer issuing bonds

before the expiration of confirmation of allocation for such bonds; providing requirements for issuance reports; providing for the reversion of certain unissued state volume limitation and requiring that it be made available for reallocation; requiring the director of the division to sign a final certification of allocation after timely filing of an issuance report; repealing s. 159.806, F.S., relating to regional allocation pools; creating s. 159.8061, F.S.; establishing affordable housing allocation pools for a specified purpose; requiring that a certain allocation be allocated and distributed to the regional affordable housing allocation pool and distributed among specified regions; providing requirements for such allocations; establishing regions within the regional affordable housing allocation pool; requiring that, on a specified date, any portion of the allocation made to such pool for which the division has not issued a confirmation be added to the statewide affordable housing allocation pool; requiring that the pool be available for issuing confirmations for affordable housing bonds to issuers statewide during a specified timeframe; requiring the division, on a specified date each year, to issue confirmations for all notices of intent to issue previously placed on the pending list for the regional affordable housing pool if sufficient state volume limitation is available; providing procedures for the issuance of confirmations after confirmations are

issued for all notices of intent to issue previously placed on the pending list for the regional housing pool; providing procedures for the issuance of confirmations when the division determines that the amount of notices of intent to issue exceeds the state volume limitation; creating s. 159.8062, F.S.; establishing the corporation pool for a specified timeframe each year to issue confirmations for affordable housing bonds to corporations; providing procedures for the issuance of confirmations; providing that, prior to a specified date, the corporation pool is the only pool from which a corporation may receive allocations of state volume limitation; providing that the corporation is not required to submit a notice of intent to issue affordable housing bonds or to obtain a confirmation for the issuance of bonds before a specified date; requiring the corporation to submit a notice of intent to issue on or before a certain date for affordable housing bonds that the corporation intends to issue on or after a certain date; exempting the corporation from a specified fee; authorizing the corporation to assign a portion of its state volume limitation to specified pools before a certain date each year; creating s. 159.8063, F.S.; establishing the economic development allocation pool; requiring that the economic development allocation pool be first available to issue confirmations pursuant to specified procedures; requiring the economic development

allocation pool to be available for the sole purpose of issuing confirmations for certain bonds during a certain timeframe each year; requiring that certain notices of intent to issue requesting confirmation from the economic development allocation pool which conform with certain requirements and are filed by a certain date be forwarded to the Secretary of Commerce for review and the rendering of a decision; requiring the division to issue confirmation for such notices of intent to issue in a specified order of priority within a specified timeframe; requiring the economic development pool to be available for a specified sole purpose during a later specified timeframe, with notification to the Department of Commerce; repealing s. 159.807, F.S., relating to the state allocation pool; creating s. 159.8071, F.S.; establishing the state allocation pool to issue confirmations for all types of private activity bonds during a specified timeframe each year; repealing s. 159.8075, F.S., relating to qualified mortgage credit certificates; creating s. 159.80751, F.S.; authorizing an issuer to convert all or a portion of its allocation of state volume limitation for certain affordable housing bonds to mortgage credit certificates if certain conditions are met; providing requirements for the issuance of mortgage credit certificates; providing that elections to convert are irrevocable; requiring that mortgage credit certificates be issued under a certification program that meets specified requirements; requiring

potential issuers to certify in writing to the division that the mortgage credit certification program is certified under specified federal law; providing that certain expiration dates do not apply under certain circumstances and that certain unissued mortgage credit certificates will automatically receive a carryforward confirmation; requiring that certain elections and certifications be filed with the division; designating the director of the division as the state official authorized to make a required certification; repealing s. 159.8081, F.S.; relating to the Manufacturing Facility Bond Pool; repealing s. 159.8083, F.S., relating to the Florida First Business allocation pool; repealing s. 159.809, F.S., relating to recapture of unused amounts; creating s. 159.8091, F.S.; establishing the carryforward allocation pool for the sole purpose of issuing carryforward confirmations to issuers for specified projects; requiring the division to issue certain carryforward confirmations until a specified occurrence; requiring that the amount of each carryforward confirmation be the amount requested if there is sufficient state volume limitation in the carryforward allocation pool; requiring the division to use a specified prioritization process when the aggregated amount requested exceeds the available amount; providing for the carryforward of certain state volume limitations; repealing s. 159.81, F.S., relating to unused allocations; creating s. 159.8101, F.S.; requiring an

issuer that elects to carryforward an allocation to request and obtain carryforward confirmation from the division; requiring the division, upon request, to issue a carryforward confirmation when certain conditions are met; providing requirements for requesting a carryforward confirmation; repealing s. 159.8105, F.S., relating to allocation of bonds for water and wastewater infrastructure projects; amending s. 159.811, F.S.; conforming provisions to changes made by the act; making technical changes; repealing s. 159.812, F.S., relating to a grandfather clause; amending s. 159.814, F.S.; providing requirements for the form of applications for allocations; providing that certain notices of intent and applications for carryforward confirmation are timely filed only if filed with the division within specified timeframes; deleting obsolete provisions; repealing s. 159.815, F.S., relating to rules; amending s. 159.816, F.S.; requiring the director of the division to execute a final certification of allocation following the timely filing of an issuance report; amending s. 163.2520, F.S.; conforming a provision to changes made by the act; amending s. 420.504, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (10) of section 159.608, Florida

Statutes, is amended to read:

159.608 Powers of housing finance authorities.—A housing finance authority shall constitute a public body corporate and politic, exercising the public and essential governmental functions set forth in this act, and shall exercise its power to borrow only for the purpose as provided herein:

(10)(a) To make loans or grant surplus funds to corporations that qualify as not-for-profit corporations under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and under the laws of this state, for the development of affordable housing; and

(b) To do anything necessary or appropriate to further the purpose for which a housing finance authority is established, pursuant to s. 159.602, including, as further described in s. 159.08751 ~~s. 159.8075~~, the power to issue mortgage credit certificates to the extent allocation is available for that purpose to qualifying individuals in lieu of issuing qualified mortgage bonds pursuant to ss. 25, 143, and 146 of the Internal Revenue Code of 1986, as amended, or a combination of the two. Mortgage credit certificates may not be issued on December 30 or December 31 of any year.

Section 2. Section 159.802, Florida Statutes, is amended to read:

159.802 Purpose; legislative findings and intent.—

(1) The purpose of this part is to allocate the state volume limitation imposed on private activity bonds under s. 146 of the Code. A ~~no~~ private activity bond subject to the limitation in s. 146 of the Code may not ~~shall~~ be issued in this state unless a ~~written~~ confirmation therefor is issued pursuant

to this part.

(2) The Legislature finds and declares that private activity bonds are used to finance improvements, projects, and programs that serve important public purposes and benefit the social and economic well-being of the people of this state. The Legislature recognizes that the exemption of interest on private activity bonds from federal income taxation and the concomitant reduced interest costs have been central to the marketability of such bonds.

(3) It is the intent of the Legislature that issuers use the state volume limitation in such a manner as to maximize the amount of private activity bonds that may be issued in this state which will benefit the social and economic well-being of the people of this state by increasing the number of improvements, projects, and programs that may be financed in a given year and that, to the extent that any portion of state volume limitation allocated to an issuer is carried forward, it be used to issue private activity bonds before its expiration.

Section 3. Section 159.803, Florida Statutes, is reordered and amended to read:

159.803 Definitions.—As used in this part, the term:

(1) "Affordable housing bonds" means multifamily affordable housing bonds and single-family affordable housing bonds.

~~(1) "County" means the geographic boundaries of each county as established by law.~~

(16)~~(2)~~ "Private activity bond" or "bond" means any bond which requires an allocation pursuant to s. 146 of the Code.

~~(3) "Director" means the director of the Division of Bond Finance of the State Board of Administration or his or her~~

~~designee.~~

~~(4) "Agency" means the State of Florida, any unit of local government, industrial development authority, or other entity in this state authorized to issue private activity bonds.~~

~~(5) "Priority project" means a solid waste disposal facility or a sewage facility, as such terms are defined in s. 142 of the Code, or a water facility, as defined in s. 142 of the Code, which is operated by a member-owned, not-for-profit utility, or any project which is to be located in an area which is an enterprise zone designated pursuant to s. 290.0065.~~

(6) "Division" means the Division of Bond Finance of the State Board of Administration.

(11)~~(7)~~ "Issued" or "issuance" has the same meaning as in the Code.

(3)~~(8)~~ "Code" means the Internal Revenue Code of 1986, as amended, and the regulations and rulings issued thereunder.

~~(9) "Housing bonds" means bonds issued pursuant to s. 142(d) of the Code to finance qualified residential units or mortgage revenue bonds issued pursuant to s. 143 of the Code which require an allocation under s. 146 of the Code.~~

~~(10) "Manufacturing facility" means a facility described in s. 144(a)(12)(C) of the Code.~~

~~(11) "Florida First Business project" means any project which is certified by the Department of Commerce as eligible to receive an allocation from the Florida First Business allocation pool established pursuant to s. 159.8083. The Department of Commerce may certify those projects proposed by a business which qualify as a target industry business as defined in s. 288.005 or any project providing a substantial economic benefit to this~~

~~state. The department shall develop measurement protocols and performance measures to determine what competitive value a project by a target industry business will bring to the state pursuant to ss. 20.60(5)(a)3. and 288.061(2).~~

(13)~~(12)~~ "Mortgage credit certificate" means those certificates issued pursuant to s. 25 of the Code.

(2) "Carryforward confirmation" means a confirmation for a project that qualifies for a carryforward pursuant to s. 146(f)(5) of the Code which authorizes the issuer to make an election to carry forward such allocation of state volume limitation beyond the end of the current calendar year in accordance with s. 146(f) of the Code.

(4) "Confirmation" means the conditional allocation of a portion of the state volume limitation to an issuer, made pursuant to a timely filed notice of intent to issue, which is contingent upon the issuer's timely filing of an issuance report.

(5) "Corporation" means the Florida Housing Finance Corporation created by s. 420.504.

(7) "Exempt facility bonds" means any bonds, except multifamily affordable housing bonds, issued pursuant to s. 142 of the Code to finance facilities and projects that are listed in s. 142(a) of the Code which require an allocation of state volume limitation under s. 146 of the Code.

(8) "Final certification of allocation" means the certification issued by the division following the timely filing of an issuance report which establishes the final amount of state volume limitation allocated to an issuer for an issuance of private activity bonds as required in s. 149(e)(2)(F) of the

Code.

(9) "Governmental unit" means the general-purpose governmental unit, as defined in the Code, which provides approval under the federal Tax Equity and Fiscal Responsibility Act (TEFRA) for proposed issuances of private activity bonds for issuers within its jurisdiction.

(10) "Issuance report" means the form containing the information described in s. 159.8053(2) by which an issuer notifies the division of its issuance of bonds pursuant to a confirmation.

(12) "Issuer" means the State of Florida, any governmental unit, a housing finance authority, an industrial development authority, or any other entity in this state authorized to issue private activity bonds.

(14) "Multifamily affordable housing bonds" means bonds issued pursuant to s. 142 of the Code to finance qualified residential rental projects, as described in s. 142(d)(1) of the Code, which require an allocation of state volume limitation under s. 146 of the Code.

(15) "Notice of intent to issue" means the form containing the information described in s. 159.8051(2) on which an issuer requests an allocation of the state volume limitation from the division.

(17) "Redevelopment bonds" means bonds issued pursuant to s. 144(c) of the Code to be used for redevelopment purposes in any designated blighted area as such terms are described in s. 144(c)(3) and s. 144(c)(4) of the Code.

(18) "Single-family affordable housing bonds" means qualified mortgage revenue bonds issued pursuant to s. 143 of

the Code which require an allocation of state volume limitation under s. 146 of the Code.

(19) "Small issue bonds" means bonds issued pursuant to s. 144(a) of the Code to finance a manufacturing facility as described in s. 144(a)(12)(C) of the Code or the acquisition of farmland or farm property, which require an allocation of state volume limitation under s. 146 of the Code.

(20) "State volume limitation" means the maximum amount of private activity bonds which may be issued in this state during each calendar year as such limit is imposed by s. 146 of the Code, and which is allocated by the division pursuant to this part.

(21) "Student loan bonds" means bonds issued pursuant to s. 144(b) of the Code to make or finance student loans which require an allocation of state volume limitation under s. 146 of the Code.

(22) "TEFRA approval" means the approval of a proposed issuance of bonds by an elected official or body of elected officials of the applicable governmental unit after a public hearing or by a referendum of the voters within such governmental unit, as required by s. 147(f) of the Code.

Section 4. Section 159.804, Florida Statutes, is repealed.

Section 5. Section 159.8041, Florida Statutes, is created to read:

159.8041 Allocation of state volume limitation; recapture of unused amounts.—

(1) The division shall annually determine the state volume limitation. The division shall make the state volume limitation information available upon request and shall publish such

information on its website.

(2) On January 1 of each year, the division shall initially allocate the state volume limitation among the following pools:

(a) Fifty percent of the state volume limitation must initially be allocated among the affordable housing allocation pools established in s. 159.8061 for use as provided therein.

(b) Twenty-five percent of the state volume limitation must initially be allocated to the corporation pool established in s. 159.8062 for use as provided therein.

(c) Twenty-five percent of the state volume limitation must initially be allocated to the economic development allocation pool established in s. 159.8063 for use as provided therein.

(3) On October 1 of each year, any portion of each allocation of state volume limitation made to the affordable housing allocation pools or the economic development allocation pool pursuant to subsection (2) for which the division has not issued a confirmation must be added to the state allocation pool.

(4) On December 1 of each year, any portion of the allocation of state volume limitation made to the corporation pool pursuant to subsection (2) or the state allocation pool pursuant to subsection (3) for which the division has not issued a confirmation must be added to the carryforward allocation pool. Additionally, on December 1 of each year, any portion of the state volume limitation used to issue a confirmation which has not been used by an issuer for the issuance of bonds, as evidenced by receipt by the division of an issuance report, or which has not received a carryforward confirmation pursuant to s. 159.8101(2) or been converted for the issuance of mortgage

credit certificates must be added to the carryforward allocation pool.

Section 6. Section 159.805, Florida Statutes, is repealed.

Section 7. Section 159.8051, Florida Statutes, is created to read:

159.8051 Procedures for requesting state volume limitation; requirements; prohibitions.—

(1) Before the issuance of any private activity bond by or on behalf of any issuer, such issuer shall request and obtain an allocation of a portion of the state volume limitation from the division through the issuance of a confirmation, except for private activity bonds issued by the corporation pursuant to s. 159.8062(2)(b) from the initial allocation of state volume limitation made by s. 159.8041(2)(b). Such request must be made through a notice of intent to issue containing the information required in this section timely filed with the division in accordance with s. 159.814 by or on behalf of the issuer requesting the confirmation. Any notice of intent to issue that does not conform to this section is not eligible to receive a confirmation and must be rejected.

(2) Each notice of intent to issue must include the following information:

(a) The name of the issuer requesting the allocation.

(b) The name and contact information of the person submitting the notice of intent to issue.

(c) The amount of state volume limitation requested.

(d) A description of the project and the type of qualified bond, as such term is defined in s. 141(e) of the Code, including the type of exempt facility, as described in s. 142(a)

of the Code, if applicable, which will be issued to finance the project.

(e) The county or counties in which the project will be located.

(f) The pool from which the allocation is requested.

(g) The governmental unit that provided any required TEFRA approval, and a certification that, if required, TEFRA approval has been obtained. A notice of intent to issue may not be filed until any required TEFRA approval has been obtained.

(h) The fee required by s. 159.811.

(i) An opinion or statement of counsel that the project to be financed may be financed with private activity bonds and that an allocation of state volume limitation is required to issue such bonds.

(3) A separate notice of intent to issue must be filed for each proposed issuance of private activity bonds. A notice of intent to issue may not request an allocation of state volume limitation for more than one project or more than one purpose. An issuer may not request an allocation of state volume limitation from multiple pools in a single notice of intent to issue.

Section 8. Section 159.8052, Florida Statutes, is created to read:

159.8052 Procedures for evaluating notices of intent to issue; confirmations; requirements; limitations.—

(1)(a) All notices of intent to issue filed with the division must be evaluated for compliance with this part. Any notice of intent to issue that conforms to the requirements of s. 159.8051 is eligible to receive a confirmation and must be

approved, subject to the availability of a sufficient amount of state volume limitation in the appropriate pool. Each business day, the division shall compute the state volume limitation in the pools for which approved notices of intent to issue were received on the previous business day. The division shall issue confirmations, subject to the availability of a sufficient amount of state volume limitation in the appropriate pool. The amount of confirmation, if there is sufficient state volume limitation available to the issuer in the appropriate pool, must be in the amount requested in the approved notice of intent to issue. If the amount of state volume limitation available to the issuer in the appropriate pool is less than the amount requested in the approved notice of intent to issue, the division must issue confirmations in the order of priority established in paragraph (b) until the available state volume limitation in each such applicable pool is exhausted. The division shall maintain continuous records of the cumulative amount of state volume limitation for which confirmations have been granted pursuant to this section.

(b) If the division determines that the aggregate amount of state volume limitation requested in notices of intent to issue received by noon of the previous business day exceeds the state volume limitation available to such issuers in the applicable pool, the division must assign a consecutive number to the notice of intent to issue requesting allocation from such pool, draw such numbers randomly to establish the priority of each such notice of intent to issue, and issue confirmations in the order of priority until the available state volume limitation in such pool is exhausted. If the amount of state volume limitation

in the appropriate pool is insufficient to issue a confirmation in the amount requested for the prioritized notice of intent to issue, the division must issue a confirmation in the amount of the state volume limitation available and place the balance of the request on a pending list for such pool. The unfilled portion of any such notice of intent to issue and any notices of intent to issue for which there was insufficient state volume limitation to issue a confirmation must be placed on the pending list for the appropriate pool in the priority order established in this paragraph.

(c) To the extent that state volume limitation subsequently becomes available for allocation in a pool, notices of intent placed on the pending list for that pool pursuant to paragraph (b) must be given priority for the next available volume limitation for that year before any notices of intent to issue requesting allocation from that pool received by the division after that day's random selection. On September 30 of each year, any unfilled notices of intent to issue on the pending lists for the economic development allocation pool or the affordable housing allocation pools must be rejected and the issuer may file a new notice of intent to issue with the division to request a confirmation from the state allocation pool to be considered pursuant to this subsection. On November 30 of each year, any unfilled notices of intent to issue on the pending lists for the state allocation pool must be rejected and the issuer may file a new notice of intent to issue with the division to request a carryforward confirmation to be considered pursuant to s. 159.8101(3).

(2) Each confirmation issued pursuant to s. 159.8061, s.

159.8062, s. 159.8063, or s. 159.8071 expires and ceases to be effective on November 30 of the year in which it was issued, unless the issuer obtains a carryforward confirmation pursuant to s. 159.8101(2).

(3) A confirmation only assures an issuer of an allocation of state volume limitation in such amount and for such purpose as set forth therein until the expiration thereof. Each confirmation granted pursuant to subsection (1) must include the following information:

(a) The issuer to which the allocation of state volume limitation is made.

(b) The amount of the allocation of state volume limitation granted to the issuer.

(c) The project and type of qualified bond for which bonds using such allocation of state volume limitation may be issued.

(d) The date on which the confirmation expires.

(e) A statement that the allocation of state volume limitation is conditional and may not be considered final until and unless the issuer files an issuance report pursuant to s. 159.8053.

(4)(a) A confirmation is effective as to private activity bonds issued in an amount less than the amount set forth in such confirmation only if the aggregate amount issued pursuant to such confirmation is not less than 90 percent of the amount set forth therein, together with the amounts of any carryforward confirmation an issuer has for such purpose and any supplementary confirmation, after subtracting any portion thereof which the issuer has elected to convert for the issuance of mortgage credit certificates.

(b) A confirmation is not effective as to private activity bonds issued in an amount in excess of the amount set forth in such confirmation. An issuer wishing to issue private activity bonds in an amount in excess of the amount set forth in a confirmation must obtain a supplementary confirmation before the issuance of such bonds by filing a supplementary notice of intent to issue with the division. A supplementary notice of intent to issue must specify the prior confirmation to which it applies and must also include all items required in s. 159.8051(2). Such supplementary notice of intent to issue must be filed in accordance with s. 159.814 by or on behalf of the issuer to whom the confirmation was issued. The division shall evaluate supplementary notices of intent to issue for compliance with this part, and, to the extent sufficient state volume limitation is available, the division shall issue a supplementary confirmation pursuant to subsection (1). The amount of state volume limitation allocated in a supplementary confirmation may be added to a prior confirmation for the same project to provide an aggregate allocation of state volume limitation for the issuance of private activity bonds for that project. A supplementary confirmation does not alter the expiration date of the initial confirmation.

(c) Upon the expiration of the confirmation, or at any time before such expiration that the issuer notifies the division that the allocation of state volume limitation in such confirmation is no longer necessary, the division shall cancel such confirmation and the allocation of state volume limitation provided therein must be made available for reallocation pursuant to this part.

Section 9. Section 159.8053, Florida Statutes, is created to read:

159.8053 Issuance reports; final certification of allocation.—

(1) Except for an allocation of state volume limitation that has been converted to the issuance of mortgage credit certificates pursuant to s. 159.80751, no portion of the state volume limitation may be allocated before the filing of an issuance report with the division by or on behalf of the issuer issuing bonds no later than the date on which the confirmation for such bonds expires. An issuer's failure to file an issuance report before the expiration of a confirmation will result in the loss of such state volume limitation, regardless of whether the issuer has issued bonds pursuant to such confirmation.

(2) Each issuance report must include all of the following information:

(a) The name of the issuer issuing such bonds.

(b) The confirmation pursuant to which the bonds are being issued.

(c) The amount of state volume limitation used by such issuance.

(d) The name and series designation of the bonds.

(e) The principal amount of bonds issued.

(f) The date of issuance and the amount of proceeds distributed at issuance.

(g) The purpose for which the bonds were issued, including the private business or entity that will benefit from or use the proceeds of the bonds; the name of the project, if known; the location of the project; whether the project is an acquisition

of an existing facility or new construction; and the number products manufactured or the number of residential units, if applicable.

(h) The name, role, and contact information of the person submitting the issuance report.

(3) At issuance, any portion of the state volume limitation granted in such confirmation that is unissued, except in the case of a carryforward confirmation, immediately reverts to the pool from which the allocation was made and must be made available for reallocation.

(4) Following the timely filing of an issuance report, the director of the division shall sign the final certification of allocation. The final certification of allocation may not be issued before the timely receipt of an issuance report pursuant to subsection (1).

Section 10. Section 159.806, Florida Statutes, is repealed.

Section 11. Section 159.8061, Florida Statutes, is created to read:

159.8061 Affordable housing allocation pools.—

(1)(a) The following affordable housing allocation pools are hereby established:

1. The regional affordable housing allocation pool.

2. The statewide affordable housing allocation pool.

(b) The affordable housing allocation pools are available solely for issuing confirmations for affordable housing bonds pursuant to the procedures specified in this section and s. 159.8052.

(2)(a) From January 1 through May 31 of each year, the allocation made pursuant to s. 159.8041(2)(a) must be allocated

to the regional affordable housing allocation pool and distributed among the regions established in paragraph (b). The allocation distributed to each region must be available solely to issue confirmations for affordable housing bonds to issuers located within such region on a first-come, first-served basis for projects located within such region. The amount of volume limitation distributed to each region within the regional affordable housing allocation pool must be an amount proportional to the ratio of the population of the region to the total population of this state.

(b) The following regions are established within the regional affordable housing allocation pool for the purposes of this allocation:

1. Region 1, consisting of Bay, Calhoun, Columbia, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Suwannee, Taylor, Wakulla, Walton, and Washington Counties.

2. Region 2, consisting of Alachua, Baker, Bradford, Clay, Duval, Flagler, Nassau, Putnam, St. Johns, and Union Counties.

3. Region 3, consisting of Citrus, Hernando, Levy, Marion, Pasco, and Pinellas Counties.

4. Region 4, consisting of Hardee, Lake, Manatee, Polk, and Sumter Counties.

5. Region 5, consisting of Orange, Osceola, and Seminole Counties.

6. Region 6, consisting of Brevard, Glades, Highlands, Indian River, Martin, Okeechobee, St. Lucie, and Volusia Counties.

7. Region 7, consisting of Hillsborough County.

8. Region 8, consisting of Charlotte, Collier, DeSoto, Hendry, Lee, Monroe, and Sarasota Counties.

9. Region 9, consisting of Palm Beach County.

10. Region 10, consisting of Broward County.

11. Region 11, consisting of Miami-Dade County.

(3) On June 1 of each year, any portion of the allocation made to the regional affordable allocation pool pursuant to subsection (2) for which the division has not issued a confirmation must be added to the statewide affordable housing allocation pool. On and after June 1 of each year, any portion of such allocation for which a confirmation is relinquished by the issuer receiving such allocation before the expiration thereof must be added to the statewide affordable housing allocation pool.

(4) From June 1 through September 30 of each year, the statewide affordable housing allocation pool must be available for issuing confirmations for affordable housing bonds to issuers statewide as provided in this subsection.

(a) On June 1 of each year, if a sufficient amount of state volume limitation is available in the statewide affordable housing allocation pool, the division must issue confirmations for all notices of intent to issue previously placed on the pending list for the regional affordable housing pool pursuant to s. 159.8052(1)(b) during such year. After confirmations have been issued for all notices of intent to issue previously placed on the pending list for the regional affordable housing pool pursuant to s. 159.8052(1)(b), the statewide affordable housing allocation pool must be available to issue confirmations on a

first-come, first-served basis. Notwithstanding s. 159.8052(1)(c), if the amount of state volume limitation available in the statewide affordable housing allocation pool is insufficient to issue a confirmation for each such notice of intent to issue, the division must issue confirmations in the priority order established in paragraph (b).

(b) If the division determines that the aggregate amount requested in the notices of intent to issue placed on the pending list for the regional affordable housing pool pursuant to s. 159.8052(1)(b) during such year exceeds the state volume limitation available in the statewide affordable housing allocation pool on June 1, the division must issue confirmations for any such notices of intent to issue for multifamily affordable housing bonds in the priority order established in this paragraph, and then, subject to the availability of state volume limitation, must issue confirmations for any such notices of intent to issue for single-family affordable housing bonds in the priority order established in this paragraph until the available state volume limitation is exhausted. In establishing the priority of each such notice of intent, the division shall first assign a consecutive number to each such notice of intent to issue for multifamily affordable housing bonds and draw such numbers randomly to establish the priority of each such notice of intent to issue. The division shall assign a consecutive number to each such notice of intent to issue for single-family affordable housing bonds and draw such numbers randomly to establish the priority of each such notice of intent to issue.

Section 12. Section 159.8062, Florida Statutes, is created to read:

159.8062 Florida housing finance corporation pool.—

(1) From January 1 through September 30 of each year, the corporation pool is established and shall be available for the sole purpose of issuing confirmations for affordable housing bonds to the corporation and its assigns pursuant to the procedures specified in s. 159.8052. Before October 1 of any year, the corporation pool is the only pool from which a corporation may receive any allocation of state volume limitation.

(2)(a) Notwithstanding s. 159.8051(1), before October 1 of any year, the corporation need not submit a notice of intent to issue or obtain a confirmation for the issuance of affordable housing bonds using the state volume limitation allocated to this pool pursuant to s. 159.8041(2)(b).

(b) For affordable housing bonds that the corporation intends to issue on or after October 1 of any year, the corporation must submit a notice of intent to issue no later than September 30 of such year, and the division shall issue a confirmation not exceeding the amount of state volume limitation then available in the corporation pool. The corporation is not subject to the fee required under s. 159.811 for notices of intent to issue submitted pursuant to this paragraph.

(3) Prior to June 1 of each year, the corporation may, in its discretion, assign any portion of the state volume limitation in the corporation pool to the affordable housing allocation pools.

Section 13. Section 159.8063, Florida Statutes, is created to read:

159.8063 Economic development allocation pool.—

(1) The economic development allocation pool is hereby established and is available for issuing confirmations pursuant to the procedures specified in this section and s. 159.8052.

(2) The economic development allocation pool must, at all times, first be available to issue confirmations for those portions of a private activity bond requiring an allocation of state volume limitation under s. 146(m) of the Code and to issue confirmations to state issuers and, thereafter, be available as provided in subsection (3).

(3)(a) From January 1 through May 31 of each year, the economic development allocation pool must be available for the sole purpose of issuing confirmations for exempt facility bonds, small issue bonds, student loan bonds, and redevelopment bonds to issuers statewide in the priority order established by the Secretary of Commerce as provided in this paragraph. Notwithstanding s. 159.8052(1), any notice of intent to issue requesting a confirmation from the economic development allocation pool which conforms to the requirements of s. 159.8051 and is filed with the division before May 1 must be forwarded to the Secretary of Commerce for review. The Secretary of Commerce shall render a decision on or before May 15 as to the order in which such notices of intent to issue are to receive a confirmation. The division shall issue confirmations for such notices of intent to issue in the order of priority established by the Secretary of Commerce within 3 business days after receipt of such decision.

(b) The economic development allocation pool must be available from June 1 through September 30 of each year for the sole purpose of issuing confirmations for exempt facility bonds,

small issue bonds, student loan bonds, and redevelopment bonds to issuers statewide on a first-come, first-served basis with notification to the Department of Commerce.

Section 14. Section 159.807, Florida Statutes, is repealed.

Section 15. Section 159.8071, Florida Statutes, is created to read:

159.8071 State allocation pool.—The state allocation pool is hereby established and must be available to issue confirmations pursuant to the procedures specified in s. 159.8052, and to issue confirmations for bonds to issuers statewide on a first-come, first-served basis for all types of private activity bonds from October 1 through November 30 of each year.

Section 16. Section 159.8075, Florida Statutes, is repealed.

Section 17. Section 159.80751, Florida Statutes, is created to read:

159.80751 Qualified mortgage credit certificates.—

(1) On or before November 30 of each year, an issuer may elect in writing to the division to convert all or a portion of its allocation of state volume limitation for single-family affordable housing bonds to mortgage credit certificates, provided such election is made before the expiration date of the confirmation granting such allocation. Each issuer shall provide notice of any election made under this section to the governing body of the county for which the issuer was created. Such election is irrevocable.

(2) All mortgage credit certificates must be issued under a certification program that is designed to ensure that the

requirements of s. 25 of the Code, specifically s. 25(f)(4), are complied with and that meets all requirements adopted by the United States Secretary of the Treasury as set out in applicable regulations. Any potential issuer of mortgage credit certificates must certify in writing to the division that the mortgage credit certification program is certified under s. 25 of the Code, specifically s. 25(f)(4).

(3) For that portion of the confirmation that an issuer has elected to use for mortgage credit certificates before the expiration thereof, the expiration dates in s. 159.8052(2) do not apply and any unissued mortgage credit certificates will automatically receive a carryforward confirmation.

(4) The election referenced in subsection (1) and the certification referenced in subsection (2) must be filed with the division in accordance with s. 159.814. The director of the division is the state official designated to make the certification required by Temporary Regulation 1.25-4T(d) under the Code.

Section 18. Section 159.8081, Florida Statutes, is repealed.

Section 19. Section 159.8083, Florida Statutes, is repealed.

Section 20. Section 159.809, Florida Statutes, is repealed.

Section 21. Section 159.8091, Florida Statutes, is created to read:

159.8091 Carryforward allocation pool.—

(1) The carryforward allocation pool is hereby established. The carryforward allocation pool is available for the sole purpose of issuing carryforward confirmations to issuers

statewide for projects that are entitled under the Code to a carryforward of state volume limitation past the end of the calendar year pursuant to requests that meet the requirements of s. 159.8101(3).

(2) On December 15 of each year, or, if December 15 is not a business day, the first business day thereafter, the division shall issue carryforward confirmations as provided for in subsection (3) until the state volume limitation in the carryforward allocation pool is exhausted.

(3) The amount of each carryforward confirmation, if there is sufficient state volume limitation in the carryforward allocation pool, must be the amount requested. If the division determines that the aggregate amount of state volume limitation requested for carryforward confirmations pursuant to this section exceeds the amount available in the carryforward allocation pool, the division must assign a consecutive number to each such request, shall draw such numbers randomly to establish the priority of each request, and shall issue carryforward confirmations until the total amount of state volume limitation is exhausted. Any requests in excess of the state volume limitation may not be given any priority in the following calendar year. If any state volume limitation remains in the carryforward allocation pool after issuing carryforward confirmations for all requests filed pursuant to s. 159.8101, the division must make such remaining state volume limitation available to the corporation to be carried forward for the issuance of affordable housing bonds in subsequent years as provided by the Code. Thereafter, any remaining state volume limitation not used as provided in subsection (2) must be

carried forward to the next calendar year to the extent permitted by the Code.

Section 22. Section 159.81, Florida Statutes, is repealed.

Section 23. Section 159.8101, Florida Statutes, is created to read:

159.8101 Applications for a carryforward; carryforward confirmations.—

(1) Any issuer that wishes to elect to carryforward an allocation of state volume limitation under s. 146(f) of the Code must first request and obtain a carryforward confirmation from the division.

(2) The division shall, when requested, issue a carryforward confirmation for those confirmations issued pursuant to this part for those projects that qualify for a carryforward pursuant to s. 146(f) of the Code, provided that such request includes an opinion of bond counsel that such allocation of state volume limitation will be used for a carryforward purpose pursuant to s. 146(f)(5) of the Code and is received by the division at least 3 business days before the expiration of such confirmation.

(3) A request for a carryforward confirmation must be made by filing with the division a notice of intent to issue meeting all requirements of this section and s. 159.8051(2). Such request must include an opinion of bond counsel that such allocation of state volume limitation will be used for a carryforward purpose pursuant to s. 146(f)(5) of the Code. All such requests must be timely filed with the division in accordance with s. 159.814 by or on behalf of the issuer requesting to carryforward an allocation of state volume

limitation.

Section 24. Section 159.8105, Florida Statutes, is repealed.

Section 25. Subsection (1) of section 159.811, Florida Statutes, is amended to read:

159.811 Fees; trust fund.—

(1) There shall be imposed a nonrefundable fee on each notice of intent to issue a private activity bond filed with the division pursuant to s. 159.8051 ~~s. 159.805(1)~~. A ~~No~~ notice of intent to issue may not ~~a private activity bond shall~~ be accepted by the division unless and until the fee has been paid. The ~~division shall establish a~~ fee, which may be revised from time to time, must ~~shall~~ be an amount sufficient to cover all expenses of maintaining the allocation system in this part. ~~In calculating the fee, any unexpended trust fund balance remaining unexpended prior to setting the fee shall be deducted from the amount appropriated.~~ The amount of the fee may ~~shall~~ not exceed $500 and may be adjusted no more than once every 6 months. The fee must be included the division's schedule of fees and expenses in s. 215.65(3).

Section 26. Section 159.812, Florida Statutes, is repealed.

Section 27. Section 159.814, Florida Statutes, is amended to read:

159.814 Form of applications for allocations; requirements.—All notices of intent to issue ~~for an allocation and applications~~, requests for ~~a~~ carryforward confirmations, and issuance reports must ~~shall~~ be made in such form as may be prescribed by the division. All such forms may be filed electronically through a portal on the division's website at

such time as the division establishes such portal through which such forms and the fee required by s. 159.811 may be submitted. Notices ~~No notices~~ of intent to issue ~~for allocations of the private activity bond volume limitation~~ for any calendar year may not ~~shall~~ be accepted before ~~prior to~~ January 1 of that calendar year. Notices of intent to issue requesting a confirmation from the affordable housing allocation pools, the economic development allocation pool, or the corporation pool are considered timely only if filed with the division on or before September 30 of that calendar year, or, if September 30 is not a business day, the last business day before September 30. Notices of intent to issue requesting a confirmation from the state allocation pool are considered timely only if filed with the division from October 1 through November 30 of that calendar year, or, if November 30 is not a business day, the last business day before November 30. Applications for a carryforward confirmation pursuant to s. 159.8091(1) are considered timely only if filed with the division from December 1 through December 15 of that calendar year, or, if December 15 is not a business day, the last business day before December 15 ~~All notices of intent to issue or application for a carryforward shall be mailed by certified mail return receipt requested or by overnight common carrier delivery service. No notice of intent to issue or application for carryforward shall be accepted by hand delivery from the issuing authority, attorneys, or other parties. All notices of intent to issue or applications for a carryforward shall be received in a standard business size envelope devoid of markings, colors, or other attention gathering devices except for the return address~~.

Section 28. Section 159.815, Florida Statutes, is repealed.

Section 29. Section 159.816, Florida Statutes, is amended to read:

159.816 Certification ~~Certificate~~ as to state volume limitation.—Following the timely filing of an issuance report, the director of the division shall execute a final certification of allocation ~~sign the certificate required pursuant to s. 149(c)(2)(F) of the Code~~.

Section 30. Subsection (3) of section 163.2520, Florida Statutes, is amended to read:

163.2520 Economic incentives.—

(3) Prior to June 1 each year, areas designated by a local government as urban infill and redevelopment areas shall be given a priority in the allocation of private activity bonds from the state pool pursuant to s. 159.8071 ~~s. 159.807~~.

Section 31. Subsection (2) of section 420.504, Florida Statutes, is amended to read:

420.504 Public corporation; creation, membership, terms, expenses.—

(2) The corporation is constituted as a public instrumentality, and the exercise by the corporation of the power conferred by this act is considered to be the performance of an essential public function. The corporation is an agency for the purposes of s. 120.52 and is ~~a state agency for purposes of s. 159.807(4). The corporation is~~ subject to chapter 119, subject to exceptions applicable to the corporation, and to the provisions of chapter 286; however, the corporation is ~~shall be~~ entitled to provide notice of internal review committee meetings for competitive proposals or procurement to applicants by mail,

facsimile, or publication on an Internet website, rather than by means of publication. The corporation is not governed by chapter 607 or chapter 617, but by ~~the provisions of~~ this part. If for any reason the establishment of the corporation is deemed in violation of law, such provision is severable and the remainder of this act remains in full force and effect.

Section 32. This act shall take effect January 1, 2025.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

February 22, 2024
Meeting Date

Appropriations
Committee

SB 7054
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mark Hendrickson

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Association of Local Housing Finance Authorities

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

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 Appropriations Committee			
BILL:	SB 7080		
INTRODUCER:	Appropriations Committee		
SUBJECT:	Trust Funds/Indian Gaming Revenue Clearing Trust Fund		
DATE:	February 22, 2024	REVISED:	

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Sanders	Sadberry		**AP Submitted as Comm. Bill/Fav**

I. Summary:

SB 7080 creates the Indian Gaming Revenue Clearing Trust Fund within the Florida Department of Financial Services (DFS). The bill:

- Creates the Indian Gaming Revenue Clearing Trust Fund (trust fund) as a depository for the portion of the revenue-sharing payments received by the state under the gaming compact, as defined in s. 285.710(1), F.S.;
- Requires the funds to be credited to the trust fund as provided in s. 380.095, F.S.;
- Provides the funds received from such revenue-sharing payments and deposited into the trust fund are exempt from the service charges imposed pursuant to s. 215.20, F.S.,
- Requires the DFS to disburse funds, by nonoperating transfer, from the trust fund as provided in s. 380.095, F.S.; and
- Provides the trust fund is exempt from the termination provisions of s. 19(f)(2), Art. III of the State Constitution.

The bill takes effect on the same date as CS/SB 1638, or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Indian Gaming Compact

2021 Gaming Compact

Gaming compacts are regulated by the Federal Indian Gaming Regulatory Act, s. 25 U.S.C. 2701, et seq., and ch. 285, part II, F.S. The State of Florida (state) entered into a gaming compact with the Seminole Tribe of Florida (Seminole Tribe) on April 7, 2010 (the 2010 Compact). In ch. 2021-268, Laws of Florida (CS/SB 2A), the Legislature ratified a new Gaming Compact between the Seminole Tribe and the state, which was executed by Governor Ron DeSantis and the Seminole Tribe on April 23, 2021, as amended on May 17, 2021 (the 2021 Compact). The 2021 Compact was approved by the United States Department of the

Interior on August 6, 2021, and became effective upon the publication of notice in the Federal Register. The 2021 Compact supersedes the 2010 Compact.

Revenue Sharing under the 2021 Gaming Compact

The 2021 Compact establishes a guarantee minimum payment period for the first five years of the compact. During the five year period, the Seminole Tribe is to make guaranteed minimum revenue share payments as specified, totaling $2.5 billion.

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.[1]

Florida Constitutional Requirement for Trust Funds

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.[2] By law the Legislature may set a shorter time period for which any trust fund is authorized.[3]

However, under the Florida Constitution state trust funds that serve as clearing funds or accounts for the Chief Financial Officer or state agencies are not subject to the termination requirements.[4]

Review of Trust Funds

The Legislature must review all state trust funds at least once every four years,[5] prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,[6] or such earlier date as the Legislature may specify.[7]

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund

[1] Section 215.3207, F.S.
[2] FLA. CONST., art. III, s. 19(f)(2).
[3] *Id*.
[4] FLA. CONST., art. III, s. 19(f)(3).
[5] Section 215.3208(1), F.S.
[6] FLA. CONST., art. III, s. 19(f).
[7] Section 215.3206(1), F.S.

should be allowed to terminate or should be re-created.[8] Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.[9] A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.[10]

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.[11] The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.[12]

III. Effect of Proposed Changes:

The bill creates s. 17.71, F.S., to establish the Indian Gaming Revenue Clearing Trust Fund (trust fund) within the DFS. The trust fund serves as a depository for a portion of the revenue-sharing payments received under the gaming compact.[13] Funds shall be credited to the trust fund as provided in s. 380.095, F.S. Funds received from the revenue-sharing payments and deposited into the trust fund are exempt from the eight percent service charge imposed by s. 215.20, F.S.

The DFS shall disburse funds, by nonoperating transfer, from the trust fund as provided in s. 380.095(2), F.S.

The bill specifies the trust fund is exempt from the termination provisions of s. 19(f)(2), Art. III of the State Constitution.

The bill is effective on the same date CS/SB 1638 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and become a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[8] *Id*.
[9] *Id*.
[10] *Id*.
[11] Section 215.3208(2)(a), F.S.
[12] Section 215.3208(2)(b), F.S.
[13] Section 285.710(1), F.S., defines the term “compact”.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(3) of the Florida Constitution specifies that state trust funds that serve as clearing funds or accounts for the Chief Financial Officer or state agencies are not subject to the termination requirements set forth in Article III, s. 19(f)(2) of the Florida Constitution.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not directly impact state revenues or expenditures. However, the creation of the trust fund will allow revenue-sharing payments acquired through the Gaming Compact to be credited to the Indian Gaming Revenue Clearing Trust Fund and deposited by the DFS and disbursed by nonoperating transfer as provided in s. 380.095, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 17.71 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Appropriations

576-03356D-24 20247080pb

A bill to be entitled

An act relating to trust funds; creating s. 17.71, F.S.; creating the Indian Gaming Revenue Clearing Trust Fund within the Department of Financial Services; providing the purpose of the trust fund; providing for sources of funds; providing that the trust fund is exempt from a certain service charge; requiring that funds be disbursed in a specified manner; exempting the trust fund from certain termination provisions; providing a contingent effective date.

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

Section 1. Section 17.71, Florida Statutes, is created to read:

17.71 Indian Gaming Revenue Clearing Trust Fund.—

(1) The Indian Gaming Revenue Clearing Trust Fund is created within the Department of Financial Services. The purpose of the trust fund is to act as a depository for a portion of the revenue-sharing payments received by the state under the gaming compact, as the term "compact" is defined in s. 285.710(1).

(2) Funds shall be credited to the Indian Gaming Revenue Clearing Trust Fund as provided in s. 380.095. Funds received from such revenue-sharing payments and deposited into the trust fund are exempt from the service charges imposed pursuant to s. 215.20.

(3) The department shall disburse funds, by nonoperating transfer, from the Indian Gaming Revenue Clearing Trust Fund as

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

576-03356D-24 20247080pb

provided in s. 380.095.

(4) Pursuant to s. 19(f)(3), Art. III of the State Constitution, the Indian Gaming Revenue Clearing Trust Fund is exempt from the termination provisions of s. 19(f)(2), Art. III of the State Constitution.

Section 2. This act shall take effect on the same date that SB 1638 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Agriculture
Appropriations
Appropriations Committee on Criminal and Civil Justice
Appropriations Committee on Health and Human Services
Children, Families, and Elder Affairs
Community Affairs
Military & Veterans Affairs, Space and Domestic Security
Rules

SENATOR DENNIS BAXLEY
President Pro Tempore
13th District

February 19, 2024

The Honorable Chair Doug Broxson
202 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Broxson,

This is a letter requesting to be excused from Appropriations Committee on Thursday, February 22nd.

My wife, Ginette, had a fall and broke her hip, thus her having to have hip replacement surgery. I will be out this week.

Onward & Upward,

Senator Dennis Baxley
Senate District 13

DKB/dd

REPLY TO:
☐ 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
☐ 404 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Vice Chair*
Appropriations
Appropriations Committee on Education
Appropriations Committee on Health and Human Services
Governmental Oversight and Accountability
Health Policy

SELECT COMMITTEE:
Select Committee on Resiliency

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR TRACIE DAVIS
5th District

February 20, 2024

The Honorable Doug Broxson
Committee on Appropriations, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Broxson,

I respectfully request an excused absence from Thursday February 22, 2024, Committee on Appropriations meeting.

Thank you for your consideration.

Sincerely,

Tracie Davis
State Senator
District 05

☐ 2933 North Myrtle Avenue, Suite 201, Jacksonville, Florida 32209 (904) 359-2575
☐ 224 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

Sincerely,
Farisha Hamid

The Florida Senate

Excusal Request

To: Senator Doug Broxson, Chair
Committee on Appropriations

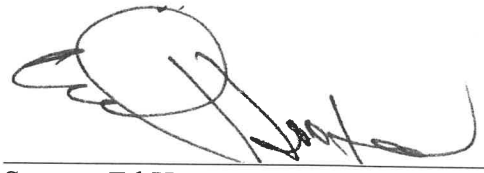
Subject: Attendance this week

Date: February 21, 2024

Chair Broxson,

Please excuse me from the Appropriations committee meeting this week. Unfortunately, I am not feeling well and have been advised to stay home for a few days. In the meantime, if you have any questions, please don't hesitate to reach out to my staff. I apologize for my absence and hope to be back as soon as I'm able to.

Thank you,



Senator Ed Hooper
Florida Senate, District 21

File signed original with committee office

S-020 (03/2004)

CourtSmart Tag Report

Room: SB 110 **Case No.:** **Type:**
Caption: Senate Appropriations Committee **Judge:**

Started: 2/22/2024 12:02:07 PM
Ends: 2/22/2024 2:18:13 PM **Length: 02:16:07**

12:02:08 PM Sen. Broxson (Chair)
12:03:17 PM S 1366
12:03:31 PM Sen. DiCeglie
12:03:51 PM Sen. Broxson
12:03:57 PM Am. 126388
12:04:02 PM Sen. DiCeglie
12:04:51 PM Sen. Broxson
12:05:06 PM Sen. DiCeglie
12:05:08 PM Sen. Broxson
12:05:13 PM S 1366 (cont.)
12:05:25 PM Sen. DiCeglie
12:05:28 PM Sen. Broxson
12:06:21 PM Sen. Rouson (Chair)
12:06:28 PM S 808
12:06:39 PM Sen. DiCeglie
12:06:56 PM Sen. Rouson
12:07:05 PM Am. 566208
12:07:13 PM Sen. DiCeglie
12:07:23 PM Sen. Rouson
12:07:40 PM Sen. DiCeglie
12:07:41 PM Sen. Rouson
12:07:47 PM S 808 (cont.)
12:07:58 PM Rocco Salvatori, Lobbyist, Florida Professional Firefighters (waives in support)
12:08:17 PM Sen. DiCeglie
12:08:24 PM Sen. Rouson
12:09:15 PM S 7054
12:09:26 PM Sen. Calatayud
12:10:25 PM Sen. Rouson
12:10:31 PM Am. 531206
12:10:39 PM Sen. Calatayud
12:11:17 PM Sen. Rouson
12:11:33 PM Sen. Calatayud
12:11:35 PM Sen. Rouson
12:11:41 PM S 7054 (cont.)
12:11:53 PM Mark Hendrickson, Lobbyist, Florida Association of Local Housing Finance Authorities (waives in support)
12:12:15 PM Sen. Calatayud
12:12:16 PM Sen. Rouson
12:13:04 PM S 330
12:13:10 PM Sen. Boyd
12:16:37 PM Sen. Rouson
12:16:46 PM Margaret S. Hooper, Lobbyist, Florida Developmental Disabilities Council (waives in support)
12:16:54 PM Chad Kunde, Lobbyist, Florida Chamber of Commerce (waives in support)
12:17:11 PM Sen. Harrell
12:18:28 PM Sen. Rouson
12:18:34 PM Sen. Boyd
12:18:56 PM Sen. Rouson
12:19:44 PM S 7032
12:19:54 PM Sen. Grall
12:20:33 PM Sen. Rouson
12:20:40 PM Am. 142150
12:20:46 PM Am. 625324
12:20:57 PM Sen. Grall

12:22:01 PM Sen. Rouson
12:22:30 PM Sen. Grall
12:22:31 PM Sen. Rouson
12:22:40 PM S 7032 (cont.)
12:22:52 PM Damaris Allen, Florida Parent Teacher Association (waives in support)
12:23:08 PM Sen. Grall
12:23:11 PM Sen. Rouson
12:23:56 PM S 56
12:24:08 PM Sen. Harrell
12:25:21 PM Sen. Rouson
12:25:28 PM Jarrod Fowler, Lobbyist, Florida Medical Association (waives in support)
12:25:37 PM Damaris Allen, Florida Parent Teacher Assocation (waives in support)
12:25:51 PM Sen. Harrell
12:25:52 PM Sen. Rouson
12:26:35 PM S 1180
12:26:46 PM Sen. Harrell
12:29:14 PM Sen. Rouson
12:29:21 PM Am. 770068
12:29:25 PM Sen. Harrell
12:30:30 PM Sen. Rouson
12:30:49 PM Sen. Harrell
12:30:53 PM Sen. Rouson
12:31:00 PM S 1180 (cont.)
12:31:17 PM Kasey Denny, Lobbyist, Palm Beach County (waives in support)
12:31:35 PM Sen. Harrell
12:32:22 PM Sen. Rouson
12:33:13 PM S 7048
12:33:29 PM Sen. Simon
12:35:05 PM Sen. Rouson
12:35:16 PM Natalie Gillespie
12:40:23 PM Sen. Rouson
12:40:27 PM Sen. Broxson
12:40:57 PM N. Gillespie
12:41:01 PM Sen. Pizzo
12:41:23 PM Sen. Rouson
12:41:37 PM Amy T. Nelson
12:43:25 PM Sen. Rouson
12:43:38 PM William Mattox, James Madison Institute
12:45:01 PM Sen. Rouson
12:45:05 PM Sen. Powell
12:45:14 PM W. Mattox
12:45:24 PM Sen. Rouson
12:45:35 PM Chris Stranburg, Lobbyist, Americans for Prosperity
12:47:13 PM Sen. Rouson
12:47:16 PM Sen. Pizzo
12:47:31 PM C. Stranburg
12:47:33 PM Sen. Pizzo
12:47:49 PM C. Stranburg
12:47:51 PM Sen. Rouson
12:48:10 PM Patricia Huff
12:51:29 PM Sen. Book
12:51:49 PM P. Huff
12:52:04 PM Sen. Rouson
12:52:15 PM Crystal Crawford
12:57:48 PM Sen. Rouson
12:58:18 PM Justin Hughes, Head of School, Christ Classical Academy
1:00:38 PM Sen. Pizzo
1:00:44 PM J. Hughes
1:01:06 PM Sen. Pizzo
1:01:19 PM Brenda Dickinson, Lobbyist, The Home Education Foundation
1:05:46 PM Sen. Rouson
1:05:49 PM Sen. Polsky

1:06:03 PM B. Dickinson
1:07:43 PM Sen. Rouson
1:07:48 PM Alexis Laroe, Lobbyist, Step Up for Students (waives in support)
1:07:54 PM Michael Barrett, Lobbyist, Florida Conference of Catholic Bishops (waives in support)
1:08:10 PM Sen. Broxson
1:09:02 PM Sen. Grall
1:12:58 PM Sen. Harrell
1:14:42 PM Sen. Rouson
1:15:04 PM Ethan Merchant, Lobbyist, Florida Parents for School Options
1:15:30 PM Sen. Pizzo
1:15:40 PM E. Merchant
1:15:42 PM Sen. Pizzo
1:15:47 PM Sen. Rouson
1:15:56 PM Sen. Simon
1:18:08 PM Sen. Rouson
1:18:53 PM S 7017
1:19:16 PM Sen. Ingoglia
1:19:57 PM Sen. Rouson
1:20:10 PM Sen. Powell
1:20:35 PM Sen. Ingoglia
1:21:24 PM Sen. Powell
1:22:28 PM Sen. Ingoglia
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1:23:43 PM Sen. Pizzo
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1:24:42 PM Sen. Ingoglia
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1:25:51 PM Sen. Ingoglia
1:26:03 PM Sen. Pizzo
1:26:57 PM Sen. Rouson
1:27:00 PM Sen. Pizzo
1:27:23 PM Sen. Ingoglia
1:28:04 PM Sen. Rouson
1:28:32 PM Charles Chapman, Lobbyist, Florida League of Cities
1:30:22 PM Sen. Rouson
1:30:28 PM Bob McKee, Lobbyist, Florida Association of Counties
1:32:12 PM Sen. Rouson
1:32:19 PM Sen. Polsky
1:33:53 PM Sen. Pizzo
1:36:22 PM Sen. Powell
1:38:24 PM Sen. Broxson
1:39:09 PM Sen. Ingoglia
1:39:37 PM Sen. Rouson
1:40:36 PM S 932
1:40:47 PM Sen. Berman
1:41:27 PM Sen. Rouson
1:41:31 PM Am. 240690
1:41:44 PM Sen. Berman
1:42:14 PM Sen. Rouson
1:42:36 PM Sen. Berman
1:42:37 PM Sen. Rouson
1:42:44 PM S 932 (cont.)
1:42:52 PM Brian Jogerst, Lobbyist, Florida Breast Cancer Association (waives in support)
1:43:10 PM Sen. Harrell
1:44:27 PM Sen. Rouson
1:44:32 PM Sen. Berman
1:44:37 PM Sen. Rouson

1:45:30 PM S 7019
1:45:48 PM Sen. Ingoglia
1:46:24 PM Sen. Rouson
1:46:29 PM Sen. Pizzo
1:46:37 PM Sen. Ingoglia
1:46:50 PM Sen. Pizzo
1:46:52 PM Sen. Ingoglia
1:47:06 PM Sen. Pizzo
1:47:36 PM Sen. Ingoglia
1:47:45 PM Sen. Rouson
1:47:57 PM Sen. Powell
1:49:11 PM Sen. Ingoglia
1:50:00 PM Sen. Rouson
1:50:25 PM Charles Chapman, Lobbyist, Florida League of Cities
1:50:40 PM S 472
1:50:53 PM Sen. Brodeur
1:53:36 PM Sen. Rouson
1:53:41 PM Am. 274312
1:53:42 PM Sen. Brodeur
1:54:39 PM Sen. Rouson
1:54:48 PM David Cruz, Lobbyist, Florida League of Cities (waives in support)
1:55:09 PM Sen. Brodeur
1:55:19 PM Sen. Rouson
1:55:25 PM S 472 (cont.)
1:55:39 PM Howard E. Adams, Lobbyist, Preferred Governmental Insurance Trust (waives against)
1:55:49 PM Matthew Posgay (waives in support)
1:55:59 PM Adriana Soto, Lobbyist, The Panhandle Area Education Consortium (waives against)
1:56:11 PM Lindy Kennedy, Lobbyist, Safety Net Hospital Alliance (waives against)
1:56:18 PM Bob McKee, Lobbyist, Florida Association of Counties (waives against)
1:56:39 PM Sen. Pizzo
1:57:55 PM Sen. Rouson
1:58:02 PM Sen. Harrell
1:58:27 PM Sen. Rouson
1:58:32 PM Sen. Brodeur
1:59:10 PM Sen. Rouson
2:00:02 PM S 7080
2:00:20 PM Sen. Brodeur
2:00:45 PM Sen. Rouson
2:01:57 PM S 216
2:02:03 PM Sen. Gruters
2:02:37 PM Sen. Rouson
2:02:55 PM Mike Moore, Lobbyist, Pasco County Tax Collector (waives in support)
2:03:03 PM Tim Qualls, Lobbyist, Florida Tax Collectors Association (waives in support)
2:03:18 PM Sen. Gruters
2:03:20 PM Sen. Rouson
2:04:02 PM S 266
2:04:11 PM Sen. Gruters
2:04:21 PM Sen. Rouson
2:04:26 PM Am. 611078
2:04:32 PM Sen. Gruters
2:05:14 PM Sen. Rouson
2:05:53 PM Am. 207404
2:06:03 PM Sen. Gruters
2:06:15 PM Sen. Rouson
2:06:26 PM Matthew Posgay (waives in support)
2:06:45 PM Sen. Gruters
2:06:47 PM Sen. Rouson
2:06:57 PM Am. 611078 (cont.)
2:07:23 PM Am. 647196
2:07:34 PM Am. 493914
2:07:42 PM Sen. Gruters
2:07:54 PM Sen. Rouson

2:08:03 PM Katie Kelly, Lobbyist, Greater Naples Fire District (waives in support)
2:08:21 PM Sen. Gruters
2:08:23 PM Sen. Rouson
2:08:28 PM S 266 (cont.)
2:08:37 PM Sen. Pizzo
2:09:09 PM Sen. Gruters
2:09:29 PM Sen. Rouson
2:09:37 PM Ananth Prasad, Lobbyist, Florida Transportation Builders Association (waives in support)
2:09:57 PM Nicholas Warren
2:12:07 PM Sen. Rouson
2:12:17 PM Sen. Grall
2:14:30 PM Sen. Pizzo
2:15:42 PM Sen. Rouson
2:15:49 PM Sen. Gruters
2:15:58 PM Sen. Rouson
2:16:54 PM Sen. Gruters
2:17:00 PM Sen. Book
2:17:12 PM Sen. Bradley
2:17:20 PM Sen. Grall
2:17:25 PM Sen. Polsky
2:17:46 PM Sen. Avila
2:17:58 PM Sen. Rouson