

Tab 1	SB 1716 by Hooper; (Similar to H 01329) Transportation Facility Designations/Deputy Michael J. Magli Memorial Road					
Tab 2	SB 100 by Harrell (CO-INTRODUCERS) Taddeo; (Compare to H 00763) Highway Projects					
740874	A	S	RCS	AP, Harrell	Delete L.316 - 434:	03/18 03:06 PM
Tab 3	CS/SB 170 by HP, Hooper (CO-INTRODUCERS) Gruters; (Similar to H 00017) Podiatric Medicine					
Tab 4	CS/SB 264 by ED, Rodrigues; (Compare to CS/CS/H 00233) Higher Education					
126670	PCS	S	RCS	AP, AED		03/18 03:09 PM
804586	A	S	RCS	AP, Rodrigues	Delete L.92 - 116:	03/18 03:09 PM
777004	A	S	RCS	AP, Rodrigues	btw L.116 - 117:	03/18 03:09 PM
Tab 5	SB 524 by Hooper; (Identical to H 00323) Fish and Wildlife Conservation Commission Trust Funds					
Tab 6	SB 866 by Hooper (CO-INTRODUCERS) Rouson; (Identical to H 00789) H. Lee Moffitt Cancer Center and Research Institute					
Tab 7	CS/SB 1040 by GO, Brodeur; (Similar to CS/CS/CS/H 00515) Duties of the Attorney General					
514990	A	S	RCS	AP, Brodeur	Delete L.164 - 398:	03/18 03:05 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Stargel, Chair
Senator Bean, Vice Chair

MEETING DATE: Thursday, March 18, 2021

TIME: 11:30 a.m.—1:30 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Stargel, Chair; Senator Bean, Vice Chair; Senators Albritton, Book, Bracy, Brandes, Broxson, Diaz, Farmer, Gainer, Gibson, Hooper, Hutson, Mayfield, Passidomo, Perry, Pizzo, Powell, Rouson, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	SB 1716 Hooper (Similar H 1329)	Transportation Facility Designations/Deputy Michael J. Magli Memorial Road; Providing an honorary designation of a certain transportation facility in Pinellas County; directing the Department of Transportation to erect suitable markers, etc. TR 03/10/2021 Favorable AP 03/18/2021 Favorable	Favorable Yeas 20 Nays 0
2	SB 100 Harrell (Compare H 763, S 1030)	Highway Projects; Repealing provisions relating to applications for funding for technical assistance relating to areas in and around a proposed multiuse corridor interchange; requiring that \$35 million transferred to Florida's Turnpike Enterprise be used for a specified purpose beginning in a specified fiscal year and annually for up to 30 years thereafter; requiring that certain increased revenues be used to fund specified projects beginning in a specified fiscal year and annually thereafter; requiring the department, in coordination with the Florida Turnpike Enterprise, to evaluate certain roadways for development of specific controlled access facilities and to include such projects in the work program, etc. TR 03/03/2021 Favorable AP 03/18/2021 Fav/CS	Fav/CS Yeas 17 Nays 2
3	CS/SB 170 Health Policy / Hooper (Similar H 17)	Podiatric Medicine; Authorizing the Board of Podiatric Medicine to require a specified number of continuing education hours related to the safe and effective prescribing of controlled substances; providing for governance of podiatric physicians who are supervising medical assistants, etc. HP 01/27/2021 Fav/CS ED 03/02/2021 Favorable AP 03/18/2021 Favorable RC	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, March 18, 2021, 11:30 a.m.—1:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
A proposed committee substitute for the following bill (CS/SB 264) is available:			
4	CS/SB 264 Education / Rodrigues (Compare CS/CS/H 233)	Higher Education; Requiring the State Board of Education to require each Florida College System institution to conduct an annual assessment related to intellectual freedom and viewpoint diversity; requiring the State Board of Education to annually publish such assessments by a specified date; prohibiting the State Board of Education from shielding Florida College System institution students from certain speech; requiring the Board of Governors to annually publish such assessments by a specified date; prohibiting the Board of Governors from shielding state university students from certain speech, etc. ED 01/26/2021 Fav/CS AED 02/09/2021 Fav/CS AP 03/18/2021 Fav/CS	Fav/CS Yeas 12 Nays 8
With subcommittee recommendation - Education			
5	SB 524 Hooper (Identical H 323)	Fish and Wildlife Conservation Commission Trust Funds; Revising the sources of funds that may be used for specified purposes for the Florida Panther Research and Management Trust Fund; authorizing the commission to invest and reinvest funds and the interest thereof of the Marine Resources Conservation Trust Fund and the Nongame Wildlife Trust Fund, respectively; revising the use of such funds for the marketing of the license plates; authorizing such funds to be used for commission administrative costs, etc. EN 02/01/2021 Favorable AEG 02/17/2021 Favorable AP 03/18/2021 Favorable	Favorable Yeas 20 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
6	SB 866 Hooper (Identical H 789)	H. Lee Moffitt Cancer Center and Research Institute; Increasing, at specified timeframes, the percentage of cigarette tax proceeds paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute for certain purposes, etc. HP 02/17/2021 Favorable FT 03/11/2021 Favorable AP 03/18/2021 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, March 18, 2021, 11:30 a.m.—1:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 1040 Governmental Oversight and Accountability / Brodeur (Similar CS/CS/H 515)	Duties of the Attorney General; Relieving the Department of Legal Affairs from certain duties associated with specified neighborhood improvement districts; repealing a provision relating to the Safe Neighborhoods Program; repealing a provision relating to funding of neighborhood improvement districts inside enterprise zones; specifying that the Crimes Compensation Trust Fund is exempt from the service charge into the General Revenue Fund; revising provisions to require that the Department of Business and Professional Regulation, instead of the Attorney General, regulate convenience businesses, etc. GO 03/10/2021 Fav/CS AP 03/18/2021 Fav/CS RC	Fav/CS Yeas 20 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: SB 1716

INTRODUCER: Senator Hooper

SUBJECT: Transportation Facility Designations/Deputy Michael J. Magli Memorial Road

DATE: March 17, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	Favorable
2.	McAuliffe	Sadberry	AP	Favorable

I. Summary:

SB 1716 designates the portion of C.R. 611/East Lake Road South between Keystone Road and Forelock Road in Pinellas County as “Deputy Michael J. Magli Memorial Road” and directs the Florida Department of Transportation (FDOT) to erect suitable markers.

The estimated cost to the FDOT to install the designation markers required under the bill is \$1,000. See Section V, “Fiscal Impact Statement,” for details.

The bill takes effect July 1, 2021.

II. Present Situation:

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes or to distinguish a particular facility. Such designations are not to be construed as requiring any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.¹

When the Legislature establishes road or bridge designations, the FDOT is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation and to erect any other markers it deems appropriate for the transportation facility.²

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the

¹ Section 334.071(1), F.S.

² Section 334.071(2), F.S.

designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before installation of the markers.³

Deputy Michael J. Magli

Born in New York, Deputy Michael J. Magli moved to the Tampa Bay area in 1994. He was initially hired as a part-time Criminal Justice Specialist with the Pinellas County Sheriff's Office (PCSO), transferred to a deputy recruit position, and was assigned to the Patrol Operations Bureau in 2014.⁴ Reportedly the first deputy with the PCSO to die in the line of duty, Deputy Magli was hit on February 17, 2021, while trying to stop a suspected drunk driver.⁵ He is survived by his wife, Stephanie, and two young daughters.⁶

III. Effect of Proposed Changes:

This bill designates the portion of C.R. 611/East Lake Road South between Keystone Road and Forelock Road in Pinellas County as "Deputy Michael J. Magli Memorial Road" and directs the Florida Department of Transportation (FDOT) to erect suitable markers.

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.

³ Section 334.071(3), F.S.

⁴ See Pinellas County Sheriff's Office, *Deputy Michael J. Magli, End of Watch February 17, 2021*, available at [Michael J. Magli - \(pcsoweb.com\)](https://www.pcsoweb.com/news/2021/02/17/deputy-michael-j-magli-end-of-watch-february-17-2021/) (last visited March 11, 2021).

⁵ See Fox 13 Tampa Bay, *Fallen hero: Community says farewell to Deputy Michael Magli*, available at [Fallen hero: Community says farewell to Deputy Michael Magli \(fox13news.com\)](https://www.fox13news.com/news/fallen-hero-community-says-farewell-to-deputy-michael-magli/) (last visited March 11, 2021).

⁶ *Supra* note 4.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The estimated cost to erect the designation markers required under this bill is \$1,000, based on the assumption that a minimum of two markers are required at a cost to the FDOT of no less than \$500 each. The estimate includes sign fabrication, installation, and maintenance over time but does not include any additional expenses related to replacement necessitated by damage, vandalism, or storm events. The FDOT is expected to absorb the estimated cost within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

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

16-01620B-21

20211716__

A bill to be entitled

An act relating to transportation facility designations; providing an honorary designation of a certain transportation facility in Pinellas County; directing the Department of Transportation to erect suitable markers; providing an effective date.

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

Section 1. Deputy Michael J. Magli Memorial Road designated; Department of Transportation to erect suitable markers.-

(1) That portion of C.R. 611/East Lake Road South between Keystone Road and Forelock Road in Pinellas County is designated as "Deputy Michael J. Magli Memorial Road."

(2) The Department of Transportation is directed to erect suitable markers designating Deputy Michael J. Magli Memorial Road as described in subsection (1).

Section 2. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 10, 2021

I respectfully request that **Senate Bill # 1716**, relating to Transportation Facility Designations/Deputy Michael J. Magli Memorial Road, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/18/21

Meeting Date

SB1716

Bill Number (if applicable)

Topic

Deputy Michael J. Magli Memorial Road

Amendment Barcode (if applicable)

Name

David Serdar

Job Title

Citizen of Florida

Address

Street

66 WINTERGREEN DR
FRUITLAND PARK FL 34731

Phone

352 805 6597

Email

goldendave1955@gmail.com

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Self and NO DRINKERS

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 100

INTRODUCER: Appropriations Committee and Senators Harrell and Taddeo

SUBJECT: Highway Projects

DATE: March 22, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	Favorable
2.	McAuliffe	Sadberry	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 100 repeals the Multi-use Corridors of Regional Economic Significance (M-CORES) program and related provisions and instead creates programs related to arterial highway projects. More specifically, the bill:

- Authorizes the Florida Department of Transportation (FDOT) to upgrade existing arterial roadways with targeted improvements, such as adding new tolled or non-tolled limited access alignments to manage congestion points and retrofitting roadways with tolled or non-tolled grade separations that provide alternatives to a signalized intersection for through traffic.
- Prohibits reduction of any non-tolled general use lanes of an existing facility, requires maintenance of existing access points, and limits the location of any tolling points such that a non-tolled alternative exists for local traffic.
- Provides that all existing applicable requirements relating to FDOT or turnpike projects apply to any projects undertaken. Further, the FDOT and the Florida Turnpike Enterprise (FTE) must take into consideration the guidance and recommendations of any previous studies or reports relevant to the projects.
- Directs the FDOT to develop by December 31, 2035, and include in the work program construction of controlled access facilities to achieve free flow of traffic on U.S. 19 and requires the facility to be developed using existing or portions of existing roadway by specified improvements.
- Directs the FDOT to identify and include in the work program projects to widen certain two-lane arterial rural roads serving high volumes of truck traffic to four lanes.

- Directs the FDOT to begin the project development and environmental phase for a project to extend the Florida Turnpike from its current terminus in Wildwood to a terminus as determined by the FDOT, and to submit a summary report by December 31, 2022.

The revenue redirected to the STTF as a result of the 2019 M-CORES legislation is retained in the STTF and is dedicated for purposes of funding the authorized controlled access facility projects and widening projects on arterial rural highways. Additionally, beginning July 1, 2023, the distribution of \$35 million to the Florida Turnpike Enterprise for feeder roads and related projects is discontinued; such funds will remain in the STTF to support statewide transportation priorities.

The bill is expected to have a minimal fiscal impact to the STTF, as it does not change the amount of revenue distributed to the STTF, but it does revise the authorized uses of such funding. See Section V. “Fiscal Impact Statement” for additional information.

Except as otherwise provided, the bill takes effect July 1, 2021.

II. Present Situation:

The FDOT is generally charged with providing “a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.”¹ Funds in the STTF² support the projects contained in the FDOT’s work program, developed pursuant to s. 339.135, F.S. Current law identifies specific funding from the STTF for certain transportation systems and projects, as well as specific funding programs aimed at transportation projects in rural communities.

The Florida Strategic Intermodal System

The Strategic Intermodal System (the SIS)³ is composed of transportation facilities and services of statewide and interregional significance. The FDOT describes the SIS as representing “an effort to link Florida’s transportation policies and investments to the state’s economic development strategy.”⁴ The SIS consists of all major limited access federal and state highways, ports, major rail facilities, intermodal facilities, and other corridors that serve a statewide or interregional purpose.⁵

Section 339.65, F.S., requires the FDOT to plan and develop SIS highway corridors, to include limited⁶ and controlled access⁷ facilities allowing for high-speed and high-volume traffic movements. Limited access facilities are highways that do not allow easement of access for adjacent property owners in order to allow uninterrupted through traffic. A controlled access

¹ FDOT, *About FDOT*, available at <https://www.fdot.gov/agencyresources/aboutfdot.shtml> (last visited March 8, 2021).

² The trust fund is established in s. 206.46, F.S.

³ Section 339.61, F.S.

⁴ FDOT, *Work Program Instructions FY 21/22-25/26*, September 18, 2020, at p. 378, available at <https://fdotewp1.dot.state.fl.us/fmsupportapps/Documents/development/WorkProgramInstructions.pdf> (last visited March 8, 2021).

⁵ Section 339.62, F.S.

⁶ Section 334.03(12), F.S.

⁷ Section 334.03(7), F.S.

facility does allow some easement of access but it is highly regulated. SIS corridors may also include arterial highways,⁸ which include any road providing service that is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance.

Florida's Turnpike System

The Florida Turnpike Enterprise (FTE) within the FDOT is empowered to plan, construct, maintain, repair, and operate the Florida Turnpike System. The FTE's powers are in addition to those of the FDOT.⁹ The FTE is a single budget entity that develops its own budget, which is submitted to the Legislature along with the FDOT's.¹⁰ For the 2020-2021 fiscal year, the FTE's total budget is \$1,298,303,602.¹¹

A proposed project may not be added to the turnpike system unless the project is determined to be economically feasible, a statement of environmental feasibility is completed for the project, and the project is determined to be consistent with approved local comprehensive plans of the local governments in which the project is located, to the maximum extent feasible.^{12, 13}

"Economically feasible" for a proposed turnpike project means that, as determined by the FDOT before issuance of revenue bonds for the project, the estimated net revenues of the project will be sufficient to pay at least 50 percent of the annual debt service on the bonds by the end of the 12th year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 30th year of operation. Up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues.¹⁴ The required statement of environmental feasibility is a statement by the Department of Environmental Protection of the project's significant environmental impacts.¹⁵

Legislative approval of the FDOT's tentative work program containing the turnpike project constitutes approval to issue bonds for such project as required by the Florida Constitution.¹⁶ Section 338.227, F.S., authorizes the Division of Bond Finance to issue turnpike revenue bonds as provided in the State Bond Act to pay all or any part of the cost of legislatively approved turnpike projects. However, no more than \$10 billion of bonds may be outstanding to fund

⁸ Section 334.03(1), F.S.

⁹ Section 338.2216(1)(a), F.S.

¹⁰ Section 338.2216(3)(a), F.S.

¹¹ Chapter 2020-111, s. 6, Specific Appropriations 1987 – 2011, Laws of Fla.

¹² For a map of the system, see Florida's Turnpike System Maps available at <https://floridasturnpike.com/system-maps/> (last visited March 8, 2021).

¹³ Section 338.223(1)(a), F.S.

¹⁴ Sections 338.223(1)(a) and 338.221(8)(a), F.S.

¹⁵ Section 338.221(10), F.S. The FDOT may authorize engineering, traffic, environmental, and other expert studies of the location, costs, economic feasibility, and practicality of proposed projects but may not request legislative approval of such project until the design phase is at least 30 percent complete. Section 338.223(1)(a), F.S.

¹⁶ Section 338.2275, F.S.

approved turnpike projects.¹⁷ As of June 30, 2020, the FTE had \$2.8 billion of outstanding bonds related to financing the construction of expansion projects and system improvements.¹⁸

The principal and interest on such bonds is payable solely from revenues pledged for their payment. All revenues or bond proceeds are restricted to paying the cost of turnpike projects and improvements and for the administration, operation, maintenance, and financing of the turnpike system. No revenues or bond proceeds from the turnpike system may be spent for the operation, maintenance, construction, or financing of any project that is not part of the turnpike system.¹⁹

The FDOT may use turnpike revenues, STTF moneys allocated for turnpike projects as a component of the SIS, federal funds, and bond proceeds in developing a financial plan for funding turnpike projects²⁰ and may use federal and state funds to pay the cost of the operation, maintenance, and capital costs of turnpike projects.²¹

Other Available Funding Mechanisms

In addition to issuance of turnpike revenue bonds for turnpike projects, funding mechanisms currently available to the FDOT for transportation-related projects also include, but are not limited to:

- Right-of-way acquisition or bridge construction bonds: These bonds may be issued to finance or refinance the cost of acquiring real property or related rights for state roads or to finance or refinance the cost of state bridge construction. The bonds are payable primarily from motor and diesel fuel taxes and are secured by the full faith and credit of the state. After debt service and other obligations, the proceeds are deposited into the STTF.²²
- The FDOT Financing Corporation: Headed by a board of directors, the nonprofit corporation finances or refinances transportation projects on behalf of the FDOT. The FDOT may enter into service contracts with the corporation in connection with projects approved in the FDOT's work program. The indebtedness does not constitute a debt or obligation of the state or a pledge of the full faith and credit or taxing power of the state. Payment of obligations by the FDOT to the corporation are payable solely from amounts available in the STTF, subject to annual appropriation.²³
- Public-private transportation facilities: The FDOT is authorized to receive or solicit proposals and, with legislative approval of projects in the FDOT's work program, enter into agreements with private entities for the building, operation, ownership, or financing of transportation facilities. Under specified conditions, the FDOT may advance projects in the 10-year Strategic Intermodal Plan developed for the SIS that are programmed in the adopted 5-year work program or that increase transportation capacity and are greater than

¹⁷ *Id.*

¹⁸ Florida's Turnpike System, *2020 Comprehensive Annual Financial Report, Fiscal Years Ended June 30, 2020 and 2019*, at p. 37, available at https://floridasturnpike.com/wp-content/uploads/2021/01/2020-CAFR-Final_low-resolution-for-web_1-29_Final.pdf (last visited March 8, 2021).

¹⁹ Section 338.227, F.S.

²⁰ Section 338.2275(2), F.S.

²¹ Section 338.223(4), F.S.

²² Section 215.605, F.S.

²³ Section 339.0809, F.S. The board of directors consists of the director of the Office of Policy and Budget within the Executive Office of the Governor, the director of the Division of Bond Finance, and the FDOT secretary.

\$500 million. Advanced projects use funds provided by public-private partnerships or private entities, which are reimbursed by FDOT for the project as programmed in the work program.²⁴

Rural Transportation Programs

Small County Road Assistance Program (SCRAP)

The FDOT administers the SCRAP to assist small county governments in resurfacing or reconstructing county roads that were part of the county road system on June 10, 1995.²⁵ Counties eligible to compete for funding based on population include those with a population of 75,000 or less according to the 1990 federal census.²⁶ Capacity improvements on county roads are not eligible for SCRAP funding, except where the FDOT determines that widening existing lanes as part of a resurfacing or reconstruction project is necessary to address safety concerns. Available funds are allocated to the FDOT districts based on the number of counties eligible for funding under the criteria in s. 339.2816, F.S.

In Fiscal Year 2019-2020, the Legislature appropriated approximately \$39.3 million²⁷ to fund the program and, in 2020-2021, included in the budget approximately \$47.6 million²⁸ to fund the program. These amounts *include* \$10 million in funding redirected under the M-CORES law, as discussed below.

Small County Outreach Program (SCOP)

The SCOP program within the FDOT assists small counties in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads. Small counties eligible to compete for project funding include those with a population of 200,000 or less as determined by the most recent official estimate of the Office of Economic and Demographic Research.²⁹ Like the SCRAP program, available funds are allocated to the FDOT districts based on the number of counties eligible for funding under the criteria in s. 339.2818, F.S.

The FDOT is required to fund 75 percent of the cost of projects on county roads selected for funding under the program³⁰ and the county must provide 25 percent of such costs. Rural counties qualifying under the Rural Economic Development Initiative³¹ may apply for a waiver or reduction of the required 25 percent local match.³² Subject to specific appropriation,

²⁴ Section 334.30, F.S.

²⁵ Section 339.2816, F.S.

²⁶ *Supra* note 4 at p. 342.

²⁷ Chapter 2019-115, s. 5, Specific Appropriation 1974, Laws of Fla., and Budget Amendment W0021 Fiscal Year 2019-20.

²⁸ Chapter 2020-111, s. 5, Specific Appropriation 1943, Laws of Fla.

²⁹ Section 339.2818, F.S.

³⁰ Section 339.2818(4)(a), F.S.

³¹ See s. 288.0656, F.S., for a full description of the Rural Economic Development Initiative. Subsection (7) of that section authorizes waiver of criteria, requirements, or similar provisions of any economic development incentive, including but not limited to waivers of matching funds for transportation projects in the SCOP.

³² *Supra* note 4 at p. 334.

municipalities within a rural area of opportunity (RAO) may also compete for funding at up to 100 percent of project costs, excluding capacity improvement projects.³³

In Fiscal Year 2019-2020, the Legislature appropriated approximately \$81.3 million³⁴ to fund the program, \$9 million of which was specifically appropriated to fund projects in municipalities within RAOs and, in 2020-2021, included in the budget approximately \$96 million³⁵ to fund the program, \$9 million of which was specifically appropriated for competing municipalities in RAOs. These amounts *include* \$10 million in funding redirected under the M-CORES law, discussed below.

The Multi-use Corridors of Regional Economic Significance Program (M-CORES)

The 2019 Legislature established the M-CORES Program within the FDOT.³⁶ The program was designed to advance construction of regional corridors accommodating multiple modes of transportation and multiple types of infrastructure to revitalize rural communities, encourage job creation in those communities, and provide regional connectivity while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources. The goals of the program include “non-traditional” approaches to transportation, such as providing within the three corridors infrastructure to facilitate expansion of broadband, water, and sewer connectivity in rural areas. Construction of the projects must begin no later than December 31, 2022, and be open to traffic no later than December 31, 2030.

The Legislature identified three corridors comprising the program³⁷ and directed the FDOT to convene a task force for each corridor comprised of representatives from state agencies and other stakeholders to evaluate and coordinate corridor analysis, environmental and land use impacts, and other pertinent impacts of the corridors.

M-CORES Task Force Reports

After numerous meetings of the required task forces beginning in August of 2019 (some virtual due to COVID-19), community open houses, webinars, as well as opportunities for public comment, the task forces issued their final reports in November of 2020.³⁸

Key findings and recommendations of the task forces include:

- Among the responsibilities assigned to the task forces was a charge to evaluate the need for and the impacts of each corridor. Each task force identified an inability to complete this charge, “due to the early stage of planning for [each] corridor and the limited data and analysis on potential needs and impacts available at this time,” and directed the FDOT to

³³ Section 339.2818(7), F.S.

³⁴ Chapter 2019-115, s. 5, Specific Appropriation 1975, Laws of Fla., and Budget Amendment W0021 Fiscal Year 2019-20.

³⁵ Chapter 2020-111, s. 5, Specific Appropriation 1944, Laws of Fla.

³⁶ Chapter 2019-43, Laws of Fla., creating s. 338.2278, F.S.

³⁷ The Southwest-Central Florida Connector, extending from Collier County to Polk County; the Suncoast Connector, extending from Citrus County to Jefferson County; and the Northern Turnpike Connector, extending from the northern terminus of the Florida Turnpike northwest to the Suncoast Parkway. Section 338.2278(2), F.S.

³⁸ See FDOT, *Final Task Force Reports*, for all three task force reports, available at <https://floridamcores.com/> (last visited March 8, 2021.)

establish at least a preliminary determination of transportation need and initial financial feasibility before proceeding with the project development and environment (PD&E) phase.

- The task forces did develop high-level needs that require further evaluation by FDOT and project-level needs will be evaluated consistent with the task force recommendations. Each task force *expressed a preference, if specific needs are identified, for improvement or expansion of existing major highway corridors* and acknowledged the process for FDOT to consider a “no build” alternative in future project development activities until a final recommendation about each specific project is made.
- Each task force also recommended guiding principles, instructions and an action plan, based on the data and analysis provided, as a “set of directions to FDOT and other partners for future planning, project development, and implementation activities.” Each report was submitted “with a qualifier that FDOT must still develop project-specific needs, environmental feasibility, and economic feasibility for future projects.”

While the program has support from certain public officials and interested stakeholders, the public comments received by the FDOT in the course of task force deliberations revealed significant opposition to the M-CORES program. Following a public records request, a coalition of Florida-based organizations and businesses reportedly performed an analysis of 9,886 comments released by the FDOT, finding that 93 percent of the commenters oppose the toll roads.³⁹

Current FDOT M-CORES Status

According to the FDOT, the corridors are being evaluated in a five-step process:

- Task Force.
- Alternative Corridor Evaluation.
- Project Development & Environment and Design.
- Right-of-Way.
- Construction.

All three corridors are currently undergoing alternative corridor evaluation. The FDOT notes “[t]he Task Force Guiding Principles, in collaboration with federal, state, and local partners, will be used to conduct the preliminary needs and financial analysis and evaluation of potential corridors, including opportunities for linear infrastructure (broadband, sewer, and water) and co-location with existing corridors.” Further, “[a] final report will identify which sections and which corridor(s), if any, are carried forward for further evaluation.”⁴⁰

The Impact of COVID-19 on Transportation Revenues

As the FDOT and the task forces engaged in their work, reports of increasing cases of COVID-19 infection began to proliferate. Reports of the impacts of COVID-19 on various sources of revenue began, as well, including impacts on transportation revenue sources. In a presentation to the Senate Appropriations Subcommittee on Transportation, Tourism, and

³⁹ See MSN News, *Thousands of Public Comments Show Overwhelming Opposition to M-CORES Toll-Road Projects*, October 15, 2020, available at <https://www.msn.com/en-us/news/us/thousands-of-public-comments-show-overwhelming-opposition-to-m-cores-toll-road-projects/ar-BB1a7H1d> (last visited March 8, 2021).

⁴⁰ See the FDOT’s M-CORES Program Overview (on file in the Senate Transportation Committee).

Economic Development on February 9, 2021, the FDOT noted projected transportation revenue reductions (from traditional sources such as fuel taxes, documentary stamp tax proceeds, and toll facility revenues) for the 5-year work program for the 2020-21 through 2025-2026 fiscal years in the amount of \$2.91 billion.⁴¹ For the 2020-2021 fiscal year, the revenue reductions resulted in 23 projects being deferred, while 54 projects were deleted entirely.⁴²

Further Present Situation

For ease of organization and readability, additional information on related present situation is discussed below in conjunction with the effect of the proposed changes.

III. Effect of Proposed Changes

M-CORES Program (Section 3)

Present Situation

Section 338.2278, F.S., establishes the M-CORES Program within the FDOT. If projects in the corridors are determined to be economically and environmentally feasible and are consistent to the maximum extent feasible with the appropriate approved local government comprehensive plans, the projects will be included in the FDOT's tentative work program. Funding for M-CORES projects through turnpike revenue bonds, right-of-way and bridge construction bonds, the FDOT Financing Corporation, the use of public-private partnerships, or by any combination thereof is authorized. The FDOT is also authorized to accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects.

The 2019 legislation redirected motor vehicle license tax revenues from the General Revenue Fund taxes to the STTF, with transfers from STTF to the General Revenue Fund in Fiscal Years 2019-2020 and 2020-21.⁴³ Beginning Fiscal Year 2021-2022 and thereafter, the General Revenue Fund receives no further transfers, and the estimated \$132 million is retained in the STTF.

The redirected motor vehicle license tax proceeds are directed to the M-CORES program; as additional funding for the SCRAP, the SCOP, and the Transportation Disadvantaged Trust Fund (TDTF);⁴⁴ and to the FDOT's workforce development program, as revised by the law. These funds are in addition to any other statutory funding allocations provided by law.

⁴¹ See Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development, February 9, 2021, meeting packet, FDOT presentation at p. 15, available at https://www.flsenate.gov/Committees/Show/ATD/MeetingPacket/5021/8989_MeetingPacket_5021.pdf (last visited March 8, 2020).

⁴² *Id.* at p. 12.

⁴³ The transfer in Fiscal Year 2019-2020 was \$65.7 million and the transfer for Fiscal Year 2020-2021 is estimated to be \$38.6 million.

⁴⁴ The Transportation Disadvantaged Program established in Part I of ch. 427, F.S., coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. The Commission for the Transportation Disadvantaged (CTD) is authorized to use moneys in the TDTF to subsidize a portion of a transportation disadvantaged person's non-sponsored (for example, not paid for by Medicaid) transportation costs.

For the 2019-2020 fiscal year and annually thereafter, from the amounts retained in the STTF, the SCRAP, the SCOP, and the TDTF receive \$10 million annually each and the workforce development program receives \$2.5 million annually ending in the 2021-2022 fiscal year.

The funds allocated to the TDTF must be used to award competitive grants to community transportation coordinators and transportation network companies to provide cost-effective, door-to-door, on-demand, and scheduled transportation services (services that increase access to job training, employment, health care, and other life-sustaining services; that enhance regional connectivity and cross-county mobility; or that reduce difficulty in connecting to transportation hubs and from hubs to final destinations).

Effect of Proposed Changes

Section 3 of the bill repeals s. 338.2278, F.S., related to the M-CORES program and the motor vehicle license tax proceeds directed to other programs. Beginning in Fiscal Year 2021-2022, the annual allocation to the M-CORES program, the additional annual allocations over current statutory funding for the SCRAP, the SCOP, and the TDTF, as well as the last year of funding for workforce development are repealed.

As discussed below, however, the increased revenues derived from redirecting to the STTF portions of motor vehicle license taxes remain in the STTF under the bill.

Conforming Revisions (Sections 1, 2, 4, 5, and 8)

Effect of Proposed Changes

Section 1 amends s. 334.044(35), F.S., to remove the M-CORES-related revisions enacted in 2019 with respect to workforce development, including authorization for the FDOT to enter into contracts with consultants and non-profit entities for the provisions of workforce recruitment, training curriculum, and support services, and a requirement for a report the FDOT has already completed. Current funding for the program would expire on July 1, 2021, instead of continuing through the end of the 2021-2022 fiscal year. The FDOT's authorization for the workforce development program is not repealed. The FDOT may continue administration of the program to the extent that future funding resources are available.

Section 2 repeals s. 163.3168(4), F.S., to remove an M-CORES-related provision relating to local applications for technical assistance from the Department of Economic Opportunity (DEO). This provision currently requires the DEO to give preference to a county with a population of 200,000 or less, and to a municipality located within such a county, for assistance in determining whether the area in and around a proposed M-CORES interchange contains appropriate land uses and natural resource protections and for aid in developing or amending a local government's comprehensive plan to provide for such uses, protections, and intended benefits under the M-CORES program.

Section 4 repeals an M-CORES-related provision contained in s. 338.236, F.S., relating to staging areas to be activated during a declared state of emergency on the turnpike system. That section currently requires the FDOT to give priority consideration to placement of such staging

areas in counties with a population of 200,000 or less and in which an M-CORES corridor is located.

Section 5 amends s. 339.0801(2), F.S., to remove an M-CORES-related allocation and restore that subsection as it existed prior to enactment of the M-CORES program. This subsection currently provides \$35 million in annual funding to the FTE to be used in accordance with turnpike requirements and to the maximum extent feasible for feeder roads, structures, interchanges, and appurtenances to create or facilitate access to the existing turnpike system, and beginning in Fiscal Year 2022-2023 the funds must be used for similar access to M-CORES corridors.⁴⁵

This statute is also amended under Section 6 of the bill at a future date.

Section 8 repeals s. 339.1373, F.S., relating to M-CORES specific financing and planning requirements of the FDOT.

Arterial Highway Projects (Sections 6, 7, and 9-12)

Present Situation

The FDOT routinely manages and improves arterial roads to increase capacity and facilitate traffic throughput, while at the same time achieving the paramount goal of improving safety. The FDOT and the FTE are experienced in retrofitting transportation facilities with grade separations and adding new alignments for the same purposes.

An example of upgrades to existing arterial highways to maximize operational efficiency and safety is implementation of controlled access facilities. The FDOT's Access Control Classification System and Access Management Standards for roads on the State Highway System employs seven classes of controlled access facilities, beginning with Class 1 (limited access facilities providing for high speed and high volume traffic movements serving interstate, interregional, and intercity highways but which do not provide direct property connections).

According to the FDOT rule,

Access Classes 2 through 7 consist of controlled access facilities and are arranged from the most restrictive (Access Class 2) to the least restrictive (Access Class 7) class based on development. Generally the roadways serving areas without existing extensive development are classified in the upper portion of the range (Access Class 2, 3 and 4). Those roadways serving areas with existing moderate to extensive development are generally classified in the lower portion of the range (Access Class 5, 6 and 7). The access management standards for each access class are further determined by the posted speed limit.⁴⁶

⁴⁵ The \$35 million is from increased revenues to the STTF due to changes enacted in 2012.

⁴⁶ Rule 14-97.003, F.A.C. The rule implements the FDOT's statutory duties with respect to regulation of access to the State Highway System, access permitting, and access management standards in ss. 335.182, 335.184, and 335.188, F.S.

The rule appears to provide the FDOT the flexibility, based on engineering decisions, to employ the most appropriate type of upgrade to an existing arterial highway given its characteristics and the particular goal of a given project, such as congestion management.

Effect of Proposed Changes

Section 9 creates s. 339.66, F.S., relating to upgrading arterial highways with controlled access facilities. The bill sets forth Legislative findings that provision and maintenance of safe, reliable, and predictably free-flowing facilities to support the movement of people and freight and to enhance hurricane evacuation efficiency is important; and that planning now for population growth and technology changes while prudently making timely improvements to address demand is in the best interest of the state.

The bill directs the FDOT, in coordination with the FTE, to evaluate existing or portions of existing roadways for development of specific controlled access facilities and include such projects as identified in the work program. The FDOT is authorized to upgrade roadways with targeted improvements, such as adding new tolled or non-tolled limited access alignments to manage congestion points and retrofitting existing roadway with tolled or non-tolled grade separations that provide alternatives to a signalized intersection for through traffic. Such improvements must enhance the economic prosperity and preserve the character of impacted communities.

The FDOT may *not* reduce any non-tolled general use lanes of an existing facility and *must*:

- Maintain existing access points to the roadway provided by designated streets, graded roads, or driveways, avoiding community impact.
- After construction is completed, provide property owners of land with no existing access the right to one access point and provide owners with more than one mile of roadway frontage along the facility with one access point for each mile owned.
- Locate any tolling points so that a non-tolled alternative exists for local traffic.

Under the bill, any portions of a controlled access facility to be tolled are approved turnpike projects that are part of the turnpike system, and a controlled-access portion of a roadway constructed under the new section of law is considered a SIS facility. All existing applicable requirements relating to FDOT or turnpike projects, including environmental review, also apply to any projects undertaken to upgrade the arterial roadways with controlled access facilities. Further, the FDOT and FTE must take into consideration the guidance and recommendations of any previous studies or reports relevant to the projects.

The bill also requires the FDOT to consider innovative concepts to combine right-of-way acquisition with the acquisition of lands or easements to facilitate environmental mitigation or ecosystem, wildlife habitat, or water quality protection or restoration. Further, to the greatest extent practical, the FDOT must design roadway alignments, project alignment, and any interchange locations so that project rights-of-way are not located within conservation lands acquired under the Florida Preservation 2000 Act⁴⁷ and the Florida Forever Act.⁴⁸

⁴⁷ Section 259.101, F.S.

⁴⁸ Section 259.105, F.S.

Lastly, the bill authorizes project funding through turnpike revenue bonds, right-of-way and bridge construction bonds, the FDOT Financing Corporation, the use of public-private partnerships, or by any combination thereof, as applicable. However, project construction is not eligible for funding until completion of 30 percent of the design phase, except for projects that are under construction or for which project alignment has been determined. The FDOT is also authorized to accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects.

To the extent legally available, any toll revenues from the turnpike system not required for payment of principal, interest, reserves, and other required deposits for bonds; costs of operations and maintenance; other contractual obligations; or system improvement project costs must be used to repay to the STTF advances made from that fund. In accordance with existing authority, the Division of Bond finance is authorized to issue right-of-way and bridge construction bonds, turnpike revenue bonds, and FDOT financing corporation bonds to finance controlled access facilities as provided in the State Bond Act.

Section 10 creates s. 339.67, F.S., relating to U.S. 19 controlled access facilities. The bill directs the FDOT to develop and include in the work program construction of controlled access facilities necessary to achieve free flow of traffic on U.S. 19, beginning at the terminus of the Suncoast Parkway 2 Phase 3 north predominantly along U.S. 19 to a logical terminus on I-10 in Madison County. The bill deems the project as a SIS facility, which must be developed using existing or portions of existing roadway to ensure the free flow of traffic by improvements. The FDOT must develop the project no later than December 31, 2035.

Section 11 creates s. 339.68, F.S., relating to arterial rural highway projects. The bill directs the FDOT to identify and include in the work program projects to increase capacity by widening existing two-lane arterial rural roads to four lanes. To be included in a program project, the road must be classified as an arterial rural road and truck traffic using the road must amount to at least 15 percent of all such traffic, as determined by the FDOT. The bill directs the FDOT to fund at least \$20 million annually for such projects.

Section 12 directs the FDOT to begin the PD&E phase of the extension of the Florida Turnpike from its northerly terminus in Wildwood to a logical and appropriate terminus determined by the FDOT. FDOT is required to submit a status report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the result of the PD&E phase, including consideration of project configuration, alignment, cost, and schedule, by December 31, 2022. The bill does not authorize construction of the extension.

Section 6, effective July 1, 2023, amends s. 339.0801, F.S., to repeal the annual transfer from the STTF to the Turnpike Enterprise of the \$35 million for feeder roads, etc. In effect, the annual \$35 million will remain in the STTF to be used annually for existing or planned strategic transportation projects, as required under current law.

Section 7 creates s. 339.0803, F.S., to allocate the increased motor vehicle license tax revenues to the STTF from the 2019 M-CORES law. The funds must be used to fund arterial highway projects identified by the FDOT under s. 339.65, F.S., relating to the SIS, and may be used for controlled access facility projects specified in ss. 339.66 and 339.67, F.S., created by the bill.

The FDOT must prioritize use of existing facilities when upgrading arterial highways to limited or controlled access facilities, but the FDOT is not precluded from use of such funding for projects that enhance the capacity of an arterial highway. These funds are in addition to any other statutorily required funding allocations.

Effective Date

Except as otherwise provided, the bill takes effect July 1, 2021.

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. The bill does not change the collection of motor vehicle license tax revenues, but instead changes the use of the revenues in the STTF.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not change the amount of revenue distributed to the STTF. The bill repeals the funding for the M-CORES program, the workforce development program, and the additional funds dedicated to the SCRAP, the SCOP, and the TDTF. Instead, these revenues will be used for arterial roads in the SIS.

The bill repeals the future change in use of \$35 million of funds transferred to the FTE to conform to the repeal of the M-CORES law, and on July 1, 2023, the bill repeals the transfer of those funds to the FTE. Instead, the funds will be retained in the STTF. Any impact to FTE programming is reduced by the delayed effective date of the elimination of the transfer.

The impact to the 5-year Work Program is expected to be minimal. The funds remain in the STTF for use by the FDOT on arterial roads in the SIS. The bill does require the FDOT to incorporate into the work program projects related to upgrade of existing facilities with controlled access roads and expansion of certain two-lane arterial rural roadways.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3168, 334.044, 338.236, and 339.0801.

This bill creates the following sections of the Florida Statutes: 339.0803, 339.66, 339.67, and 339.68.

The bill creates an undesignated section of Florida law.

This bill repeals the following sections of the Florida Statutes: 338.2278 and 339.1373.

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 March 18, 2021:

The committee substitute:

- Clarifies that any existing applicable requirements relating to FDOT or turnpike projects also apply to any projects undertaken pursuant to s. 339.66, F.S., created by the bill.
- Specifies that the FDOT and FTE must take into consideration the guidance and recommendations of any previous studies or reports relevant to the projects authorized in s. 339.66, F.S.
- Clarifies that the development of controlled access facilities along U.S. 19 shall be north, predominately along the existing roadway.

- Clarifies that the report due to the Governor and the Legislature about the turnpike extension project on December 31, 2022, is a status report.

B. Amendments:

None.

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



740874

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 316 - 434
and insert:
signalized intersection for through traffic. Such improvements must be made with the goal of enhancing the economic prosperity and preserving the character of the communities impacted by such improvements.

(a) The department may not reduce any nontolled general use lanes of an existing facility.



740874

11 (b) The department shall maintain existing access points to
12 the roadway provided by designated streets, graded roads, or
13 driveways.

14 (c) Upon application or as otherwise agreed to by the
15 department, after construction is completed, property owners
16 with parcels of land having no existing access shall have the
17 right to one access point, and property owners having more than
18 1 mile of roadway frontage shall be allowed one access point for
19 each mile owned.

20 (d) Any tolling points must be located such that a
21 nontolled alternative exists for local traffic.

22 (4) Any tolled facilities are approved turnpike projects
23 that are part of the turnpike system. A controlled-access
24 portion of a roadway constructed pursuant to this section is
25 considered a Strategic Intermodal System facility.

26 (5) Any existing applicable requirements relating to
27 department projects shall apply to projects undertaken by the
28 department pursuant to this section. The department shall take
29 into consideration the guidance and recommendations of any
30 previous studies or reports relevant to the projects authorized
31 in this section.

32 (6) Any existing applicable requirements relating to
33 turnpike projects shall apply to projects undertaken by the
34 Turnpike Enterprise pursuant to this section. The Turnpike
35 Enterprise shall take into consideration the guidance and
36 recommendations of any previous studies or reports relevant to
37 the projects authorized in this section.

38 (7) The department shall consider innovative concepts to
39 combine right-of-way acquisition with the acquisition of lands



740874

or easements to facilitate environmental mitigation or ecosystem, wildlife habitat, or water quality protection or restoration.

(8)(a) Decisions on matters such as configuration, project alignment, and interchange locations must be determined in accordance with applicable department rules, policies, and procedures.

(b) To the greatest extent practicable, roadway alignments, project alignment, and interchange locations shall be designed so that project rights-of-way are not located within conservation lands acquired under the Florida Preservation 2000 Act established in s. 259.101 and the Florida Forever Act established in s. 259.105.

(9) Subject to applicability of existing requirements as provided in subsections (5) and (6), projects may be funded through turnpike revenue bonds or right-of-way acquisition and bridge construction bonds or financing by the Florida Department of Transportation Financing Corporation; by advances from the State Transportation Trust Fund; with funds obtained through the creation of public-private partnerships; or any combination thereof. The department also may accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects in accordance with s. 337.2505. To the extent legally available, any toll revenues from the turnpike system not required for payment of principal, interest, reserves, or other required deposits for bonds; costs of operations and maintenance; other contractual obligations; or system improvement project costs must be used to repay advances received from the State Transportation Trust



740874

Fund.

(10) Project construction is not eligible for funding until completion of 30 percent of the design phase, except for projects that are under construction or for which project alignment has been determined.

(11) In accordance with ss. 337.276, 338.227, and 339.0809, the Division of Bond Finance may issue, on behalf of the department, right-of-way acquisition and bridge construction bonds, turnpike revenue bonds, and Florida Department of Transportation Financing Corporation bonds to finance projects as provided in the State Bond Act.

Section 10. Section 339.67, Florida Statutes, is created to read:

339.67 U.S. 19 controlled access facilities.—The department shall develop and include in the work program the construction of controlled access facilities as necessary to achieve free flow of traffic on U.S. 19, beginning at the terminus of the Suncoast Parkway 2 Phase 3, north predominantly along U.S. 19 to a logical terminus on Interstate 10 in Madison County. This Strategic Intermodal System facility shall be developed using existing roadway, or portions thereof, to ensure the free flow of traffic along the roadway by improvements such as limited access alignments to manage congestion points and retrofitting existing roadway with a series of grade separations that provide an alternative to a signalized intersection for through traffic. To the maximum extent feasible, the facilities shall be developed no later than December 31, 2035.

Section 11. Section 339.68, Florida Statutes, is created to read:



740874

339.68 Arterial rural highway projects.—The department shall identify and include in the work program projects to increase capacity by widening existing two-lane arterial rural roads to four lanes. To be included in a work program project, the road must be classified as an arterial rural road, and truck traffic using the road must amount to at least 15 percent of all such traffic, as determined by the department. The department shall fund at least \$20 million annually for such projects.

Section 12. The Legislature finds that the extension of the Florida Turnpike from its northerly terminus in Wildwood to a logical and appropriate terminus as determined by the Department of Transportation is in the strategic interest of the state. The department shall commence the project development and environmental phase of the extension and shall consider project configuration, alignment, cost, and schedule. The department shall prepare a report summarizing the status of the project development and

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

And the title is amended as follows:

Delete lines 51 - 54

and insert:

providing for applicability of certain requirements;
requiring the department and Turnpike Enterprise to
take into consideration guidance and recommendations
of certain studies and reports; requiring certain

By Senator Harrell

25-00533E-21

2021100__

1 A bill to be entitled
 2 An act relating to highway projects; repealing s.
 3 163.3168(4), F.S., relating to applications for
 4 funding for technical assistance relating to areas in
 5 and around a proposed multiuse corridor interchange;
 6 amending s. 334.044, F.S.; revising the powers and
 7 duties of the Department of Transportation relating to
 8 the workforce development program; repealing s.
 9 338.2278, F.S., relating to the Multi-use Corridors of
 10 Regional Economic Significance Program; amending s.
 11 338.236, F.S.; deleting a requirement for the
 12 department to give priority consideration to placement
 13 of staging areas in certain counties; amending s.
 14 339.0801, F.S.; requiring that \$35 million transferred
 15 to Florida's Turnpike Enterprise be used for a
 16 specified purpose beginning in a specified fiscal year
 17 and annually for up to 30 years thereafter; conforming
 18 provisions to changes made by the act; amending s.
 19 339.0801, F.S.; deleting a requirement for a specified
 20 amount of funds to be transferred to Florida's
 21 Turnpike Enterprise for a specified purpose; creating
 22 s. 339.0803, F.S.; requiring that certain increased
 23 revenues be used to fund specified projects beginning
 24 in a specified fiscal year and annually thereafter;
 25 authorizing such revenues to be used for certain
 26 projects; requiring the department to prioritize the
 27 use of certain facilities when upgrading arterial
 28 highways; providing construction; providing that such
 29 funding is in addition to other statutory funding

Page 1 of 16

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

25-00533E-21

2021100__

30 allocations; repealing s. 339.1373, F.S., relating to
 31 funding of the Multi-use Corridors of Regional
 32 Economic Significance Program; creating s. 339.66,
 33 F.S.; providing legislative findings; requiring the
 34 department, in coordination with the Florida Turnpike
 35 Enterprise, to evaluate certain roadways for
 36 development of specific controlled access facilities
 37 and to include such projects in the work program;
 38 authorizing the department to upgrade roadways with
 39 targeted improvements; prohibiting the department from
 40 reducing nontolled general use lanes of an existing
 41 facility; requiring the department to maintain
 42 existing access points; providing for access points
 43 for certain property owners; specifying the location
 44 of tolling points and requiring a nontolled
 45 alternative for local traffic; requiring any new
 46 alignments to be establish with a specified goal;
 47 providing that any tolled facilities are approved
 48 turnpike projects and part of the turnpike system;
 49 designating a controlled-access portion of a specified
 50 roadway a Strategic Intermodal System facility;
 51 providing for applicability of a specified economic
 52 feasibility requirement and a specified statement of
 53 environmental feasibility; requiring environmental
 54 review of projects as specified; requiring certain
 55 decisions to be determined in accordance with
 56 applicable department rules, policies, and procedures;
 57 requiring, to the greatest extent practicable, that
 58 roadway alignments, project alignment, and interchange

Page 2 of 16

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

25-00533E-21

2021100__

locations be designed as specified; providing for funding sources; providing that project construction is not eligible for funding until completion of 30 percent of the project design phase, with exceptions; authorizing the Division of Bond Finance to issue specified bonds on behalf of the department to finance certain projects; creating s. 339.67, F.S.; requiring the department to develop and include construction of controlled access facilities in the work program of a certain facility; requiring the facility to be developed using existing roadway or portions thereof; requiring the facilities to be developed no later than a specified date to the maximum extent feasible; creating s. 339.68, F.S.; requiring the department to identify and include in the work program projects to increase capacity by widening existing two-lane arterial rural roads to four lanes; providing requirements for roads to be included in work program projects; requiring the department to annually fund at least a specified amount for such projects; providing legislative findings; requiring the department to commence project development and environmental phase of an extension of the Florida Turnpike; requiring the department to prepare a specified report and to submit the report to the Governor and Legislature by a specified date; providing effective dates.

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

25-00533E-21

2021100__

Section 1. Subsection (4) of section 163.3168, Florida Statutes, is repealed.

Section 2. Subsection (35) of section 334.044, Florida Statutes, is amended to read:

334.044 Powers and duties of the department.—The department shall have the following general powers and duties:

(35) To provide a road and bridge construction workforce development program, in consultation with affected stakeholders, for construction of projects designated in the department's work program.

~~(a) The workforce development program is intended to provide direct economic benefits to communities in which the department is constructing infrastructure projects and to promote employment opportunities, including within areas of low income and high unemployment.~~

~~(b) The department shall merge any of its own existing workforce services into the program to create a robust workforce development program. The workforce development program must serve as a tool to address the construction labor shortage by recruiting and developing a group of skilled workers for infrastructure projects to increase the likelihood of department projects remaining on time and within budget.~~

~~(c) To accomplish these activities, the department may administer workforce development contracts with consultants and nonprofit entities, such as local community partners, Florida College System institutions, and technical institutions or centers. These entities, as specified in a contract with the department, shall have the primary purposes of providing all of the following:~~

25-00533E-21

2021100__

1. ~~Workforce recruitment.~~

2. ~~A training curriculum for the department's road and bridge construction projects which includes both traditional and emerging construction methods and skills needed to construct multiuse infrastructure and facilities accommodating emerging technologies.~~

3. ~~Support services to remove barriers to work.~~

(d) ~~The department shall develop performance and outcome metrics to ensure accountability and to measure the benefits and cost-effectiveness of the program. By June 30, 2020, and annually thereafter, the department shall prepare and provide a report to the Governor, President of Senate, and Speaker of the House of Representatives detailing the results of its findings and containing any recommendations relating to future program refinements.~~

Section 3. Section 338.2278, Florida Statutes, is repealed.

Section 4. Subsection (1) of section 338.236, Florida Statutes, is amended to read:

338.236 Staging areas for emergencies.—The Department of Transportation may plan, design, and construct staging areas to be activated during a declared state of emergency at key geographic locations on the turnpike system. Such staging areas must be used for the staging of emergency supplies, such as water, fuel, generators, vehicles, equipment, and other related materials, to facilitate the prompt provision of emergency assistance to the public, and to otherwise facilitate emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

25-00533E-21

2021100__

(1) In selecting a proposed site for a designated staging area under this section, the department, in consultation with the Division of Emergency Management, must consider the extent to which such site:

(a) Is located in a geographic area that best facilitates the wide dissemination of emergency-related supplies and equipment;

(b) Provides ease of access to major highways and other transportation facilities;

(c) Is sufficiently large to accommodate the staging of a significant amount of emergency-related supplies and equipment;

(d) Provides space in support of emergency preparedness and evacuation activities, such as fuel reserve capacity;

(e) Could be used during nonemergency periods for commercial motor vehicle parking and for other uses; and

(f) Is consistent with other state and local emergency management considerations.

~~The department must give priority consideration to placement of such staging areas in counties with a population of 200,000 or fewer, as determined by the most recent official estimate pursuant to s. 186.901, in which a multiuse corridor of regional economic significance, as provided in s. 338.2278, is located.~~

Section 5. Subsection (2) of section 339.0801, Florida Statutes, is amended to read:

339.0801 Allocation of increased revenues derived from amendments to s. 319.32(5) (a) by ch. 2012-128.—Funds that result from increased revenues to the State Transportation Trust Fund derived from the amendments to s. 319.32(5) (a) made by this act

25-00533E-21

2021100

must be used annually, first as set forth in subsection (1) and then as set forth in subsections (2)-(5), notwithstanding any other provision of law:

(2)(a) Beginning in the 2013-2014 fiscal year and annually for up to 30 years thereafter ~~For each of the 2019-2020, 2020-2021, and 2021-2022 fiscal years,~~ \$35 million shall be transferred to Florida's Turnpike Enterprise, to be used in accordance with Florida Turnpike Enterprise Law, to the maximum extent feasible for feeder roads, structures, interchanges, appurtenances, and other rights to create or facilitate access to the existing turnpike system.

~~(b) Beginning with the 2022-2023 fiscal year and annually thereafter, \$35 million shall be transferred to Florida's Turnpike Enterprise, to be used in accordance with s. 338.2278, with preference to feeder roads, interchanges, and appurtenances that create or facilitate multiuse corridor access and connectivity. Of those funds, and to the maximum extent feasible, up to \$5 million annually may be used for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor. The department shall give priority consideration to broadband infrastructure projects located in any area designated as a rural area of opportunity under s. 288.0656 and adjacent to a multiuse corridor.~~

Section 6. Effective July 1, 2023, section 339.0801, Florida Statutes, is amended to read:

339.0801 Allocation of increased revenues derived from amendments to s. 319.32(5) (a) by ch. 2012-128.—Funds that result from increased revenues to the State Transportation Trust Fund derived from the amendments to s. 319.32(5) (a) made by this act

25-00533E-21

2021100

must be used annually, first as set forth in subsection (1) and then as set forth in subsections (2)-(4) ~~(2)-(5)~~, notwithstanding any other provision of law:

(1) (a) Beginning in the 2013-2014 fiscal year and annually for 30 years thereafter, \$10 million shall be for the purpose of funding any seaport project identified in the adopted work program of the Department of Transportation, to be known as the Seaport Investment Program.

(b) The revenues may be assigned, pledged, or set aside as a trust for the payment of principal or interest on revenue bonds, or other forms of indebtedness issued by an individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal agreement among any of the ports, or used to purchase credit support to permit such borrowings. Alternatively, revenue bonds shall be issued by the Division of Bond Finance at the request of the Department of Transportation under the State Bond Act and shall be secured by such revenues as are provided in this subsection.

(c) Revenue bonds or other indebtedness issued hereunder are not a general obligation of the state and are secured solely by a first lien on the revenues distributed under this subsection.

(d) The state covenants with holders of the revenue bonds or other instruments of indebtedness issued pursuant to this subsection that it will not repeal this subsection; nor take any other action, including but not limited to amending this subsection, that will materially and adversely affect the rights of such holders so long as revenue bonds or other indebtedness authorized by this subsection are outstanding.

25-00533E-21

2021100__

(e) The proceeds of any revenue bonds or other indebtedness, after payment of costs of issuance and establishment of any required reserves, shall be invested in projects approved by the Department of Transportation and included in the department's adopted work program, by amendment if necessary. As required under s. 11(f), Art. VII of the State Constitution, the Legislature approves projects included in the department's adopted work program, including any projects added to the work program by amendment under s. 339.135(7).

(f) Any revenues that are not used for the payment of bonds as authorized by this subsection may be used for purposes authorized under the Florida Seaport Transportation and Economic Development Program. This revenue source is in addition to any amounts provided for and appropriated in accordance with ss. 311.07 and 320.20(3) and (4).

~~(2) Beginning in the 2013-2014 fiscal year and annually for up to 30 years thereafter, \$35 million shall be transferred to Florida's Turnpike Enterprise, to be used in accordance with Florida Turnpike Enterprise Law, to the maximum extent feasible for feeder roads, structures, interchanges, appurtenances, and other rights to create or facilitate access to the existing turnpike system.~~

(2)(3) Beginning in the 2013-2014 fiscal year and annually thereafter, \$10 million shall be transferred to the Transportation Disadvantaged Trust Fund, to be used as specified in s. 427.0159.

(3)(4) Beginning in the 2013-2014 fiscal year and annually thereafter, \$10 million shall be allocated to the Small County Outreach Program to be used as specified in s. 339.2818. These

25-00533E-21

2021100__

funds are in addition to the funds provided for the program pursuant to s. 201.15(4)(a)2.

~~(4)(5)~~ After the distributions required pursuant to subsections ~~(1)-(3)~~ ~~(1)-(4)~~, the remaining funds shall be used annually for transportation projects within this state for existing or planned strategic transportation projects which connect major markets within this state or between this state and other states, which focus on job creation, and which increase this state's viability in the national and global markets.

(5)(6) Pursuant to s. 339.135(7), the department shall amend the work program to add the projects provided for in this section.

Section 7. Section 339.0803, Florida Statutes, is created to read:

339.0803 Allocation of increased revenues derived from amendments to s. 320.08 by chapter 2019-43, Laws of Florida.- Beginning in the 2021-2022 fiscal year and each fiscal year thereafter, funds that result from increased revenues to the State Transportation Trust Fund derived from the amendments to s. 320.08 made by chapter 2019-43, Laws of Florida, and deposited into the fund pursuant to s. 320.20(5)(a) must be used to fund arterial highway projects identified by the department in accordance with s. 339.65 and may be used for projects as specified in ss. 339.66 and 339.67. For purposes of the funding provided in this section, the department shall prioritize use of existing facilities or portions thereof when upgrading arterial highways to limited or controlled access facilities. However, this section does not preclude use of the funding for projects

25-00533E-21

2021100

that enhance the capacity of an arterial highway. The funds allocated as provided in this section shall be in addition to any other statutory funding allocations provided by law.

Section 8. Section 339.1373, Florida Statutes, is repealed.

Section 9. Section 339.66, Florida Statutes, is created to read:

339.66 Upgrade of arterial highways with controlled access facilities.—

(1) The Legislature finds that the provision and maintenance of safe, reliable, and predictably free-flowing facilities to support the movement of people and freight and to enhance hurricane evacuation efficiency is important. It is in the best interest of the state to plan now for population growth and technology changes while prudently making timely improvements to address demand.

(2) The department, in coordination with the Florida Turnpike Enterprise, shall evaluate existing roadways or portions thereof for development of specific controlled access facilities and include such projects as identified in the work program.

(3) The department may upgrade roadways with targeted improvements, such as adding new tolled or nontolled limited access alignments to manage congestion points and retrofitting existing roadway with a series of electronically tolled or nontolled grade separations that provide an alternative to a signalized intersection for through traffic.

(a) The department may not reduce any nontolled general use lanes of an existing facility.

(b) The department shall maintain existing access points to

25-00533E-21

2021100

the roadway provided by designated streets, graded roads, or driveways.

(c) Upon application or as otherwise agreed to by the department, after construction is completed, property owners with parcels of land having no existing access shall have the right to one access point and property owners having more than 1 mile of roadway frontage shall be allowed one access point for each mile owned.

(d) Any tolling points must be located such that a nontolled alternative exists for local traffic.

(e) Any new alignments must be established in accordance with the goal of enhancing the economic prosperity of affected communities.

(4) Any tolled facilities are approved turnpike projects that are part of the turnpike system. A controlled-access portion of a roadway constructed pursuant to this section is considered a Strategic Intermodal System facility.

(5) The economic feasibility requirement of s. 338.223 applies only to projects involving tolled upgrades to a facility. The statement of environmental feasibility required under s. 338.223 applies to all projects.

(6) (a) Projects undertaken are subject to the responsibilities assumed by the department as provided under s. 334.044(34) for environmental review, consultation, or other action required under any federal environmental law applicable to review or approval of such projects or project phases.

(b) For projects that do not receive federal aid or projects that do not require federal action, the department must perform a project evaluation that considers the following:

25-00533E-21

2021100__

349 1. Project purpose and need;
 350 2. An alternatives analysis;
 351 3. Existing conditions of the project area and potential
 352 impacts or enhancements the project may have on social,
 353 economic, cultural, natural, and connectivity issues and
 354 resources;
 355 4. Anticipated permits identified during the project
 356 development and environmental study;
 357 5. Opportunities for stakeholder and regulatory agency
 358 coordination; and
 359 6. Public and agency comments and coordination.
 360 (7) The department shall consider innovative concepts to
 361 combine right-of-way acquisition with the acquisition of lands
 362 or easements to facilitate environmental mitigation or
 363 ecosystem, wildlife habitat, or water quality protection or
 364 restoration.
 365 (8) (a) Decisions on matters such as configuration, project
 366 alignment, and interchange locations must be determined in
 367 accordance with applicable department rules, policies, and
 368 procedures.
 369 (b) To the greatest extent practicable, roadway alignments,
 370 project alignment, and interchange locations shall be designed
 371 so that project rights-of-way are not located within
 372 conservation lands acquired under the Florida Preservation 2000
 373 Act established in s. 259.101 and the Florida Forever Act
 374 established in s. 259.105.
 375 (9) Subject to applicability as provided in subsection (5),
 376 projects may be funded through turnpike revenue bonds or right-
 377 of-way acquisition and bridge construction bonds or financing by

25-00533E-21

2021100__

378 the Florida Department of Transportation Financing Corporation;
 379 by advances from the State Transportation Trust Fund; with funds
 380 obtained through the creation of public-private partnerships; or
 381 any combination thereof. The department also may accept
 382 donations of land for use as transportation rights-of-way or to
 383 secure or use transportation rights-of-way for such projects in
 384 accordance with s. 337.2505. To the extent legally available,
 385 any toll revenues from the turnpike system not required for
 386 payment of principal, interest, reserves, or other required
 387 deposits for bonds; costs of operations and maintenance; other
 388 contractual obligations; or system improvement project costs
 389 must be used to repay advances received from the State
 390 Transportation Trust Fund.
 391 (10) Project construction is not eligible for funding until
 392 completion of 30 percent of the design phase, except for
 393 projects that are under construction or for which project
 394 alignment has been determined.
 395 (11) In accordance with ss. 337.276, 338.227, and 339.0809,
 396 the Division of Bond Finance may issue, on behalf of the
 397 department, right-of-way acquisition and bridge construction
 398 bonds, turnpike revenue bonds, and Florida Department of
 399 Transportation Financing Corporation bonds to finance projects
 400 as provided in the State Bond Act.
 401 Section 10. Section 339.67, Florida Statutes, is created to
 402 read:
 403 339.67 U.S. 19 controlled access facilities.—The department
 404 shall develop and include in the work program the construction
 405 of controlled access facilities as necessary to achieve free
 406 flow of traffic on U.S. 19, beginning at the terminus of the

25-00533E-21

2021100__

407 Suncoast Parkway 2 Phase 3 north along U.S. 19 to a logical
 408 terminus on Interstate 10 in Madison County. This Strategic
 409 Intermodal System facility shall be developed using existing
 410 roadway, or portions thereof, to ensure the free flow of traffic
 411 along the roadway by improvements such as limited access
 412 alignments to manage congestion points and retrofitting existing
 413 roadway with a series of grade separations that provide an
 414 alternative to a signalized intersection for through traffic. To
 415 the maximum extent feasible, the facilities shall be developed
 416 no later than December 31, 2035.

417 Section 11. Section 339.68, Florida Statutes, is created to
 418 read:

419 339.68 Arterial rural highway projects.-The department
 420 shall identify and include in the work program projects to
 421 increase capacity by widening existing two-lane arterial rural
 422 roads to four lanes. To be included in a work program project,
 423 the road must be classified as an arterial rural road, and truck
 424 traffic using the road must amount to at least 15 percent of all
 425 such traffic, as determined by the department. The department
 426 shall fund at least \$20 million annually for such projects.

427 Section 12. The Legislature finds that the extension of the
 428 Florida Turnpike from its northerly terminus in Wildwood to a
 429 logical and appropriate terminus as determined by the department
 430 is in the strategic interest of the state. The department shall
 431 commence the project development and environmental phase of the
 432 extension and shall consider project configuration, alignment,
 433 cost, and schedule. The department shall prepare a report
 434 summarizing the result of the project development and
 435 environmental phase and, by December 31, 2022, submit the report

Page 15 of 16

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

25-00533E-21

2021100__

436 to the Governor, the President of the Senate, and the Speaker of
 437 the House of Representatives.

438 Section 13. Except as otherwise expressly provided in this
 439 act, this act shall take effect July 1, 2021.

Page 16 of 16

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

SENATOR GAYLE HARRELL

25th District

March 3, 2021

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

Chair Stargel,

I respectfully request that **SB 100 – Highway Projects** be placed on the next available agenda for the Appropriations Committee Meeting.

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

Thank you,

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

Senator Gayle Harrell
Senate District 25

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
☐ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/18/2021

Meeting Date

SB 100

Bill Number (if applicable)

740874

Topic Amendment to SB 100, 740874

Amendment Barcode (if applicable)

Name Beth Alvi

Job Title Director of Policy

Address 308 N. Monroe

Phone 850-999-1028

Street

Tallahassee

fl

32301

Email beth.alvi@audubon.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Audubon Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3-18-2021

Meeting Date

SB 100

Bill Number (if applicable)

Topic Highway Projects

Amendment Barcode (if applicable)

Name Sally Patrenos

Job Title President

Address 136 S Bronough St

Phone 850-933-1386

Street

Tallahassee

FL

State

32301

Zip

Email spatrenos@bettertransportation.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Floridians for Better Transportation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Approps 11:30
THE FLORIDA SENATE

3/18/21

Meeting Date

APPEARANCE RECORD

SB 100

Bill Number (if applicable)

Topic Highway Projects

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-18-21

Meeting Date

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

SB 100

Bill Number (if applicable)

Topic Highway Projects

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Job Title _____

Address P.O. Box 2020
Street
St. Petersburg FL 33731
City State Zip

Phone 727 421 6902

Email travis@moore-relations.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Defenders of Wildlife

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/18/21

Meeting Date

100

Bill Number (if applicable)

Topic MILES - Highway Projects

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title state dir.

Address 1206 Walter Dr.

Phone 850 508-1001

Street

Tallahassee FL

City

State

Zip

Email kmacfall@hsus.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Humane Society of the United States

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/18/21

Meeting Date

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

SB100

Bill Number (if applicable)

Topic

Highway projects

Amendment Barcode (if applicable)

Name

Paul Owens

Job Title

President, 1000 Friends of Florida

Address

308 N. Monroe St.

Phone

850-222-6277

Street

Tallahassee, FL 32301

Email

powens@1000fof.org

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

1000 Friends of Florida

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03/18/21

Meeting Date

SB100

Bill Number (if applicable)

Topic M-CORES

Amendment Barcode (if applicable)

Name Lindsay Cross

Job Title Government Relations Director

Address 1700 N Monroe St

Phone 850-629-4656

Street

Tallahassee

FL

32303

Email lindsay@fcvoters.org

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida Conservation Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/18/21
Meeting Date

100
Bill Number (if applicable)

Topic S.B. 100

Amendment Barcode (if applicable)

Name MARK MUSSELMAN

Job Title PRESIDENT

Address 1007 E DESOTO DR
Street

Phone 850-445-6981

City

State

Zip

Email mmusse/man@creat.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Asphalt Contractors Association of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 170

INTRODUCER: Health Policy Committee and Senator Hooper and others

SUBJECT: Podiatric Medicine

DATE: March 17, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Rossitto Van-Winkle	Brown	HP	Fav/CS
2. Brick	Bouck	ED	Favorable
3. Howard	Sadberry	AP	Favorable
4. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 170 makes changes to three issues related to the practice of podiatric medicine. The bill:

- Creates section 461.0155, Florida Statutes, to specify that podiatrists, when supervising medical assistants, are governed by section. 458.3485, Florida Statutes;
- Requires that a minimum of two continuing education (CE) hours related to the safe and effective prescribing of controlled substances must be added to the CE hours that the Board of Podiatric Medicine (BPM) may require as a condition of podiatrist licensure renewal; and
- Adds podiatrists to the list of health care providers who are authorized to enter into direct health care agreements with patients for the provision of health care services, without such agreements being considered insurance.

The bill has no impact on state revenues or state expenditures.

The bill takes effect on July 1, 2021.

II. Present Situation:

The Department of Health

The Legislature created the Department of Health (department) to protect and promote the health of all residents and visitors in the state.¹ The department is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards² and professions within the department.³

Podiatric Medicine

Podiatric medicine is the diagnosis or medical, surgical, palliative, and mechanical treatment of ailments of the human foot or leg.⁴ It also includes the amputation of toes or other parts of the foot, but does not include the amputation of the entire foot or leg. A podiatric physician is authorized to prescribe drugs specifically related to his or her scope of practice.⁵

The Bureau of Podiatric Medicine (BPM) was established to ensure that every podiatric physician practicing in this state meets minimum requirements for safe practice. The BPM licenses, monitors, disciplines, educates, and, when appropriate, rehabilitates practitioners to assure their competence in the service of the people of Florida.

Licensure Requirements

Florida law requires a podiatric physician to meet the following requirements for licensure:⁶

- Be at least 18 years of age;
- Hold a degree from a school or college of podiatric medicine or chiropody recognized and approved by the Council on Podiatry Education of the American Podiatric Medical Association;
- Have successfully completed one of the following clinical experience requirements:
 - One year of residency in a program approved by the BPM;⁷ or
 - Ten years of continuous, active licensed practice of podiatric medicine in another state immediately preceding application and completion of at least the same continuing education requirements during those 10 years as are required of podiatric physicians licensed in this state;
- Successfully complete a background screening; and

¹ Section 20.43, F.S.

² Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the department or, in some cases, within the MQA.

³ Section 20.43, F.S.

⁴ Section 461.003(5), F.S.

⁵ *Id.*

⁶ Section 461.006, F.S.

⁷ *Id.* If it has been more than four years since the completion of the residency, an applicant must have two years of active, licensed practice of podiatric medicine in another jurisdiction in the four years immediately preceding application or successfully complete a board-approved postgraduate program or board-approved course within the year preceding application.

- Obtain passing scores on the national examinations administered by the National Board of Podiatric Medical Examiners.⁸

A license to practice podiatric medicine must be renewed biennially.

Continuing Education (CE)

A podiatric physician must complete 40 hours of CE as a part of the biennial licensure renewal that must include:⁹

- One hour on risk management;
- One hour on the laws and rules related to podiatric medicine;
- Two hours on the prevention of medical errors;
- Two hours on HIV/AIDS (due for the first renewal only); and
- One hour on human trafficking (beginning January 1, 2021).¹⁰

Controlled Substance Prescribers

Effective July 1, 2018, every person registered with the U.S. Drug Enforcement Administration and authorized to prescribe controlled substances must complete a two-hour CE course on prescribing controlled substances.¹¹ The course must include:

- Information on the current standards for prescribing controlled substances, particularly opiates;
- Alternatives to these standards;
- Non-pharmacological therapies;
- Prescribing emergency opioid antagonists; and
- The risks of opioid addiction following all stages of treatment in the management of acute pain.

The course can only be offered by a statewide professional association of physicians in this state that is accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 Credit or the American Osteopathic Category 1-A medical continuing education on the safe and effective prescribing of controlled substances each biennial license renewal.¹² Approved providers for the course are available through the BPM's website¹³ and CE Broker.¹⁴

This requirement does not apply to a licensee who is required by his or her applicable practice act to complete a minimum of two hours of continuing education on the safe and effective

⁸ Rule 64B18-11.002, F.A.C., (2019).

⁹ Section 461.007(3), F.S., and Rule 64B18-17, F.A.C., (2019).

¹⁰ Section 456.0341, F.S.

¹¹ Section 456.0301, F.S.

¹² *Id.*

¹³ Department of Health, *Take Control of Controlled Substances*, available at <http://www.flhealthsource.gov/FloridaTakeControl/> (last visited Jan. 18, 2021). To access the podiatric list of providers, select Podiatric Medicine.

¹⁴ See CE Broker, *Podiatric Physician*, available at <https://courses.cebroke.com/search/fl/podiatric-physician?subjectArea=3313> (last visited Jan. 19, 2021).

prescribing of controlled substances. The requirement applies to podiatric physicians because their practice act (chapter 461, F.S.) does not specifically do so.

Medical Assistants

Section 458.3485, F.S., defines a “medical assistant” as a professional, multi-skilled person dedicated to assisting in all aspects of medical practice under the direct supervision and responsibility of a physician. A medical assistant:

- Assists with patient care management;
- Executes administrative and clinical procedures; and
- Often performs managerial and supervisory functions.

Competence in the field also requires that a medical assistant adhere to ethical and legal standards of professional practice, recognize and respond to emergencies, and demonstrate professional characteristics.

A medical assistant performs his or her duties under the direct supervision and responsibility of a licensed physician. A medical assistant may undertake the following duties:

- Performing clinical procedures, including:
 - Performing aseptic procedures;
 - Taking vital signs;
 - Preparing patients for the physician’s care and treatment;
 - Performing venipunctures and non-intravenous injections; and
 - Observing and reporting patients’ signs or symptoms;
- Administering basic first aid;
- Assisting with patient examinations or treatments;
- Operating office medical equipment;
- Collecting routine laboratory specimens as directed by the physician;
- Administering medication as directed by the physician;
- Performing basic laboratory procedures;
- Performing office procedures, including all general administrative duties required by the physician; and
- Performing dialysis procedures, including home dialysis.

A medical assistant is not required to be licensed, certified, or registered to practice in Florida but may obtain the designation of a certified medical assistant if he or she receives a certification from a program accredited by the National Commission for Certifying Agencies, a national or state medical association, or an entity approved by the Board of Medicine.

Current law does not regulate podiatric physicians regarding the supervision of, or the delegation of tasks or procedures to, medical assistants.

Direct Health Care Agreements

Section 624.27, F.S., authorizes the use of a direct health care agreement that is a contract between a health care provider and a patient, a patient's legal representative, or a patient's employer. A direct health care agreement must:

- Be in writing;
- Be signed by the health care provider, or his or her agent, and the patient, the patient's legal representative, or the patient's employer;
- Allow either party to terminate the agreement by giving the other party 30 days' advance written notice;
- Allow immediate termination of the agreement for a violation of physician-patient relationship or a breach of the terms of the agreement;
- Describe the scope of health care services that are covered by the monthly fee;
- Specify the monthly fee and any fees for health care services not covered under the agreement;
- Specify the duration of the agreement and any automatic renewal provisions;
- Offer a refund to the patient of monthly fees paid in advance if the health care provider stops offering health care services for any reason;
- State that the agreement is not health insurance and that the health care provider will not bill the patient's health insurance policy or plan for services covered under the agreement;
- State that the agreement does not qualify as minimum essential coverage to satisfy the individual responsibility provision of the federal Patient Protection and Affordable Care Act; and
- State that the agreement is not workers' compensation insurance and may not replace the employer's workers' compensation obligations.

A direct health care agreement is not considered health insurance and is exempt from the Florida Insurance Code that precludes any authority of the Office of Insurance Regulation to regulate such agreements.¹⁵

Currently, s. 624.27, F.S., pertains to a direct health care agreement contract with an allopathic physician, an osteopathic physician, a chiropractic physician, a nurse, a dentist, or a health care group practice, for health care services that are within the competency and training of the health care provider. Direct health care agreement contracts with a podiatric physician for the provision of health care services are not contemplated under the statute.

III. Effect of Proposed Changes:

This bill modifies the practice of podiatric medicine regarding the supervision of medical assistants, direct health care agreements, and continuing education.

Medical Assistants

The bill creates s. 461.0155, F.S., within the podiatrist practice act to provide that a podiatric physician's supervision of a medical assistant is governed by s. 458.3485, F.S.

¹⁵ Section 624.27(2), F.S.

Direct Health Care Agreements

The bill amends s. 624.27, F.S., to authorize individuals to directly contract with podiatric physicians through direct health care agreements for the provision of health care services without such contracts being considered insurance. The bill retains the contract requirements under current law for other health care providers offering direct health care agreements and applies them to such contracts with podiatric physicians.

Continuing Education

The bill amends s. 461.007, F.S., to provide that the CE hours that the BPM may require of podiatrists for licensure renewal must include a minimum of two hours of CE related to the safe and effective prescribing of controlled substances. With this change, podiatrists will no longer be required to complete CE under s. 456.0301, F.S.

The bill takes effect on July 1, 2021.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 461.007 and 624.27.

This bill creates section 461.0155 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Health Policy on January 27, 2021:

The committee substitute deletes the underlying bill's amendment to s. 458.4585, F.S. That portion of the underlying bill would create a definition for the term "physician" to include podiatric physicians.

B. Amendments:

None.

By the Committee on Health Policy; and Senators Hooper and Gruters

588-01374-21

2021170c1

A bill to be entitled

An act relating to podiatric medicine; amending s. 461.007, F.S.; authorizing the Board of Podiatric Medicine to require a specified number of continuing education hours related to the safe and effective prescribing of controlled substances; creating s. 461.0155, F.S.; providing for governance of podiatric physicians who are supervising medical assistants; amending s. 624.27, F.S.; revising the definition of the term "health care provider" to include podiatric physicians; providing an effective date.

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

Section 1. Subsection (3) of section 461.007, Florida Statutes, is amended to read:

461.007 Renewal of license.—

(3) The board may by rule prescribe continuing education, not to exceed 40 hours biennially, as a condition for renewal of a license, with a minimum of 2 hours of continuing education related to the safe and effective prescribing of controlled substances. The criteria for such programs or courses shall be approved by the board.

Section 2. Section 461.0155, Florida Statutes, is created to read:

461.0155 Medical assistants.—A podiatric physician who is supervising a medical assistant shall be governed by s. 458.3485.

Section 3. Paragraph (b) of subsection (1) of section

Page 1 of 2

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

588-01374-21

2021170c1

624.27, Florida Statutes, is amended to read:

624.27 Direct health care agreements; exemption from code.—

(1) As used in this section, the term:

(b) "Health care provider" means a health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, or chapter 466, or a health care group practice, who provides health care services to patients.

Section 4. This act shall take effect July 1, 2021.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 2, 2021

I respectfully request that **Senate Bill # 170**, relating to Podiatric Medicine, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-18-21

Meeting Date

170

Bill Number (if applicable)

Topic Podiatric Medicine

Amendment Barcode (if applicable)

Name Jason D. Winn

Job Title _____

Address 2709 Killarney Way, #4
Street
Tall. FL 32309
City State Zip

Phone 850/519-5876

Email jwinn@jwinnlaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. Podiatric Medical Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/18/21 (Approps)

Meeting Date

170

Bill Number (if applicable)

Topic Podiatric Medicine

Amendment Barcode (if applicable)

Name Steve Winn

Job Title Executive Director

Address 2544 Blairstone Pines Dr

Phone 878-7364

Street

Tallahassee

FL

32301

Email winnsr@earthlink.net

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Osteopathic Medical Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/18

Meeting Date

170

Bill Number (if applicable)

Topic

Podiatry

Name

Chris Hansen

Job Title

Ballard Partners

Address

201 E. Park Ave 5th Floor

Phone

251-2672

Street

Tallahassee

State

FL

Zip

32301

Email

Chansen@ballardpartners.com

Speaking:

☒ For

☐ Against

☐ Information

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

Representing

Florida Podiatric Medical Association (FPMA)

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 264 (126670)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Rodrigues

SUBJECT: Higher Education

DATE: March 17, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2. <u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3. <u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 264 adds requirements designed to protect the expression of diverse viewpoints at Florida College System (FCS) institutions and state universities. The bill:

- Requires each FCS institution and state university to annually assess the intellectual freedom and viewpoint diversity at that institution using a survey adopted by the State Board of Education (SBE) or the Board of Governors of the State University System (BOG), as applicable.
- Specifies that the SBE, the BOG, FCS institutions, and state universities may not shield students from protected free speech.
- Includes in the definition of protected expressive activities the recording and publishing of video and audio recorded in classrooms, and clarifies that protected expressive activities include the nonconsensual recording and publication of video and audio recorded in outdoor areas of campus and in classrooms.

The bill does not have a state fiscal, but will have a minimal impact on state colleges and universities. See Fiscal Analysis section.

The bill takes effect July 1, 2021.

II. Present Situation:

Operation of State Universities and Florida College System Institutions

The Board of Governors of the State University System (BOG) is required to operate, regulate, control, and be fully responsible for the management of the state university system.¹ The State Board of Education (SBE) is responsible for supervising the state college system.² Each state university is administered by, and each Florida College System (FCS) institution is governed by, distinct local boards of trustees.³

Constitutional Guarantees of Free Speech and Expression

Speech and religious expression by students and teachers or professors is protected by the First Amendment of the U.S. Constitution and Article I of the State Constitution.⁴ The government or a public actor may nevertheless regulate an individual's freedom of speech or expression within constitutional limits.⁵ The ability to regulate expression on government-owned property is determined, in part, by the characterization of the type of public forum created on government property.⁶

There are three types of public forums: traditional public forums, limited public forums, and closed public forums.⁷

Traditional Public Forum

A "traditional" or "open public forum" is a place with a longstanding tradition of freedom of expression, such as a public park, sidewalk, or street corner.⁸ In an open public forum, the government may only impose content-neutral restrictions on the time, place, and manner of expression.⁹

Limited Public Forum

A limited public forum is a venue opened only for certain groups or topics.¹⁰ A public actor may regulate the subject area content or categories of organizations allowed in limited public forums, but may not restrict expression based on a favorable or unfavorable viewpoint of a speaker or organization.¹¹

¹ Art. IX, s. 7(d), Fla. Const.

² Art. IX, s. 8(b), Fla. Const.

³ Art. IX, ss. 7(c) and 8(c), Fla. Const.

⁴ U.S. Const. Amend. 1; and Art. I, s. 4, Fla. Const.

⁵ *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

⁶ *Id.* at 678-79.

⁷ *Id.*

⁸ *Perry Education Association v. Perry Local Educators Association*, 460 U.S. 37, 45-46 (1992).

⁹ *Id.* at 45-46.

¹⁰ *Id.* at 46.

¹¹ *Pleasant Grove City v. Summum*, 555 U.S. 460, 470 (2009).

Closed Public Forum

A “closed public forum” is a place that is not traditionally open to public expression, such as the teacher’s school mailroom or a military base. Restrictions on speech in a closed public forum may only be reasonable and may not be designed to silence an unfavorable viewpoint.¹²

Free Speech in Public Schools

Special rules apply to speech in public schools. A school is not an open public forum unless the school or a law has intentionally designated the school as an open public forum.¹³ A school creates a limited public forum by permitting outside groups to use a venue for certain subjects or categories of organizations.¹⁴

Furthermore, educators are entitled to exercise greater control over school-sponsored student expression than over students’ personal speech.¹⁵ In this regard, “a school may in its capacity as publisher of a school newspaper or producer of a school play disassociate itself, not only from speech that would substantially interfere with its work ... or impinge upon the rights of other students, but also from speech that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.”¹⁶ On the other hand, “[i]n order for the State in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.”¹⁷ A student’s right to free speech and expression of personal speech is protected to the extent it does not “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school and without colliding with the rights of others.”¹⁸

In *Tinker v. Des Moines Independent Community School District*, where several high school students expressed opposition to the Vietnam war by wearing black armbands to school which did not cause disruption or interfere with the rights of others, the students’ suspension by school administration was deemed a violation of the students’ first amendment rights.¹⁹ On the other hand, in *Morse v. Frederick*, a high school principal did not violate a student’s first amendment rights by confiscating a banner the student was waving at a school event which advocated the

¹² *Perry*, 460 U.S. 37.

¹³ *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

¹⁴ *Good News Club v. Milford Central School*, 533 U.S. 98, 106–07 (2001) (school’s exclusion of Christian children’s club from meeting after hours based on its religious nature was unconstitutional viewpoint discrimination because the public school had opened a limited public forum).

¹⁵ *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

¹⁶ *Id.* (internal citations omitted).

¹⁷ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 509 (1969) (“First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gates.”); see also *Mergens*, 496 U.S. at 230, 250 (1990), and *Chandler v. Siegelman*, 230 F.3d 1313, 1316-1317 (11th Cir. 2001) cert. denied, 533 U.S. 916 (2001).

¹⁸ *Id.* at 513.

¹⁹ *Id.* at 503.

use of illegal drugs, when the student could not demonstrate that the banner served a political purpose.²⁰

Free Speech on Public University and College Campuses

The U.S. Supreme Court has recognized that “the college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas.’”²¹ Further, “[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools[,]’ ... and we break no new constitutional ground in reaffirming this Nation’s dedication to safeguarding academic freedom.”²²

Notably, there is a distinction between the public expression of adults, which includes most college students, and the public expression of minors, which includes most high school students; college students have wider latitude in expressing themselves in public places than minors have in public schools.²³

The U.S. Supreme Court has characterized public universities and college campuses generally as limited public fora for purposes of regulating speech. Once the forum is created and opened, the university or college is forbidden from exercising any type of viewpoint-based discrimination.²⁴ In addition, outdoor areas of campus at public institutions of higher education in Florida have been specifically designated by law as traditional public forums.²⁵

Expressive activities protected on campuses of public institutions of higher education include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; and the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus. Protected expressive activities do not include commercial speech.²⁶

Intellectual Freedom and Viewpoint Diversity in Higher Education

All state universities and FCS institutions in Florida are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (commission).²⁷ The commission requires member institutions to preserve intellectual and academic freedom²⁸ and asserts that “[t]he essential role of institutions of higher education is the pursuit and dissemination of knowledge. Academic freedom respects the dignity and rights of others while fostering

²⁰ *Morse v. Frederick*, 551 U.S. 393 (2007).

²¹ *Healy v. James*, 408 U.S. 169, 180, 187 (1972).

²² *Id.* at 180-81 (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

²³ *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675, 682-83 (1986).

²⁴ *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

²⁵ Section 1004.097(3)(c), F.S.

²⁶ Section 1004.097(3)(a), F.S. Commercial speech is expression related solely to the economic interests of the speaker and its audience. See *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of New York*, 447 U.S. 557, 561 (1980).

²⁷ Commission on Colleges of the Southern Association of Colleges and Schools, *Accredited and Candidate List* (May 2020), available at <https://sacscoc.org/app/uploads/2019/11/Institutionswebmemlist.pdf> (last visited Jan. 15, 2021).

²⁸ Southern Association of Colleges and Schools, *The Principles of Accreditation: Foundations for Quality Enhancement* (Dec. 2017), available at <https://sacscoc.org/app/uploads/2019/08/2018PrinciplesOfAccreditation.pdf> at principles 6.1 and 6.4.

intellectual freedom of faculty to teach, research, and publish. Responsible academic freedom enriches the contributions of higher education to society.”²⁹

In January 2015, the Committee on Freedom of Expression at the University of Chicago produced a free speech policy statement (referred to as the “Chicago Statement”) that affirmed the centrality of unfettered debate to the university’s mission.³⁰ The statement provided in part:

[I]t is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The 2017 National Survey of Student Engagement revealed that most students surveyed (64 percent) felt that postsecondary coursework generally respected the expression of diverse ideas, and that the postsecondary institution generally demonstrated a commitment to diversity (71 percent). This was reflected when specific forms of diversity were considered, such as gender, religious affiliation, or disability status. When political affiliation was considered, only half of students surveyed felt their postsecondary institution was generally supportive of different political ideas.³¹

The Campus Free Expression Act became Florida law in 2018.³² Under the law, outdoor areas of campus are considered traditional public forums for individuals, organizations, and guest speakers. A public institution of higher education may create and enforce restrictions that are reasonable and content-neutral on time, place, and manner of expression and that are narrowly tailored to a significant institutional interest. Restrictions must be clear and published and must provide for ample alternative means of expression.³³ A public institution of higher education may not otherwise designate any area of campus as a free-speech zone or create policies restricting expressive activities to a particular outdoor area of campus.³⁴ A person whose expressive rights are violated may bring an action against a public institution of higher education in a court of competent jurisdiction to obtain declaratory and injunctive relief, reasonable court costs, and attorney fees.³⁵

²⁹ Southern Association of Colleges and Schools, *Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement* (2018), available at https://www.usf.edu/system/documents/system-consolidation/referential_guiding_documents/sacscoc-resource-manual-section-06-faculty.pdf at 53.

³⁰ University of Chicago, *Report of the Committee on Free Expression* (2015), available at <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf> (last visited Jan. 13, 2021).

³¹ National Survey of Student Engagement, *2017 Topical Module: Inclusiveness and Engagement with Cultural Diversity*, available at https://scholarworks.iu.edu/dspace/bitstream/handle/2022/23392/NSSE_2017_Annual_Results.pdf?sequence=1&isAllowed=y (last visited Jan. 15, 2021).

³² Chapter 2018-4, s. 6, L.O.F.

³³ Section 1004.097, F.S.

³⁴ *Id.*

³⁵ *Id.*

In April of 2019, the president of the state university system, all twelve state university presidents, and the chair of the FCS Council of Presidents signed resolutions affirming their commitment to providing for free expression on campus.³⁶

In 2020, according to the Foundation for Individual Rights in Education (FIRE) only three out of the eleven state universities in Florida that FIRE evaluated had policies that did not inhibit free expression.³⁷ A national survey revealed, in part, that:

- 22 percent of students would have felt very uncomfortable publicly disagreeing with a professor about a controversial topic.
- 29 percent of students felt that the college administration did not make it clear that free speech was protected on campus.
- 60 percent of students had felt they could not express their opinion on a subject because of how students, a professor, or the administration would respond.
- 60 percent of students could recall at least one time during their college experience when they did not share their perspective for fear of how others would respond. Students who identified as Conservative were more likely to report a prior self-censorship incident (72 percent for Conservative students, 55 percent for Liberal students).³⁸

Nonconsensual Interception of Communications

Federal law authorizes private individuals to record wire, oral, or electronic communications if one of the parties consents. Thirty-eight states have laws following the federal one-party consent regime. Eleven states, including Florida, require the consent of all recorded parties.³⁹

Chapter 934, F.S., governs the security of various types of communications in the state, limits the ability to intercept, monitor, and record such communications, and provides criminal penalties⁴⁰ and civil remedies.⁴¹ Section 934.03, F.S., makes it a third degree felony⁴² to intentionally

³⁶ William Mattox, The James Madison Institute, *Combatting 'Idea Suppression' How Florida Universities Can Continue their Rise to National Prominence* (2020), https://www.jamesmadison.org/wp-content/uploads/2020/10/PolicyBrief_CampusSpeech_Oct2020_v02.pdf (last visited Jan. 14, 2021); see also Executive Office of the Governor, *Governor Ron DeSantis Calls on State Colleges and Universities to Adopt Free Speech Resolution* (Apr. 15, 2019), available at <https://www.flgov.com/2019/04/15/governor-ron-desantis-calls-on-state-colleges-and-universities-to-adopt-free-speech-resolution/>.

³⁷ The James Madison Institute, *Combatting 'Idea Suppression' How Florida Universities Can Continue their Rise to National Prominence* (2020). The three Florida universities with policies that were not found to inhibit free speech include the University of Florida, Florida State University, and the University of North Florida. Florida Polytechnic University has never been rated by FIRE.

³⁸ College Pulse, et al., *College Free Speech Rankings: What's the Climate for Free Speech on America's College Campuses?* (2020), available at <https://reports.collegepulse.com/college-free-speech-rankings>, p. 2, 53-59 (enter name and e-mail in designated fields to download report) (last visited Jan. 20, 2021).

³⁹ 18 U.S.C. s. 2511; Rauvin Johl, *Reassessing Wiretap and Eavesdropping Statutes: Making One-Party Consent the Default*, 12 Harv. L. & Pol'y Rev. 177, 179 (2018).

⁴⁰ Sections 934.04, 934.21, 934.215, 934.31, and 934.43, F.S.

⁴¹ Section 934.05, F.S.

⁴² A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

“intercept” an “oral communication.”⁴³ For example, the law prohibits an individual from using an electronic scanning device to monitor private telephone calls.⁴⁴

Family Educational Rights and Privacy Act (FERPA)⁴⁵

With limited exceptions, the FERPA prohibits the distribution of federal funds to an educational agency that has a policy or practice of disclosing the education records of a student without parental or student consent. Section 1002.225, F.S., incorporates the FERPA into Florida law as it applies to public postsecondary educational institutions. The FERPA only applies to records created for an educational purpose and maintained by an educational agency.⁴⁶

III. Effect of Proposed Changes:

Free speech at State Universities and Florida College System Institutions

The bill amends s. 1001.03, F.S., to require the State Board of Education (SBE) to select or create an objective, nonpartisan, and statistically valid survey which considers the extent to which competing ideas and perspectives are presented and members of the college community feel free to express their beliefs and viewpoints on campus and in the classroom. The bill amends s. 1001.706, F.S., to require the Board of Governors of the State University System (BOG) to select or create a survey for an identical purpose applicable to the university community. The bill also:

- Directs the SBE and the BOG to require each state college or university, as applicable, to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The bill defines “intellectual freedom and viewpoint diversity” as the exposure of students to, and the encouragement of students’ exploration of, a variety of ideological and political perspectives.
- Requires the SBE and the BOG to annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022.
- Authorizes the SBE to adopt rules to implement the survey.

To comply with the timeline specified in the bill, the SBE and the BOG are required to select a survey for use at Florida College System (FCS) institutions and state universities during the 2021-2022 academic year. The required surveys on intellectual freedom and viewpoint diversity may assist the SBE and the BOG to identify strengths and weaknesses in public postsecondary institutions’ efforts to protect free speech rights.

The bill specifies that the SBE, the BOG, FCS institutions, and state universities may not shield students at FCS institutions or state universities, as applicable, from free speech protected under the First Amendment to the United States Constitution and Art. I of the State Constitution. The

⁴³ Section 934.02(3), F.S., defines “intercept” as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. Section 934.02(2), F.S., defines “oral communication” as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.

⁴⁴ *State v. Mozo*, 655 So. 2d 1115, 1116 (Fla. 1995).

⁴⁵ 20 U.S.C. s. 1232g.

⁴⁶ *Id.*

bill defines “shield” to mean to limit students’ access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

The prohibition against shielding students from protected free speech may clarify to students the range of expressive activities that are protected on the campuses of FCS institutions and state universities.

Nonconsensual Recording and Publication of Video and Audio Recordings

The bill includes in the definition of protected expressive activities the recording and publishing of video and audio recorded in classrooms for personal use of the student and clarifies that protected expressive activities include the nonconsensual recording and publication of video and audio recorded in outdoor areas of campus and in classrooms, subject to the privacy protections provided in the Family Educational Rights and Privacy Act (FERPA).⁴⁷ The bill makes it clear that the recording and publication of video and audio recorded in outdoor areas of campus and in classrooms would not be a felony under Florida law, even if all the parties to the recording did not consent to be recorded.

The bill takes effect July 1, 2021.

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.

⁴⁷ 20 U.S.C. s. 1232g.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/CS/SB 264 does not affect state expenditures or revenues. However, the bill would result in a minimal increase in expenditures for Florida College System and State University System institutions to administer the annual intellectual freedom and viewpoint diversity assessment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.03, 1001.706, and 1004.097.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Education on February 9, 2021:

The committee substitute clarifies that the right of a student to record communications in the classroom extends only to recordings made for the personal use of the student. The CS retains the right of a student to record video and audio in outdoor areas of campus.

CS by Education on January 26, 2021

The committee substitute:

- Extends to Florida College System institutions and state universities the provision of the bill prohibiting the State Board of Education (SBE) and the Board of Governors of the State University System from shielding students from constitutionally protected free speech.
- Defines the term “shield” to mean to limit students’ access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.
- Clarifies that the right provided in the bill to record and publish audio and video recorded in classrooms and outdoor areas of campus is subject to the privacy protections provided by the Family Educational Rights and Privacy Act.
- Authorizes the SBE to adopt rules to implement the survey on intellectual freedom and viewpoint diversity, which is required by the bill.

B. Amendments:

None.

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



804586

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete lines 92 - 116
and insert:

Section 3. Paragraph (a) of subsection (3) and subsection (4) of section 1004.097, Florida Statutes, are amended, and paragraph (f) of is added to subsection (2), and paragraphs (f) and (g) are added to subsection (3) of that section, to read:

1004.097 Free expression on campus.—

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



804586

11 (f) "Shield" means to limit students', faculty members', or
12 staff members' access to, or observation of, ideas and opinions
13 they may find uncomfortable, unwelcome, disagreeable, or
14 offensive.

15 (3) RIGHT TO FREE-SPEECH ACTIVITIES.—

16 (a) Expressive activities protected under the First
17 Amendment to the United States Constitution and Art. I of the
18 State Constitution include, but are not limited to, any lawful
19 oral or written communication of ideas, including all forms of
20 peaceful assembly, protests, and speeches; distributing
21 literature; carrying signs; circulating petitions; faculty
22 research, lectures, writings, and commentary, whether published
23 or unpublished; and the recording and publication, including the
24 Internet publication, of video or audio recorded in outdoor
25 areas of campus. Expressive activities protected by this section
26 do not include defamatory or commercial speech.

27 (f) A Florida College System institution or a state
28 university may not shield students, faculty, or staff from
29 expressive activities.

30 (g) Notwithstanding s. 934.03 and subject to the
31 protections provided in the Family Educational Rights and
32 Privacy Act of 1974, 20 U.S.C. s. 1232g and ss. 1002.22 and
33 1002.225, a student may record video or audio of class lectures
34 for their own personal educational use, in connection with a
35 complaint to the public institution of higher education where
36 the recording was made, or as evidence in, or in preparation
37 for, a criminal or civil proceeding. A recorded lecture may not
38 be published without the consent of the lecturer.

39 (4) CAUSE OF ACTION.—A person injured by a violation of



804586

~~whose expressive rights are violated by an action prohibited under this section may bring an action:~~

(a) Against a public institution of higher education based on the violation of the individual's expressive rights in a court of competent jurisdiction to obtain declaratory and injunctive relief and may be entitled to damages plus court costs and reasonable attorney fees, which may only be paid from nonstate funds, ~~reasonable court costs, and attorney fees.~~

(b) Against a person who has published video or audio recorded in a classroom in violation of paragraph (3)(g) in a court of competent jurisdiction to obtain declaratory and injunctive relief and may be entitled to damages plus court costs and reasonable attorney fees, with the total recovery not to exceed \$200,000.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 23 - 30
and insert:

"shield"; providing that certain faculty communications are protected expressive activity; prohibiting specified entities from shielding students, faculty, or staff from certain speech; authorizing students at public postsecondary institutions to record video and audio in classrooms for specified purposes; prohibiting the publication of certain video or audio recordings; providing an exception; revising available remedies for certain causes of action to include damages; providing that



804586

69 such damages and specified costs and fees must be paid
70 from nonstate funds; providing a cause of action
71 against a person who publishes certain video or audio
72 recordings; providing a limitation on the amount that
73 can be recovered; providing an



777004

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Between lines 116 and 117
insert:

Section 4. Subsection (1) of section 1004.26, Florida
Statutes, is amended to read:

1004.26 University student governments.—

(1) A student government is created on the main campus of
each state university. In addition, each university board of
trustees may establish a student government on any branch campus



777004

or center. Each student government is a part of the university at which it is established and is subject to all applicable federal and state laws and regulations and the policies of the Board of Governors of the State University System and of the university.

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

And the title is amended as follows:

Delete line 30

and insert:

students from expressive activities; amending s.
1004.26; providing that state university student
governments are subject to all applicable federal and
state laws and regulations and the policies of the
Board of Governors of the State University System and
of the university; providing an



126670

576-02037-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to higher education; amending s. 1001.03, F.S.; defining terms; requiring the State Board of Education to require each Florida College System institution to conduct an annual assessment related to intellectual freedom and viewpoint diversity; providing criteria relating to such assessment; requiring the State Board of Education to annually publish such assessments by a specified date; authorizing the State Board of Education to adopt rules; prohibiting the State Board of Education from shielding Florida College System institution students from certain speech; amending s. 1001.706, F.S.; defining terms; requiring the Board of Governors to require each state university to conduct an annual assessment related to intellectual freedom and viewpoint diversity; providing criteria relating to such assessment; requiring the Board of Governors to annually publish such assessments by a specified date; prohibiting the Board of Governors from shielding state university students from certain speech; amending s. 1004.097, F.S.; defining the term "shield"; allowing students at public postsecondary institutions to record video or audio in classrooms for personal use and record and publish, including Internet publishing, video or audio in outdoor areas of campus, subject to certain federal and state



126670

576-02037-21

provisions; prohibiting Florida College System institutions or state universities from shielding students from expressive activities; providing an effective date.

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

Section 1. Subsection (19) is added to section 1001.03, Florida Statutes, to read:

1001.03 Specific powers of State Board of Education.—

(19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY ASSESSMENT.—

(a) For the purposes of this subsection, the term:

1. "Intellectual freedom and viewpoint diversity" means the exposure of students to, and the encouragement of students' exploration of, a variety of ideological and political perspectives.

2. "Shield" means to limit students' access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

(b) The State Board of Education shall require each Florida College System institution to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The state board shall select or create an objective, nonpartisan, and statistically valid survey to be used by each institution which considers the extent to which competing ideas and perspectives are presented and members of the college community feel free to express their beliefs and viewpoints on campus and in the classroom. The state board shall



126670

576-02037-21

annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022. The state board may adopt rules to implement this paragraph.

(c) The state board may not shield students at Florida College System institutions from free speech protected under the First Amendment to the United States Constitution and Art. I of the State Constitution.

Section 2. Subsection (13) is added to section 1001.706, Florida Statutes, to read:

1001.706 Powers and duties of the Board of Governors.—

(13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY ASSESSMENT.—

(a) For the purposes of this subsection, the term:

1. "Intellectual freedom and viewpoint diversity" means the exposure of students to, and the encouragement of students' exploration of, a variety of ideological and political perspectives.

2. "Shield" means to limit students' access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

(b) The Board of Governors shall require each state university to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The Board of Governors shall select or create an objective, nonpartisan, and statistically valid survey to be used by each state university which considers the extent to which competing ideas and perspectives are presented and members of the university community feel free to express their beliefs and viewpoints on campus and in the classroom. The Board of Governors shall



126670

576-02037-21

annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022.

(c) The Board of Governors may not shield students at state universities from free speech protected under the First Amendment to the United States Constitution and Art. I of the State Constitution.

Section 3. Paragraph (a) of subsection (3) of section 1004.097, Florida Statutes, is amended, and paragraph (f) of subsection (2) and paragraph (f) of subsection (3) are added to that section, to read:

1004.097 Free expression on campus.—

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

(f) "Shield" means to limit students' access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

(3) RIGHT TO FREE-SPEECH ACTIVITIES.—

(a) Expressive activities protected under the First Amendment to the United States Constitution and Art. I of the State Constitution include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; and, notwithstanding s. 934.03(1), the recording for personal use of video or audio in classrooms and the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus, subject to the protections provided in the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and ss. 1002.22 and 1002.225. Expressive activities protected by this section do not include commercial speech.



126670

576-02037-21

115 (f) A Florida College System institution or a state
116 university may not shield students from expressive activities.
117 Section 4. This act shall take effect July 1, 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 264

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Rodrigues

SUBJECT: Higher Education

DATE: March 22, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2. <u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3. <u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 264 adds requirements designed to protect the expression of diverse viewpoints at Florida College System (FCS) institutions and state universities. The bill:

- Requires each FCS institution and state university to annually assess the intellectual freedom and viewpoint diversity at that institution using a survey adopted by the State Board of Education (SBE) or the Board of Governors of the State University System (BOG), as applicable.
- Prohibits the SBE and the BOG from shielding students from protected free speech. In addition, the bill specifies that FCS institutions and state universities are prohibited from shielding students, faculty, or staff from protected free speech.
- Includes in the definition of protected expressive activities faculty research, lectures, writings, and commentary, whether published or unpublished. The bill clarifies that expressive activities do not include defamatory speech.
- Authorizes a student to record video or audio of class lectures for personal educational use, in connection with a complaint to the public institution of higher education where the recording was made, or as evidence in, or in preparation for, a criminal or civil proceeding.
- Modifies the cause of action for violations of student expressive rights to authorize a cause of action for persons injured by violations of specified rights to free speech activities or for violations related to the recording and publication of classroom lectures.

The bill does not have a state fiscal, but will have a minimal impact on state colleges and universities. See Fiscal Analysis section.

The bill takes effect July 1, 2021.

II. Present Situation:

Operation of State Universities and Florida College System Institutions

The Board of Governors of the State University System (BOG) is required to operate, regulate, control, and be fully responsible for the management of the state university system.¹ The State Board of Education (SBE) is responsible for supervising the state college system.² Each state university is administered by, and each Florida College System (FCS) institution is governed by, distinct local boards of trustees.³

Constitutional Guarantees of Free Speech and Expression

Speech and religious expression by students and teachers or professors is protected by the First Amendment of the U.S. Constitution and Article I of the State Constitution.⁴ The government or a public actor may nevertheless regulate an individual's freedom of speech or expression within constitutional limits.⁵ The ability to regulate expression on government-owned property is determined, in part, by the characterization of the type of public forum created on government property.⁶

There are three types of public forums: traditional public forums, limited public forums, and closed public forums.⁷

Traditional Public Forum

A "traditional" or "open public forum" is a place with a longstanding tradition of freedom of expression, such as a public park, sidewalk, or street corner.⁸ In an open public forum, the government may only impose content-neutral restrictions on the time, place, and manner of expression.⁹

Limited Public Forum

A limited public forum is a venue opened only for certain groups or topics.¹⁰ A public actor may regulate the subject area content or categories of organizations allowed in limited public forums,

¹ Art. IX, s. 7(d), Fla. Const.

² Art. IX, s. 8(b), Fla. Const.

³ Art. IX, ss. 7(c) and 8(c), Fla. Const.

⁴ U.S. Const. Amend. 1; and Art. I, s. 4, Fla. Const.

⁵ *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

⁶ *Id.* at 678-79.

⁷ *Id.*

⁸ *Perry Education Association v. Perry Local Educators Association*, 460 U.S. 37, 45-46 (1992).

⁹ *Id.* at 45-46.

¹⁰ *Id.* at 46.

but may not restrict expression based on a favorable or unfavorable viewpoint of a speaker or organization.¹¹

Closed Public Forum

A “closed public forum” is a place that is not traditionally open to public expression, such as the teacher’s school mailroom or a military base. Restrictions on speech in a closed public forum may only be reasonable and may not be designed to silence an unfavorable viewpoint.¹²

Free Speech in Public Schools

Special rules apply to speech in public schools. A school is not an open public forum unless the school or a law has intentionally designated the school as an open public forum.¹³ A school creates a limited public forum by permitting outside groups to use a venue for certain subjects or categories of organizations.¹⁴

Furthermore, educators are entitled to exercise greater control over school-sponsored student expression than over students’ personal speech.¹⁵ In this regard, “a school may in its capacity as publisher of a school newspaper or producer of a school play disassociate itself, not only from speech that would substantially interfere with its work ... or impinge upon the rights of other students, but also from speech that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.”¹⁶ On the other hand, “[i]n order for the State in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.”¹⁷ A student’s right to free speech and expression of personal speech is protected to the extent it does not “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school and without colliding with the rights of others.”¹⁸

In *Tinker v. Des Moines Independent Community School District*, where several high school students expressed opposition to the Vietnam war by wearing black armbands to school which did not cause disruption or interfere with the rights of others, the students’ suspension by school administration was deemed a violation of the students’ first amendment rights.¹⁹ On the other

¹¹ *Pleasant Grove City v. Summum*, 555 U.S. 460, 470 (2009).

¹² *Perry*, 460 U.S. 37.

¹³ *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

¹⁴ *Good News Club v. Milford Central School*, 533 U.S. 98, 106–07 (2001) (school’s exclusion of Christian children’s club from meeting after hours based on its religious nature was unconstitutional viewpoint discrimination because the public school had opened a limited public forum).

¹⁵ *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

¹⁶ *Id.* (internal citations omitted).

¹⁷ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 509 (1969) (“First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gates.”); see also *Mergens*, 496 U.S. at 230, 250 (1990), and *Chandler v. Siegelman*, 230 F.3d 1313, 1316-1317 (11th Cir. 2001) *cert. denied*, 533 U.S. 916 (2001).

¹⁸ *Id.* at 513.

¹⁹ *Id.* at 503.

hand, in *Morse v. Frederick*, a high school principal did not violate a student's first amendment rights by confiscating a banner the student was waiving at a school event which advocated the use of illegal drugs, when the student could not demonstrate that the banner served a political purpose.²⁰

Free Speech on Public University and College Campuses

The U.S. Supreme Court has recognized that “the college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas.’”²¹ Further, “[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools[,]’... and we break no new constitutional ground in reaffirming this Nation’s dedication to safeguarding academic freedom.”²²

Notably, there is a distinction between the public expression of adults, which includes most college students, and the public expression of minors, which includes most high school students; college students have wider latitude in expressing themselves in public places than minors have in public schools.²³

The U.S. Supreme Court has characterized public universities and college campuses generally as limited public fora for purposes of regulating speech. Once the forum is created and opened, the university or college is forbidden from exercising any type of viewpoint-based discrimination.²⁴ In addition, outdoor areas of campus at public institutions of higher education in Florida have been specifically designated by law as traditional public forums.²⁵

Expressive activities protected on campuses of public institutions of higher education include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; and the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus. Protected expressive activities do not include commercial speech.²⁶

Intellectual Freedom and Viewpoint Diversity in Higher Education

All state universities and FCS institutions in Florida are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (commission).²⁷ The commission requires member institutions to preserve intellectual and academic freedom²⁸ and asserts that “[t]he essential role of institutions of higher education is the pursuit and dissemination of

²⁰ *Morse v. Frederick*, 551 U.S. 393 (2007).

²¹ *Healy v. James*, 408 U.S. 169, 180, 187 (1972).

²² *Id.* at 180-81 (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

²³ *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675, 682-83 (1986).

²⁴ *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

²⁵ Section 1004.097(3)(c), F.S.

²⁶ Section 1004.097(3)(a), F.S. Commercial speech is expression related solely to the economic interests of the speaker and its audience. See *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of New York*, 447 U.S. 557, 561 (1980).

²⁷ Commission on Colleges of the Southern Association of Colleges and Schools, *Accredited and Candidate List* (May 2020), available at <https://sacscoc.org/app/uploads/2019/11/Institutionswebmemlist.pdf> (last visited Jan. 15, 2021).

²⁸ Southern Association of Colleges and Schools, *The Principles of Accreditation: Foundations for Quality Enhancement* (Dec. 2017), available at <https://sacscoc.org/app/uploads/2019/08/2018PrinciplesOfAccreditation.pdf> at principles 6.1 and 6.4.

knowledge. Academic freedom respects the dignity and rights of others while fostering intellectual freedom of faculty to teach, research, and publish. Responsible academic freedom enriches the contributions of higher education to society.”²⁹

In January 2015, the Committee on Freedom of Expression at the University of Chicago produced a free speech policy statement (referred to as the “Chicago Statement”) that affirmed the centrality of unfettered debate to the university’s mission.³⁰ The statement provided in part:

[I]t is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The 2017 National Survey of Student Engagement revealed that most students surveyed (64 percent) felt that postsecondary coursework generally respected the expression of diverse ideas, and that the postsecondary institution generally demonstrated a commitment to diversity (71 percent). This was reflected when specific forms of diversity were considered, such as gender, religious affiliation, or disability status. When political affiliation was considered, only half of students surveyed felt their postsecondary institution was generally supportive of different political ideas.³¹

The Campus Free Expression Act became Florida law in 2018.³² Under the law, outdoor areas of campus are considered traditional public forums for individuals, organizations, and guest speakers. A public institution of higher education may create and enforce restrictions that are reasonable and content-neutral on time, place, and manner of expression and that are narrowly tailored to a significant institutional interest. Restrictions must be clear and published and must provide for ample alternative means of expression.³³ A public institution of higher education may not otherwise designate any area of campus as a free-speech zone or create policies restricting expressive activities to a particular outdoor area of campus.³⁴ A person whose expressive rights are violated may bring an action against a public institution of higher education in a court of

²⁹ Southern Association of Colleges and Schools, *Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement* (2018), available at https://www.usf.edu/system/documents/system-consolidation/referential_guiding_documents/sacscoc-resource-manual-section-06-faculty.pdf at 53.

³⁰ University of Chicago, *Report of the Committee on Free Expression* (2015), available at <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf> (last visited Jan. 13, 2021).

³¹ National Survey of Student Engagement, *2017 Topical Module: Inclusiveness and Engagement with Cultural Diversity*, available at https://scholarworks.iu.edu/dspace/bitstream/handle/2022/23392/NSSE_2017_Annual_Results.pdf?sequence=1&isAllowed=y (last visited Jan. 15, 2021).

³² Chapter 2018-4, s. 6, L.O.F.

³³ Section 1004.097, F.S.

³⁴ *Id.*

competent jurisdiction to obtain declaratory and injunctive relief, reasonable court costs, and attorney fees.³⁵

In April of 2019, the president of the state university system, all twelve state university presidents, and the chair of the FCS Council of Presidents signed resolutions affirming their commitment to providing for free expression on campus.³⁶

In 2020, according to the Foundation for Individual Rights in Education (FIRE) only three out of the eleven state universities in Florida that FIRE evaluated had policies that did not inhibit free expression.³⁷ A national survey revealed, in part, that:

- 22 percent of students would have felt very uncomfortable publicly disagreeing with a professor about a controversial topic.
- 29 percent of students felt that the college administration did not make it clear that free speech was protected on campus.
- 60 percent of students had felt they could not express their opinion on a subject because of how students, a professor, or the administration would respond.
- 60 percent of students could recall at least one time during their college experience when they did not share their perspective for fear of how others would respond. Students who identified as Conservative were more likely to report a prior self-censorship incident (72 percent for Conservative students, 55 percent for Liberal students).³⁸

Nonconsensual Interception of Communications

Federal law authorizes private individuals to record wire, oral, or electronic communications if one of the parties consents. Thirty-eight states have laws following the federal one-party consent regime. Eleven states, including Florida, require the consent of all recorded parties.³⁹

Chapter 934, F.S., governs the security of various types of communications in the state, limits the ability to intercept, monitor, and record such communications, and provides criminal penalties⁴⁰ and civil remedies.⁴¹ Section 934.03, F.S., makes it a third degree felony⁴² to intentionally

³⁵ *Id.*

³⁶ William Mattox, The James Madison Institute, *Combatting 'Idea Suppression' How Florida Universities Can Continue their Rise to National Prominence* (2020), https://www.jamesmadison.org/wp-content/uploads/2020/10/PolicyBrief_CampusSpeech_Oct2020_v02.pdf (last visited Jan. 14, 2021); see also Executive Office of the Governor, *Governor Ron DeSantis Calls on State Colleges and Universities to Adopt Free Speech Resolution* (Apr. 15, 2019), available at <https://www.flgov.com/2019/04/15/governor-ron-desantis-calls-on-state-colleges-and-universities-to-adopt-free-speech-resolution/>.

³⁷ The James Madison Institute, *Combatting 'Idea Suppression' How Florida Universities Can Continue their Rise to National Prominence* (2020). The three Florida universities with policies that were not found to inhibit free speech include the University of Florida, Florida State University, and the University of North Florida. Florida Polytechnic University has never been rated by FIRE.

³⁸ College Pulse, et al., *College Free Speech Rankings: What's the Climate for Free Speech on America's College Campuses?* (2020), available at <https://reports.collegepulse.com/college-free-speech-rankings>, p. 2, 53-59 (enter name and e-mail in designated fields to download report) (last visited Jan. 20, 2021).

³⁹ 18 U.S.C. s. 2511; Rauvin Johl, *Reassessing Wiretap and Eavesdropping Statutes: Making One-Party Consent the Default*, 12 Harv. L. & Pol'y Rev. 177, 179 (2018).

⁴⁰ Sections 934.04, 934.21, 934.215, 934.31, and 934.43, F.S.

⁴¹ Section 934.05, F.S.

⁴² A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

“intercept” an “oral communication.”⁴³ For example, the law prohibits an individual from using an electronic scanning device to monitor private telephone calls.⁴⁴

Family Educational Rights and Privacy Act (FERPA)⁴⁵

With limited exceptions, the FERPA prohibits the distribution of federal funds to an educational agency that has a policy or practice of disclosing the education records of a student without parental or student consent. Section 1002.225, F.S., incorporates the FERPA into Florida law as it applies to public postsecondary educational institutions. The FERPA only applies to records created for an educational purpose and maintained by an educational agency.⁴⁶

III. Effect of Proposed Changes:

Free speech at State Universities and Florida College System Institutions

The bill amends s. 1001.03, F.S., to require the State Board of Education (SBE) to select or create an objective, nonpartisan, and statistically valid survey which considers the extent to which competing ideas and perspectives are presented and members of the college community feel free to express their beliefs and viewpoints on campus and in the classroom. The bill amends s. 1001.706, F.S., to require the Board of Governors of the State University System (BOG) to select or create a survey for an identical purpose applicable to the university community. The bill also:

- Directs the SBE and the BOG to require each state college or university, as applicable, to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The bill defines “intellectual freedom and viewpoint diversity” as the exposure of students to, and the encouragement of students’ exploration of, a variety of ideological and political perspectives.
- Requires the SBE and the BOG to annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022.
- Authorizes the SBE to adopt rules to implement the survey.

To comply with the timeline specified in the bill, the SBE and the BOG are required to select a survey for use at Florida College System (FCS) institutions and state universities during the 2021-2022 academic year. The required surveys on intellectual freedom and viewpoint diversity may assist the SBE and the BOG to identify strengths and weaknesses in public postsecondary institutions’ efforts to protect free speech rights.

The bill specifies that the SBE, the BOG, FCS institutions, and state universities may not shield students, faculty, or staff at FCS institutions or state universities, as applicable, from free speech protected under the First Amendment to the United States Constitution and Art. I of the State

⁴³ Section 934.02(3), F.S., defines “intercept” as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. Section 934.02(2), F.S., defines “oral communication” as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.

⁴⁴ *State v. Mozo*, 655 So. 2d 1115, 1116 (Fla. 1995).

⁴⁵ 20 U.S.C. s. 1232g.

⁴⁶ *Id.*

Constitution. The bill defines “shield” to mean to limit students’, faculty members’, or staff members’ access to, or observation of, ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

The prohibition against shielding students from protected free speech may clarify to students the range of expressive activities that are protected on the campuses of FCS institutions and state universities.

Nonconsensual Recording and Publication of Video and Audio Recordings

The bill amends s. 1004.097, F.S., to expand the definition of protected expressive activities, allows for the recording of class lectures, and expands the related cause of actions.

The bill includes faculty research, lectures, writing, and commentary, regardless of their publication status, as protected expressive activities.

The bill authorizes a student to record video or audio of a class lecture, subject to the privacy protections provided in the Family Educational Rights and Privacy Act (FERPA),⁴⁷ for the following purposes: personal educational use; in connection with a complaint to the public institution of higher education where the recording was made; or as evidence in, or in preparation for, a criminal or civil proceeding. However, a student is prohibited from publishing a recorded lecture without the consent of the lecturer.

The bill modifies the cause of action for violations of student expressive rights to authorize a cause of action for persons injured by violations of specified rights to free speech activities or for violations related to the recording and publication of classroom lectures. The bill authorizes a cause of action against a public institution of higher education to bring suit against such institution and to recover monetary damages plus court costs and reasonable attorney fees. A judgement against a public institution of higher education must be paid from nonstate funds. The bill also creates a cause of action for an individual, such as a faculty member, against a person who has published video and audio recorded in a classroom in violation of the bill’s authorized purposes. A person injured by the publication of such a recording without the lecturer’s consent is able to seek declaratory or injunctive relief and is permitted to receive damages, court costs, and reasonable attorney fees, with the total recovery not to exceed \$200,000.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴⁷ 20 U.S.C. s. 1232g.

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 does not affect state expenditures or revenues. However, the bill would result in a minimal increase in expenditures for Florida College System and State University System institutions to administer the annual intellectual freedom and viewpoint diversity assessment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.03, 1001.706, and 1004.097.

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 March 18, 2021:

The committee substitute:

- Specifies that the Student Government, that is part of the University, is subject to all applicable federal and state laws and regulations and policies of the Board of Governors
- Adds ‘faculty members’ and ‘staff members’ to the persons protected from shielding by a state university or FCS institution.
- Specifies that a student may record video or audio of a class lecture for the following purposes:
 - For personal educational use;
 - In connection with a complaint to the public institution of higher education where the recording was made; or
 - As evidence in, or in preparation for, a criminal or civil proceeding.
- Prohibits a recorded lecture from being published without the consent of the lecturer.
- Includes faculty research, lectures, writing, and commentary, regardless of their publication status, as protected expressive activities.
- Modifies the cause of action for violations of student expressive rights to authorize a cause of action for persons injured by violations of specified rights to free speech activities or for violations related to the recording and publication of classroom lectures. The committee substitute authorizes a cause of action:
 - Against a public institution of higher education to recover damages plus court costs and reasonable attorney fees.
 - For an individual, such as a faculty member, against a person who has published video or audio recorded in a classroom in violation of the bill’s authorized purposes, for declaratory or injunctive relief and damages, court costs, and reasonable attorney fees, with the total recovery not to exceed \$200,000.
 - Require that a judgement against the public institution of higher education be paid from nonstate funds.

CS by Education on January 26, 2021

The committee substitute:

- Extends to Florida College System institutions and state universities the provision of the bill prohibiting the State Board of Education (SBE) and the Board of Governors of the State University System from shielding students from constitutionally protected free speech.
- Defines the term “shield” to mean to limit students’ access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.
- Clarifies that the right provided in the bill to record and publish audio and video recorded in classrooms and outdoor areas of campus is subject to the privacy protections provided by the Family Educational Rights and Privacy Act.
- Authorizes the SBE to adopt rules to implement the survey on intellectual freedom and viewpoint diversity, which is required by the bill.

B. Amendments:

None.

By the Committee on Education; and Senator Rodrigues

581-01284-21

2021264c1

1 A bill to be entitled
 2 An act relating to higher education; amending s.
 3 1001.03, F.S.; defining terms; requiring the State
 4 Board of Education to require each Florida College
 5 System institution to conduct an annual assessment
 6 related to intellectual freedom and viewpoint
 7 diversity; providing criteria relating to such
 8 assessment; requiring the State Board of Education to
 9 annually publish such assessments by a specified date;
 10 authorizing the State Board of Education to adopt
 11 rules; prohibiting the State Board of Education from
 12 shielding Florida College System institution students
 13 from certain speech; amending s. 1001.706, F.S.;
 14 defining terms; requiring the Board of Governors to
 15 require each state university to conduct an annual
 16 assessment related to intellectual freedom and
 17 viewpoint diversity; providing criteria relating to
 18 such assessment; requiring the Board of Governors to
 19 annually publish such assessments by a specified date;
 20 prohibiting the Board of Governors from shielding
 21 state university students from certain speech;
 22 amending s. 1004.097, F.S.; defining the term
 23 "shield"; allowing students at public postsecondary
 24 institutions to record certain audio and video in
 25 classrooms, subject to certain federal and state
 26 provisions; prohibiting Florida College System
 27 institutions or state universities from shielding
 28 students from expressive activities; providing an
 29 effective date.

Page 1 of 4

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

581-01284-21

2021264c1

30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Subsection (19) is added to section 1001.03,
 34 Florida Statutes, to read:
 35 1001.03 Specific powers of State Board of Education.—
 36 (19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY
 37 ASSESSMENT.—
 38 (a) For the purposes of this subsection, the term:
 39 1. "Intellectual freedom and viewpoint diversity" means the
 40 exposure of students to, and the encouragement of students'
 41 exploration of, a variety of ideological and political
 42 perspectives.
 43 2. "Shield" means to limit students' access to or
 44 observation of ideas and opinions they may find uncomfortable,
 45 unwelcome, disagreeable, or offensive.
 46 (b) The State Board of Education shall require each Florida
 47 College System institution to conduct an annual assessment of
 48 the intellectual freedom and viewpoint diversity at that
 49 institution. The state board shall select or create an
 50 objective, nonpartisan, and statistically valid survey to be
 51 used by each institution which considers the extent to which
 52 competing ideas and perspectives are presented and members of
 53 the college community feel free to express their beliefs and
 54 viewpoints on campus and in the classroom. The state board shall
 55 annually compile and publish the assessments by September 1 of
 56 each year, beginning on September 1, 2022. The state board may
 57 adopt rules to implement this paragraph.
 58 (c) The state board may not shield students at Florida

Page 2 of 4

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

581-01284-21 2021264c1

College System institutions from free speech protected under the First Amendment to the United States Constitution and Art. I of the State Constitution.

Section 2. Subsection (13) is added to section 1001.706, Florida Statutes, to read:

1001.706 Powers and duties of the Board of Governors.—

(13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY

ASSESSMENT.—

(a) For the purposes of this subsection, the term:

1. "Intellectual freedom and viewpoint diversity" means the exposure of students to, and the encouragement of students' exploration of, a variety of ideological and political perspectives.

2. "Shield" means to limit students' access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

(b) The Board of Governors shall require each state university to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The Board of Governors shall select or create an objective, nonpartisan, and statistically valid survey to be used by each state university which considers the extent to which competing ideas and perspectives are presented and members of the university community feel free to express their beliefs and viewpoints on campus and in the classroom. The Board of Governors shall annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022.

(c) The Board of Governors may not shield students at state universities from free speech protected under the First

581-01284-21 2021264c1

Amendment to the United States Constitution and Art. I of the State Constitution.

Section 3. Paragraph (a) of subsection (3) of section 1004.097, Florida Statutes, is amended, and paragraph (f) of subsection (2) and paragraph (f) of subsection (3) are added to that section, to read:

1004.097 Free expression on campus.—

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

(f) "Shield" means to limit students' access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

(3) RIGHT TO FREE-SPEECH ACTIVITIES.—

(a) Expressive activities protected under the First Amendment to the United States Constitution and Art. I of the State Constitution include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; and, not withstanding s. 934.03(1), the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus and in classrooms, subject to the protections provided in the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and ss. 1002.22 and 1002.225. Expressive activities protected by this section do not include commercial speech.

(f) A Florida College System institution or a state university may not shield students from expressive activities.

Section 4. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Finance and Tax
Judiciary
Regulated Industries

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining,
Alternating Chair
Joint Committee on Public Counsel Oversight

SENATOR RAY WESLEY RODRIGUES

27th District

February 11, 2021

The Honorable Kelli Stargel
Senate Appropriations Committee, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: CS/SB 264- An act relating to higher education

Dear Madam Chair:

Please allow this letter to serve as my respectful request to place CS/SB 264, relating to higher education, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Ray Rodrigues".

Ray Rodrigues
Senate District 27

Cc: Tim Elwell, Staff Director
JoAnne Bennett, Administrative Assistant

REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Finance and Tax
Judiciary
Regulated Industries

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining,
Alternating Chair
Joint Committee on Public Counsel Oversight

SENATOR RAY WESLEY RODRIGUES

27th District

February 16, 2021

The Honorable Kelli Stargel
Senate Appropriations Committee, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: CS/SB 264- An act relating to higher education

Dear Madam Chair:

Please allow this letter to serve as my respectful request to place CS/SB 264, relating to higher education, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Ray Rodrigues".

Ray Rodrigues
Senate District 27

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

REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/18/21

Meeting Date

264

Bill Number (if applicable)

Topic 264 - Intellectual Freedom

Amendment Barcode (if applicable)

Name Yale Olenick

Job Title lobbyist

Address _____

Phone 850-228-2336

Street

Tallahassee

FL

32301

Email Yale.Olenick@Florida.edu

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Education Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/18/21

Meeting Date

CS/SB 264

Bill Number (if applicable)

Topic HIGHER EDUCATION

Amendment Barcode (if applicable)

Name TRISH NEELY

Job Title DIRECTOR

Address 2024 SHANGRI LA LANE

Street

Phone 850 322 3317

TALLAHASSEE FL 32303

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing LEAGUE WOMEN VOTERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/18/21
Meeting Date

264
Bill Number (if applicable)

Topic Intellectual Diversity & Freedom

Amendment Barcode (if applicable)

Name Dr. Karen Morian

Job Title President

Address _____ Phone _____
Street

City _____ State _____ Zip _____ Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing United Faculty of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 524

INTRODUCER: Senator Hooper

SUBJECT: Fish and Wildlife Conservation Commission Trust Funds

DATE: March 17, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Rogers	Rogers	EN	Favorable
2. Reagan	Betta	AEG	Recommend: Favorable
3. Reagan	Sadberry	AP	Favorable

I. Summary:

SB 524 revises several of the Fish and Wildlife Conservation Commission's (FWC) trust funds to allow the agency to use trust fund revenues for administrative costs and to specifically authorize the investment of funds within the State Treasury. The bill codifies the FWC's existing practices.

The following trust funds are amended to allow for the use of trust fund revenues for administrative costs:

- Florida Panther Research and Management Trust Fund;
- Save the Manatee Trust Fund; and
- Invasive Plant Control Trust Fund.

The following trust funds are amended to authorize the investment of funds into the State Treasury:

- Florida Panther Research and Management Trust Fund;
- Marine Resources Conservation Trust Fund;
- Nongame Wildlife Trust Fund;
- State Game Trust Fund;
- Save the Manatee Trust Fund; and
- Invasive Plant Control Trust Fund.

The annual projected fiscal impact to the Florida Panther Research and Management Trust Fund is \$100,000 for administrative costs and the annual projected fiscal impact to the Save the Manatee Trust Fund is \$300,000 for administrative costs. These additional costs will offset the administrative costs of the other trust funds.

II. Present Situation:

Fish and Wildlife Conservation Commission

The FWC is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.¹ The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate to five-year terms.² Under Art. IV, s. 9 of the Florida Constitution, the FWC is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. The Legislature may enact laws that aid the FWC in its exercise of regulatory functions and executive powers in the areas of planning, budgeting, personnel management, and purchasing.³

The FWC administers 13 trust funds that serve to support their mission. The FWC currently invests proceeds and cash balances from the funds in accordance with ch. 215, F.S. The FWC has become aware that statutory language explicitly authorizing such practice in certain trust funds is necessary.⁴ The FWC stated that it has made a commitment to the Department of Financial Services (DFS) to correct the deficiency with authorizing language in those trust funds which provides for the investment and reinvestment of proceeds.⁵

Additionally, trust funds have historically been used by the FWC to contribute to the agency's administrative costs. According to the FWC certain trust funds require modifying language to allow supporting revenues to be used for agency administrative costs.⁶

The FWC indicated that it already has procedures in place for the investment of cash balances and the determination of the proportionate share of agency administrative costs.⁷

Trust Funds

Florida Panther Research and Management Trust Fund

The Florida Panther Research and Management Trust Fund may be used exclusively for the following purposes:

- Management and protection of existing Florida panther populations;
- Public education concerning the value of the panther and the necessity for panther management;
- Reestablishment of Florida panthers into areas of suitable habitat; and
- Promotion and marketing of the Florida panther license plate.⁸

¹ FLA. CONST. art. IV, s. 9.

² *Id.*; see also section 379.102(1), F.S.

³ FLA. CONST. art. IV, s. 9.

⁴ Fish and Wildlife Conservation Commission (FWC), *Agency Bill Analysis for SB 524* (Jan. 22, 2021) (on file with the Committee on Environment and Natural Resources).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Section 379.205, F.S.

Marine Resources Conservation Trust Fund

The Marine Resources Conservation Trust Fund is a depository for funds from various marine-related and boating-related activities and is allowed to be administered for funding all of the following purposes:

- Marine research.
- Fishery enhancement.
- Marine law enforcement.
- Administration of licensing programs for recreational fishing, saltwater products sales, and related information and education activities.
- Operations of the FWC.
- Titling and registration of vessels.
- Marine turtle protection, research, and recovery activities from revenues that are specifically credited to the trust fund for these purposes.
- Rehabilitation of oyster harvesting areas from which special oyster surcharge fees are collected.
- Boating research, boating-related programs and activities, and law enforcement on state waters.
- The stone crab trap reduction program, the blue crab effort management program, the spiny lobster trap certificate program, and the trap retrieval program.⁹

Nongame Wildlife Trust Fund

The Nongame Wildlife Trust Fund is allowed to be used for the following purposes:

- Documentation of population trends of nongame wildlife and assessment of wildlife habitat;
- Establishment of effective conservation, management, and regulatory programs for nongame wildlife of the state; and
- Public education programs.¹⁰

State Game Trust Fund

The State Game Trust Fund comes from the administration of laws and regulations pertaining to birds, game, fur-bearing animals, freshwater fish, reptiles, and amphibians, and any other funds specifically provided for such purposes.¹¹ It is used for recreational boating activities and freshwater fisheries management and research, including funding local projects in counties where there are unmet needs for boating-related activities and where sufficient financial resources are unavailable.¹²

Save the Manatee Trust Fund

The Save the Manatee Trust Fund¹³ is used to fund all of the following purposes:

- A scientific census study of the manatee population in the state, which is conducted annually by the FWC and is used in the evaluation and development of manatee protection measures.

⁹ Section 379.208(1), F.S.

¹⁰ Section 379.209, F.S.

¹¹ Section 379.211, F.S.

¹² Section 206.606(1)(b), F.S.

¹³ Section 379.213, F.S.

- Annual funding of activities of the FWC and public and private organizations intended to provide manatee and marine mammal protection and recovery efforts.
- Manufacture and erection of informational and regulatory signs.
- Production, publication, and distribution of educational materials.
- Participation in manatee and marine mammal research programs, including carcass salvage and other programs.
- Programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals.
- Other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals.
- Promotion and marketing of the manatee license plate.¹⁴

Invasive Plant Control Trust Fund

The Invasive Plant Control Trust Fund¹⁵ is used for control, eradication, and regulation of aquatic weeds¹⁶ and nonnative, upland, invasive plant species on public lands,¹⁷ and research and planning related to these activities.

III. Effect of Proposed Changes:

Section 1 amends s. 379.205, F.S., to authorize the FWC to spend money from the interest derived from its investments and reinvestments in the Florida Panther Research and Management Trust Fund. The bill allows the FWC to use revenues from the trust fund for administrative costs, in addition to currently allowed purposes.

Section 2 amends s. 379.208, F.S., to authorize the FWC to invest and reinvest the funds and interest derived from the Marine Resources Conservation Trust Fund.

Section 3 amends s. 379.209, F.S., to authorize the FWC to invest and reinvest the funds and interest derived from the Nongame Wildlife Trust Fund.

Section 4 amends s. 379.211, F.S., to authorize the FWC to use revenues from the interest derived from its investments and reinvestments in the State Game Trust Fund.

Section 5 amends s. 379.213, F.S., to authorize the FWC to invest and reinvest the funds and interest derived from the Save the Manatee Trust Fund.

Section 6 amends s. 379.08058, F.S., to authorize the FWC to use funds from the manatee license plate annual use fee, which are deposited into the Save the Manatee Trust Fund, for administrative costs, in addition to currently allowed purposes.

¹⁴ Section 379.2431(4), F.S.

¹⁵ Section 379.214, F.S.

¹⁶ Sections 206.606(1)(a), 328.76(1), 369.20, and 369.22, F.S.

¹⁷ Section 369.252, F.S.

Section 7 amends s. 379.214, F.S., to authorize the FWC to invest and reinvest the funds and interest derived from the Invasive Plant Control Trust Fund. The bill allows the FWC to use revenues from the trust fund for administrative costs, in addition to currently allowed purposes.

Section 8 provides that the bill will take effect on July 1, 2021.

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:

According to the FWC, the annual projected fiscal impact to the Florida Panther Research and Management Trust Fund is \$100,000 for administrative costs and the annual projected fiscal impact to the Save the Manatee Trust Fund is \$300,000 for administrative costs. These additional costs will offset the administrative costs of the other trust funds.¹⁸

¹⁸ Fish and Wildlife Conservation Commission (FWC), *Agency Bill Analysis for SB 524* (Jan. 22, 2021) (on file with the Committee on Environment and Natural Resources).

The annual projected fiscal impact (based on the average interest earnings from the most recent three year period) to the funds that are being revised to authorize the investment of funds into the State Treasury is as follows:

- Florida Panther Research and Management Trust Fund: \$31,000.
- Marine Resources Conservation Trust Fund: \$278,300.
- Non-Game Wildlife Trust Fund: \$100,000.
- State Game Trust Fund: \$331,250.
- Save the Manatee Trust Fund: \$11,800.
- Invasive Plant Control Trust Fund: \$137,800.¹⁹

The FWC currently invests these funds in the State Treasury, but does not have explicit authority to do so. If these changes are not enacted the DFS could prevent the FWC from investing these funds which would result in a loss of revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 379.205, 379.208, 379.209, 379.211, 379.213, 320.08058, and 379.214.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹⁹ *Id.*

By Senator Hooper

16-00650-21

2021524__

A bill to be entitled

An act relating to Fish and Wildlife Conservation Commission trust funds; amending s. 379.205, F.S.; revising the sources of funds that may be used for specified purposes for the Florida Panther Research and Management Trust Fund; authorizing the funds to be used for commission administrative costs; amending ss. 379.208 and 379.209, F.S.; authorizing the commission to invest and reinvest funds and the interest thereof of the Marine Resources Conservation Trust Fund and the Nongame Wildlife Trust Fund, respectively; amending s. 379.211, F.S.; authorizing the commission to invest and reinvest funds and the interest thereof of the State Game Trust Fund; deleting a provision limiting the use of such funds; amending s. 379.213, F.S.; authorizing the commission to invest and reinvest funds and the interest thereof of the Save the Manatee Trust Fund; amending s. 320.08058, F.S.; revising the authorized uses for funds of the Save the Manatee Trust Fund collected from sales of the manatee license plates to include administrative costs; revising the use of such funds for the marketing of the license plates; amending s. 379.214, F.S.; authorizing the commission to invest and reinvest the funds and the interest thereof of the Invasive Plant Control Trust Fund; authorizing such funds to be used for commission administrative costs; providing an effective date.

Page 1 of 6

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

16-00650-21

2021524__

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

Section 1. Subsection (2) of section 379.205, Florida Statutes, is amended to read:

379.205 Florida Panther Research and Management Trust Fund.—

(2) The commission shall spend money from the fund and all interest derived from its investments and reinvestments ~~shall be spent~~ only for the following purposes:

(a) To manage and protect existing Florida panther populations by increasing panther food sources where food is a limiting factor, determining conflicts between public use and panther survival, maintaining sufficient genetic variability in existing populations, and undertaking management and enforcement activities that protect panther habitat.

(b) To educate the public concerning the value of the panther and the necessity for panther management.

(c) To reestablish Florida panthers into areas of suitable habitat, where feasible, by assessing the necessity of a captive breeding program for purposes of reintroduction of the panthers into the suitable habitat; selecting potential sites for reintroduction and investigating associated human sociological aspects; and assessing the potential for panther habitat acquisition.

(d) For Fish and Wildlife Conservation Commission administrative costs and for the promotion to promote and marketing of market the Florida panther license plate as authorized under s. 320.08058.

Section 2. Subsection (1) of section 379.208, Florida

Page 2 of 6

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

16-00650-21

2021524__

Statutes, is amended to read:

379.208 Marine Resources Conservation Trust Fund;
purposes.—

(1) The Marine Resources Conservation Trust Fund within the Fish and Wildlife Conservation Commission shall serve as a broad-based depository for funds from various marine-related and boating-related activities. The commission may invest and reinvest the funds and the interest thereof of the trust fund and shall administer the trust fund ~~be administered by the commission~~ for the purposes of:

(a) Funding for marine research.

(b) Funding for fishery enhancement, including, but not limited to, fishery statistics development, artificial reefs, and fish hatcheries.

(c) Funding for marine law enforcement.

(d) Funding for administration of licensing programs for recreational fishing, saltwater products sales, and related information and education activities.

(e) Funding for the operations of the Fish and Wildlife Conservation Commission.

(f) Funding for titling and registration of vessels.

(g) Funding for marine turtle protection, research, and recovery activities from revenues that are specifically credited to the trust fund for these purposes.

(h) Funding activities for rehabilitation of oyster harvesting areas from which special oyster surcharge fees are collected, including relaying and transplanting live oysters.

(i) Funding for boating research, boating-related programs and activities, and for law enforcement on state waters.

16-00650-21

2021524__

(j) Funding for the stone crab trap reduction program under s. 379.365, the blue crab effort management program under s. 379.366, the spiny lobster trap certificate program under s. 379.3671, and the trap retrieval program under s. 379.2424.

Section 3. Paragraph (a) of subsection (2) of section 379.209, Florida Statutes, is amended to read:

379.209 Nongame Wildlife Trust Fund.—

(2) (a) There is established within the Fish and Wildlife Conservation Commission the Nongame Wildlife Trust Fund. The fund shall be credited with moneys collected pursuant to ss. 319.32(3) and 320.02(8). Additional funds may be provided from legislative appropriations and by donations from interested individuals and organizations. The commission may invest and reinvest the funds and the interest thereof of the Nongame Wildlife Trust Fund. The commission shall designate an identifiable unit to administer the trust fund.

Section 4. Section 379.211, Florida Statutes, is amended to read:

379.211 State Game Trust Fund.—The funds resulting from the operation of the commission and from the administration of the laws and regulations pertaining to birds, game, fur-bearing animals, freshwater fish, reptiles, and amphibians, together with any other funds specifically provided for such purposes shall constitute the State Game Trust Fund and shall be used by the commission as it shall deem fit, including the investment and reinvestment of the funds and the interest thereof, for the purpose of in carrying out this section. ~~The provisions hereof and for no other purposes, except that~~ annual use fees deposited into the trust fund from the sale of the Largemouth Bass license

16-00650-21 2021524__

117 plate may be expended for the purposes provided under s.
 118 320.08058(17). The commission may not obligate itself beyond the
 119 current resources of the State Game Trust Fund unless
 120 specifically so authorized by the Legislature.

121 Section 5. Subsection (2) of section 379.213, Florida
 122 Statutes, is amended to read:

123 379.213 Save the Manatee Trust Fund.—

124 (2) The commission may invest and reinvest the funds and
 125 the interest thereof of the Save the Manatee Trust Fund. Funds
 126 to be credited to and uses of the trust fund shall be
 127 administered in accordance with ~~the provisions of~~ ss. 320.08058,
 128 328.66, 328.72, 328.74, 328.76, and 379.2431. The Fish and
 129 Wildlife Conservation Commission may receive donations for
 130 deposit into the Save the Manatee Trust Fund.

131 Section 6. Paragraphs (b) and (c) of subsection (1) of
 132 section 320.08058, Florida Statutes, are amended to read:

133 320.08058 Specialty license plates.—

134 (1) MANATEE LICENSE PLATES.—

135 (b) The manatee license plate annual use fee must be
 136 deposited into the Save the Manatee Trust Fund, created within
 137 the Fish and Wildlife Conservation Commission, and may ~~shall~~ be
 138 used only for commission administrative costs and the purposes
 139 specified in s. 379.2431(4).

140 (c) Notwithstanding paragraph (b), up to 10 percent of the
 141 annual use fee deposited in the Save the Manatee Trust Fund from
 142 the sale of the manatee license plate may be used to promote and
 143 market the license plate ~~issued by the Department of Highway~~
 144 ~~Safety and Motor Vehicles after June 30, 2007.~~

145 Section 7. Subsection (2) of section 379.214, Florida

16-00650-21 2021524__

146 Statutes, is amended to read:

147 379.214 Invasive Plant Control Trust Fund.—

148 (2) The commission may invest and reinvest the funds and
 149 the interest thereof of the Invasive Plant Control Trust Fund.
 150 Funds to be credited to and uses of the trust fund shall be
 151 administered in accordance with ~~the provisions of~~ ss. 206.606,
 152 328.76, 369.20, 369.22, 369.252, and 379.502 and may also be
 153 used for commission administrative costs.

154 Section 8. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 18, 2021

I respectfully request that **Senate Bill # 524**, relating to Fish and Wildlife Conservation Commission Trust Funds, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03/18/2021

Meeting Date

SB 524

Bill Number (if applicable)

Topic Fish and Wildlife Conservation Commission Trust Funds

Amendment Barcode (if applicable)

Name Charlotte Jerrett

Job Title Chief Financial Officer

Address Faris Bryant Building 620 S. Meridian Street

Phone 850-617-9600

Street

Tallahassee

Florida

32399

Email Charlotte.Jerrett@MyFWC.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fish and Wildlife Conservation Commission

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/18/21

Meeting Date

SB 524

Bill Number (if applicable)

Topic

San Pappas Research

Marine Conservation

Amendment Barcode (if applicable)

Name

David Sordani

Job Title

Retired Senior Citizen of FL

STATESMAN Environmental

Address

66 Wintergreen Dr

Phone

352 805 6597

Street

Fruitland Park FL

Email

gsordani

City

State

Zip

34731

19550944

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

IC

Representing

Self

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-18-21

Meeting Date

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

524

Bill Number (if applicable)

Topic FWC-TRUST Funds

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Job Title _____

Address P.O. Box 2020

Phone 727.421.6902

Street

St. Petersburg FL 33731

City

State

Zip

Email travis@moore-relations.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Defenders of Wildlife

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 866

INTRODUCER: Senators Hooper and Rouson

SUBJECT: H. Lee Moffitt Cancer Center and Research Institute

DATE: March 17, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Favorable
2.	Kim	Babin	FT	Favorable
3.	Kim	Sadberry	AP	Favorable

I. Summary:

SB 866 increases the share of cigarette tax revenues directed to the H. Lee Moffitt Cancer Center and Research Institute (Moffitt). Beginning July 1, 2021, and continuing through June 30, 2024, the share of the revenues directed to Moffitt is increased from 4.04 percent to 7 percent of certain net collections. Beginning July 1, 2024, and continuing through June 30, 2054, the share of the revenues directed to Moffitt is further increased to 10 percent of certain net collections.

The Revenue Estimating Conference determined the bill will reduce General Revenue Fund receipts by \$11.4 million in each of Fiscal Years 2021-2022, 2022-2023, and 2023-2024, and reduce General Revenue Fund receipts by \$22.9 million each fiscal year thereafter.

The bill is effective upon becoming a law.

II. Present Situation:

H. Lee Moffitt Cancer Center

Moffitt was established by the Legislature in 1981, began construction in 1983, and opened to patients on Oct. 27, 1986.¹ Moffitt began its research on cancer in 1993 and became a National Cancer Institute (NCI) designated cancer center in 1998. In 2001, Moffitt achieved an NCI Comprehensive Cancer Center designation, indicating that it is one of “the strongest institutions in the nation dedicated to scientific innovation and excellence; to interdisciplinary research, training and education; and to coordinated recognition and pursuit of new research opportunities.” Currently, Moffitt is the only NCI-designated Comprehensive Cancer Center based in Florida.²

¹ See <https://moffitt.org/about-moffitt/our-story/> (last visited Mar. 3, 2021).

² See <https://moffitt.org/about-moffitt/nci-designation/> (last visited Mar. 3, 2021).

Moffitt treats cancer patients and performs cancer research. Moffitt is Florida's largest multi-disciplinary medical group practice that is dedicated to cancer care. The Moffitt Medical Group (MMG), based at Moffitt Cancer Center, also provides services at other hospitals and clinics throughout the State of Florida and beyond. The MMG consists of 377 oncology specialists, including 221 board-certified physicians and 156 advanced practice professionals, as well as other staff who specialize in nearly 30 cancer programs and services.³ Additionally, Moffitt employs about 800 research faculty scientists, career staff scientists, postdocs, graduate students, and support staff dedicated to cancer research.⁴

Cigarette Tax

An excise tax is imposed upon cigarettes in Florida.⁵ The tax rate varies depending on the type and packaging of cigarettes. For a pack of 20 cigarettes of common size, the rate is 33.9 cents, with rates varying proportionately for cigarettes and packs of non-standard size.⁶ Additionally, a \$1 surcharge per pack of common-size cigarettes is imposed, with rates varying proportionately for cigarettes and packs of non-standard size.⁷

Cigarette tax revenues are collected from cigarette dealers by the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation and deposited into the Cigarette Tax Collection Trust Fund, which is then distributed according to a statutory formula.⁸

The following chart describes the distribution of cigarette tax revenues in Fiscal Year 2019-2020:⁹

³ See <https://moffitt.org/about-moffitt/nci-designation/> (last visited Mar. 3, 2021).

⁴ See <https://moffitt.org/about-moffitt/research/> (last visited Mar. 3, 2021).

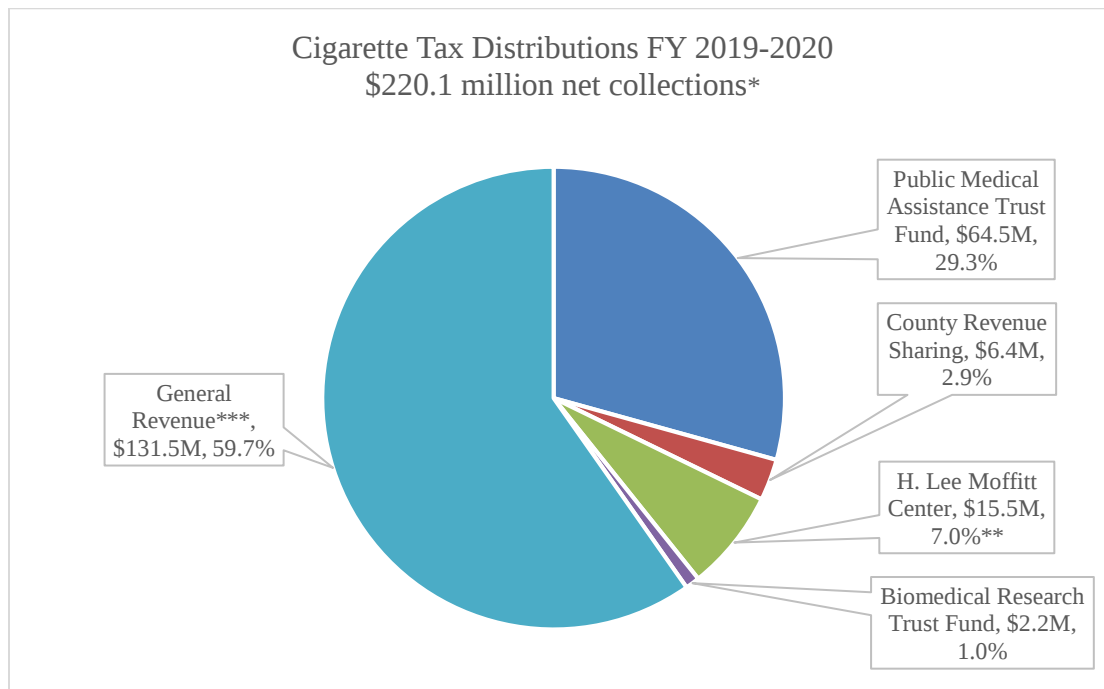
⁵ Section 210.02, F.S.

⁶ *Id.*

⁷ See s. 210.011, F.S. Cigarette surcharge revenues are deposited in the Health Care Trust Fund pursuant to s. 210.011(9), F.S.

⁸ Sections 210.02(6) and 210.20, F.S.

⁹ Data from Office of Economic and Demographic Research, The Florida Legislature, Tobacco Tax and Surcharge Conference Results, November 2020, *available at* <http://www.edr.state.fl.us/Content/conferences/tobaccotaxsurcharge/TobaccoTaxForecast.pdf> (last visited Mar. 3, 2021).



* As used in s. 210.20, F.S., net collections is the amount after subtracting the 8 percent General Revenue service charge in s. 215.20, F.S., and the 0.9 percent amount deposited into the Alcoholic Beverage and Tobacco Trust Fund pursuant to s. 210.20, F.S.

** Pursuant to s. 210.20(2)(b), F.S., Moffitt is paid the greater of 4.04 percent of net collections each fiscal year or 4.04 percent of Fiscal Year 2001-2002 net collections (\$383.7M). Moffitt's share of \$15.5M represents 4.04 percent of Fiscal Year 2001-2002 net collections and 7 percent of Fiscal Year 2019-2020 net collections.

*** Pursuant to s. 210.20(3), F.S., the balance of revenue after making all other distributions is deposited in the General Revenue Fund.

Moffitt's Cigarette Tax Revenue

The distribution of cigarette tax revenue to Moffitt is the greater of 4.04 percent of cigarette tax net collections each fiscal year or 4.04 percent of cigarette tax net collections in Fiscal Year 2001-2002.¹⁰ This provision continues through June 30, 2053.

Cigarette tax net collections have generally declined over time and are substantially lower than in Fiscal Year 2001-2002.¹¹ In Fiscal Year 2019-2020, cigarette tax net collections were \$220.1 million compared to \$383.7 million in Fiscal Year 2001-2002.¹² In the preceding 11 fiscal years, Moffitt's share has been calculated based on Fiscal Year 2001-2002 net collections.¹³ Since

¹⁰ Section 210.20(2)(b), F.S., provides in relevant part: "In fiscal years 2004-2005 and thereafter, the appropriation to the H. Lee Moffitt Cancer Center and Research Institute authorized by this paragraph shall not be less than the amount that would have been paid to the H. Lee Moffitt Cancer Center and Research Institute in Fiscal Year 2001-2002, had this paragraph been in effect."

¹¹ See, e.g., *supra* note 9, for a history of net collections for the past 13 fiscal years.

¹² Fiscal Year 2001-2002 data from Revenue Estimating Conference, Tobacco Tax and Surcharge Executive Summary, August 2009, available at <http://www.edr.state.fl.us/Content/conferences/tobaccotaxsurcharge/archives/090810tobaccotaxsurcharge.pdf> (last visited Mar. 3, 2021).

¹³ Based on a review of data in *supra* note 9.

Fiscal Year 2014-2015, when Moffitt's share percentage was increased to its current level,¹⁴ the Moffitt distribution amount has been \$15.5 million each fiscal year,¹⁵ which is equal to 4.04 percent of the Fiscal Year 2001-2002 net collections amount of \$383.7 million. The above chart shows that the \$15.5 million share represents 7 percent of Fiscal Year 2019-2020 net collections.

Moffitt is authorized to use cigarette tax revenue, among other purposes, to secure financing to pay costs related to constructing, furnishing, equipping, operating, and maintaining cancer research and clinical and related facilities; furnishing, equipping, operating, and maintaining other leased or owned properties; and paying costs incurred in connection with purchasing, financing, operating, and maintaining such equipment, facilities, and properties.¹⁶ Such financing may include the issuance of tax-exempt bonds or other forms of indebtedness by a local authority, municipality, or county pursuant to parts II and III of chapter 159, F.S.¹⁷ Moffitt currently has three series of bonds outstanding which are secured by cigarette tax revenue.¹⁸

III. Effect of Proposed Changes:

The bill increases the percentage of cigarette tax net collections that is paid from month to month to Moffitt. Beginning July 1, 2021, and continuing through June 30, 2024, the percentage is increased from the current percentage of 4.04 percent to 7 percent of certain net collections. Beginning July 1, 2024, and continuing through June 30, 2054, the percentage is further increased to 10 percent.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of Article VII, s. 18 of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

¹⁴ Beginning July 1, 2014, the percentage of Moffitt's share was increased from 2.75 percent to 4.04 percent. Chapter 2014-38, s. 8, Laws of Fla.

¹⁵ *Supra* note 9.

¹⁶ Sections 210.20(2)(b) and 210.201, F.S.

¹⁷ Section 210.201, F.S.

¹⁸ Series 2012A, 2016A, and 2020A Cigarette Tax Allocation Bonds. *See, e.g.,* H. Lee Moffitt Cancer Center & Research Institute, Inc. and Subsidiaries, *Consolidated Financial Statements and Report of Independent Certified Public Accountants*, June 30, 2019 and 2018, 20-22, available at <https://moffitt.org/media/11952/h-lee-moffitt-cancerresearch-2019-fs.pdf> (last visited Mar 3., 2021); and Moody's Investors Service, *Moody's assigns A1 to Florida State's Cigarette Tax Allocation Bonds (H. Lee Moffitt Cancer Center)*, Ser. 2020A; outlook stable, available at https://www.moody's.com/research/Moodys-assigns-A1-to-Florida-States-Cigarette-Tax-Allocation-Bonds--PR_906431431 (last visited Mar. 3, 2021).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of s. 19, Art. VII of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined the bill will reduce General Revenue Fund receipts by \$11.4 million in each of Fiscal Years 2021-2022, 2022-2023, and 2023-2024, and reduce General Revenue Fund receipts by \$22.9 million each fiscal year thereafter.

B. Private Sector Impact:

The Revenue Estimating Conference determined the bill will increase the funds directed to Moffitt from \$15.5 million annually to \$26.9 million (an \$11.4 million increase over the current year) from Fiscal Year 2021-2022 through Fiscal Year 2023-2024. Starting in Fiscal Year 2024-2025, the funds directed to Moffitt are estimated to be \$38.4 million annually (a \$22.9 million increase over the current year). Such amounts would be available pursuant to s. 210.201, F.S., to secure financing, including the issuance of bonds or other forms of indebtedness, for purposes authorized in that statute. The estimate assumes that cigarette tax net collections will continue declining, meaning that Moffitt's share of cigarette tax revenues would continue to be calculated based on Fiscal Year 2001-2002 net collections.¹⁹

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁹ Revenue Estimating Conference analysis of SB 866, Jan. 29, 2021, *available at* <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/pdf/page19-21.pdf> (last visited Mar. 3, 2021).

VIII. Statutes Affected:

This bill substantially amends section 210.20 of the Florida Statutes.

This bill reenacts section 210.205 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

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

By Senator Hooper

16-01127A-21

2021866__

A bill to be entitled

An act relating to the H. Lee Moffitt Cancer Center and Research Institute; amending s. 210.20, F.S.; increasing, at specified timeframes, the percentage of cigarette tax proceeds paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute for certain purposes; reenacting s. 210.205, F.S., relating to cigarette tax distribution reporting, to incorporate the amendment made to s. 210.20, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 210.20, Florida Statutes, is amended to read:

210.20 Employees and assistants; distribution of funds.—

(2) As collections are received by the division from such cigarette taxes, it shall pay the same into a trust fund in the State Treasury designated "Cigarette Tax Collection Trust Fund" which shall be paid and distributed as follows:

(b) Beginning July 1, 2004, and continuing through June 30, 2013, the division shall from month to month certify to the Chief Financial Officer the amount derived from the cigarette tax imposed by s. 210.02, less the service charges provided for in s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 1.47 percent of the net collections, and that

Page 1 of 4

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

16-01127A-21

2021866__

amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. 1004.43, by warrant drawn by the Chief Financial Officer. Beginning July 1, 2014, and continuing through June 30, 2021 ~~2053~~, the division shall from month to month certify to the Chief Financial Officer the amount derived from the cigarette tax imposed by s. 210.02, less the service charges provided for in s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 4.04 percent of the net collections, and that amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. 1004.43, by warrant drawn by the Chief Financial Officer. Beginning July 1, 2021, and continuing through June 30, 2024, the division shall from month to month certify to the Chief Financial Officer the amount derived from the cigarette tax imposed by s. 210.02, less the service charges provided for in s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 7 percent of the net collections, and that amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. 1004.43, by warrant drawn by the Chief Financial Officer. Beginning July 1, 2024, and continuing through June 30, 2054, the division shall from month to month certify to the Chief Financial Officer the amount derived from the cigarette tax imposed by s. 210.02, less the service charges provided for in

Page 2 of 4

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

16-01127A-21

2021866__

s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 10 percent of the net collections, and that amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. 1004.43, by warrant drawn by the Chief Financial Officer. These funds are appropriated monthly out of the Cigarette Tax Collection Trust Fund, to be used for lawful purposes, including constructing, furnishing, equipping, financing, operating, and maintaining cancer research and clinical and related facilities; furnishing, equipping, operating, and maintaining other properties owned or leased by the H. Lee Moffitt Cancer Center and Research Institute; and paying costs incurred in connection with purchasing, financing, operating, and maintaining such equipment, facilities, and properties. In fiscal years 2004-2005 and thereafter, the appropriation to the H. Lee Moffitt Cancer Center and Research Institute authorized by this paragraph shall not be less than the amount that would have been paid to the H. Lee Moffitt Cancer Center and Research Institute in fiscal year 2001-2002, had this paragraph been in effect.

Section 2. For the purpose of incorporating the amendment made by this act to section 210.20, Florida Statutes, in a reference thereto, section 210.205, Florida Statutes, is reenacted to read:

210.205 Cigarette tax distribution reporting.—By March 15 of each year, each entity that received a distribution pursuant to s. 210.20(2)(b) in the preceding calendar year shall report to the Office of Economic and Demographic Research the following

Page 3 of 4

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

16-01127A-21

2021866__

information:

(1) An itemized accounting of all expenditures of the funds distributed in the preceding calendar year, including amounts spent on debt service.

(2) A statement indicating what portion of the distributed funds have been pledged for debt service.

(3) The original principal amount and current debt service schedule of any bonds or other borrowing for which the distributed funds have been pledged for debt service.

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

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 11, 2021

I respectfully request that **Senate Bill # 866**, relating to H. Lee Moffitt Cancer Center and Research Institute, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3-18-2021

Meeting Date

SB 866

Bill Number (if applicable)

Topic H. Lee Moffitt Cancer Center and Research Institute

Amendment Barcode (if applicable)

Name Jamie Wilson

Job Title Vice President of Government Relations

Address 12902 Magnolia Drive

Phone 850-509-6025

Street

Tampa

FL

33612

City

State

Zip

Email Jamie.Wilson@Moffitt.org

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Moffitt Cancer Center

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/18/21

Meeting Date

SB 866

Bill Number (if applicable)

Topic

Cancer & Cigarettes

Amendment Barcode (if applicable)

Name

David Surdan

Job Title

A Citizen/Season Smoker of Ft. Lauderdale

Address

Street

66 W. W. Ferguson Dr

Phone

352 805 6597

City

Fort Lauderdale

State

FL

Email

David.Surdan@att.net

Speaking:

☒

For

☐

Against

☐

Information

34731

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Self

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1040

INTRODUCER: Appropriations Committee; Governmental Oversight and Accountability Committee; and Senator Brodeur

SUBJECT: Duties of the Attorney General

DATE: March 22, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVaney	GO	Fav/CS
2.	Dale	Sadberry	AP	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1040 repeals several functions of the Department of Legal Affairs (DLA) and the Attorney General (AG) and transfers several functions to other state agencies. The bill:

- Eliminates the DLA's duties and responsibilities relating to neighborhood improvement districts;
- Transfers the DLA's duties and responsibilities relating to claims for restitution to other state agencies;
- Transfers the duties relating to the convenience businesses to the Department of Business and Professional Regulation (DBPR);
- Modifies the current prohibitions against unconscionable prices; and
- Extends the repeal date for the Attorney General to have access to records ordered by a court in regard to the prescription drug monitoring program to June 30, 2023.

The bill's provisions will reduce the workload of the DLA and increase workload for other state agencies. See Section V.

The bill takes effect on June 30, 2021.

II. Present Situation:

The Attorney General

The Attorney General (AG) is a statewide elected official directed by the Florida Constitution to serve as the chief legal officer for the State of Florida. The AG is responsible for protecting consumers from various types of fraud, enforcing the state's antitrust laws, defending the state in civil litigation cases, and representing the people of the state when criminals appeal their convictions in state and federal courts.¹ The AG defends the statutes enacted by the Legislature and is authorized to form official legal opinions at the request of public officials on questions relating to the application of state law. The AG serves as a member of the Florida Cabinet along with the Chief Financial Officer and the Commissioner of Agriculture. The AG is the head of the Department of Legal Affairs (DLA) and is responsible for providing all legal services required by any department.²

Florida Supreme Court Reporter

Since 1881, the Florida Supreme Court Clerk has been required to deliver to the AG a copy of each volume of Florida Supreme Court opinions in the Clerk's care or custody that the AG's office may be without. The AG must keep the copies at their office at the Capitol and has been, by law, the official Supreme Court reporter since 1885. However, Florida Supreme Court opinions are now published online and in other reports available in the AG's law library.³

Safe Neighborhood Improvement District

A safe neighborhood improvement district (district) is a district located in an area in which more than 75 percent of the land is used for residential purposes, commercial, or business purposes, excluding land area used for public facilities.⁴ An established district must have a plan to reduce crime through environmental design, environmental security, defensible space techniques, or community policing innovations. A district is required to register within 30 days with the Department of Economic Opportunity (DEO) and the DLA, providing the departments with the district's name, size, location, and type. There are currently 27 active districts in the state.⁵ The governing body of the county is eligible to request a grant from the Safe Neighborhoods Program.⁶

Safe Neighborhoods Program

The Safe Neighborhoods Program was created to provide planning grants and technical assistance on a 100 percent matching basis to the neighborhood improvement districts. Applications for planning grants must have verification that the local governing body has passed

¹ Office of the Attorney General, *Role and Function of the Attorney General*, available at <http://myfloridalegal.com/pages.nsf/Main/F06F66DA272F37C885256CCB0051916F>, last visited (March 3, 2021)

² Section 16.015, F.S.

³ Section 16.101, F.S.

⁴ Section 163.503(1), F.S.

⁵ Florida Department of Economic Opportunity, *Division of Community Development, Official List of Special Districts Online*, available at <http://specialdistrictreports.floridajobs.org/webreports/functionsdetail.aspx> (last visited March 9, 2021).

⁶ *Id.*

an ordinance creating neighborhood improvement districts, and verification of commitment to provide matching funds for the purpose of planning of neighborhood improvement districts.⁷ Planning grants shall be rewarded to eligible applicants, with the amount totaling as follows:

- Property owner's association neighborhood improvement districts may receive up to \$20,000;
- Local government neighborhood improvement districts may receive up to \$100,000;
- Special neighborhood improvement districts may receive up to \$50,000; and
- Community redevelopment neighborhood improvement districts may receive up to \$50,000.⁸

Each neighborhood improvement district that receives funds is required to submit an audit.

State Institutions Claims Program

The State Institutions Claims Program was created to make restitution of property damages and direct medical expenses for injuries caused by shelter children, foster children, escapees, inmates, or patients of state institutions or developmental disabilities center. Claims for restitution may be filed with the DLA, and the DLA shall have full power to hear, investigate, and determine all questions about the claims. The DLA is authorized to pay individual claims up to \$1,000 or, with respect to children in foster care and their families, up to \$1,500. The DLA is responsible for working with other state agencies to streamline the process of investigations, hearings, and determinations.⁹ In the past five years, the Agency for Persons with Disabilities has had 41 claims filed, with 30 of them considered eligible for restitution.¹⁰ In the past five years, the Department of Juvenile Justice has had three claims filed.¹¹

Price Gouging during a Declared State of Emergency

Section 501.160, F.S., referred to as the Price Gouging Law, was passed to prevent the dramatic increase in the prices of certain essential commodities during periods of disaster.¹² The price of an essential commodity is considered unconscionable if the amount charged represents a gross disparity between the price of the commodity and the average price of that commodity when rented, leased, or sold in the usual course of business during the 30 days prior to a declaration of emergency. Upon a declaration of a state of emergency by the Governor, a person or their agent is prohibited from renting or selling at an unconscionable price. It is unlawful and a violation of s. 501.204, F.S., for any person to impose unconscionable prices for the rental, lease, or sale of any commodity, dwelling unit, or self-storage unit. Price increases approved by an appropriate governmental entity is not a violation of s. 501.204, F.S. The prohibition on unconscionable pricing within the area of the state of emergency is limited to no more than 60 days under the initial declared state of emergency. The prohibition may be "renewed" by a statement of any

⁷ Section 163.517(2)(a-b), F.S.

⁸ Section 163.517(1)(a-d), F.S.

⁹ Section 402.181, F.S.

¹⁰ See Agency for Persons with Disabilities, *Senate Bill 1040 Agency Legislative Analysis* (February 24, 2021) (on file with the Senate Committee on Governmental Oversight and Accountability).

¹¹ See Department of Juvenile Justice, *Senate Bill 1040 Agency Legislative Analysis* (February 25, 2021) (on file with the Senate Committee on Governmental Oversight and Accountability).

¹² Section 501.160, F.S.

subsequent “renewals” of the declared state of emergency. The state attorney or AG may prosecute any violation of s. 501.204, F.S.

Convenience Business Security

The DLA has the rulemaking authority as necessary to implement provisions of the Business Security Act (Act).¹³ Rule 2A-5.005, Florida Administrative Code, provides safety standards, training curriculum and enforcement procedures for the Act.

A convenience business is any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time between 11:00 p.m. and 5:00 a.m.¹⁴ Every convenience business is required to have certain security devices. These include a security camera, a safe or cash management device, a lighted parking lot, a sign stating cash register contains less than \$50, window signage that allows a clear view from outside the building, and a cash management policy limiting cash at hand after 11:00 p.m. If a murder, robbery, sexual battery, aggravated assault, aggravated battery, or kidnapping or false imprisonment, occurs or has occurred at a convenience business since July 1, 1989, the business needs to implement one of the following policies:

- Provide at least two employees on the premises at all times after 11:00 p.m. and before 5:00 a.m.
- Install for use by employees at all times after 11:00 p.m. and before 5:00 a.m., a secured safety enclosure of transparent polycarbonate or other material;
- Provide a security guard on the premises at all times after 11:00 p.m. and before 5:00 a.m.;
- Lock the business premises throughout the hours of 11:00 p.m. to 5:00 a.m., and only transact business through an indirect pass-through trough, trapdoor, or window; or
- Close the business at all times after 11:00 p.m. and before 5:00 a.m.

The DLA will provide notice to any convenience business to which an incident has previously occurred. A business can file a notice for exemption with the DLA if no incident has occurred for no less than 24 months immediately preceding the filing of a notice of exemption.¹⁵ The DLA has the authority to enforce violations of the law that result in civil penalties of up to \$5,000.¹⁶

Training of Employees

The owner of a convenience business is required to provide proper robbery deterrence and safety training by an approved curriculum to its retail employees within 60 days of employment. The curriculum shall be submitted to the AG. The AG will review and approve or disapprove the curriculum in writing within 60 days after receipt. Any curriculum approved by the AG since September of 1990 is subject to reapproval by the AG two years from the anniversary of initial approval and biennially thereafter.

¹³ Section 812.176, F.S.

¹⁴ Section 812.171, F.S.

¹⁵ Section 812.173(5), F.S.

¹⁶ The Department of Legal Affairs, *The Convenience Business Security Act*, available at <http://www.fcpti.com/fcpti.nsf/pages/CBSA>, (last visited March 5, 2021)

Prescription Drug Monitoring Program

The Prescription Drug Monitoring Program (PDMP) uses a comprehensive electronic system/database, maintained by the Department of Health (DOH), to monitor the prescribing and dispensing information of certain controlled substances. Section 893.0551(3)(e), F.S., authorizes the AG, upon authorization by a trial court, to use confidential and exempt information from the PDMP database that has been de-identified for active investigations or pending civil or criminal litigation involving prescribed controlled substances. The AG must ensure that the obtained de-identified information is used only for the purpose stated in the court order. The AG must maintain a log of each person with which the information is shared, execute a confidentiality agreement or an agreement bound by a protective order with each such person, ensure the information is maintained in a secure manner, and require each such person to return all information or certify its destruction to the AG upon the final resolution of the matter for which the information was requested.¹⁷ The AG's access to information in the PDMP is scheduled to be repealed on June 30, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

The Department of Economic Opportunity

The purpose of the DEO, as established by s. 20.60, F.S., is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. The head of the DEO is the executive director, appointed by the Governor, subject to confirmation by the Senate, and serving at the pleasure of and reporting to the Governor.¹⁸ The DEO has the following divisions:

- The Division of Strategic Business Development;
- The Division of Community Development;
- The Division of Workforce Services;
- The Division of Finance and Administration; and
- The Division of Information Technology.

III. Effect of Proposed Changes:

Sections 1 repeals s. 16.10, F.S., which requires the clerk of the Florida Supreme Court to provide the decisions of the Supreme Court and requires the AG to maintain the decisions within the AG's office in the Capitol.

Section 2 repeals s. 16.101, F.S., which requires the AG to be the reporter for the Florida Supreme Court.

Section 3 amends s. 163.503, F.S., relating to the Safe Neighborhoods Act, to change the definition of "department" to mean the DEO rather than the DLA.

¹⁷ Section 893.055(5)(b), F.S.

¹⁸ Section 20.60(2), F.S.

Section 4 amends s. 163.504, F.S., to eliminate the authority of a city or county that creates a safe neighborhood improvement district to request a grant from the Safe Neighborhood Program.

Section 5 amends s. 163.5055, F.S., to eliminate the duty of a neighborhood improvement district to register with the DLA (the duty to register with DEO remains), and to eliminate the duty of a local governing body that authorizes the dissolution of a district to notify the DLA (the duty to notify the DEO remains).

Section 6 amends s. 163.506, F.S., to eliminate a requirement that a new local government neighborhood improvement district notify the DLA within 30 days of its creation (the duty to notify DEO remains).

Section 7 amends s. 163.508, F.S., to eliminate a requirement that a new property owners' association neighborhood improvement district notify the DLA within 30 days of its creation (the duty to notify DEO remains).

Section 8 amends s. 163.511, F.S., to eliminate a requirement that a new special residential or business neighborhood improvement district notify the DLA within 30 days of its creation (the duty to notify DEO remains).

Section 9 repeals s. 163.517, F.S., which creates the Safe Neighborhoods Program.

Section 10 repeals s. 163.519, F.S., which outlines the duties of the DLA in relation to neighborhood improvement districts.

Section 11 repeals s. 163.521, F.S., which establishes a grant program for neighborhood improvement districts.

Section 12 repeals s. 163.5215, F.S., which establishes that the provisions of neighborhood improvement districts may not be construed to modify, limit, expand, or supersede any existing laws relating to the closing or abandonment of public roads, the denial of access to areas for public use, or the use of public facilities.

Section 13 repeals s. 163.522, F.S., which provides that any county or municipality that has authorized the creation of a community redevelopment area be directed to give consideration to the creation of a neighborhood improvement district within said area.

Section 14 repeals s. 163.523, F.S., which allows local governments to cooperate with community organizations in the creation of safe neighborhood improvement districts.

Section 15 amends s. 163.524, F.S., to conform to the changes of the bill.

Section 16 amends s. 376.84, F.S., to conform to the changes of the bill.

Section 17 amends s. 402.181, F.S., to require claims to be filed with the Department of Children and Families (DCF), the Department of Juvenile Justice (DJJ), the Department of Health (DOH), the Department of Corrections (DOC), or the Agency for Persons with Disabilities (APD).

The section transfers the power and authority to approve and deny claims from the DLA to the agencies and departments that deal with the claims.

The section provides that the DCF, the DJJ, the DOH, the DOC, and the APD adopt rules to process the claims and to ensure that eligible claimants receive restitution. Previously, the DLA was responsible for working with the departments and agencies to create a process.

Section 18 amends s. 501.160, F.S., to make the rental or sale of a dwelling unit or self-storage facility that is necessary for habitation or use as a direct result of the emergency at an unconscionable price, unlawful and a violation of unfair methods competition law. The bill allows the governor, by executive order with specific reference, rather than by renewals of the declared state of emergency, to extend the prohibition on essential commodities, or on any dwelling unit or self-storage facility.

Section 19 amends s. 775.083, F.S., to conform to the changes of the bill.

Section 20 amends s. 812.171, F.S., to further specify that the definition of a “convenience business” is one which must be licensed by the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation (DBPR) pursuant to chapter 210, chapter 561, chapter 562, chapter 563, chapter 564, chapter 565, or chapter 569, as applicable.

Section 21 amends s. 812.173, F.S., to transfer the duties relating to convenience business security from the DLA to the Division of Alcoholic Beverages and Tobacco within the DBPR. The section also requires notification to the Division within 30 days if certain crimes occur arising out of the operation of the business and requires security measures required under current law be implemented within the same timeframe.

Section 22 amends s. 812.174, F.S., to transfer the duties relating to convenience business security training for their employees on safety training and robbery deterrence from the AG to the Division of Alcoholic Beverages and Tobacco within the DBPR.

Section 23 amends s. 812.175, F.S., to transfer the duties relating to violations and fines for convenience business security from the AG to the Division of Alcoholic Beverages and Tobacco within the DBPR.

Section 24 amends s. 812.176, F.S., to transfer the duties of adopting rules as necessary to implement the provisions of the Convenience Business Security Act from the DLA to the Division of Alcoholic Beverages and Tobacco within the DBPR.

Section 25 amends ss. 893.055 and 893.0551, F.S., to delay the scheduled repeal of provisions granting the Attorney General access to records ordered by a court in regard to the Prescription Drug Monitoring Program. [The repeal date moves to June 30, 2023. Currently, the repeal date is June 30, 2021.]

Section 26 provides that the bill take effect June 30, 2021.

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

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The bill limits price gouging protections relating to rent of a dwelling unit or a self-service storage facility during a declared state of emergency, which could subject Florida consumers to higher rent prices during a state of emergency.

C. Government Sector Impact:

The bill's provisions will shift workload from the DLA to other state agencies. For example, the bill eliminates the DLA's responsibilities for the processing of registrations and dissolutions of safe neighborhood improvement districts. As a result, the DEO may experience a workload increase relating to these functions. Repealing s. 167.517, F.S., related to the Safe Neighborhoods Program, and the ability of a governing body of a municipality or county to request grant funds, will have no fiscal impact. Funding for this program ended in 1992 and the trust fund was eliminated the following year.¹⁹

¹⁹ See Department of Legal Affairs, *Senate Bill 1040 Agency Legislative Analysis* (March 10, 2021) (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

Additionally, the bill transfers responsibilities associated with receiving and processing restitution claims from DLA to the DCF, the DJJ, the DOH, the DOC, and the APD. As a result, these agencies may experience increased workloads associated with these functions. Similarly, the bill transfers processing exemption requests, approving proposed training curricula, and enforcing provisions under the Convenience Business Security Act from DLA to the Division of Alcoholic Beverages and Tobacco within the DBPR, which may impact the Division's workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 416 to 417 change the grant of rulemaking authority under the Convenience Security Act (Act) from the DLA to the DBPR. However, the bill as currently drafted does not provide for the transfer of the Act's sole rule - Rule 2A-5.005, F.A.C., which implements the provisions of the Act. Thus, during the time frame in which the DBPR takes to adopt the rule, there will be no rule in effect regarding the Act. The Legislature may consider an amendment providing an explicit transfer of the administrative rule in chapter 2A-5 from the DLA to the DBPR.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.503, 163.504, 163.5055, 163.506, 163.508, 163.511, 163.524, 376.84, 402.181, 501.160, 775.083, 812.173, 812.174, 812.175, 812.176, and 960.21.

This bill repeals the following sections of the Florida Statutes: 16.10, 16.101, 163.517, 163.519, 163.521, 163.5215, 163.522, and 163.523.

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 March 18, 2021:

The committee substitute:

- Removes the provision exempting the Crimes Compensation Trust Fund from the service charge to general revenue; and
- Amends the definition of “convenience business” in s. 812.171, F.S. to specify the business must be licensed by the Division of Alcoholic Beverages and Tobacco within the DBPR pursuant to chapter 210, chapter 561, chapter 562, chapter 563, chapter 564, chapter 565, or chapter 569, as applicable.

CS by Governmental Oversight and Accountability on March 10, 2021:

The CS removes the service charge of the Crimes Compensation Trust Fund from being paid out of moneys collected and deposited into the trust fund.

The CS provides that it is unlawful for a person to rent or sell, at an unconscionable price, any dwelling unit or self-storage facility, which is limited to that which is necessary for consumption or use within the area for which a state of emergency is declared.

B. Amendments:

None.



514990

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete lines 164 - 398
and insert:

Section 16. Paragraph (c) of subsection (1) of section 376.84, Florida Statutes, is amended to read:

376.84 Brownfield redevelopment economic incentives.—It is the intent of the Legislature that brownfield redevelopment activities be viewed as opportunities to significantly improve the utilization, general condition, and appearance of these



514990

11 sites. Different standards than those in place for new
12 development, as allowed under current state and local laws,
13 should be used to the fullest extent to encourage the
14 redevelopment of a brownfield. State and local governments are
15 encouraged to offer redevelopment incentives for this purpose,
16 as an ongoing public investment in infrastructure and services,
17 to help eliminate the public health and environmental hazards,
18 and to promote the creation of jobs in these areas. Such
19 incentives may include financial, regulatory, and technical
20 assistance to persons and businesses involved in the
21 redevelopment of the brownfield pursuant to this act.

22 (1) Financial incentives and local incentives for
23 redevelopment may include, but not be limited to:

24 (c) Safe neighborhood improvement districts as provided in
25 ss. 163.501-163.516 ~~ss. 163.501-163.523~~.

26 Section 17. Subsections (2) and (3) of section 402.181,
27 Florida Statutes, are amended to read:

28 402.181 State Institutions Claims Program.—

29 (2) Claims for restitution may be filed with the Department
30 of Children and Families, the Department of Health, the
31 Department of Juvenile Justice, the Department of Corrections,
32 or the Agency for Persons with Disabilities. The claim must be
33 filed with the department or agency responsible for monitoring
34 the person who caused the medical injury or the property damage
35 ~~Legal Affairs at its office in accordance with regulations~~
36 ~~prescribed by the Department of Legal Affairs. The departments~~
37 ~~and agencies Department of Legal Affairs shall have the full~~
38 ~~power and authority to approve or deny hear, investigate, and~~
39 ~~determine all questions in respect to such claims and may is~~



514990

40 ~~authorized~~, within the limits of current appropriations, ~~to~~ pay
41 individual claims up to \$1,000 or, with respect to children in
42 foster care and their families, individual claims up to \$1,500.
43 Claims in excess of these amounts shall continue to require
44 legislative approval.

45 (3) ~~(a)~~ The Department of Children and Families, the
46 Department of Health, the Department of Juvenile Justice, the
47 Department of Corrections, and the Agency for Persons with
48 Disabilities shall adopt rules to process claims and to ensure
49 that eligible claimants receive restitution within a reasonable
50 timeframe ~~The Department of Legal Affairs shall make or cause to~~
51 ~~be made such investigations as it considers necessary in respect~~
52 ~~to such claims. Hearings shall be held in accordance with~~
53 ~~chapter 120.~~

54 ~~(b) The Department of Legal Affairs shall work with the~~
55 ~~Department of Children and Families, the Department of Health,~~
56 ~~the Department of Juvenile Justice, the Department of~~
57 ~~Corrections, and the Agency for Persons with Disabilities to~~
58 ~~streamline the process of investigations, hearings, and~~
59 ~~determinations with respect to claims under this section, to~~
60 ~~ensure that eligible claimants receive restitution within a~~
61 ~~reasonable time.~~

62 Section 18. Subsections (2) and (3) of section 501.160,
63 Florida Statutes, are amended to read:

64 501.160 Rental or sale of essential commodities during a
65 declared state of emergency; prohibition against unconscionable
66 prices.—

67 (2) Upon a declaration of a state of emergency by the
68 Governor, it is unlawful and a violation of s. 501.204 for a



514990

person or her or his agent or employee to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared:

(a) Any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency.

(b) Any dwelling unit or self-storage facility that is necessary for habitation or use as a direct result of the emergency.

This prohibition is effective not to exceed 60 days under the initial declared state of emergency as defined in s. 252.36(2) and may be extended by an executive order issued by the Governor specifically referencing this section ~~shall be renewed by statement in any subsequent renewals of the declared state of emergency by the Governor.~~

~~(3) It is unlawful and a violation of s. 501.204 for any person to impose unconscionable prices for the rental or lease of any dwelling unit or self-storage facility during a period of declared state of emergency.~~

Section 19. Subsection (2) of section 775.083, Florida Statutes, is amended to read:

775.083 Fines.—

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a



514990

98 misdemeanor under state law. The court costs imposed by this
99 section shall be \$50 for a felony and \$20 for any other offense
100 and shall be deposited by the clerk of the court into an
101 appropriate county account for disbursement for the purposes
102 provided in this subsection. A county shall account for the
103 funds separately from other county funds as crime prevention
104 funds. The county, in consultation with the sheriff, must expend
105 such funds for crime prevention programs in the county,
106 ~~including safe neighborhood programs under ss. 163.501-163.523.~~

107 Section 20. Section 812.171, Florida Statutes, is amended
108 to read:

109 812.171 Definition.—As used in this act, the term
110 “convenience business” means any place of business that is
111 primarily engaged in the retail sale of groceries, or both
112 groceries and gasoline, ~~and~~ that is open for business at any
113 time between the hours of 11 p.m. and 5 a.m., and that is
114 licensed by the Division of Alcoholic Beverages and Tobacco
115 within the Department of Business and Professional Regulation
116 pursuant to chapter 210, chapter 561, chapter 562, chapter 563,
117 chapter 564, chapter 565, or chapter 569, as applicable. The
118 term “convenience business” does not include:

119 (1) A business that is solely or primarily a restaurant.

120 (2) A business that always has at least five employees on
121 the premises after 11 p.m. and before 5 a.m.

122 (3) A business that has at least 10,000 square feet of
123 retail floor space.

124 (4) A ~~The term “convenience business” does not include any~~
125 business in which the owner or members of his or her family work
126 between the hours of 11 p.m. and 5 a.m.



514990

Section 21. Subsections (3), (4), and (5) of section 812.173, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

812.173 Convenience business security.-

(3) Every convenience business shall be equipped with a silent alarm to law enforcement or a private security agency, unless an application for an exemption, adopted by rule by the Division of Alcoholic Beverages and Tobacco, is made to and granted by the Division of Alcoholic Beverages and Tobacco ~~Attorney General~~. An application for exemption must be in writing and must be accompanied by an administrative fee of \$25 for each store for which an exemption would apply.

(4) If a murder, robbery, sexual battery, aggravated assault, aggravated battery, or kidnapping or false imprisonment, as those crimes are identified and defined by Florida Statutes, occurs or has occurred at a convenience business since July 1, 1989, and arises out of the operation of the convenience business, that convenience business shall notify the Division of Alcoholic Beverages and Tobacco in writing and shall implement at least one of the following security measures within 30 days after a judicial determination that one or more of the aforementioned identified crimes occurred at the convenience business:

(a) Provide at least two employees on the premises at all times after 11 p.m. and before 5 a.m.;

(b) Install for use by employees at all times after 11 p.m. and before 5 a.m. a secured safety enclosure of transparent polycarbonate or other material that meets at least one of the following minimum standards:



514990

1. American Society for Testing and Materials Standard D3935 (classification PC110 B 3 0800700) and that has a thickness of at least 0.375 inches and has an impact strength of at least 200 foot pounds; or

2. Underwriters Laboratory Standard UL 752 for medium power small arms (level one), Bullet Resisting Equipment;

(c) Provide a security guard on the premises at all times after 11 p.m. and before 5 a.m.;

(d) Lock the business premises throughout the hours of 11 p.m. to 5 a.m., and only transact business through an indirect pass-through trough, trapdoor, or window; or

(e) Close the business at all times after 11 p.m. and before 5 a.m.

(5) For purposes of this section, any convenience business that by law implemented any of the security measures set forth in paragraphs (4)(a)-(e) and has maintained said measures as required by the Division of Alcoholic Beverages and Tobacco ~~Department of Legal Affairs~~ without any occurrence or incidence of the crimes identified by subsection (4) for a period of no less than 24 months immediately preceding the filing of a notice of exemption, may file with the department a notice of exemption from these enhanced security measures. In no event shall this exemption be interpreted to preclude full compliance with the security measures set forth in subsection (4) should any occurrence or incidence of the crimes identified by subsection (4) cause subsection (4) to be statutorily applicable. As of July 1, 2021, the Division of Alcoholic Beverages and Tobacco ~~the date this act becomes law, the Department of Legal Affairs~~ will provide notice to any convenience business to which a



514990

subsection (4) incident ~~has previously~~ occurred between July 1, 2019, and July 1, 2021. In no event shall the state or the Division of Alcoholic Beverages and Tobacco ~~Department of Legal Affairs~~ incur any liability for the regulation and enforcement of this act.

(6) The Division of Alcoholic Beverages and Tobacco has the authority to investigate the premises and records of any licensee in order to determine whether the licensee is a convenience business and subject to this act.

Section 22. Section 812.174, Florida Statutes, is amended to read:

812.174 Training of employees.—The owner or principal operator of a convenience business or convenience businesses shall provide proper robbery deterrence and safety training by an approved curriculum to its retail employees within 60 days of employment. ~~Existing retail employees shall receive training within 6 months of April 8, 1992.~~ A proposed curriculum shall be submitted in writing to the Division of Alcoholic Beverages and Tobacco ~~Attorney General~~ with an administrative fee not to exceed \$100. The Division of Alcoholic Beverages and Tobacco ~~Attorney General~~ shall review and approve or disapprove the curriculum in writing within 60 days after receipt. The state shall have no liability for approving or disapproving a training curriculum under this section. Approval shall be given to a curriculum which trains and familiarizes retail employees with the security principles, devices, and measures required by s. 812.173. Disapproval of a curriculum shall be subject to the provisions of chapter 120. No person shall be liable for ordinary negligence due to implementing an approved curriculum



514990

if the training was actually provided. A curriculum must ~~shall~~
be submitted for reapproval biennially on or before the date
established by rule by the Division of Alcoholic Beverages and
Tobacco and must be accompanied by ~~with~~ an administrative fee
not to exceed \$100. ~~Any curriculum approved by the Attorney~~
~~General since September 1990 shall be subject to reapproval 2~~
~~years from the anniversary of initial approval and biennially~~
~~thereafter.~~

Section 23. Section 812.175, Florida Statutes, is amended
to read:

812.175 Enforcement; civil fine.—

(1) The violation of any provision of this act by any owner
or principal operator of a convenience business shall result in
a notice of violation from the Division of Alcoholic Beverages
and Tobacco ~~Attorney General~~. Violators shall have 30 days after
receipt of the notice to provide proof of compliance to the
Division of Alcoholic Beverages and Tobacco ~~Attorney General's~~
~~office~~. If the violation continues after the 30-day period, the
Division of Alcoholic Beverages and Tobacco ~~Attorney General~~ may
impose a civil fine not to exceed \$5,000. The Division of
Alcoholic Beverages and Tobacco ~~Attorney General~~ has the
authority to investigate any alleged violation and may
compromise any alleged violation by accepting from the owner or
principal operator an amount not to exceed \$5,000. The Division
of Alcoholic Beverages and Tobacco ~~Attorney General~~ may suspend
the imposition of any fine conditioned upon terms the Division
of Alcoholic Beverages and Tobacco ~~Attorney General's office~~ in
its discretion deems appropriate. Notices of violation and civil
fines are ~~shall be~~ subject to the ~~provisions of~~ chapter 120.



514990

(2) Moneys received by the Division of Alcoholic Beverages and Tobacco ~~Attorney General~~ pursuant to this act must ~~shall~~ be deposited in the General Revenue Fund.

(3) The Division of Alcoholic Beverages and Tobacco ~~Attorney General~~ is given full power and authority to petition for an injunction when it is determined that the health, safety, and public welfare is threatened by continued operation of a convenience business in violation of this act. In any action for injunction, the Division of Alcoholic Beverages and Tobacco ~~Attorney General~~ may seek a civil penalty not to exceed \$5,000 per violation, plus attorney's fees and costs.

(4) The Division of Alcoholic Beverages and Tobacco ~~Attorney General~~ may enter into agreements with local governments to assist in the enforcement of ss. 812.1701-812.175. Such agreements may include provision for reimbursement of investigative and enforcement costs incurred by such local governments.

Section 24. Section 812.176, Florida Statutes, is amended to read:

812.176 Rulemaking authority.—The Division of Alcoholic Beverages and Tobacco ~~Department of Legal Affairs~~ shall have the power to adopt rules pursuant to chapter 120 as necessary to implement ~~the provisions of~~ the Convenience Business Security Act. The security measures and training provisions of ss. 812.173 and 812.174 shall meet the requirements of the department as set forth by rule.

Section 25. Section 3 of chapter 2019-127, Laws of Florida, is amended to read:

Section 3. The amendments to ss. 893.055 and 893.0551,



514990

Florida Statutes, made by this act shall stand repealed on June 30, 2023 ~~June 30, 2021~~, unless reviewed and saved from repeal through reenactment by the Legislature. If such amendments are not saved from repeal, the text of ss. 893.055 and 893.0551, Florida Statutes, shall revert to that in existence on June 30, 2019, except that any amendments to such text other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to 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 26 - 56

and insert:

amending s. 376.84, F.S.; conforming a provision to changes made by the act; amending s. 402.181, F.S.; requiring certain claims for restitution to be filed with specified entities; removing the Department of Legal Affairs as an entity for such filings; authorizing the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, and the Agency for Persons with Disabilities to adopt rules to process specified claims; amending s. 501.160, F.S.; authorizing certain declarations during a state of emergency to be extended by executive order; amending s. 775.083, F.S.; conforming a provision to changes made by the act; amending s. 812.171, F.S.; revising a definition; amending ss. 812.173, 812.174, 812.175,



514990

and 812.176, F.S.; revising provisions to require that the Division of Alcoholic Beverages and Tobacco, instead of the Attorney General, regulate convenience businesses; amending chapter 2019-127, Laws of Florida; extending the timeframe for the Attorney General to access records from the prescription drug monitoring program when ordered by a court under specified provisions; delaying the scheduled repeal of amendments until a specified date unless reviewed and saved from repeal through reenactment by the Legislature; providing an effective date.

By the Committee on Governmental Oversight and Accountability;
and Senator Brodeur

585-02678-21

20211040c1

1 A bill to be entitled
2 An act relating to duties of the Attorney General;
3 repealing s. 16.10, F.S., relating to the receipt of
4 Supreme Court decisions by the Attorney General;
5 repealing s. 16.101, F.S., relating to the Supreme
6 Court reporter; amending s. 163.503, F.S.; revising
7 the definition of "department" to conform to changes
8 made by the act; amending s. 163.504, F.S.; deleting
9 provisions relating to the Safe Neighborhoods Program;
10 amending ss. 163.5055, 163.506, 163.508, and 163.511,
11 F.S.; relieving the Department of Legal Affairs from
12 certain duties associated with specified neighborhood
13 improvement districts; repealing s. 163.517, F.S.,
14 relating to the Safe Neighborhoods Program; repealing
15 s. 163.519, F.S., relating to the duties of the
16 Department of Legal Affairs; repealing s. 163.521,
17 F.S., relating to funding of neighborhood improvement
18 districts inside enterprise zones; repealing s.
19 163.5215, F.S., relating to the construction of the
20 Safe Neighborhoods Act; repealing s. 163.522, F.S.,
21 relating to state redevelopment programs; repealing s.
22 163.523, F.S., relating to the cooperation and
23 involvement of community organizations to create safe
24 neighborhood districts; amending s. 163.524, F.S.;
25 conforming a provision to changes made by the act;
26 amending s. 215.22, F.S.; specifying that the Crimes
27 Compensation Trust Fund is exempt from the service
28 charge into the General Revenue Fund; amending s.
29 376.84, F.S.; conforming a cross-reference; amending

Page 1 of 14

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

585-02678-21

20211040c1

30 s. 402.181, F.S.; requiring certain claims for
31 restitution to be filed with specified entities;
32 removing the Department of Legal Affairs as an entity
33 for such filings; authorizing the Department of
34 Children and Families, the Department of Health, the
35 Department of Juvenile Justice, the Department of
36 Corrections, and the Agency for Persons with
37 Disabilities to adopt rules to process specified
38 claims; amending s. 501.160, F.S.; authorizing certain
39 declarations during a state of emergency to be
40 extended for specified days by executive order;
41 amending ss. 775.083 and 812.173, F.S.; conforming a
42 provision to changes made by the act; amending ss.
43 812.174, 812.175, and 812.176, F.S.; revising
44 provisions to require that the Department of Business
45 and Professional Regulation, instead of the Attorney
46 General, regulate convenience businesses; amending
47 chapter 2019-127, Laws of Florida; extending the
48 timeframe for the Attorney General to have access to
49 records from the prescription drug monitoring program
50 when ordered by a court under specified provisions;
51 delaying the scheduled repeal of amendments until a
52 specified date unless reviewed and saved from repeal
53 through reenactment by the Legislature; amending s.
54 960.21, F.S.; deleting a reference to the service
55 charge provided for in ch. 215, F.S., to conform to
56 changes made by the act; providing an effective date.
57
58 Be It Enacted by the Legislature of the State of Florida:

Page 2 of 14

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

585-02678-21

20211040c1

Section 1. Section 16.10, Florida Statutes, is repealed.

Section 2. Section 16.101, Florida Statutes, is repealed.

Section 3. Subsection (3) of section 163.503, Florida

Statutes, is amended to read:

163.503 Definitions.—

(3) "Department" means the Department of Economic Opportunity ~~Legal Affairs~~.

Section 4. Section 163.504, Florida Statutes, is amended to read:

163.504 Safe neighborhood improvement districts; planning funds.—

~~(1)~~ The governing body of any municipality or county may authorize the formation of safe neighborhood improvement districts through the adoption of a planning ordinance which specifies that such districts may be created by one or more of the methods established in ss. 163.506, 163.508, 163.511, and 163.512. No district may overlap the jurisdictional boundaries of a municipality and the unincorporated area of a county, except by interlocal agreement.

~~(2) If the governing body of a municipality or county elects to create a safe neighborhood improvement district, it shall be eligible to request a grant from the Safe Neighborhoods Program, created pursuant to s. 163.517 and administered by the Department of Legal Affairs, to prepare a safe neighborhood improvement plan for the district.~~

~~(3) Municipalities and counties may implement the provisions of this section without planning funds from the Department of Legal Affairs. However, nothing in this section~~

585-02678-21

20211040c1

~~shall be construed to exempt any district from the requirements of providing a safe neighborhood improvement plan pursuant to s. 163.516.~~

Section 5. Subsection (1) of section 163.5055, Florida Statutes, is amended to read:

163.5055 Registration of district establishment; notice of dissolution.—

(1) (a) Each neighborhood improvement district authorized and established under this part shall within 30 days thereof register with ~~both~~ the Department of Economic Opportunity ~~and the Department of Legal Affairs~~ by providing the department ~~these departments~~ with the district's name, location, size, and type, and such other information as the department ~~departments~~ may require.

(b) Each local governing body that authorizes the dissolution of a district shall notify ~~both~~ the Department of Economic Opportunity ~~and the Department of Legal Affairs~~ within 30 days after the dissolution of the district.

Section 6. Paragraph (h) of subsection (1) of section 163.506, Florida Statutes, is amended to read:

163.506 Local government neighborhood improvement districts; creation; advisory council; dissolution.—

(1) After a local planning ordinance has been adopted authorizing the creation of local government neighborhood improvement districts, the local governing body of a municipality or county may create local government neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(h) Requires the district to notify the ~~Department of Legal~~

585-02678-21 20211040c1

~~Affairs and the~~ Department of Economic Opportunity in writing of
its establishment within 30 days thereof pursuant to s.
163.5055.

Section 7. Paragraph (g) of subsection (1) of section
163.508, Florida Statutes, is amended to read:

163.508 Property owners' association neighborhood
improvement districts; creation; powers and duties; duration.—

(1) After a local planning ordinance has been adopted
authorizing the creation of property owners' association
neighborhood improvement districts, the local governing body of
a municipality or county may create property owners' association
neighborhood improvement districts by the enactment of a
separate ordinance for each district, which ordinance:

(g) Requires the district to notify the ~~Department of Legal
Affairs and the~~ Department of Economic Opportunity in writing of
its establishment within 30 days thereof pursuant to s.
163.5055.

Section 8. Paragraph (i) of subsection (1) of section
163.511, Florida Statutes, is amended to read:

163.511 Special neighborhood improvement districts;
creation; referendum; board of directors; duration; extension.—

(1) After a local planning ordinance has been adopted
authorizing the creation of special neighborhood improvement
districts, the governing body of a municipality or county may
declare the need for and create special residential or business
neighborhood improvement districts by the enactment of a
separate ordinance for each district, which ordinance:

(i) Requires the district to notify the ~~Department of Legal
Affairs and the~~ Department of Economic Opportunity in writing of

585-02678-21 20211040c1

its establishment within 30 days thereof pursuant to s.
163.5055.

Section 9. Section 163.517, Florida Statutes, is repealed.

Section 10. Section 163.519, Florida Statutes, is repealed.

Section 11. Section 163.521, Florida Statutes, is repealed.

Section 12. Section 163.5215, Florida Statutes, is
repealed.

Section 13. Section 163.522, Florida Statutes, is repealed.

Section 14. Section 163.523, Florida Statutes, is repealed.

Section 15. Subsection (5) of section 163.524, Florida
Statutes, is amended to read:

163.524 Neighborhood Preservation and Enhancement Program;
participation; creation of Neighborhood Preservation and
Enhancement Districts; creation of Neighborhood Councils and
Neighborhood Enhancement Plans.—

(5) The Neighborhood Council and local government planning
agency shall be eligible to receive grants ~~from the Safe
Neighborhoods Program as provided in s. 163.517.~~

Section 16. Paragraph (w) is added to subsection (1) of
section 215.22, Florida Statutes, to read:

215.22 Certain income and certain trust funds exempt.—

(1) The following income of a revenue nature or the
following trust funds shall be exempt from the appropriation
required by s. 215.20(1):

(w) The Crimes Compensation Trust Fund.

Section 17. Paragraph (c) of subsection (1) of section
376.84, Florida Statutes, is amended to read:

376.84 Brownfield redevelopment economic incentives.—It is
the intent of the Legislature that brownfield redevelopment

585-02678-21

20211040c1

activities be viewed as opportunities to significantly improve the utilization, general condition, and appearance of these sites. Different standards than those in place for new development, as allowed under current state and local laws, should be used to the fullest extent to encourage the redevelopment of a brownfield. State and local governments are encouraged to offer redevelopment incentives for this purpose, as an ongoing public investment in infrastructure and services, to help eliminate the public health and environmental hazards, and to promote the creation of jobs in these areas. Such incentives may include financial, regulatory, and technical assistance to persons and businesses involved in the redevelopment of the brownfield pursuant to this act.

(1) Financial incentives and local incentives for redevelopment may include, but not be limited to:

(c) Safe neighborhood improvement districts as provided in ss. 163.501-163.516 ~~ss. 163.501-163.523~~.

Section 18. Subsections (2) and (3) of section 402.181, Florida Statutes, are amended to read:

402.181 State Institutions Claims Program.—

(2) Claims for restitution may be filed with the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, or the Agency for Persons with Disabilities. The claim must be filed with the department or agency responsible for monitoring the person that caused the medical injury or the property damage ~~Legal Affairs at its office in accordance with regulations prescribed by the Department of Legal Affairs~~. The departments and agencies ~~Department of Legal Affairs~~ shall have the full

585-02678-21

20211040c1

power and authority to approve or deny ~~hear, investigate, and determine all questions in respect to such claims and may is~~ ~~authorized~~, within the limits of current appropriations, ~~to~~ pay individual claims up to \$1,000 or, with respect to children in foster care and their families, individual claims up to \$1,500. Claims in excess of these amounts shall continue to require legislative approval.

(3)~~(a)~~ The Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, and the Agency for Persons with Disabilities shall adopt rules to process claims and to ensure that eligible claimants receive restitution within a reasonable time ~~The Department of Legal Affairs shall make or cause to be made such investigations as it considers necessary in respect to such claims. Hearings shall be held in accordance with chapter 120.~~

~~(b) The Department of Legal Affairs shall work with the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, the Department of Corrections, and the Agency for Persons with Disabilities to streamline the process of investigations, hearings, and determinations with respect to claims under this section, to ensure that eligible claimants receive restitution within a reasonable time.~~

Section 19. Subsections (2) and (3) of section 501.160, Florida Statutes, are amended to read:

501.160 Rental or sale of essential commodities during a declared state of emergency; prohibition against unconscionable prices.—

585-02678-21

20211040c1

(2) Upon a declaration of a state of emergency by the Governor, it is unlawful and a violation of s. 501.204 for a person or her or his agent or employee to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared;

(a) Any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency.

(b) Any dwelling unit or self-storage facility that is necessary for habitation or use as a direct result of the emergency.

This prohibition is effective not to exceed 60 days under the initial declared state of emergency as defined in s. 252.36(2) and may be extended an additional 60 days by an executive order issued by the Governor specifically referencing this section ~~shall be renewed by statement in any subsequent renewals of the declared state of emergency by the Governor.~~

~~(3) It is unlawful and a violation of s. 501.204 for any person to impose unconscionable prices for the rental or lease of any dwelling unit or self-storage facility during a period of declared state of emergency.~~

Section 20. Subsection (2) of section 775.083, Florida Statutes, is amended to read:

775.083 Fines.—

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a

585-02678-21

20211040c1

criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be \$50 for a felony and \$20 for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, ~~including safe neighborhood programs under ss. 163.501-163.523.~~

Section 21. Subsections (3) and (5) of section 812.173, Florida Statutes, are amended to read:

812.173 Convenience business security.—

(3) Every convenience business shall be equipped with a silent alarm to law enforcement or a private security agency, unless application for an exemption is made to and granted by the Department of Business and Professional Regulation ~~Attorney General~~. An application for exemption must be in writing and must be accompanied by an administrative fee of \$25 for each store for which an exemption would apply.

(5) For purposes of this section, any convenience business that by law implemented any of the security measures set forth in paragraphs (4)(a)-(e) and has maintained said measures as required by the Department of Business and Professional Regulation ~~Legal Affairs~~ without any occurrence or incidence of the crimes identified by subsection (4) for a period of no less than 24 months immediately preceding the filing of a notice of exemption, may file with the department a notice of exemption

585-02678-21

20211040c1

from these enhanced security measures. In no event shall this exemption be interpreted to preclude full compliance with the security measures set forth in subsection (4) should any occurrence or incidence of the crimes identified by subsection (4) cause subsection (4) to be statutorily applicable. As of July 1, 2021 ~~the date this act becomes law~~, the Department of Business and Professional Regulation ~~Legal Affairs~~ will provide notice to any convenience business to which a subsection (4) incident has previously occurred. In no event shall the state or the Department of Business and Professional Regulation ~~Legal Affairs~~ incur any liability for the regulation and enforcement of this act.

Section 22. Section 812.174, Florida Statutes, is amended to read:

812.174 Training of employees.—The owner or principal operator of a convenience business or convenience businesses shall provide proper robbery deterrence and safety training by an approved curriculum to its retail employees within 60 days of employment. ~~Existing retail employees shall receive training within 6 months of April 8, 1992.~~ A proposed curriculum shall be submitted in writing to the Department of Business and Professional Regulation ~~Attorney General~~ with an administrative fee not to exceed \$100. The Department of Business and Professional Regulation ~~Attorney General~~ shall review and approve or disapprove the curriculum in writing within 60 days after receipt. The state shall have no liability for approving or disapproving a training curriculum under this section. Approval shall be given to a curriculum which trains and familiarizes retail employees with the security principles,

585-02678-21

20211040c1

devices, and measures required by s. 812.173. Disapproval of a curriculum shall be subject to the provisions of chapter 120. No person shall be liable for ordinary negligence due to implementing an approved curriculum if the training was actually provided. A curriculum shall be submitted for reapproval biennially with an administrative fee not to exceed \$100. Any curriculum approved by the Attorney General between since ~~September 1990 and June 30, 2021, and any curriculum approved on or after July 1, 2021, by the Department of Business and Professional Regulation shall be subject to reapproval 2 years from the anniversary of initial approval and biennially thereafter.~~

Section 23. Section 812.175, Florida Statutes, is amended to read:

812.175 Enforcement; civil fine.—

(1) The violation of any provision of this act by any owner or principal operator of a convenience business shall result in a notice of violation from the Department of Business and Professional Regulation ~~Attorney General~~. Violators shall have 30 days after receipt of the notice to provide proof of compliance to the Department of Business and Professional Regulation ~~Attorney General's office~~. If the violation continues after the 30-day period, the Department of Business and Professional Regulation ~~Attorney General~~ may impose a civil fine not to exceed \$5,000. The Department of Business and Professional Regulation ~~Attorney General~~ has the authority to investigate any alleged violation and may compromise any alleged violation by accepting from the owner or principal operator an amount not to exceed \$5,000. The Department of Business and

585-02678-21

20211040c1

~~Professional Regulation Attorney General~~ may suspend the imposition of any fine conditioned upon terms the Department of Business and Professional Regulation Attorney General's office in its discretion deems appropriate. Notices of violation and civil fines shall be subject to the provisions of chapter 120.

(2) Moneys received by the Department of Business and Professional Regulation Attorney General pursuant to this act shall be deposited in the General Revenue Fund.

(3) The Department of Business and Professional Regulation Attorney General is given full power and authority to petition for an injunction when it is determined that the health, safety, and public welfare is threatened by continued operation of a convenience business in violation of this act. In any action for injunction, the Department of Business and Professional Regulation Attorney General may seek a civil penalty not to exceed \$5,000 per violation, plus attorney's fees and costs.

(4) The Department of Business and Professional Regulation Attorney General may enter into agreements with local governments to assist in the enforcement of ss. 812.1701-812.175. Such agreements may include provision for reimbursement of investigative and enforcement costs incurred by such local governments.

Section 24. Section 812.176, Florida Statutes, is amended to read:

812.176 Rulemaking authority.—The Department of Business and Professional Regulation ~~may Legal Affairs shall have the power to~~ adopt rules pursuant to chapter 120 as necessary to implement the provisions of the Convenience Business Security Act. The security measures and training provisions of ss.

585-02678-21

20211040c1

812.173 and 812.174 shall meet the requirements of the department as set forth by rule.

Section 25. Section 3 of chapter 2019-127, Laws of Florida, is amended to read:

Section 3. The amendments to ss. 893.055 and 893.0551, Florida Statutes, made by this act shall stand repealed on June 30, 2023 ~~June 30, 2021~~, unless reviewed and saved from repeal through reenactment by the Legislature. If such amendments are not saved from repeal, the text of ss. 893.055 and 893.0551, Florida Statutes, shall revert to that in existence on June 30, 2019, except that any amendments to such text other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

Section 26. Subsection (3) of section 960.21, Florida Statutes, is amended to read:

960.21 Crimes Compensation Trust Fund.—

(3) All administrative costs of this chapter ~~and the service charge provided for in chapter 215~~ shall be paid out of moneys collected under ~~pursuant to~~ this chapter and deposited in the Crimes Compensation Trust Fund.

Section 27. This act shall take effect June 30, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 12, 2021

I respectfully request that **Senate Bill 1040**, relating to Duties of the Attorney General, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur". The signature is fluid and cursive, with a long horizontal stroke at the end.

Senator Jason Brodeur
Florida Senate, District 9

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/18/21

Meeting Date

1040

Bill Number (if applicable)

Topic Duties of the Attorney General

Amendment Barcode (if applicable)

Name John Guard

Job Title Chief Deputy Attorney General

Address 400 S. Monroe St.

Street

Tallahassee

FL

32399

City

State

Zip

Phone _____

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of the Attorney General

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Appropriations Committee

Judge:

Started: 3/18/2021 11:33:15 AM

Ends: 3/18/2021 1:07:10 PM

Length: 01:33:56

11:33:16 AM	Sen. Stargel (Chair)
11:33:17 AM	S 1040
11:33:20 AM	Sen. Broduer
11:34:09 AM	Am. 514990
11:35:18 AM	John Guard, Chief Deputy Attorney General, Office of the Attorney General (waives in support)
11:35:30 AM	Sen. Broduer
11:36:48 AM	S 100
11:37:03 AM	Sen. Harrell
11:41:45 AM	Am. 740874
11:44:12 AM	Sen. Rouson
11:44:31 AM	Sen. Harrell
11:45:24 AM	Sen. Gibson
11:46:00 AM	Sen. Harrell
11:46:49 AM	Sen. Bracy
11:47:19 AM	Sen. Harrell
11:48:15 AM	Beth Alvi, Director of Policy, Audubon Florida
11:49:48 AM	Sen. Rouson
11:50:06 AM	B. Alvi
11:50:43 AM	Sen. Brandes
11:50:51 AM	Sen. Harrell
11:51:02 AM	Sen. Brandes
11:51:12 AM	Sen. Harrell
11:51:20 AM	Sen. Brandes
11:51:32 AM	Sen. Stewart
11:52:02 AM	Sen. Harrell
11:52:50 AM	Sen. Stewart
11:52:59 AM	Sen. Harrell
11:53:28 AM	Sen. Stewart
11:54:30 AM	Sen. Harrell
11:55:08 AM	Sen. Gibson
11:56:29 AM	Sen. Harrell
11:57:40 AM	Sally Patrenos, President, Floridians for Better Transportation (waives in support)
11:57:47 AM	Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
11:57:51 AM	Travis Moore, Defenders of Wildlife (waives in support)
11:57:54 AM	Kate MacFall, State Director, Humane Society of the United States (waives in support)
11:58:01 AM	Paul Owens, President, 1000 Friends of Florida
12:01:43 PM	Lindsay Cross, Government Relations Director, Florida Conservation Voters
12:04:41 PM	Sen. Stewart
12:06:25 PM	Sen. Albritton
12:08:08 PM	Sen. Powell
12:11:24 PM	Sen. Bracy
12:12:02 PM	Sen. Farmer
12:12:59 PM	Sen. Gibson
12:14:43 PM	Sen. Perry
12:15:48 PM	Sen. Harrell
12:20:58 PM	S 264
12:21:19 PM	PCS 126670
12:21:27 PM	Sen. Rodrigues
12:23:21 PM	Sen. Pizzo
12:23:34 PM	Sen. Rodrigues
12:24:52 PM	Sen. Pizzo
12:26:33 PM	Sen. Rodrigues

12:26:55 PM	Am. 804586
12:28:19 PM	Sen. Brandes
12:28:58 PM	Sen. Rodrigues
12:29:05 PM	Sen. Brandes
12:29:31 PM	Sen. Rodrigues
12:29:40 PM	Sen. Pizzo
12:31:23 PM	Sen. Rodrigues
12:32:08 PM	Sen. Brandes
12:32:31 PM	Sen. Rodrigues
12:32:48 PM	Sen. Powell
12:33:37 PM	Sen. Rodrigues
12:34:23 PM	Sen. Powell
12:34:51 PM	Sen. Rodrigues
12:35:37 PM	Am. 777004
12:36:26 PM	Sen. Pizzo
12:37:01 PM	Sen. Rodrigues
12:37:29 PM	Sen. Stargel
12:38:02 PM	Sen. Rodrigues
12:38:51 PM	Yale Olenick, Lobbyist, Florida Education Association (waives in opposition)
12:39:01 PM	Trish Neely, Director, League Women Voters (waives in opposition)
12:39:06 PM	Karen Moriah, President, United Faculty of Florida
12:46:36 PM	Sen. Pizzo
12:50:13 PM	Sen. Rodrigues
12:52:46 PM	S 1716
12:52:57 PM	Sen. Hooper
12:53:51 PM	David Serdar, Citizen
12:55:18 PM	S 170
12:55:24 PM	Sen. Hooper
12:56:07 PM	Jason D. Winn, Florida Podiatric Medical Association (waives in support)
12:56:09 PM	Steve Winn, Executive Director, Florida Osteopathic Medical Association (waives in support)
12:56:15 PM	Chris Hansen, Ballard Partners, Florida Podiatric Medical Association
12:58:15 PM	S 524
12:58:23 PM	Sen. Hooper
12:59:18 PM	Charlotte Jerrett, Chief Financial Officer, Fish and Wildlife Conservation Commission (waives in support)
12:59:30 PM	David Serdar, Citizen
1:00:42 PM	SB 866
1:00:46 PM	Sen. Hooper
1:02:12 PM	Sen. Rouson
1:02:32 PM	Sen. Hooper
1:03:11 PM	Jamie Wilson, Vice President of Government Relations, Moffitt Cancer Center (waives in support)
1:03:22 PM	David Serdar, Citizen
1:05:08 PM	Sen. Hooper
1:06:10 PM	Sen. Book
1:06:18 PM	Sen. Gainer
1:06:24 PM	Sen. Albritton
1:06:31 PM	Sen. Pizzo
1:06:42 PM	Sen. Bracy
1:06:47 PM	Sen. Powell