

Tab 1	SB 120 by Perry; (Identical to H 01357) Early Childhood Music Education Incentive Pilot Program					
Tab 2	SB 172 by Bean (CO-INTRODUCERS) Gibson; (Identical to H 06001) Florida Endowment for Vocational Rehabilitation					
Tab 3	CS/SB 426 by CA, Flores (CO-INTRODUCERS) Torres, Hooper, Perry, Gruters, Broxson, Stewart, Taddeo, Berman, Powell, Mayfield, Rouson, Montford, Bracy, Farmer, Book, Gibson, Bean; (Similar to H 00857) Firefighters					
742124	A	S	RCS	AP, Flores	btw L.119 - 120:	04/12 01:29 PM
Tab 4	CS/SB 442 by MS, Lee (CO-INTRODUCERS) Broxson, Cruz, Mayfield, Diaz, Gibson; (Identical to CS/CS/H 00217) Postsecondary Education for Certain Military Personnel					
Tab 5	CS/CS/CS/SB 452 by GO, JU, CF, Gibson; (Similar to CS/H 00583) Elder Abuse Fatality Review Teams					
Tab 6	CS/SB 464 by ED, Flores (CO-INTRODUCERS) Montford; (Similar to CS/CS/H 00547) Prepaid College Plans					
112706	PCS	S	RCS	AP, AED		04/12 01:43 PM
Tab 7	CS/SB 626 by BI, Brandes (CO-INTRODUCERS) Broxson; (Similar to CS/CS/H 00673) Insurer Guaranty Associations					
973990	PCS	S	RCS	AP, AEG		04/12 02:44 PM
Tab 8	SB 720 by Flores; (Identical to H 00525) Renaming of Florida College System Institutions					
Tab 9	CS/CS/SB 796 by IS, IT, Gruters (CO-INTRODUCERS) Bracy, Montford, Broxson; (Similar to CS/CS/H 00797) Public Utility Storm Protection Plans					
880822	D	S	RCS	AP, Gruters	Delete everything after	04/12 01:44 PM
Tab 10	CS/SB 828 by CJ, Rader (CO-INTRODUCERS) Rouson; (Similar to CS/CS/H 00599) Lewd or Lascivious Exhibition					
Tab 11	CS/SB 844 by IS, Berman (CO-INTRODUCERS) Bean, Hutson, Gibson; (Similar to CS/H 00305) At-Risk Adult Alert Plan					
322368	D	S	L RCS	AP, Berman	Delete everything after	04/12 01:50 PM
Tab 12	SB 860 by Stargel (CO-INTRODUCERS) Gibson; (Compare to CS/CS/H 00449) Alzheimer's Disease					
363800	PCS	S	RCS	AP, AHS		04/12 02:19 PM
Tab 13	SB 910 by Gainer (CO-INTRODUCERS) Passidomo; (Similar to CS/H 01265) Court-ordered Treatment Programs					
Tab 14	CS/SB 974 by IS, Perry; (Compare to CS/H 01057) Damaged, Dismantled, Derelict, or Salvage Motor Vehicles					
141874	PCS	S	RCS	AP, ATD		04/12 12:54 PM
111552	A	S	RCS	AP, Perry	Delete L.140:	04/12 12:54 PM
871018	A	S	L RCS	AP, Perry	btw L.39 - 40:	04/12 12:54 PM
Tab 15	CS/SB 1020 by AG, Bradley (CO-INTRODUCERS) Albritton, Hutson, Bracy; (Compare to CS/H 00333) State Hemp Program					
151590	D	S	RCS	AP, Bradley	Delete everything after	04/12 03:16 PM

Tab 16 CS/CS/SB 1080 by ED, CJ, Book; (Similar to CS/CS/H 00727) Hazing							
108426	A	S	RCS	AP, Book	Delete L.28 - 31:	04/12	03:34 PM

Tab 17 SB 1300 by Benacquisto; (Identical to H 06047) Florida ABLE Program							

Tab 18 SB 1436 by Gibson; (Compare to H 01045) Closing the Gap Grant Proposals							
612176	PCS	S	RCS	AP, AHS		04/12	02:10 PM

Tab 19 CS/SB 1500 by EN, Simmons; (Similar to CS/CS/H 00767) Right of Entry							
~~300132~~	A	S	L	WD	AP, Hutson	btw L.36 - 37:	04/12 03:02 PM
197108	A	S	L	RCS	AP, Simmons	Delete L.19 - 24:	04/12 03:02 PM

Tab 20 CS/SB 7030 by IS, ED; (Compare to H 07093) School Safety and Security							
313546	D	S	RCS	AP, Diaz	Delete everything after	04/12	03:07 PM
~~970098~~	AA	S	WD	AP, Thurston	Delete L.27 - 34:	04/12	03:07 PM
662486	AA	S	RCS	AP, Passidomo	btw L.906 - 907:	04/12	03:07 PM
~~132990~~	AA	S	L	WD	AP, Stewart	btw L.84 - 85:	04/12 03:07 PM
~~544134~~	AA	S	L	WD	AP, Braynon	btw L.706 - 707:	04/12 03:07 PM
~~721654~~	AA	S	L	WD	AP, Braynon	btw L.392 - 393:	04/12 03:07 PM

Tab 21 CS/SB 7040 by GO, EE; (Similar to CS/H 07021) Financial Disclosure							
185834	D	S	RCS	AP, Baxley	Delete everything after	04/12	11:59 AM

Tab 22 CS/SB 7042 by GO, EE; (Identical to CS/H 07023) Public Records/Commission on Ethics							

Tab 23 SB 7068 by IS; (Similar to H 07113) Transportation							
901688	PCS	S	RCS	AP, ATD		04/12	03:47 PM
145512	A	S	RCS	AP, Lee	Delete L.220:	04/12	03:47 PM

Tab 24 HB 5011 by APC, Renner; (Compare to 1ST ENG/S 02500) County Court Judges							
963756	D	S	FAV	AP, Bradley	Delete everything after	04/12	02:30 PM

Tab 25 HB 5303 by GOT, Williamson; (Compare to 1ST ENG/S 02500) Child Support Enforcement							

Tab 26 HB 5401 by ANR, Raschein; (Similar to S 01502) Department of Environmental Protection							

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Bradley, Chair
Senator Simpson, Vice Chair

MEETING DATE: Thursday, April 11, 2019**TIME:** 9:00 a.m.—5:00 p.m.**PLACE:** Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bradley, Chair; Senator Simpson, Vice Chair; Senators Bean, Benacquisto, Book, Brandes, Braynon, Flores, Gainer, Gibson, Hutson, Lee, Mayfield, Montford, Passidomo, Powell, Rouson, Simmons, Stargel, Stewart, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 120 Perry (Identical H 1357)	Early Childhood Music Education Incentive Pilot Program; Extending the scheduled expiration of the pilot program, etc. ED 02/05/2019 Favorable AED 03/19/2019 Favorable AP 04/11/2019 Favorable With subcommittee recommendation - Education	Favorable Yeas 19 Nays 0
2	SB 172 Bean (Identical H 6001)	Florida Endowment for Vocational Rehabilitation; Abrogating the future repeal of provisions relating to the Florida Endowment for Vocational Rehabilitation, etc. ED 03/12/2019 Favorable AED 04/04/2019 Favorable AP 04/11/2019 Favorable With subcommittee recommendation - Education	Favorable Yeas 19 Nays 0
3	CS/SB 426 Community Affairs / Flores (Similar H 857)	Firefighters; Granting certain benefits to a firefighter upon receiving a diagnosis of cancer if certain conditions are met; requiring an employer to make certain disability payments to a firefighter in the event of a total and permanent disability; providing for death benefits to a firefighter's beneficiary if a firefighter dies as a result of cancer or cancer treatments, etc. GO 02/19/2019 Favorable CA 03/05/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 11, 2019, 9:00 a.m.—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 442 Military and Veterans Affairs and Space / Lee (Identical CS/CS/H 217)	Postsecondary Education for Certain Military Personnel; Requiring the Board of Governors and State Board of Education, in consultation with the Department of Veterans' Affairs, to create a uniform system for the award of postsecondary credit to certain servicemembers and veterans of the United States Armed Forces; requiring specified postsecondary institutions to waive the transcript fee for active duty members of the Armed Forces of the United States, certain veterans, and their spouses and dependents, etc. ED 03/12/2019 Favorable MS 03/26/2019 Fav/CS AP 04/11/2019 Favorable	Favorable Yeas 19 Nays 0
5	CS/CS/CS/SB 452 Governmental Oversight and Accountability / Judiciary / Children, Families, and Elder Affairs / Gibson (Similar CS/H 583, Compare H 585, Linked CS/S 454)	Elder Abuse Fatality Review Teams; Authorizing the establishment of elder abuse fatality review teams in each judicial circuit and housing the review teams, for administrative purposes only, in the Department of Elderly Affairs; assigning responsibility for paying the administrative costs of review team operations to the team members or the entities they represent, etc. CF 02/19/2019 Fav/CS JU 03/11/2019 Fav/CS GO 03/26/2019 Fav/CS AP 04/11/2019 Favorable	Favorable Yeas 20 Nays 0
6	CS/SB 464 Education / Flores (Similar CS/CS/H 547)	Prepaid College Plans; Authorizing the transfer of fees associated with dormitory residency to approved qualified nonprofit organizations under certain circumstances; prohibiting transferred fees from exceeding a specified amount, etc. ED 03/19/2019 Fav/CS AED 04/04/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 20 Nays 0

With subcommittee recommendation - Education

A proposed committee substitute for the following bill (CS/SB 626) is available:

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Thursday, April 11, 2019, 9:00 a.m.—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 626 Banking and Insurance / Brandes (Similar CS/CS/H 673)	Insurer Guaranty Associations; Revising applicability of part III of ch. 631, F.S., as to health maintenance organizations, long-term care insurance benefits, certain health care benefits, and certain structured settlement annuity benefits; revising the number of members and composition of the Florida Life and Health Insurance Guaranty Association's board of directors; adding the reissuance of covered policies to a list of duties of the association relating to insolvent insurers, etc. BI 03/04/2019 Fav/CS AEG 03/19/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 18 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
8	SB 720 Flores (Identical H 525)	Renaming of Florida College System Institutions; Changing the name of "Florida Keys Community College" to "The College of the Florida Keys"; changing the name of "North Florida Community College" to "North Florida College", etc. ED 03/12/2019 Favorable AED 04/04/2019 Favorable AP 04/11/2019 Favorable	Favorable Yeas 19 Nays 0
With subcommittee recommendation - Education			
9	CS/CS/SB 796 Infrastructure and Security / Innovation, Industry, and Technology / Gruters (Similar CS/CS/H 797)	Public Utility Storm Protection Plans; Requiring public utilities to individually submit to the Public Service Commission, for review and approval, a transmission and distribution storm protection plan; requiring the commission to conduct an annual proceeding to allow utilities to justify and recover certain costs through a storm protection cost recovery clause; providing that utilities may not include certain costs in their base rates, etc. IT 03/06/2019 Fav/CS IS 03/20/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 19 Nays 0
10	CS/SB 828 Criminal Justice / Rader (Similar CS/CS/H 599)	Lewd or Lascivious Exhibition; Prohibiting certain lewd or lascivious acts in the presence of county correctional personnel; providing criminal penalties, etc. CJ 03/04/2019 Fav/CS ACJ 04/04/2019 Favorable AP 04/11/2019 Favorable	Favorable Yeas 20 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 11, 2019, 9:00 a.m.—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	CS/SB 844 Infrastructure and Security / Berman (Similar CS/H 305)	At-Risk Adult Alert Plan; Redefining the term "missing endangered person" to include a missing adult who meets the criteria for activation of the At-Risk Adult Alert Plan of the Department of Law Enforcement; requiring the Department of Law Enforcement, in cooperation with the Department of Transportation, the Department of Highway Safety and Motor Vehicles, the Department of the Lottery, and local law enforcement agencies, to establish and implement the At-Risk Adult Alert Plan; authorizing local law enforcement agencies to broadcast to subscribers of notifications, to the media, and on lottery terminals about certain missing adults, etc. IS 03/12/2019 Fav/CS CF 03/25/2019 Favorable AP 04/11/2019 Fav/CS	Fav/CS Yeas 20 Nays 0

A proposed committee substitute for the following bill (SB 860) is available:

12	SB 860 Stargel (Compare CS/CS/H 449)	Alzheimer's Disease; Revising representative requirements of the Alzheimer's Disease Advisory Committee membership; requiring the Department of Elderly Affairs to review and update the Alzheimer's disease state plan every 3 years in collaboration with certain parties; providing that certain clinics shall not receive decreased funding for a specified reason, etc. CF 03/11/2019 Favorable AHS 03/20/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 19 Nays 0

With subcommittee recommendation – Health and Human Services

13	SB 910 Gainer (Similar CS/H 1265)	Court-ordered Treatment Programs; Providing that veterans who were discharged or released under any condition, individuals who are current or former United States Department of Defense contractors, and individuals who are current or former military members of a foreign allied country are eligible in a certain Military Veterans and Servicemembers Court Program, etc. JU 03/04/2019 Favorable ACJ 03/19/2019 Favorable AP 04/11/2019 Favorable	Favorable Yeas 19 Nays 0

With subcommittee recommendation – Criminal and Civil Justice

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 11, 2019, 9:00 a.m.—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	CS/SB 974 Infrastructure and Security / Perry (Compare CS/H 1057)	Damaged, Dismantled, Derelict, or Salvage Motor Vehicles; Authorizing a certain notice sent by certified mail that a motor vehicle is available for pickup to be sent by another commercially available delivery service that provides proof of delivery; requiring the notice to state that the owner has a specified period during which to pick up the vehicle; authorizing an independent entity to apply for a certificate of destruction or a certificate of title if the vehicle is not claimed within a specified time after the delivery or attempted delivery of the notice, etc. IS 03/12/2019 Fav/CS ATD 04/04/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
15	CS/SB 1020 Agriculture / Bradley (Compare CS/H 333, H 1329, S 1058, S 7102, Linked S 1558, S 7088)	State Hemp Program; Creating the state hemp program within the Department of Agriculture and Consumer Services; providing requirements for program registration and for the distribution and retail sale of hemp and hemp products; directing the Commissioner of Agriculture, in consultation with the Governor and Attorney General, to submit a specified plan within a specified timeframe to the United States Secretary of Agriculture; revising the schools at which the department is required to authorize and oversee the development of industrial hemp pilot projects, etc. IT 03/06/2019 Favorable AG 03/25/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 19 Nays 0
16	CS/CS/SB 1080 Education / Criminal Justice / Book (Similar CS/CS/H 727)	Hazing; Expanding the crime of hazing, a third degree felony, to include when a person solicits others to commit or is actively involved in the planning of hazing; expanding the crime of hazing, a first degree misdemeanor, to include when a person solicits others to commit or is actively involved in the planning of hazing; providing that a person may not be prosecuted if certain conditions are met, etc. CJ 03/11/2019 Fav/CS ED 03/26/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 19 Nays 0
17	SB 1300 Benacquisto (Identical H 6047)	Florida ABLE Program; Repealing provisions relating to the scheduled reversion of provisions related to the distribution of funds in an ABLE account upon the death of a designated beneficiary, etc. CF 03/18/2019 Favorable AHS 04/04/2019 Favorable AP 04/11/2019 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 11, 2019, 9:00 a.m.—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation – Health and Human Services			
18	SB 1436 Gibson (Compare H 1045)	Closing the Gap Grant Proposals; Removing provisions related to Front Porch Florida Communities; adding a priority area that may be addressed in a Closing the Gap grant proposal, etc. HP 03/25/2019 Favorable AHS 04/04/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Health and Human Services			
19	CS/SB 1500 Environment and Natural Resources / Simmons (Similar CS/CS/H 767)	Right of Entry; Releasing right of entry reserved by a local government, water management district, or other agency of the state for specified parcels of property, etc. EN 03/26/2019 Fav/CS CA 04/02/2019 Favorable AP 04/11/2019 Fav/CS	Fav/CS Yeas 17 Nays 0
20	CS/SB 7030 Infrastructure and Security / Education (Compare H 7093, S 136)	School Safety and Security; Requiring a sheriff to establish a school guardian program under a certain condition; requiring school districts to promote a mobile suspicious activity reporting tool through specified mediums; requiring the Commissioner of Education to review recommendations from the School Hardening and Harm Mitigation Workgroup; revising the duties of the commissioner to include oversight of compliance with the safety and security requirements of the Marjory Stoneman Douglas High School Public Safety Act by specified persons and entities, etc. IS 03/20/2019 Temporarily Postponed IS 03/26/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 11 Nays 9
21	CS/SB 7040 Governmental Oversight and Accountability / Ethics and Elections (Similar CS/H 7021, Compare CS/H 7023, Linked CS/S 7042)	Financial Disclosure; Requiring the Commission on Ethics to procure and test an electronic filing system by a certain date; requiring the electronic filing of full and public disclosures of financial interests beginning on a specified date; providing procedures for the filing of a full and public disclosure for purposes of candidate qualifying; prohibiting the commission from requesting, accepting, or retaining certain information, etc. GO 03/26/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 11, 2019, 9:00 a.m.—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
22	CS/SB 7042 Governmental Oversight and Accountability / Ethics and Elections (Identical CS/H 7023, Compare CS/H 7021, Linked CS/S 7040)	Public Records/Commission on Ethics; Providing exemptions from public records requirements for secure login credentials held by the Commission on Ethics and certain information entered into the electronic filing system for financial disclosure forms; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. GO 03/26/2019 Fav/CS AP 04/11/2019 Favorable	Favorable Yeas 19 Nays 0
A proposed committee substitute for the following bill (SB 7068) is available:			
23	SB 7068 Infrastructure and Security (Similar H 7113)	Transportation; Creating the Multi-use Corridors of Regional Economic Significance Program within the Department of Transportation; specifying that projects undertaken in the corridors are tolled facilities and certain approved turnpike projects, and are considered as Strategic Intermodal System facilities; requiring the department to identify certain opportunities to accommodate or co-locate multiple types of infrastructure-addressing issues during the project development phase, etc. ATD 03/19/2019 Fav/CS AP 04/11/2019 Fav/CS	Fav/CS Yeas 20 Nays 0
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
24	HB 5011 Appropriations Committee / Renner (Compare H 5001, S 2500)	County Court Judges; Revises number of county court judges in certain counties. AP 04/11/2019 Fav/1 Amendment	Fav/1 Amendment (Yeas 18 Nays 0
25	HB 5303 Government Operations and Technology Appropriations Subcommittee / Williamson (Compare H 5001, S 2500, S 2502)	Child Support Enforcement; Revises requirement that DOR pay federally required annual fee for public assistance cases involving certain individuals. AP 04/11/2019 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 11, 2019, 9:00 a.m.—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
26	HB 5401 Agriculture and Natural Resources Appropriations Subcommittee / Raschein (Similar S 1502, Compare H 5001, S 2500)	Department of Environmental Protection; Transfers specified powers & duties of FWCC relating to environmental crimes to Division of Law Enforcement within DEP; provides for DEP & FWCC memorandum of agreement; provides for reassignment of personnel & retention of benefits; establishes Division of Law Enforcement within DEP; provides specified authority to DEP & FWCC officers; provides for deposit of proceeds in specified DEP trust funds; appoints DEP representative to Joint Task Force on State Agency Law Enforcement Communications; authorizes certain use of Inland Protection Trust Fund moneys; provides penalties for false personation & unlawful use of badges & other symbols of DEP officers. AP 04/11/2019 Favorable	Favorable Yeas 18 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 120

INTRODUCER: Senator Perry

SUBJECT: Early Childhood Music Education Incentive Pilot Program

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Olenick</u>	<u>Sikes</u>	<u>ED</u>	Favorable
2. <u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3. <u>Underhill</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SB 120 extends the scheduled expiration of the Early Childhood Music Education Incentive Pilot Program from June 30, 2020, to June 30, 2022.

The pilot program is contingent upon a legislative appropriation for Fiscal Year 2019-2020. For Fiscal Year 2018-2019, \$300,000 in nonrecurring funds were appropriated from the General Revenue Fund to implement the pilot program. These funds were subsequently vetoed by the governor.

This bill takes effect July 1, 2019.

II. Present Situation:

The legislature established the Early Childhood Music Education Incentive Pilot Program (pilot program) in 2017,¹ for three years, to assist certain school districts in implementing comprehensive music education programs in kindergarten through grade 2, beginning with the 2017-2018 school year.²

For a school district to be eligible for participation in the pilot program, the district school superintendent must certify to the Commissioner of Education (commissioner) that each elementary school within the district has established a comprehensive music education program that:³

- Includes all students enrolled at the school in kindergarten through grade 2;
- Is staffed by certified music educators;

¹ Section 69, ch. 2017-116, L.O.F.

² Section 1003.481(1), F.S.

³ Section 1003.481(2)(a)-(e), F.S.

- Provides music instruction for at least 30 consecutive minutes 2 days a week;
- Complies with class size requirements under the law;⁴ and
- Complies with the Department of Education's standards for early childhood music education programs for students in kindergarten through grade 2.

The commissioner must select school districts for participation in the pilot program, subject to legislative appropriation, based on the school district's proximity to the University of Florida and needs-based criteria established by the State Board of Education.⁵ Selected school districts must annually receive \$150 per full-time equivalent student in kindergarten through grade 2 who is enrolled in a comprehensive music education program.⁶

The University of Florida's College of Education is required to evaluate the effectiveness of the pilot program.⁷ The State Board of Education may adopt rules to administer the pilot program.⁸

The pilot program is scheduled to expire on June 30, 2020.⁹

The pilot program has not been implemented by the Department of Education.¹⁰

III. Effect of Proposed Changes:

This bill extends the scheduled expiration of the Early Childhood Music Education Incentive Pilot Program from June 30, 2020, to June 30, 2022.

This bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴ The maximum number of students assigned to each teacher who is teaching core-curriculum courses in public school classrooms for prekindergarten through grade 3 may not exceed 18 students. Section 1003.03(1)(a), F.S.

⁵ Section 1003.481(3)(a), F.S.

⁶ *Id.*

⁷ Section 1003.481(4), F.S.

⁸ Section 1003.481(5), F.S.

⁹ Section 1003.481(6), F.S.

¹⁰ Telephone Interview with staff, Florida Department of Education (Jan 28, 2019). In 2017, the Legislature appropriated \$250,000 for the Early Childhood Music Education Incentive Pilot Program, which was vetoed by the Governor. Specific Appropriation 108, s. 2, ch. 2017-70, L.O.F. In 2018, the Legislature appropriated \$300,000 for the Early Childhood Music Education Incentive Pilot Program, which was vetoed by the Governor. Specific Appropriation 108, s.2, ch. 2018-9, L.O.F.

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 pilot program is contingent upon a legislative appropriation for Fiscal Year 2019-2020. For Fiscal Year 2018-2019, \$300,000 in nonrecurring funds were appropriated from the General Revenue Fund to implement the pilot program. These funds were subsequently vetoed by the Governor.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.481 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Perry

8-00442-19

2019120__

A bill to be entitled

An act relating to the Early Childhood Music Education Incentive Pilot Program; amending s. 1003.481, F.S.; extending the scheduled expiration of the pilot program; providing an effective date.

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

Section 1. Section 1003.481, Florida Statutes, is amended to read:

1003.481 Early Childhood Music Education Incentive Pilot Program.—

(1) ~~Beginning with the 2017-2018 school year,~~ The Early Childhood Music Education Incentive Pilot Program is created within the Department of Education ~~for a period of 3 school years.~~ The purpose of the pilot program is to assist selected school districts in implementing comprehensive music education programs for students in kindergarten through grade 2.

(2) ~~In order for~~ A school district is ~~to be~~ eligible for participation in the pilot program if, the superintendent certifies ~~must certify~~ to the Commissioner of Education, in a format prescribed by the department, that each elementary school within the district has established a comprehensive music education program that:

(a) Includes all students at the school enrolled in kindergarten through grade 2.

(b) Is staffed by certified music educators.

(c) Provides music instruction for at least 30 consecutive minutes 2 days a week.

8-00442-19

2019120__

(d) Complies with class size requirements under s. 1003.03.

(e) Complies with the department's standards for early childhood music education programs for students in kindergarten through grade 2.

(3) (a) The commissioner shall select school districts for participation in the pilot program, subject to legislative appropriation, based on the school district's proximity to the University of Florida and needs-based criteria established by the State Board of Education. Selected school districts shall annually receive \$150 per full-time equivalent student in kindergarten through grade 2 who is enrolled in a comprehensive music education program.

(b) To maintain eligibility for participation in the pilot program, a selected school district must annually certify to the commissioner, in a format prescribed by the department, that each elementary school within the district provides a comprehensive music education program that meets the requirements of subsection (2). If a selected school district fails to provide the annual certification for a fiscal year, the school district must return all funds received through the pilot program for that fiscal year.

(4) The University of Florida's College of Education shall evaluate the effectiveness of the pilot program by measuring student academic performance and the success of the program. The evaluation must include, but is not limited to, a quantitative analysis of student achievement and a qualitative evaluation of students enrolled in the comprehensive music education programs.

(5) The State Board of Education may adopt rules to administer this section.

8-00442-19

2019120__

59 (6) This section expires June 30, 2022 ~~2020~~.

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 10, 2019

I respectfully request that **Senate Bill #120**, relating to Early Childhood Education, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a large, stylized "P".

Senator Keith Perry
Florida Senate, District 8



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 19, 2019

I respectfully request that **Senate Bill #120**, relating to Early Childhood Music Education Incentive Pilot Program, be placed on the:

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

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

4/11/2019

Meeting Date

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

SB 0120

Bill Number (if applicable)

Topic Early Childhood Music Education Pilot

Amendment Barcode (if applicable)

Name Khánh-Lien ("Con Lynn") Banko

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

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 172

INTRODUCER: Senators Bean and Gibson

SUBJECT: Florida Endowment for Vocational Rehabilitation

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Bouck	Sikes	ED	Favorable
2. Underhill	Elwell	AED	Recommend: Favorable
3. Underhill	Kynoch	AP	Favorable

I. Summary:

SB 172 saves from repeal the Florida Endowment for Vocational Rehabilitation (The Able Trust), which is a direct-support organization for the Division of Vocational Rehabilitation in the Department of Education.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming law.

II. Present Situation:

Citizen Support Organizations and Direct-Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs that are created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.¹ Specifically, the law requires each CSO and DSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²

¹ Section 3, ch. 2014-96, L.O.F.

² Section 20.058(1), F.S.

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service (IRS) Return of Organization Exempt from Income Tax form (Form 990).³

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.⁶ The contract must also include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁷

By August 15 of each year, the agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.⁸

Finally, a law creating or authorizing the creation of a CSO or DSO must state that the creation or authorization for the CSO or DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. CSOs and DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.⁹

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹⁰ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports.

³ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 20.058(3), F.S.

⁹ Section 20.058(5), F.S.

¹⁰ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

In addition, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee.¹¹ The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹²

CSO and DSO Ethics Code Requirement

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹³

Division of Vocational Rehabilitation

Vocational Rehabilitation (VR) is a federal-state program that helps people who have physical or mental disabilities get or keep a job. VR is committed to helping people with disabilities find meaningful careers.¹⁴

The Division of Vocational Rehabilitation (DVR) is one of several divisions within the Department of Education (DOE).¹⁵ The DVR is the administrative unit designated at the state level to ensure compliance with the Vocational Rehabilitation Act of 1973, as amended.¹⁶ The DVR's mission is "to help people with disabilities find and maintain employment and enhance their independence."¹⁷

Florida Endowment Foundation for Vocational Rehabilitation

In 1990, the Legislature created the Florida Endowment Foundation for Vocational Rehabilitation (Foundation or The Able Trust¹⁸) as a direct-support organization of the Division within the DOE for the purpose of encouraging public and private support to enhance vocational rehabilitation and employment of citizens who are disabled.¹⁹ The Able Trust endowment fund was created as a long-term, stable, and growing source of revenue to be administered by the Foundation as a direct-support organization of the DVR.²⁰

The Foundation operates under contract with the DVR to exclusively raise funds; submit requests and receive grants from the Federal Government, the state, private foundations, and individuals; and to receive, hold, and administer property.

¹¹ Section 11.45(3)(d), F.S.

¹² *Id.*

¹³ Section 112.3251, F.S.

¹⁴ Florida Division of Vocational Rehabilitation, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited Feb. 26, 2019).

¹⁵ Section 20.15(3)(d), F.S.

¹⁶ Section 413.202, F.S.

¹⁷ Florida Division of Vocational Rehabilitation, <http://www.rehabworks.org/> (last visited Feb. 26, 2019).

¹⁸ The Foundation conducts business as The Able Trust. The Able Trust, <http://www.abletrust.org/> (last visited Feb. 26, 2019).

¹⁹ Section 9, ch. 90-330, L.O.F., codified as s. 413.615(5), F.S.

²⁰ Section 413.615(4), F.S.

The authorizing statute for the Foundation is scheduled for repeal October 1, 2019, unless reviewed and reenacted by the Legislature.²¹

Legislative Findings and Recommendations

Senate professional staff reviewed documents related to the Foundation for compliance with accountability and authorizing statutes. The Foundation appears to be substantially in compliance with such statutes. Findings and recommendations are summarized below.

Foundation Compliance with Accountability Requirements

- The Foundation must submit specified information to the Department of Education (DOE) by August 1.²²
Finding: The Foundation submitted the information by the specified deadline.²³
- The DOE must make the information received from the Foundation available to the public through the agency's website. If the Foundation maintains a website, the DOE's website must provide a link to the Foundation's website.²⁴
Finding: The DOE includes a link to The Able Trust on the Division of Vocational Rehabilitation (DVR) webpage, but the required report is only available through the Florida Fiscal Portal.²⁵
Recommendation: Provide a link to the required report²⁶ directly on the DOE website.
- The DOE must report, by August 15 of each year, to the Governor, Legislature, and OPPAGA the information provided by the Foundation. The report must also include a recommendation by the DOE, with supporting rationale, to continue, terminate, or modify the DOE's association with the Foundation.²⁷
Finding: The DOE has complied with the requirement to report this information and include specified information.²⁸
- The contract between the Foundation and the DVR must include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved.²⁹
Finding: The current contract includes a provision regarding the orderly cessation of operations, but does not include the provision regarding reversion of state funds within 30

²¹ Section 413.615(14), F.S.

²² Section 20.058(1), F.S.

²³ Florida Fiscal Portal, Education, *Required Report Pursuant to Chapter 2014-096 Citizen Support and Direct Support Organizations* (Aug. 1, 2017) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18029&DocType=PDF>.

²⁴ Section 20.058(2), F.S.

²⁵ The Florida Fiscal Portal is maintained by the Executive Office of the Governor to house a collection of documents that detail the fiscal status of the State of Florida. Florida Fiscal Portal, <http://floridafiscalportal.state.fl.us/Home.aspx> (last visited Feb. 27, 2019).

²⁶ Florida Fiscal Portal, Education, *Required Report Pursuant to Chapter 2014-096 Citizen Support and Direct Support Organizations* (Aug. 1, 2017) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18029&DocType=PDF>.

²⁷ Section 20.058(3), F.S.

²⁸ Florida Fiscal Portal, Education, *Required Report Pursuant to Chapter 2014-096 Citizen Support and Direct Support Organizations* (Aug. 1, 2017) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18029&DocType=PDF>, at 5.

²⁹ Section 20.058(4), F.S.

days.³⁰ However, a proposed amendment to the contract includes a provision to pay the entire balance of the operating account to the State of Florida within 45 days, unless extended by agreement of both parties.³¹

Recommendation: The contract amendment should be approved and should include a provision specifying 30 days, rather than 45 days, for the reversion of state funds.

- The Foundation's Code of Ethics must be conspicuously posted on the Foundation's website,³² and must address specified standards of conduct.³³

Finding: The Able Trust Code of Ethics is posted and includes required provisions.³⁴

- The Foundation must provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the DOE. The audit report must be submitted within 9 months after the end of the fiscal year to the Auditor General and to the DOE.³⁵

Finding: The Able Trust has provided for an audit for the 2017-2018 fiscal year within the specified timeframe.³⁶

Foundation Compliance with Authorizing Requirements

- The Foundation must separately account for funds received from state sources³⁷ from bequests, gifts, grants, and donations. Earnings on funds received from state sources and funds received from public or private sources must also be accounted for separately.³⁸

Finding: The Able Trust has separately accounted for revenues³⁹ and earnings on funds⁴⁰ between state and private sources.

- The Foundation must have a contract with the DVR, and must:⁴¹
 - Be a Florida corporation not for profit
 - Be organized and operated exclusively to raise funds; to submit requests and receive grants from the Federal Government, the state, private foundations, and individuals; to receive, hold, and administer property; and to make expenditures to or for the benefit of the VR programs approved by the Foundation board of directors.

³⁰ The Able Trust, *Memorandum of Understanding for The Able Trust*, IA-865, available at <http://www.abletrust.org/sites/default/files/media/docs/Memorandum%20Of%20Understanding%20IA-865%20thru%209-30-2020.pdf>, at 3.

³¹ Email, The Able Trust (Mar. 8, 2019).

³² Section 112.3251, F.S.

³³ Section 112.313, F.S.

³⁴ The Able Trust, *Ethics Policy* (Dec. 12, 2014), available at <http://www.abletrust.org/sites/default/files/media/docs/Ethics-Policy-12-2014.pdf>; also The Able Trust, *Conflict of Interest Policy* (Sept. 25, 2009), available at <http://www.abletrust.org/sites/default/files/media/docs/Conflict%20of%20Interest%20as%20revised%206-15-2012.pdf>.

³⁵ Section 215.981(1), F.S.

³⁶ Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>.

³⁷ The ABLE Trust receives state funds only from general revenue for the DOE/DVR High School/High Tech Program. Specific Appropriation 34, ch. 2018-9, L.O.F., appropriates \$549,823 in recurring funds for 2018-2019.

³⁸ Section 413.615(4)(e), F.S.

³⁹ The Able Trust, *2018 Annual Report to Florida*, available at http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 18.

⁴⁰ Email, The Able Trust (Mar. 8, 2019). Earnings on public funds and investments from July 1, 2017 through June 30, 2018 were \$1,252,285.57.

⁴¹ Section 413.615(5), F.S.

Finding: The Able Trust contract with the DVR meets this requirement.⁴²

- The Able Trust contract with the DVR must provide information relating to the articles of incorporation, governance, conditions for expenditures of state revenues, and a reversion of state funds following a cessation of operations.⁴³ In addition, as a part of the contract, the Foundation must submit an annual budget for approval to the DVR, which may not approve such annual budget that does not comply with requirements relating to administrative costs.⁴⁴

Finding: The Able Trust contract with the DVR complies with this requirement.⁴⁵

Additionally, the annual budget for 2017-2018 was approved by the DVR and complies with the requirement that administrative costs be limited to 15 percent of total expenditures.⁴⁶

- The Foundation must comply with requirements relating to confidential and exempt donor records and client information and exemptions from public meetings at which donor or client information is discussed.⁴⁷

Finding: The Able Trust has ensured that donor confidentiality is respected, and private donations that are confidential and exempt are not included on an agenda for a public meeting.⁴⁸

- The Foundation is administered by a 9-member board of directors (board) qualified for membership on the board and appointed by the Governor to a 3-year term.⁴⁹

Finding: The composition of the Able Trust board meets this requirement.⁵⁰

- The Foundation board must monitor, review, and annually evaluate funded programs to determine whether funding should be continued, terminated, reduced, or increased.⁵¹

Finding: The Able Trust board has enacted mechanisms to evaluate funded programs, which include outcome measurement requirements in each grant award contract.⁵²

- The board is required to limit administrative costs to the minimum amount necessary for the efficient and effective administration of the foundation; such costs are limited to 15 percent

⁴² The Able Trust, *Memorandum of Understanding for The Able Trust*, IA-865, available at <http://www.abletrust.org/sites/default/files/media/docs/Memorandum%20Of%20Understanding%20IA-865%20thru%209-30-2020.pdf>, at 1.

⁴³ Section 413.615(6), F.S.

⁴⁴ Section 413.615(9)(j), F.S.

⁴⁵ The Able Trust, *Memorandum of Understanding for The Able Trust*, IA-865, available at <http://www.abletrust.org/sites/default/files/media/docs/Memorandum%20Of%20Understanding%20IA-865%20thru%209-30-2020.pdf>.

⁴⁶ *Email*, The Able Trust (Mar. 8, 2019). Administrative costs were \$427,742, which was 12% of total expenses.

⁴⁷ Section 413.615(7), F.S.

⁴⁸ The Able Trust, *2018 Annual Report to Florida*, available at http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 15. See also, *Email*, The Able Trust (Mar. 8, 2019).

⁴⁹ Section 413.615(8), F.S.

⁵⁰ The Able Trust, *By-Laws* (Adopted Feb. 21, 1991, last amended Sept. 21, 2017), available at http://www.abletrust.org/sites/default/files/media/docs/BY-LAWS-REVISED%2010_6_2017.doc. See also, The Able Trust, *Board of Directors, Officers, & Ambassadors*, <http://www.abletrust.org/about-us/board-directors-officers-and-ambassadors> (last visited Feb. 26, 2019).

⁵¹ Section 413.615(9)(g), F.S.

⁵² The Able Charitable Foundation, *Grant Policy—Process for Grant Requests from The Able Trust* (Nov. 30, 2018), available at <http://www.abletrust.org/sites/default/files/media/images/documents/Able%20Trust-Able%20Charitable%20Grant%20Policy%20-%20final%2011-30-2018.pdf>. The application requires that proposals outline how employment outcomes will be measured up to three years after the grant period has ended. The Able Trust, *Instructions for Application for General Support of Employment Programs Grant* (Dec. 2016), available at <http://www.abletrust.org/sites/default/files/media/docs/GeneralEmploymentPlacementGrantInstructions2017.pdf>, at 2.

of total estimated expenditures in any calendar year. For the 2017-2018 fiscal year, administrative costs may be paid from interest and earnings on the endowment principal.⁵³

Finding: Administrative costs in 2017-2018 were \$427,742, or 12 percent of expenses.⁵⁴ Additionally, for 2017-2018, The Able Trust used interest and dividends to cover operating expenses.⁵⁵

- The Foundation is required to publish on its website:⁵⁶
 - The required annual audit and annual report.
 - For each position filled by an officer or employee, the position's compensation level.
 - A copy of each contract into which the foundation enters.
 - Information on each program, gift, or grant funded by the foundation, including specified information.
 - The foundation's contract with the DVR.

Finding: The Foundation has posted its annual audit,⁵⁷ the annual report,⁵⁸ compensation policy⁵⁹ and officer compensation,⁶⁰ contracts,⁶¹ grant information,⁶² and the Foundation's contract.⁶³

- The Foundation board must establish an operating account,⁶⁴ which must provide for purposes specified in law.⁶⁵

Finding: The Foundation board has established an operating account. For 2017-2018, The Able Trust used interest and dividends to cover operating expenses.⁶⁶

⁵³ Section 413.615(9)(j), F.S. In subsequent years administrative costs may be paid from a specified combination of interest and earnings and private fund sources, until 2020-2021 and thereafter when costs may be paid from private sources only. *Id.*

⁵⁴ The Able Trust, *2018 Annual Report to Florida*, available at http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 20. Total expenses were \$3,686,905.

⁵⁵ Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>, at 5.

⁵⁶ Section 413.615(9)(k), F.S.

⁵⁷ Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>.

⁵⁸ The Able Trust, *2018 Annual Report to Florida*, available at http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf.

⁵⁹ The Able Trust, *Compensation Policy: Officers and Directors* (June 15, 2012), available at <http://www.abletrust.org/sites/default/files/media/docs/Compensation-Policy-Revisions-6-15-2012-Current-7-29-14.pdf>.

⁶⁰ The Able Trust, *Salary Posting*, <http://www.abletrust.org/node/212> (last visited Feb. 26, 2019).

⁶¹ The Able Trust, *Other Contracts*, <http://www.abletrust.org/about-us/other-contracts> (last visited Feb. 26, 2019).

⁶² The Able Trust, *Grant Award Contracts*, <http://www.abletrust.org/about-us/grant-award-contracts> (last visited Feb. 26, 2019).

⁶³ The Able Trust, *Memorandum of Understanding for The Able Trust, IA-865*, available at <http://www.abletrust.org/sites/default/files/media/docs/Memorandum%20Of%20Understanding%20IA-865%20thru%209-30-2020.pdf>.

⁶⁴ The Able Trust board of directors is required to establish an operating account to deposit non-principal funds from investment and reinvestment transmitted from the State Board of Administration. Section 413.615(4)(d), F.S.

⁶⁵ Section 413.615(10), F.S.

⁶⁶ *Email*, The Able Trust (Mar. 8, 2019). See also Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>, at 5.

- Any allocation of funds for research, advertising, or consulting is subject to a competitive solicitation process.⁶⁷
Finding: The Able Trust policy regarding competitive bidding is to require that purchases over \$2,500 must be subject to competitive bidding. Amounts under \$2,500 may also be subject to competitive bidding.⁶⁸
- State funds may not be used to fund events for private sector donors or potential donors or to honor supporters.⁶⁹
Finding: The Able Trust does not use state funds to fund events for private donors or potential donors. Donor recognition may occur at events for other programs, but private funds cover those expenses.⁷⁰
- The Foundation board must provide for an annual financial audit of the foundation in accordance with Florida law.⁷¹ The auditor's report must maintain the anonymity of donors and prospective donors who desire to remain anonymous.⁷²
Finding: The Foundation board provided for an audit for the 2017-2018 fiscal year, which does not contain specific donor information.⁷³
- The Foundation board must issue a report by December 30 each year summarizing the performance of the endowment fund for the previous fiscal year. The report must summarize the Foundation's fundraising activities, and detail those activities and programs supported by the endowment principal or earnings on the endowment principal and those activities and programs supported by private sources, bequests, gifts, grants, donations, and other valued goods and services received. The report must also include:⁷⁴
 - Financial data, by service type, including expenditures for administration and the provision of services.
 - The amount of funds spent on administrative expenses and fundraising and the amount of funds raised from private sources.
 - Outcome data, including the number of individuals served and employment outcomes.Finding: The Foundation issued its annual report in the required timeframe.⁷⁵ The annual report includes financial data related to administration and expenditures,⁷⁶ fundraising,⁷⁷ program outcomes, and⁷⁸ programs supported by endowment principal or earnings and those supported by private sources.⁷⁹

⁶⁷ Section 413.615(10), F.S.

⁶⁸ Email, The Able Trust (Mar. 8, 2019).

⁶⁹ Section 413.615(10), F.S.

⁷⁰ Email, The Able Trust (Mar. 8, 2019).

⁷¹ Section 215.981, F.S.

⁷² Section 413.615(11), F.S.

⁷³ Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>.

⁷⁴ Section 413.615(12), F.S.

⁷⁵ The Able Trust, *2018 Annual Report to Florida*, available at http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf.

⁷⁶ *Id.* at 20.

⁷⁷ *Id.* at 14.

⁷⁸ *Id.* at 3, 10, and 11.

⁷⁹ *Id.* at 20. See also Email, The Able Trust (Mar. 8, 2019).

III. Effect of Proposed Changes:

The bill saves from repeal the Florida Endowment for Vocational Rehabilitation (The Able Trust). This removal of the repeal date will provide for the continuation of programs administered by The Able Trust, which include, but are not limited to, the following programs.

Youth Program

The Able Trust High School High Tech (HSHT) program is designed to provide high school students with all types of disabilities the opportunity to explore jobs or postsecondary education leading to technology-related careers. HSHT links youth to a broad range of academic, career development, and experiential resources and experiences that will enable them to meet the demands of the 21st century workforce.

During the 2017-2018 school year, HSHT served 1,336 students with disabilities in 40 Florida counties. 533 students participated in work experiences paid through a stipend by the employer, the HSHT program site, the local Career Source, Vocational Rehabilitation, or community grant provider. 307 HSHT students graduated in 2018. The HSHT program achieved a graduation rate of greater than 99 percent of all participating seniors.⁸⁰ The current cost to the state for the HSHT program is \$275 per student, which covers approximately one-third of the total program costs.⁸¹

Grant Program

The Able Trust awarded 78 grants in 2018, totaling \$2,072,119.⁸² The Able Trust works with community organizations throughout the state to help Floridians with disabilities gain employment. During any annual period, there are 60 – 70 grant contracts in effect. Several of the current grants are long-term, strategic grants designed to assist organizations and institutions of higher learning to develop education and placement programs for Floridians with disabilities who pursue postsecondary education. No annual legislative appropriations are used in these strategic grant initiatives.⁸³

Work Experiences and Relationships with the Business Community

Over the past nine years, The Able Trust has worked to develop relationships with businesses around the state. The Able Trust works with the Florida Chamber of Commerce Foundation, and maintains communication regarding the value of providing work experiences such as internships, job shadowing and mentoring partnerships with the business community. In addition, the Disability Employment Awareness (DEAM) program, for which The Able Trust serves as the lead agency, connects approximately 3,000 businesses and young job seekers together annually, in job shadowing and mentoring experiences. The DEAM program is totally funded by private donations, through the fundraising efforts of The Able Trust.⁸⁴

⁸⁰ The Able Trust, *2018 Annual Report to Florida*, available at http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 10.

⁸¹ Florida Department of Education, *2019 Agency Bill Analysis, Senate Bill 172* (Jan. 8, 2019), at 2.

⁸² The Able Trust, *2018 Annual Report to Florida*, available at http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 12.

⁸³ Florida Department of Education, *2019 Agency Bill Analysis, Senate Bill 172* (Jan. 8, 2019), at 3.

⁸⁴ *Id.* at 3.

Independent Research

The Able Trust uses private sources to fund independent research. Research is conducted to obtain information on program outcomes, to update data on the perceptions of the business community on the inclusion of people with disabilities in its workforce, to learn ways to address barriers and to inform the general public on the employability of such workers. Continuing to collect data and update such information is integral to improving the employment rate for people with disabilities, as it is the basis for effective communications on the recruiting, hiring, training and retaining of those workers.⁸⁵

Communication

The Able Trust sponsors a communication campaign every year to address misperceptions of the skills and talents of people with disabilities. Communications include targeting businesses, community leaders, and policy makers using print, electronic, and in-person presentations.⁸⁶

Direct Support to the Division of Vocational Rehabilitation

The Able Trust currently provides direct support (approximately \$48,000 per year) on behalf of the DVR through:

- Seven full-day annual training events designed to enhance staff skills and increase employment for VR customers.
- Promotional and outreach materials for VR distributed throughout the year at community outreach events that advance VR's mission.

The bill takes effect upon becoming law.

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.

⁸⁵ Florida Department of Education, *2019 Agency Bill Analysis, Senate Bill 172* (Jan. 8, 2019), at 3.

⁸⁶ *Id.*

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By extending the repeal date of the direct-support organization, this bill will sustain a source of financial and other direct assistance for individuals who are disabled.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 413.615 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Bean

4-00608-19

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1 A bill to be entitled
 2 An act relating to the Florida Endowment for
 3 Vocational Rehabilitation; amending s. 413.615, F.S.;
 4 abrogating the future repeal of provisions relating to
 5 the Florida Endowment for Vocational Rehabilitation;
 6 providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Subsection (14) of section 413.615, Florida
 11 Statutes, is amended, and subsections (1) through (13) of that
 12 section are republished, to read:
 13 413.615 Florida Endowment for Vocational Rehabilitation.—
 14 (1) SHORT TITLE.—This section may be cited as the "Florida
 15 Endowment for Vocational Rehabilitation Act."
 16 (2) DEFINITIONS.—For the purposes of this section:
 17 (a) "Board" means the board of directors of the Florida
 18 Endowment Foundation for Vocational Rehabilitation.
 19 (b) "Endowment fund" means an account established within
 20 the Florida Endowment Foundation for Vocational Rehabilitation
 21 to provide a continuing and growing source of revenue for
 22 vocational rehabilitation efforts.
 23 (c) "Foundation" means the Florida Endowment Foundation for
 24 Vocational Rehabilitation.
 25 (d) "Operating account" means an account established under
 26 paragraph (4)(d) to carry out the purposes provided in
 27 subsection (10).
 28 (3) LEGISLATIVE INTENT.—The Legislature recognizes that it
 29 is in the best interest of the citizens of this state that

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30 citizens with disabilities be afforded a fair opportunity to
 31 become self-supporting, productive members of society. However,
 32 there is a critical need for significant additional funding to
 33 achieve this goal. Accordingly, the Legislature further finds
 34 and declares that:
 35 (a) With skilled evaluation procedures and proper
 36 rehabilitative treatment, plus employment, training, and
 37 supportive services consistent with the needs of the individual,
 38 persons who are disabled can assume the activities of daily
 39 living and join their communities with dignity and independence.
 40 (b) The purpose of this section is to broaden the
 41 participation and funding potential for further significant
 42 support for the rehabilitation of Florida citizens who are
 43 disabled.
 44 (c) It is appropriate to encourage individual and corporate
 45 support and involvement, as well as state support and
 46 involvement, to promote employment opportunities for disabled
 47 citizens.
 48 (4) REVENUE FOR THE ENDOWMENT FUND.—
 49 (a) The endowment fund of the Florida Endowment for
 50 Vocational Rehabilitation is created as a long-term, stable, and
 51 growing source of revenue to be administered, in accordance with
 52 rules promulgated by the division, by the foundation as a
 53 direct-support organization of the division.
 54 (b) The principal of the endowment fund shall derive from
 55 any legislative appropriations which may be made to the
 56 endowment, and such bequests, gifts, grants, and donations as
 57 may be solicited for such purpose by the foundation from public
 58 or private sources.

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(c) All remaining liquid balances of funds held for investment and reinvestment by the State Board of Administration for the endowment fund on the effective date of this act shall be transmitted to the foundation within 60 days for use as provided in subsection (10).

(d) The board of directors of the foundation shall establish the operating account and shall deposit therein the moneys transmitted pursuant to paragraph (c). Moneys in the operating account shall be available to carry out the purposes of subsection (10).

(e) Funds received from state sources shall be accounted for separately from bequests, gifts, grants, and donations which may be solicited for such purposes by the foundation from public or private sources. Earnings on funds received from state sources and funds received from public or private sources shall be accounted for separately.

(5) THE FLORIDA ENDOWMENT FOUNDATION FOR VOCATIONAL REHABILITATION.—The Florida Endowment Foundation for Vocational Rehabilitation is hereby created as a direct-support organization of the Division of Vocational Rehabilitation, to encourage public and private support to enhance vocational rehabilitation and employment of citizens who are disabled. As a direct-support organization, the foundation shall operate under contract with the division and shall:

(a) Be a Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State.

(b) Be organized and operated exclusively to raise funds; to submit requests and receive grants from the Federal

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Government, the state, private foundations, and individuals; to receive, hold, and administer property; and to make expenditures to or for the benefit of the rehabilitation programs approved by the board of directors of the foundation.

(c) Be approved by the division to be operating for the benefit and best interest of the state.

(6) DIRECT-SUPPORT ORGANIZATION CONTRACT.—The contract between the foundation and the division shall provide for:

(a) Approval of the articles of incorporation of the foundation by the division.

(b) Governance of the foundation by a board of directors appointed by the Governor.

(c) Submission of an annual budget of the foundation for approval by the division. The division may not approve an annual budget that does not comply with paragraph (9)(j).

(d) Certification by the division, after an annual financial and performance review, that the foundation is operating in compliance with the terms of the contract and the rules of the division, and in a manner consistent with the goals of the Legislature in providing assistance to disabled citizens.

(e) The release and conditions of the expenditure of any state revenues.

(f) The orderly cessation of operations and reversion to the state of funds held in trust by the foundation if the contract is terminated, the foundation is dissolved, or this section is repealed.

(g) The fiscal year of the foundation, to begin on July 1 and end on June 30 of each year.

(7) CONFIDENTIALITY.—

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(a) The identity of a donor or prospective donor to the Florida Endowment Foundation for Vocational Rehabilitation who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Portions of meetings of the Florida Endowment Foundation for Vocational Rehabilitation during which the identity of donors or prospective donors is discussed are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution.

(b) Records relating to clients of or applicants to the Division of Vocational Rehabilitation that come into the possession of the foundation and that are confidential by other provisions of law are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and may not be released by the foundation. Portions of meetings of the Florida Endowment Foundation for Vocational Rehabilitation during which the identities of such clients of or applicants to the Division of Vocational Rehabilitation are discussed are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution.

(8) BOARD OF DIRECTORS.—The foundation shall be administered by a board of directors, as follows:

(a) *Membership*.—The board of directors shall consist of nine members who have an interest in service to persons with disabilities and who:

1. Have skills in foundation work or other fundraising activities, financial consulting, or investment banking or other related experience; or

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2. Have experience in policymaking or management-level positions or have otherwise distinguished themselves in the field of business, industry, or rehabilitation.

Disabled individuals who meet the above criteria shall be given special consideration for appointment.

(b) *Appointment*.—The board members shall be appointed by the Governor.

(c) *Terms*.—Board members shall serve for 3-year terms or until resignation or removal for cause.

(d) *Filling of vacancies*.—In the event of a vacancy on the board caused by other than the expiration of a term, a new member shall be appointed.

(e) *Removal for cause*.—Each member is accountable to the Governor for the proper performance of the duties of office. The Governor may remove any member from office for malfeasance, misfeasance, neglect of duty, incompetence, or permanent inability to perform official duties or for pleading nolo contendere to, or being found guilty of, a crime.

(9) ORGANIZATION, POWERS, AND DUTIES.—Within the limits prescribed in this section or by rule of the division:

(a) Upon appointment, the board shall meet and organize. Thereafter, the board shall hold such meetings as are necessary to implement the provisions of this section and shall conduct its business in accordance with rules promulgated by the division.

(b) The board may solicit and receive bequests, gifts, grants, donations, goods, and services. Where gifts are restricted as to purpose, they may be used only for the purpose

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or purposes stated by the donor. The board may transmit monetary gifts to the State Board of Administration for deposit in the endowment fund principal.

(c) The board may enter into contracts with the Federal Government, state or local agencies, private entities, or individuals to carry out the purposes of this section.

(d) The board may identify, initiate, and fund new and creative programs to carry out the purposes of this section, utilizing existing organizations, associations, and agencies to carry out such rehabilitation programs and purposes wherever possible.

(e) The board may make gifts or grants:

1. To the State of Florida or any political subdivision thereof, or any public agency of state or local government.

2. To a corporation, trust, association, or foundation organized and operated exclusively for charitable, educational, or scientific purposes.

3. To any citizen who has a documented disability.

4. To the division for purposes of program recognition and marketing, public relations and education, professional development, and technical assistance and workshops for grant applicants and recipients, the business community, and individuals with disabilities or recognized groups organized on their behalf.

(f) The board may advertise and solicit applications for funding and shall evaluate applications and program proposals submitted thereto. Funding shall be awarded only where the evaluation is positive and the proposal meets both the guidelines for use established in subsection (10) and such

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evaluation criteria as the division may prescribe by rule.

(g) The board shall monitor, review, and annually evaluate funded programs to determine whether funding should be continued, terminated, reduced, or increased.

(h) The board shall establish an operating account as provided in paragraph (4)(d).

(i) The board may take such additional actions, including the hiring of necessary staff, as are deemed necessary and appropriate to administer this section, subject to rules of the division.

(j) Administrative costs shall be kept to the minimum amount necessary for the efficient and effective administration of the foundation and are limited to 15 percent of total estimated expenditures in any calendar year. Administrative costs include payment of travel and per diem expenses of board members, officer salaries, chief executive officer program management, audits, salaries or other costs for nonofficers and contractors providing services that are not directly related to the mission of the foundation as described in subsection (5), costs of promoting the purposes of the foundation, and other allowable costs. Administrative costs may be paid from the following sources:

1. Interest and earnings on the endowment principal for the 2017-2018 fiscal year.

2. Private sources and up to 75 percent of interest and earnings on the endowment principal for the 2018-2019 fiscal year.

3. Private sources and up to 50 percent of interest and earnings on the endowment principal for the 2019-2020 fiscal

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233 year.

234 4. Private sources and up to 25 percent of interest and
235 earnings on the endowment principal for the 2020-2021 fiscal
236 year.

237 5. Solely private sources for the 2021-2022 fiscal year and
238 thereafter.

239 (k) The foundation shall publish on its website:

240 1. The annual audit required by subsection (11) and the
241 annual report required by subsection (12).

242 2. For each position filled by an officer or employee, the
243 position's compensation level.

244 3. A copy of each contract into which the foundation
245 enters.

246 4. Information on each program, gift, or grant funded by
247 the foundation, including:

248 a. Projected economic benefits at the time of the initial
249 award date.

250 b. Information describing the program, gift, or grant
251 funded.

252 c. The geographic area impacted.

253 d. Any matching, in-kind support or other support.

254 e. The expected duration.

255 f. Evaluation criteria.

256 5. The foundation's contract with the division required by
257 subsection (6).

258 (10) DISTRIBUTION OF MONEYS.—The board shall use the moneys
259 in the operating account, by whatever means, to provide for:

260 (a) Planning, research, and policy development for issues
261 related to the employment and training of disabled citizens, and

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262 publication and dissemination of such information as may serve
263 the objectives of this section.

264 (b) Promotion of initiatives for disabled citizens.

265 (c) Funding of programs which engage in, contract for,
266 foster, finance, or aid in job training and counseling for
267 disabled citizens or research, education, demonstration, or
268 other activities related thereto.

269 (d) Funding of programs which engage in, contract for,
270 foster, finance, or aid in activities designed to advance better
271 public understanding and appreciation of the field of vocational
272 rehabilitation.

273 (e) Funding of programs, property, or facilities which aid,
274 strengthen, and extend in any proper and useful manner the
275 objectives, work, services, and physical facilities of the
276 division, in accordance with the purposes of this section.

277
278 Any allocation of funds for research, advertising, or consulting
279 shall be subject to a competitive solicitation process. State
280 funds may not be used to fund events for private sector donors
281 or potential donors or to honor supporters.

282 (11) ANNUAL AUDIT.—The board shall provide for an annual
283 financial audit of the foundation in accordance with s. 215.981.
284 The identities of donors and prospective donors who desire to
285 remain anonymous shall be protected, and that anonymity shall be
286 maintained in the auditor's report.

287 (12) ANNUAL REPORT.—The board shall issue a report to the
288 Governor, the President of the Senate, the Speaker of the House
289 of Representatives, and the Commissioner of Education by
290 December 30 each year summarizing the performance of the

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291 endowment fund for the previous fiscal year, summarizing the
292 foundation's fundraising activities and performance, and
293 detailing those activities and programs supported by the
294 endowment principal or earnings on the endowment principal and
295 those activities and programs supported by private sources,
296 bequests, gifts, grants, donations, and other valued goods and
297 services received. The report shall also include:

298 (a) Financial data, by service type, including expenditures
299 for administration and the provision of services.

300 (b) The amount of funds spent on administrative expenses
301 and fundraising and the amount of funds raised from private
302 sources.

303 (c) Outcome data, including the number of individuals
304 served and employment outcomes.

305 (13) RULES.—The division shall promulgate rules for the
306 implementation of this section.

307 ~~(14) REPEAL.—This section is repealed October 1, 2019,~~
308 ~~unless reviewed and saved from repeal by the Legislature.~~

309 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 8, 2019

I respectfully request that **Senate Bill # 172**, relating to Florida Endowment for Vocational Rehabilitation, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean". The signature is written in a cursive style.

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2019

Meeting Date

SB 0172

Bill Number (if applicable)

Topic Florida Endowment for Vocational Rehab

Amendment Barcode (if applicable)

Name Khanh-Lien ("Con hynn") Banko

Job Title Resolutions Chair

Address 1747 Orlando Central Parkway

Street

Phone 407-855-7604

Orlando

City

FL

State

32809

Zip

Email resolutions@floridaptan.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PYA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

172
Bill Number (if applicable)

Topic Jobs for Person with Disabilities Amendment Barcode (if applicable)

Name Mike Cusick

Job Title Lobbyist

Address 200 W. College Ave
Street
Tallahassee, FL 32301
City State Zip

Phone 850-222-5620

Email mkc@MichaelCusick.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

172
Bill Number (if applicable)

Topic Florida Endowment for Vocational Rehabilitation Amendment Barcode (if applicable)

Name Melanie Bostick

Job Title V.P.

Address 113 E. College Ave.
Street

Phone 850-841-1726

Tallahassee FL 32301
City State Zip

Email melanie@libertyethicsfl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Jobs For Florida Graduates

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

172

Bill Number (if applicable)

Topic FL Endowment for Vocational Rehabilitation

Amendment Barcode (if applicable)

Name Frank Walker

Job Title VP, GA

Address 136 S. Bronough St.

Street

Phone

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Chamber of Commerce

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 426

INTRODUCER: Appropriations Committee; Community Affairs Committee; and Senators Flores, Torres, Hooper, and others

SUBJECT: Firefighters

DATE: April 15, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Favorable
2.	Peacock	Yeatman	CA	Fav/CS
3.	Davis	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 426 makes firefighters who are diagnosed with certain cancers eligible to receive certain disability or death benefits. Specifically, in lieu of pursuing workers' compensation coverage, a firefighter is entitled to cancer treatment and a one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer. In order to be entitled to such benefits, the firefighter must:

- Be employed full-time as a firefighter;
- Be employed by the state, university, city, county, port authority, special district, or fire control district;
- Have been employed by his or her employer for at least five continuous years;
- Not have used tobacco products for at least the preceding five years; and
- Have not been employed in any other position in the preceding five years which is proven to create a higher risk for cancer.

The bill provides that the term "cancer" includes bladder cancer, brain cancer, breast cancer, cervical cancer, colon cancer, esophageal cancer, invasive skin cancer, kidney cancer, large intestinal cancer, lung cancer, malignant melanoma, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma, oral cavity and pharynx cancer, ovarian cancer, prostate cancer, rectal cancer, stomach cancer, testicular cancer, and thyroid cancer.

In addition, the employer must provide coverage within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for any out-of-pocket deductible, co-payment, or coinsurance costs incurred due to the treatment of cancer.

For disability and death benefits, the employer must consider a firefighter permanently and totally disabled if diagnosed with one of the 21 enumerated cancers and meets the retirement's plan definition of totally and permanently disabled due to the diagnosis of cancer or circumstances that arise out of the treatment of cancer. Moreover, the cancer or the treatment of cancer is deemed to have occurred in the line of duty, resulting in higher disability and death benefits.

The fiscal impact on state and local governments employing firefighters is indeterminate. However, to cover the costs associated with changes to Florida Retirement System (FRS) benefits (disability retirement benefits and in-line-of-duty benefits), the bill provides adjustments to the employer-paid contribution rates for the Special Risk class and the Deferred Retirement Option Program (DROP) that fund the FRS's normal costs and unfunded actuarial liability, and adjusts the percentage of funds allocated to provide in line of duty death benefits for investment plan members.

The bill takes effect July 1, 2019.

II. Present Situation:

Under Florida law, a firefighter¹ may be eligible for benefits upon a showing by a preponderance of the evidence that exposure to a specific toxic substance, at the levels to which the first responder was exposed, can cause the injury or disease sustained by the employee and that the exposure arose out of employment.²

Cancer Studies regarding Firefighters

The incidence of cancer among firefighters appears to be higher on average than other occupations. Firefighters work in inherently dangerous situations on a daily basis. They are exposed to many different carcinogens, either inhaled or absorbed through the skin both on the scene and in the firehouse. Studies have been conducted at the state, national, and international level resulting in the identification of cancers found to be common among firefighters.³ This information has been used to train and educate firefighters to reduce exposure to carcinogens resulting from firefighting activities.

¹ Section 633.102(9), F.S., defines "firefighter" as an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshal with the Department of Financial Services under s. 633.408, F.S.

² Section 112.1815(2)(a), F.S.

³ Occupation and Cancer, American Cancer Society, available at <https://www.cancer.org/content/dam/cancer-org/cancer-control/en/booklets-flyers/occupation-and-cancer-fact-sheet.pdf>; 15 Jobs That Put You at a Higher Risk of Cancer, available at <https://www.cheatsheet.com/money-career/jobs-put-higher-cancer-risk.html/?a=viewall>; Cancer Facts and Figures, American Cancer Society, available at <https://www.cancer.org/research/cancer-facts-statistics/all-cancer-facts-figures.html>.

In 2010, the National Institute for Occupational Safety and Health (NIOSH) initiated a study to evaluate the cancer risk of firefighters.⁴ The study served to identify whether firefighters are at a higher risk of developing cancer related to exposure on the job. Researchers studied death related to cancer as well as specific types of cancers involved. Researchers took into consideration the types and number of fire runs, use of protective equipment, and diesel exhaust controls. The study spanned four years and the sample size included over 30,000 career firefighters serving in Chicago, Philadelphia, and San Francisco between 1950 and 2010.

According to the 2010 study, firefighters have a nine percent higher risk of being diagnosed with cancer and a 14 percent higher risk of dying from cancer than the general population in the United States. The cancers mostly responsible for this higher risk were respiratory (lung, mesothelioma), gastrointestinal (oral cavity, esophageal, large intestine) and kidney.⁵

Workers' Compensation Insurance

Under ch. 440, F.S., relating to Workers' Compensation, the employer must pay compensation or furnish benefits if the employee suffers an accidental compensable injury or death arising out of work performed in the course and scope of employment.⁶ The injury, its occupational cause, and any resulting disability must be established to a reasonable degree of medical certainty, and the accidental compensable injury must be the major contributing cause of any resulting injuries.⁷

Compensation for permanent total disability is equal to 66 2/3 percent of the employee's average weekly wages payable to the employee during the continuance of the total disability.⁸ In addition, an employee will generally receive an annual supplemental income benefit equal to three percent per year of the compensation payment, multiplied by the number of calendar years since the date of the injury, until age 62.⁹

Compensation for temporary total disability is equal to 66 2/3 percent of the employee's average weekly wages payable to the employee during the continuance of the total disability, but not to exceed 104 weeks. At the earlier of the 104th week or the employee reaching maximum medical improvement, the temporary disability payment will cease and the injured employee's permanent impairment will be determined.¹⁰

Where the disability or death of an employee results from an "occupational disease," it will be treated as an injury by accident.¹¹ The employee or his survivors will be entitled to compensation. "Occupational disease" is defined to be "only a disease for which there are

⁴ See Exposure-response relationships for select cancer and non-cancer health outcomes in a cohort of US firefighters from San Francisco, Chicago and Philadelphia (1950–2009), available at [https://www.cdc.gov/niosh/firefighters/pdfs/Daniels-et-al-\(2015\)-508.pdf](https://www.cdc.gov/niosh/firefighters/pdfs/Daniels-et-al-(2015)-508.pdf).

⁵ *Id.*

⁶ Section 440.09(1), F.S.

⁷ *Id.*

⁸ Section 440.15(1)(a), F.S.

⁹ Section 440.15(1)(f), F.S.

¹⁰ Section 440.15(2)(a), F.S.

¹¹ Section 440.151(1)(a), F.S.

epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee.”¹²

An accidental compensable injury must be the major contributing cause of any resulting injury, meaning that the cause must be more than 50 percent responsible for the injury as compared to all other causes combined, as demonstrated by medical evidence only. An injury or disease involving an occupational disease or repetitive exposure, both causation and sufficient exposure to support causation must be proven by clear and convincing evidence.¹³

The Florida Retirement System (FRS)

General Background

The Florida Retirement System (FRS) was established in 1970.¹⁴ The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S.¹⁵ As of June 30, 2018, the FRS had 643,333 active members, 415,800 annuitants, 16,032 disabled retirees, and 33,432 active participants of the Deferred Retirement Option Program (DROP).¹⁶ As of June 30, 2018, the FRS consisted of 1,002 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 173 cities and 267 special districts that have elected to join the system.¹⁷

The membership of the FRS is divided into five membership classes:

- The Regular Class¹⁸ consists of 551,997 active members and 7,349 in renewed membership;
- The Special Risk Class¹⁹ includes 72,642 active members and 976 in renewed membership;
- The Special Risk Administrative Support Class²⁰ has 87 active members;
- The Elected Officers’ Class²¹ has 2,050 active members and 120 in renewed membership; and

¹² Section 440.151(2), F.S.

¹³ Section 440.09(1), F.S.

¹⁴ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, at p. 35. Available online at: https://www.rol.frs.state.fl.us/forms/2017-18_CAFR.pdf. (Last visited January 28, 2019.)

¹⁵ Prior to 1975, members of the FRS were required to make employee contributions of either four percent for Regular Class employees or six percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

¹⁶ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, at p. 160.

¹⁷ *Id.* at 196.

¹⁸ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

¹⁹ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

²⁰ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

²¹ The Elected Officers’ Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers’ Class participation for its elected officers. Section 121.052, F.S.

- The Senior Management Service Class²² has 7,881 active members and 207 in renewed membership.²³

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

The Special Risk Class of the FRS

The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S.

In originally establishing the Special Risk Class of membership in the FRS, the Legislature recognized that persons employed in certain categories of positions are required:

... to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other membership classes and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom.²⁴

A person who is a member in the Special Risk Class may retire at an earlier age and is eligible to receive higher disability and death benefits than Regular Class members.

Disability Retirement Benefits for Special Risk Members of the FRS

There are two types of disability retirement available under the Florida Retirement System: regular disability and in-the-line-of-duty disability retirement. To qualify for either type of disability retirement, members must be totally and permanently disabled to the extent that they are unable to work.²⁵ An employee who is physically or mentally unable to continue performing

²² The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

²³ All figures from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, at p. 163.

²⁴ Section 121.0515(1), F.S.

²⁵ Section 121.091(4)(b), F.S.

in his or her present occupation, but is able to perform another type of work, will not qualify for disability benefits.²⁶

To be eligible for regular disability retirement under the FRS, members must complete eight years of creditable service.²⁷ Under the FRS pension plan, the minimum benefit under regular disability retirement, regardless of class, is 25 percent of the employee's average final compensation.²⁸ In contrast, in-the-line-of-duty disability benefits are available to members on their first day of employment. There is no vesting period. Special Risk Class members receive a minimum in-the-line-of-duty disability benefit of 65 percent of their average final compensation.²⁹ Members in all other classes are eligible to receive a minimum in-the-line-of-duty disability benefit of 42 percent of their average final compensation.³⁰

Under the investment plan, the disability benefits are in lieu of the normal benefits (the accumulations of contributions and investment earnings in the member's account).³¹ Instead, the member must transfer all of the member's accumulations to the investment plan disability account and will receive a monthly benefit calculated the same as a similarly situated pension plan member.³²

Death Benefits for Special Risk Members of the FRS

Section 121.091(7), F.S., provides death benefits for active members of the FRS pension plan who die before retirement. If an employee dies before vesting, the employee's spouse receives only the accumulated FRS contributions that were made on the employee's behalf. For vested employees, the employee will be assumed to have retired on the date of death, and the spouse may elect one of the annuity options that provide payment to survivors.

The FRS currently provides death benefits for surviving spouses and/or eligible dependents of active members of the pension plan. Death benefits may be paid for an active member of the FRS pension plan who dies before retirement due to an injury or illness.³³ Certain health conditions for firefighters, law enforcement, correctional and correctional probation officers are deemed accidental and suffered in-the-line-of-duty.³⁴ If the injury or illness arises out of and in the actual performance of duty required by his or her job, the member's surviving spouse and/or eligible dependent(s) are entitled to in-the-line-of-duty death benefits.

If an active FRS member (regardless of vested status) dies in the line of duty, the surviving spouse receives a monthly benefit for his or her lifetime equal to 100 percent of the member's

²⁶ Florida Retirement System Employer Handbook, Disability Retirement, ch. 10-2, *available at* https://www.rol.frs.state.fl.us/forms/EH_ch10.pdf (last visited Feb. 15, 2019).

²⁷ Sections 121.091(4)(a) and 121.591(2)(b)2., F.S.

²⁸ Section 121.091(4)(f), F.S.

²⁹ *Id.*

³⁰ *Id.*

³¹ Section 121.591(2), F.S.

³² Section 121.591(2)(g), F.S.

³³ Section 121.091(7), F.S.

³⁴ Section 112.18(1)(a), F.S., provides any condition of health caused by tuberculosis, heart disease or hypertension resulting in the total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty.

monthly salary at death.³⁵ If the spouse dies, the benefit continues until the member's youngest child reaches 18 or is married, whichever occurs first.³⁶ If the child is unmarried and enrolled as a full time student, the benefit continues until he or she turns 25.³⁷ If the deceased member is entitled to a higher normal retirement benefit based on service credit, the normal retirement benefit is payable to the joint annuitant.³⁸

For instances relating to in-the-line-of-duty deaths, the surviving spouse or eligible dependent(s) may purchase credit for any service which could have been claimed by the member at the time of the member's death.³⁹ If a member dies within one year of vesting, the surviving spouse or other eligible dependent may use the member's annual, sick, or compensatory leave, or service eligible for purchase, to purchase enough service credit to vest the member posthumously.⁴⁰

Under the investment plan, the beneficiary may transfer the accumulations in the member's account to the pension fund and receive the death benefits allowed under the pension plan.⁴¹

Retirement Plans for Municipalities and Special Districts

Chapter 175, F.S., provide funding mechanisms for municipal firefighters' pension plans. The statute provides a uniform retirement system for firefighters and sets standards for operating and funding of pension systems through a trust fund supported by a tax on insurance premiums. Most Florida firefighters participate in these plans. Two types of plans are governed by ch. 175, F.S., chapter plans⁴² and local law plans.⁴³ To be considered totally and permanently disabled, chapter plan and local law plan employees must be found wholly prevented from rendering useful and efficient service as a firefighter.⁴⁴ Under local law plans, the standards may vary for determining eligibility for disability retirement, death benefits, and the benefits paid, although all plans must abide by minimum standards established under s. 175.351, F.S.

Presumptions and Burdens of Proof Relating to "in the line of duty" Disability and Death

Existing In the Line of Duty Presumptions for Firefighters

Section 112.18, F.S., provides a presumption applicable to any state, municipal, county, port authority, special tax district, or fire control district firefighter or any law enforcement officer, correctional officer, or correctional probation officer that any such employee qualifies for in the line of duty disability or death benefits if such disability or death is the result of tuberculosis, heart disease, or hypertension.

³⁵ Section 121.091(7)(d) and (i), F.S. If vested posthumously, the surviving spouse or dependent would be entitled to a death benefit.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Section 121.091(7)(b) and (d), F.S.

³⁹ Section 121.091(7)(e), F.S.

⁴⁰ Section 121.091(7)(f), F.S.

⁴¹ Section 121.591(4), F.S.

⁴² A chapter plan is a plan that adopts the provisions of ch. 175, F.S., by reference. *See* s. 175.032(4), F.S.

⁴³ A local law plan is a plan that is created by special act of the Legislature, or by a local ordinance or resolution that meets the minimum statutory requirements. *See* s. 175.032(14), F.S.

⁴⁴ Section 175.191, F.S.

Section 175.231, F.S., provides a similar presumption for the firefighters in any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under ch. 175, F.S., whose death or disability is the result of tuberculosis, heart disease, or hypertension.

Section 112.181, F.S., provides a presumption applicable to any emergency rescue or public safety worker, including a firefighter, paramedic, emergency medical technician, law enforcement officer, or correctional officer that such employee qualifies for in-the-line-of-duty disability or death if such disability or death is due to hepatitis, meningococcal meningitis, or tuberculosis.

Successful passage of a pre-employment physical examination is required for these presumptions.

Burden of Proof for In-the-Line-of-Duty Benefits

Absent one of the existing presumptions, the FRS member has the burden of proof when claiming in-the-line-of-duty disability or death benefits. The member must show by competent medical evidence that the death or disability occurred in-the-line-of-duty in order to receive the higher benefits.⁴⁵ If the employee or the employee's survivors cannot meet the burden of proof, the employee or the employee's survivors are entitled only to the lesser benefits available under regular death or disability benefits.

Under existing law, a firefighter that is disabled or dies as a result of cancer must show that the cancer was contracted due to some factor directly related to the employment as a firefighter. Due to latency periods,⁴⁶ it may be difficult for an employee to meet this burden.

Firefighter Death Benefits under s. 112.191, F.S.

Section 112.191(2)(a), F.S., grants a death benefit of \$50,000 to each firefighter, while engaged in the performance of his or her firefighter duties, accidentally killed or receives accidental bodily injury which subsequently results in the loss of the firefighter's life.

Section 112.191(2)(i), F.S., directs the Division of the State Fire Marshal to adjust the death benefit annually based on the increase in the Consumer Price Index for All Urban Consumers. As of July 1, 2018, the amount of the benefit is \$69,801.94.⁴⁷

⁴⁵ Sections 121.091(4)(c) and (7)(d), F.S.

⁴⁶ "The time between first exposure to a cancer-causing agent and clinical recognition of the disease is called the latency period. Latency periods vary by cancer type, but usually are 15 to 20 years, or longer. Because of this, past exposures are more relevant than current exposures as potential causes of cancers occurring in workers today. Often, these exposures are hard to document." The National Institute for Occupational Safety and Health (NIOSH), *available at* <http://www.cdc.gov/niosh/topics/cancer/clusters.html> (last visited February 16, 2019).

⁴⁷ Rule 69A-64.005, F.A.C.

Special Actuarial Study of Firefighter-in-line-of-duty Cancer Presumption

On March 26, 2019, a special study⁴⁸ was completed to determine the contribution rates necessary to fund the FRS benefits that may be paid based on the presumptions proposed under this bill. The results of this study determined that the contribution rates should be increased by nine basis points (0.09 percent) for the Special Risk Class and two basis points (0.02 percent) for the DROP to fund associated costs.

III. Effect of Proposed Changes:

The bill applies to a firefighter who is employed full-time by the state or local governments and whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county and state fire prevention codes and laws pertaining to the prevention and control of fires. Based on this definition, the employers include the Department of Agriculture and Consumer Service (Forest Service), the Department of Financial Services (State Fire Marshal's Office), the Department of Children and Families, the Department of Military Affairs, state universities, cities, counties, port authorities, and fire control districts.

To be eligible for benefits under this bill, a firefighter must be diagnosed with one of 21 specific cancers enumerated in the bill. Upon a diagnosis of one of these cancers, a firefighter is eligible for two new benefits established in the bill: (1) cancer treatment, at the employer's expense, and (2) a \$25,000 cash payment. Under the bill, the firefighter also becomes eligible for disability and death benefits. Based on the conclusive presumption contained in the bill that the cancer or the resulting treatment of cancer occurred in-the-line-of-duty, and if the firefighter meets the retirement plan's definition of totally and permanently disabled due to the diagnosis of cancer or circumstances that arise out of the treatment of cancer, the firefighter becomes eligible for enhanced disability benefits either under an employer-sponsored retirement plan or employer-sponsored disability retirement plan. Likewise, if the firefighter dies from the cancer or circumstances that arise from the cancer treatment, the firefighter's death is conclusively presumed to be in-the-line-of-duty, resulting in a higher death benefit for the firefighter's beneficiaries.

Benefits in lieu of Workers Compensation Benefits

The bill provides that, upon a diagnosis of cancer, a firefighter is entitled to certain benefits, as an alternative to pursuing workers' compensation benefits under ch. 440, F.S., if the firefighter has been employed by his or her employer for at least five continuous years, has not used tobacco products for at least the preceding five years, and has not been employed in any other position in the preceding five years which is proven to create a higher risk for cancer. The benefits are:

- Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for out-of-pocket deductible, copayment, or coinsurance costs incurred by the firefighter.
- A one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer.

⁴⁸ Milliman, *Re: Special Actuarial Study of Firefighter ILOD Cancer Presumption (SB 426) – Revised and Expanded*, dated March 26, 2019 (on file with the Appropriations Committee).

If the firefighter elects to continue coverage in the employer-sponsored health plan or group health insurance trust fund after he or she terminates employment, the benefits must be made available by a former employer of a firefighter for 10 years following the date that the firefighter terminates employment, so long as the firefighter has otherwise met the employment criteria when he or she terminated employment and was not subsequently employed as a firefighter following that date. A firefighter's cancer diagnosis must be considered an injury or illness incurred in the line of duty by the employer for purposes of determining leave time and employee retention policies.

Disability Benefits

If the firefighter participates in an employer-sponsored retirement plan, the retirement plan must consider the firefighter totally and permanently disabled if he or she meets the retirement plan's definition of totally and permanently disabled due to the diagnosis of cancer or circumstances arising out of the treatment of cancer.

If the firefighter does not participate in an employer-sponsored retirement plan, the employer must provide a disability retirement plan that provides the firefighter with at least 42 percent of his or her annual salary, at no cost to the firefighter, until the firefighter's death. This will serve as coverage for total and permanent disabilities attributable to the diagnosis of cancer arising out of the treatment of cancer.

Conclusive Presumption of Disability

In terms of the presumption of disability, the bill appears to create a conclusive presumption of disability. Under current law, the burden of proof is on the member to show that the medical condition occurred or became symptomatic during the time the member was employed by the FRS-participating employer, that the member was totally and permanently disabled at the time of termination from such employment, and for an in-line-of-duty disability, that the disability was caused by a job-related illness or accident which occurred while the member was in an employee/employer relationship with the FRS-participating employer.

Under the bill, the member must only show that the firefighter was diagnosed with one of the 21 cancers and was employed by an FRS-participating employer. Moreover, the employer has no opportunity to rebut the presumption that the illness was job-related or in-the-line-of-duty.

Death Benefits

If the firefighter participates in an employer-sponsored retirement plan, the retirement plan must consider the firefighter to have died in-the-line-of-duty if he or she dies as a result of cancer or circumstances arising out of the treatment of cancer.

If the firefighter does not participate in an employer-sponsored retirement plan, the employer must provide a death benefit to the firefighter's beneficiary, at no cost to the firefighter or his or her beneficiary, totaling at least 42 percent of the firefighter's most recent annual salary for at

least 10 years following the firefighter's death as a result of cancer or circumstances arising out of the treatment of cancer.

A firefighter who dies as a result of cancer or circumstances arising out of the treatment of cancer is considered to have died while engaged in the performance of his or her firefighter duties under s. 112.191(2)(a), F.S., and all of the benefits arising out of such death are available to the deceased firefighter's beneficiary.⁴⁹

The bill increases the amounts allocated in the investment plan to fund the line-of-duty death benefit coverage.

Funding Firefighter Health Benefits

The bill requires the costs of providing the reimbursement, lump sum, and retirement benefits made available under the bill must be borne solely by the employer that employs firefighters.

Firefighter Protections

The bill directs the Division of State Fire Marshal within the Department of Financial Services to adopt rules to establish employer cancer prevention best practices as it relates to personal protective equipment, decontamination, fire suppression apparatus, and fire stations.

FRS Employer Contribution Rates

The bill modifies the employer-paid contribution rates for the Special Risk class and the Deferred Retirement Option Program (DROP) in the Florida Retirement System to pay the actuarial costs of the benefits provided to firefighters by the bill.

Other Issues

The bill contains a legislative finding that determines and declares that this act fulfills an important state interest.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the Florida Constitution provides in pertinent part that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds . . . unless the legislature has determined that such law fulfills an important state interest and unless:

⁴⁹ Section 112.191(2)(a), F.S., provides that a firefighter who is accidentally killed or receives accidental bodily injury which subsequently results in the loss of the firefighter's life while engaged in the performance of his or her firefighter duties is entitled to a sum of \$50,000. However, such killing must not be the result of suicide and such bodily injury may not be intentionally self-inflicted.

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated.”

The bill contains a finding that the bill fulfills an important state interest (section 4). The bill appears to apply to all persons similarly situated (those public employers employing firefighters), including state agencies, school boards, community colleges, counties, municipalities and special districts. If this exception does not apply, the bill must be approved by two-thirds vote of each chamber.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article X, s. 14 of the Florida Constitution provides:

A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Lines 81-98 of the bill increase benefits to firefighters participating in public sector retirement plans, including the Florida Retirement System and the various ch. 175, F.S., plans sponsored by Florida cities. A special study to determine the actuarial impact on the Florida Retirement System is necessary to determine the appropriate level of concurrent funding necessary to meet the constitutional requirements.⁵⁰ Likewise, actuarial impact statements for the local government pension plans are required as well.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁵⁰ Milliman, *Re: Special Actuarial Study of Firefighter ILOD Cancer Presumption (SB 426) – Revised and Expanded*, dated March 26, 2019 (on file with the Appropriations Committee).

B. Private Sector Impact:

None.

C. Government Sector Impact:

The overall fiscal impact on the state, universities, cities, counties, and special fire control districts is unknown at this time. However, these employers should anticipate incurring additional costs: (a) to provide \$25,000 payment to each firefighter diagnosed with one of the 21 specific cancers enumerated in the bill; (b) for any cancer treatment undertaken by an eligible firefighter; (c) associated with potentially higher disability retirement benefits; (d) associated with potentially higher in-line-of-duty death benefits; and (e) associated with the adjusted \$50,000 death benefit granted by s. 112.191(2)(a), F.S.

The bill modifies the employer-paid contributions for the Special Risk class and the Deferred Retirement Option Program (DROP) FRS retirement benefits. In terms of the impact associated with changes to Florida Retirement System (FRS) benefits (disability retirement benefits and in-line-of-duty benefits), as noted in the special study, additional proposed statutory employer contributions for the Fiscal Year 2019-2020 plan year are estimated to be \$4.84 million.⁵¹ The costs to various employers groups are noted in the table below.

Employer Group	Additional Contributions
State	\$0.99 m
School Boards	\$0.23 m
Universities	\$0.05 m
Colleges	\$0.02 m
Counties	\$3.28 m
Other	\$0.28 m
Total	\$4.85 m

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 112.1816 of the Florida Statutes.

⁵¹ *Id.*

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 April 11, 2019:

The committee substitute:

- Adjusts the allocation in the investment plan for the Special Risk class to fund the line-of-duty death benefit coverage.
- Modifies the employer-paid contribution rates for the Special Risk class and the Deferred Retirement Option Program (DROP) in the Florida Retirement System.

CS by Community Affairs on March 5, 2019:

The committee substitute:

- Revises employer reimbursement requirements to firefighters for certain costs incurred in cancer treatment.
- Revises requirements for continuing cancer treatment coverage of firefighters after termination of employment.
- Deletes certain funding prohibitions on cancer coverage for firefighters.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
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	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Between lines 119 and 120

insert:

Section 2. Subsection (3) of section 121.735, Florida Statutes, is amended to read

121.735 Allocations for member line-of-duty death benefits; percentage amounts.—

(3) Effective July 1, 2017, allocations from the Florida Retirement System Contributions Clearing Trust Fund to provide



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line-of-duty death benefits for members in the investment plan
and to offset the costs of administering said coverage, are as
follows:

Membership Class	Percentage of Gross Compensation

Regular Class	0.05%

Special Risk Class	<u>1.21%</u> ~~1.15%~~

Special Risk Administrative Support Class	0.03%

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.15%

Elected Officers' Class— Justices, Judges	0.09%

Elected Officers' Class— County Elected Officers	0.20%



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Senior Management Service
Class

0.05%

Section 3. (1) In order to fund the benefit changes provided by this act to the Florida Retirement System, the required employer contribution rates for the members fo the Florida Retirement System are increased as follows:

(a) By 0.08 percentage point for the rate established in s. 121.71(4), Florida Statutes, for the Special Risk Class.

(b) By 0.01 percentage point for the rate established in s. 121.71(5), Florida Statutes, for the Special Risk Class.

(c) By 0.02 percentage point for the rate established in s. 121.71(5), Florida Statutes, for DROP.

(2) The adjustments provided in subsection (1) are in addition to any other changes to such contribution rates which may be enacted into law to take effect on July 1, 2019. The Division of Law Revision is directed to adjust accordingly the contribution rates provided in s. 121.71, Florida Statutes.

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

And the title is amended as follows:

Delete lines 13 - 15

and insert:

Fire Marshal to adopt certain rules; amending s.
121.735, F.S.; adjusting the allocation of funds to
provide line-of-duty death benefits for members in the
investment plan of the Florida Retirement System;
directing the Division of Law Revision to adjust the



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50 employer contribution rates for the Special Risk Class
51 and DROP in the Florida Retirement System; providing a
52 declaration of important state interest; providing an
53 effective date.

By the Committee on Community Affairs; and Senators Flores,
Torres, and Hooper

578-02724-19

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A bill to be entitled

An act relating to firefighters; creating s. 112.1816, F.S.; providing definitions; granting certain benefits to a firefighter upon receiving a diagnosis of cancer if certain conditions are met; requiring an employer to make certain disability payments to a firefighter in the event of a total and permanent disability; providing for death benefits to a firefighter's beneficiary if a firefighter dies as a result of cancer or cancer treatments; specifying that any costs associated with benefits granted by the act must be borne by the employer; requiring the Division of State Fire Marshal to adopt certain rules; providing a declaration of important state interest; providing an effective date.

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

Section 1. Section 112.1816, Florida Statutes, is created to read:

112.1816 Firefighters; cancer diagnosis.—

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

(a) "Cancer" includes:

1. Bladder cancer.
2. Brain cancer.
3. Breast cancer.
4. Cervical cancer.
5. Colon cancer.
6. Esophageal cancer.

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

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7. Invasive skin cancer.

8. Kidney cancer.

9. Large intestinal cancer.

10. Lung cancer.

11. Malignant melanoma.

12. Mesothelioma.

13. Multiple myeloma.

14. Non-Hodgkin's lymphoma.

15. Oral cavity and pharynx cancer.

16. Ovarian cancer.

17. Prostate cancer.

18. Rectal cancer.

19. Stomach cancer.

20. Testicular cancer.

21. Thyroid cancer.

(b) "Employer" has the same meaning as in s. 112.191.

(c) "Firefighter" means an individual employed as a full-time firefighter within the fire department or public safety department of an employer whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires.

(2) Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers' compensation benefits under chapter 440, if the firefighter has been employed by his or her employer for at least 5 continuous years, has not used tobacco products for at least the preceding 5 years, and has not been employed in any

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other position in the preceding 5 years which is proven to create a higher risk for any cancer:

(a) Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for any out-of-pocket deductible, copayment, or coinsurance costs incurred due to the treatment of cancer.

(b) A one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer.

If the firefighter elects to continue coverage in the employer-sponsored health plan or group health insurance trust fund after he or she terminates employment, the benefits specified in paragraphs (a) and (b) must be made available by the former employer of a firefighter for 10 years following the date on which the firefighter terminates employment so long as the firefighter otherwise met the criteria specified in this subsection when he or she terminated employment and was not subsequently employed as a firefighter following that date. For purposes of determining leave time and employee retention policies, the employer must consider a firefighter's cancer diagnosis as an injury or illness incurred in the line of duty.

(3) (a) If the firefighter participates in an employer-sponsored retirement plan, the retirement plan must consider the firefighter totally and permanently disabled in the line of duty if he or she meets the retirement plan's definition of totally and permanently disabled due to the diagnosis of cancer or circumstances that arise out of the treatment of cancer.

(b) If the firefighter does not participate in an employer-

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sponsored retirement plan, the employer must provide a disability retirement plan that provides the firefighter with at least 42 percent of his or her annual salary, at no cost to the firefighter, until the firefighter's death, as coverage for total and permanent disabilities attributable to the diagnosis of cancer which arise out of the treatment of cancer.

(4) (a) If the firefighter participated in an employer-sponsored retirement plan, the retirement plan must consider the firefighter to have died in the line of duty if he or she dies as a result of cancer or circumstances that arise out of the treatment of cancer.

(b) If the firefighter did not participate in an employer-sponsored retirement plan, the employer must provide a death benefit to the firefighter's beneficiary, at no cost to the firefighter or his or her beneficiary, totaling at least 42 percent of the firefighter's most recent annual salary for at least 10 years following the firefighter's death as a result of cancer or circumstances that arise out of the treatment of cancer.

(c) Firefighters who die as a result of cancer or circumstances that arise out of the treatment of cancer are considered to have died in the manner as described in s. 112.191(2) (a), and all of the benefits arising out of such death are available to the deceased firefighter's beneficiary.

(5) The costs of providing the reimbursement, lump sum, and retirement benefits made available under this section must be borne solely by the employer that employs firefighters.

(6) The Division of State Fire Marshal within the Department of Financial Services shall adopt rules to establish

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117 employer cancer prevention best practices as it relates to
118 personal protective equipment, decontamination, fire suppression
119 apparatus, and fire stations.

120 Section 2. The Legislature determines and declares that
121 this act fulfills an important state interest.

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



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March 26, 2019

Via E-Mail

Ms. Shirley Beauford
Acting State Retirement Director
Florida Department of Management Services, Division of Retirement

**Re: Special Actuarial Study of Firefighter ILOD Cancer Presumption (SB 426) –
Revised and Expanded**

Dear Director Beauford:

In response to a Senate request dated March 1 and as outlined in our project scope letter dated March 5, this letter provides actuarial analysis on two variations of a concept providing enhanced FRS benefits to firefighters who participate in the FRS Pension Plan or the FRS Investment Plan and their eligible beneficiaries. Under the concept, firefighters who are diagnosed with certain specified cancers and also satisfy other enumerated criteria are presumed to have contracted those cancers in-line-of-duty (ILOD) for purposes of determining eligibility for FRS Pension Plan disability or death benefits. One variation of the concept expands the eligibility criteria for disability benefits for those diagnosed with one of the specified cancers from the current FRS definition of being unable to perform the duties of any occupation, to an “own occupation” definition of being unable to perform the duties of a professional firefighter.

Executive Summary

The concept provides ILOD disability or death benefits, as applicable, for firefighters diagnosed with certain cancers. The firefighters are a subset of the Special Risk Membership Class. The concept would enhance benefits for these members and their eligible beneficiaries, as some disabilities and deaths that were previously considered to be non-duty would now be considered ILOD. In addition to the higher benefits that are often payable for ILOD, there is no minimum service requirement for ILOD benefits, while there is a minimum creditable service requirement¹ for non-duty FRS Pension Plan death or disability benefits. As such, this concept will increase the number of members receiving ILOD disability benefits and the number of survivor beneficiaries receiving ILOD death benefits.

¹ The credible service requirement for non-duty FRS Pension Plan disability benefits is eight years, regardless of membership tier. To be eligible for non-duty FRS Pension Plan death benefits, the member must have six years of service for Tier 1 or eight years of service in Tier 2 and the FRS Investment Plan account balance must be surrendered.

While this benefit enhancement will only affect firefighters, it is our understanding that the contribution rate impact will be spread across the entire Special Risk Membership Class.

We studied two different definitions of disability – one for being disabled from the job of firefighter and the second of being disabled from any occupation. Greater detail regarding these definitions is provided below.

As summarized in the following table, using the disabled from the job of firefighter “own occupation” definition, the increase in the 2019-2020 blended proposed statutory contribution rate would be 0.11% of Special Risk Membership Class payroll. That increase includes a 0.06% increase to the allocations for member line-of-duty death benefits², and a 0.02% increase to the allocations for member disability coverage³ for FRS Investment Plan members in the Special Risk Class.

<u>Disabled from the Job of Firefighter “Own Occupation” Definition</u>		
<u>Blended Proposed 2019-2020 Special Risk Class Statutory Contribution Rate Change Due to Increase in:</u>		
Employer Normal Cost Contribution Rate	Pension Plan UAL Cost	Total
0.10%	0.01%	0.11%

In the following table, we summarize the results from the study of the “any occupation” definition of disability, which is the current FRS eligibility assessment standard. The 0.09% increase in the Special Risk Class 2019-2020 blended proposed statutory contribution rate shown below includes a 0.06% increase to the allocations for member line-duty death benefits, and no change to the allocations for member disability coverage for FRS Investment Plan members in the Special Risk Class based on the rounding convention used to set contribution rate components (nearest 0.01% of applicable payroll).

<u>Disabled from Any Occupation</u>		
<u>Blended Proposed 2019-2020 Special Risk Class Statutory Contribution Rate Change Due to Increase in:</u>		
Employer Normal Cost Contribution Rate	Pension Plan UAL Cost	Total
0.08%	0.01%	0.09%

In addition, the modifications made by either variation of this concept would increase the composite system-average FRS Pension Plan Employer Normal Cost Rate by 0.02% of FRS Pension Plan payroll. As such, given current rate-setting methodology, the proposed statutory

² Section 121.735 Florida Statutes

³ Section 121.73 Florida Statutes

2019-2020 normal cost rate for DROP payroll would be increased by 0.02% of applicable payroll as an outcome of this concept.

Concept for Analysis

The concept's ILOD presumption would apply to the twenty-one cancers identified in the version of Senate Bill 426, which was provided to us in February.

Special Risk Class members who are firefighters and receive a diagnosis of a specified cancer, and satisfy other conditions such as those related to the non-use of tobacco products would be affected by the concept. Affected members who are diagnosed may be eligible for FRS Pension Plan ILOD disability benefits if the member is totally and permanently disabled.

The study quantifies the impact of the proposed bill using two distinct definitions of disability eligibility criteria:

- Definition 1 (Own occupation) - Being disabled from the job: consistent with the language in the proposed bill, *"...the retirement plan must consider the firefighter totally and permanently disabled if he or she is prevented from rendering useful and effective service as a firefighter and is likely to remain disabled continuously and permanently due to the diagnosis of cancer or circumstances that arise out of the treatment of cancer."*
- Definition 2 (Any occupation) - Being disabled from all employment: consistent with current FRS disability benefit eligibility criteria, and revised language provided by Mr. Joe McVane from the Office of the Florida Senate, *"...the retirement plan must consider the firefighter totally and permanently disabled in the line of duty if he or she meets the retirement plan's definition of totally and permanently disabled, due to the diagnosis of cancer or circumstances that arise out of the treatment of cancer."*

FRS Investment Plan (IP) members who meet the disability criteria could elect to transfer all IP accumulations to the FRS Pension Plan and be eligible for FRS Pension Plan ILOD disability benefits. Beneficiaries of affected FRS Pension Plan and FRS Investment Plan members who die before retirement on or after July 1, 2019 as a result of one of the specified cancers would be eligible for FRS Pension Plan ILOD death benefits.

Benefits under the concept would be prospective starting on July 1, 2019 for eligible members and beneficiaries. Our understanding is that the provided benefit would increase annually by COLA if the member is eligible for a COLA. FRS Investment Plan member benefits would be eligible for COLA at a level analogous to the COLA provided to a similarly situated FRS Pension Plan member.

Exclusions

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The analysis is based on our understanding that the exclusions listed below are not included in this concept. A change in the exclusions could lead to additional liability for the system. The use of “member” below is intended to refer to a Special Risk Class member who is a firefighter.

- A member who finalizes retirement under either the FRS Pension Plan or the FRS Investment Plan and is later diagnosed with one of the cancers enumerated in this concept.
- The surviving spouse of a deceased retired member who died as a result of one of these cancers cannot change retirement type from an ILOD disability benefit payment option or from a single life annuity or a joint-and-survivor benefit payment option to qualify for ILOD death benefits under this concept.

Summary of Results

While not all Special Risk Class members are firefighters, it is our understanding that this concept would not create a new membership class in FRS. Instead, the cost of the additional benefits would be funded by employer contribution rates on the entire Special Risk Membership Class payroll. To allow us to conduct this study, the Division of Retirement provided us a data file identifying which Special Risk Class members would be classified as firefighters under this concept based on current membership.

If the concept is enacted, there is no expected change in the total number of deaths, but there would be an increase in the proportion of deaths considered to be ILOD. Under disability Definition 1, there is an expected increase in the total number of disabilities, because of the use of the less restrictive “own occupation” (firefighter) disability definition. Under the “any occupation” disability Definition 2, there is no expected change in the total number of qualifying disabilities, but there would be an increase in the proportion of disabilities considered to be ILOD.

For the firefighters within the Special Risk Class, the assumed increase in the number of ILOD disability and death benefits claimed would increase the FRS Pension Plan-specific Employer Normal Cost Rate for the Special Risk Class. Because this change would impact projected future FRS Pension Plan ILOD death and disability benefits for current FRS Pension Plan members, there is also an increase in the actuarial present value of projected benefits (PVPB) as of the effective date due to the concept.

Applying the actuarial cost allocation method that is currently used for determining actuarially calculated contribution rates, the Actuarial Liability would be increased by this concept.

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Our analysis quantifies the estimated impact of the concept when compared to the current benefit structure for the Special Risk Class FRS Pension Plan participants:

- Under “own occupation” Definition 1, both FRS Pension Plan Actuarial Liability and Unfunded Actuarial Liability (UAL) would increase by \$7.9 million. Under “any occupation” Definition 2, both measures would increase by \$10.9 million. The UAL increase for Definition 2 is modestly larger than that for Definition 1 due to technical application of the particular cost allocation method approved for use by the 2018 FRS Actuarial Assumption Conference. Under either definition, there would be a 0.01% of payroll increase in the proposed blended statutory 2019-2020 UAL Cost Rate for active FRS Pension Plan Special Risk Class members.
- The actuarially calculated Employer Normal Cost Rate specific to the FRS Pension Plan for Special Risk Class members would increase by 0.10% of payroll for Definition 1 and 0.08% of payroll for Definition 2. The calculated allocation for member line-of-duty death benefits specific to FRS Investment Plan payroll for Special Risk Class members would increase by 0.06% of applicable payroll. The calculated allocation for FRS Investment Plan member disability coverage for the Special Risk Class would increase 0.02% under Definition 1 and would not change under Definition 2. The change to the estimated 2019-2020 blended proposed statutory normal cost rate would be 0.10 % of combined FRS Pension Plan and FRS Investment Plan payroll for Special Risk Class for Definition 1 and 0.08% of payroll for Definition 2.

Note that the FRS Pension Plan Employer Normal Cost Rate for DROP members is set equal to the system-average normal cost rate for the FRS Pension Plan. The 0.10% or 0.08% change in the FRS Pension Plan Employer Normal Cost Rate for Special Risk Class members would increase the composite system average FRS Pension Plan Employer Normal Cost Rate by 0.02% of payroll in both variations of the concept. As such, the 2019-2020 Employer Normal Cost Rate for DROP members would increase by 0.02% of DROP payroll.

Tables 1-1 PP, 1-2 PP, 1-1 IP, 1-2 IP, 2-1, and 2-2 summarize the financial impact of this concept. The tables with “-1” are for Definition 1 and the tables with “-2” are for Definition 2.

Tables 1-1 PP and 1-2 PP show the impact of the change on the FRS Pension Plan’s actuarial valuation results for Special Risk Class members prior to blending with FRS Investment Plan cost levels to create 2019-2020 proposed blended statutory employer contribution rates. Section A of the table shows the estimated increase to the actuarially calculated Employer Normal Cost Rate, and the absence of impact from the concept on the 2019-2020 actuarially calculated UAL Cost rate. Section B of the table shows the estimated increase to the FRS Pension Plan’s Actuarial Liability due to the combined effects of the increase in Employer Normal Cost Rate, the increase in the projected value of projected benefits, and the methodology used to calculate Actuarial Liability for FRS Pension Plan funding calculations.

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Tables 1-1 IP and 1-2 IP show the actuarially calculated FRS Investment Plan employer contribution rates due to the concept. The FRS Investment Plan rates shown in this table are prior to blending with FRS Pension Plan contribution rates to create 2019-2020 proposed blended statutory employer contribution rates.

Tables 2-1 and 2-2 show the estimated impact of the change in ILOD death and disability benefits under the concept on the proposed blended statutory rates for Special Risk Class members for the 2019-2020 plan year. Section A of the table develops the 2019-2020 proposed blended statutory employer normal cost contribution rate reflecting the expected impact of the concept. The FRS Pension Plan and FRS Investment Plan rates are based on the results of this study's analysis.

Section B of Tables 2-1 and 2-2 develop the proposed blended statutory employer UAL rate as the total employer UAL Cost derived from the FRS Pension Plan divided by the total projected payroll of the FRS Pension Plan and FRS Investment Plan for Special Risk Class members. Section C of each table compares the proposed blended statutory rates reflecting the impact of the concept to those developed in the 2019-2020 Blended Rate Study, which was developed as part of the July 1, 2018 Actuarial Valuation. Section D of each table translates the estimated change in 2019-2020 proposed blended statutory rates to an estimated increase in employer contributions during the 2019-2020 plan year.

The payroll for some employee groups is subject to only the Blended UAL Contribution Rate component of the overall employer contribution rate (e.g., participants in the SUSORP, SMSOAP, and SCCORP, and reemployed members not eligible for renewed membership). The payroll for those employee groups is included in the calculation of the proposed blended statutory UAL Contribution Rate, but is excluded from the calculation of the proposed blended statutory Normal Cost Contribution Rate.

The contribution rates shown in Tables 2-1 and 2-2 exclude the 0.06% contribution rate for FRS Investment Plan administration and education (applied to all membership classes except DROP) and the 1.66% contribution rate for the Health Insurance Subsidy (HIS) program, which is charged to all FRS Pension Plan and FRS Investment Plan payroll.

Analysis-Specific Assumptions and Methodology

In developing this analysis, the mortality rates for active FRS Investment Plan members during their time of employment were modeled using the mortality tables specified in the 2018 Actuarial Valuation Report for the FRS Pension Plan. Before the modification explained below to reflect assumed incidence of cancers specified by the concept, it was assumed that 25% of Special Risk Class deaths would be ILOD.

To conduct adjustments to the mortality rates for cancer, gender-specific mortality rates for each type of cancer were obtained from the National Cancer Institute's SEER (Surveillance, Epidemiology, and End Results) database. Those rates were adjusted based on data available

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from the National Cancer Institute to reflect mortality rates for each type of cancer in the state of Florida when compared to national averages. Those rates were then further modified to reflect firefighter-specific rates using the 50-year longitudinal study of cancer and mortality incidence for career firefighters as conducted by researchers from NIOSH (National Institute of Occupational Safety and Health) and the UC Davis Department of Health Sciences.

The mortality rates were broken into two categories, one for those below age 50 and another for those age 50 or older. After obtaining these estimates for the mortality rates attributable to the enumerated types of cancer, those mortality rates were added to the ILOD death probabilities and subtracted from the non-duty death probabilities. The total probability of death at a given age is unchanged from the mortality assumption used in the actuarial valuation, however more of the deaths are classified as ILOD under the concept.

For adjusting the disability rates, it was necessary to estimate the percentage of members who may become totally and permanently disabled and whose disability would be caused by one of the enumerated types of cancers. Information provided by a long-term disability benefit expert within Milliman indicated that approximately 10% - 15% of long-term disabilities are related to the types of cancer enumerated in the concept. Compared to the general population, firefighters have an elevated risk of cancer diagnosis based on the NIOSH data, among other sources.

The 2013 Society of Actuaries Individual Disability Valuation Table for those in occupation class 4 (consistent with firefighters) and non-smoker status was used to inform the frequency of disability and cancer.

After considering these factors, we assumed that 21% of firefighter disabilities for FRS would be caused by the twenty-one types of cancer enumerated in the concept. Note that disability rates for FRS tend to be lower than what is seen in many other large retirement systems, so that may result in a higher percentage of FRS disabilities being related to a cancer diagnosis than for would be the case for other systems.

In the FRS Actuarial Valuation as of July 1, 2018, age-specific disability rates were used based upon the most recent 2014 FRS Experience Study. For Definition 2 of this analysis, we increased the ILOD disability rates commensurate with the percentages specified above and decreased the non-duty disability rates by the same amounts so that the sum of the non-duty and ILOD disability rates was unchanged from the July 1, 2018 valuation. Note that all disability rates applied before a member is eligible for non-duty FRS Pension Plan disability benefits (eight years of service) are treated as ILOD.

For Definition 1, there would be an assumed addition to the number of disabilities, since the standard for being disabled would shift from a definition of being disabled from any occupation to being disabled specifically from the position of firefighter. We assumed that this change in definition would increase the number of ILOD disabilities due to cancer by a factor of 35%. This percentage was based on industry statistics relating "own occupation" disability definition to "any occupation" disability definition, then adjusted to be Florida-specific based on state-specific

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incidence rates developed from the SEER database, and further adjusted by the NIOSH data to be firefighter-specific. These increased disabilities would all be considered ILOD.

The assessment of the Section 121.73 and 121.735 allocations for FRS Investment Plan member disability coverage and line-of-duty-death benefits was based on FRS Investment Plan (IP) member census and payroll data as of July 1, 2018 and IP account balance information as of June 30, 2018. Individual member account balances were projected forward to the assumed date of death or disability assuming 5.75% annual return plus annual contributions to member accounts equal to 14.00% of gross compensation for Special Risk Class members, as specified in Section 121.72. FRS Investment Plan members were assumed to receive salary increases and leave active employment (due to death, disability, termination or retirement) consistent with the assumptions applied to a similarly situated FRS Pension Plan member.

Other Assumptions and Methods

The calculations are based on census and payroll data as of July 1, 2018 provided to us by the Division of Retirement for development of the FRS Actuarial Valuation as of July 1, 2018 and the FRS 2019-2020 Blended Rate Study. We have not audited or verified this data and other information. If the underlying data or information is inaccurate or incomplete, the results of our analysis may likewise be inaccurate or incomplete. The Division of Retirement provided an additional census file used to identify which members would be classified as firefighters under this concept.

We performed a limited review of the data used directly in our analysis for reasonableness and consistency and have not found material defects in the data. If there are material defects in the data, it is possible that they would be uncovered by a detailed, systematic review and comparison of the data to search for data values that are questionable or for relationships that are materially inconsistent. Such a review was beyond the scope of our assignment.

Except where otherwise noted in this letter, this analysis is based on the methods and assumptions as stated in the FRS Actuarial Valuation as of July 1, 2018 report. The data was based on the July 1, 2018 FRS actuarial valuation database. The results of our study depend on future experience conforming to those actuarial assumptions discussed earlier in this letter. Future actuarial measurements may differ significantly from the current measurements presented in this analysis due to many factors, including: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period) and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements. In addition, the cost of the proposed change will depend on the actual legislation.

Milliman's work product was prepared exclusively for the internal business use of Florida Department of Management Services, Division of Retirement. It is a complex technical analysis

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Ms. Shirley Beauford
March 26, 2019
Page 9

that assumes a high level of knowledge concerning the Florida Retirement System's operations, and uses Division data, which Milliman has not audited. To the extent that Milliman's work is not subject to disclosure under applicable public record laws, Milliman's work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product. Milliman's consent to release its work product to any third party may be conditioned on the third party signing a Release, subject to the following exceptions:

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No third party recipient of Milliman's work product should rely upon Milliman's work product. Such recipients should engage qualified professionals for advice appropriate to their own specific needs.

The consultants who worked on this assignment are pension actuaries. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

Milliman consultants are independent of the plan sponsor. We are not aware of any relationship that would impair the objectivity of our work.

The undersigned is a consulting actuary for Milliman, Inc., a member of the American Academy of Actuaries, and meets their Qualification Standards to render the actuarial opinion contained herein.

Please let us know of any questions or comments regarding this letter.

Sincerely,



Matt Larrabee, FSA, EA, MAAA
Principal & Consulting Actuary

cc: Garry Green (Division of Retirement), Daniel Wade (Milliman), Kathryn Hunter (Milliman)

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FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Effect on July 1, 2018 Defined Benefit FRS Pension Plan Actuarial Valuation Results
Impact to FRS Pension Plan of Proposal for Firefighter ILOD Cancer Presumption Death and Disability Benefits Effective July 1, 2019 for Special Risk
Applicable to Twenty-One Cancers under Disability Definition 1 (Disabled from the Job)
Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used
(Dollars in Thousands)

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	Regular	Special Risk	Special Risk Administrative	-----Elected Officers' Class----- Judicial	Leg-Atty-Cab	Local	Senior Management	Composite (excluding DROP)	DROP	Composite (including DROP)
A. Actuarially Calculated Pension Plan Employer Contribution Rates (prior to blending to create proposed blended statutory contribution rates)										
1. Actuarially Calculated Pension Plan Employer Contribution Rates Developed in July 1, 2018 Valuation ¹										
a. Employer Normal Cost	3.09%	12.36%	3.26%	12.46%	6.61%	8.63%	4.47%	4.68%	4.68%	4.68%
b. UAL Cost	<u>4.30%</u>	<u>13.17%</u>	<u>40.04%</u>	<u>31.59%</u>	<u>58.20%</u>	<u>53.62%</u>	<u>25.75%</u>	<u>6.21%</u>	<u>8.24%</u>	<u>6.36%</u>
c. Total Employer Cost	7.39%	25.53%	43.30%	44.05%	64.81%	62.25%	30.22%	10.89%	12.92%	11.04%
2. Actuarially Calculated Pension Plan Employer Contribution Rates Reflecting Proposed Change										
a. Employer Normal Cost	3.09%	12.46%	3.26%	12.46%	6.61%	8.63%	4.47%	4.70%	4.70%	4.70%
b. UAL Cost	<u>4.30%</u>	<u>13.18%</u>	<u>40.04%</u>	<u>31.59%</u>	<u>58.20%</u>	<u>53.62%</u>	<u>25.75%</u>	<u>6.21%</u>	<u>8.24%</u>	<u>6.36%</u>
c. Total Employer Cost	7.39%	25.64%	43.30%	44.05%	64.81%	62.25%	30.22%	10.91%	12.94%	11.06%
3. Change in Actuarially Calculated Pension Plan Employer Contribution Rates due to Proposed Change										
a. Normal Cost	0.00%	0.10%	0.00%	0.00%	0.00%	0.00%	0.00%	0.02%	0.02%	0.02%
b. UAL Cost	<u>0.00%</u>	<u>0.01%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
c. Total Cost	0.00%	0.11%	0.00%	0.00%	0.00%	0.00%	0.00%	0.02%	0.02%	0.02%
B. FRS Pension Plan Unfunded Actuarial Liability (UAL) and Present Value of Projected Benefits (Dollars in Thousands)										
1. July 1, 2018 Actuarial Valuation UAL ²	\$15,987,344	\$8,076,264	\$18,652	\$521,161	\$66,212	\$390,166	\$2,109,948	\$27,169,747	\$2,675,982	\$29,845,729
2. July 1, 2018 UAL Reflecting Proposed Change	<u>15,987,344</u>	<u>8,084,179</u>	<u>18,652</u>	<u>521,161</u>	<u>66,212</u>	<u>390,166</u>	<u>2,109,948</u>	<u>27,177,662</u>	<u>2,675,982</u>	<u>29,853,644</u>
3. Increase in UAL due to Proposed Change	\$0	\$7,915	\$0	\$0	\$0	\$0	\$0	\$7,915	\$0	\$7,915
4. Increase in Present Value of Future Normal Costs	\$0	\$40,371	\$0	\$0	\$0	\$0	\$0	\$40,371	\$0	\$40,371
5. Increase in Present Value of Projected Benefits (3. + 4.)	\$0	\$48,286	\$0	\$0	\$0	\$0	\$0	\$48,286	\$0	\$48,286

¹ As reported in the July 1, 2018 valuation - Table 4-11

² As reported in the July 1, 2018 valuation - Table 3-2

FLORIDA RETIREMENT SYSTEM

FISCAL IMPACT ANALYSIS

**Impact to FRS Investment Plan of Proposal for Firefighter ILOD Cancer Presumption Death and Disability Benefits Effective July 1, 2019 for Special Risk
Applicable to Twenty-One Cancers under Disability Definition 1 (Disabled from the Job)**

Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used
(Dollars in Thousands)

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	Regular	Special Risk	Special Risk Administrative	Judicial	-----Elected Officers' Class----- Leg-Atty-Cab	Local	Senior Management	Composite
A. Actuarially Calculated Investment Plan Employer Contribution Rates (prior to blending to create proposed blended statutory contribution rates)								
1. Employer Rates effective since July 1, 2012 (Sec 121.72-73; 121.735) ¹								
a. Employer Cost (excludes member contributions)	3.60%	13.48%	5.43%	11.05%	6.94%	8.95%	4.98%	4.93%
b. UAL Cost	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
c. Total Employer Cost	3.60%	13.48%	5.43%	11.05%	6.94%	8.95%	4.98%	4.93%
2. Actuarially Calculated Investment Plan Employer Contribution Rates Reflecting Proposed Change								
a. Employer Cost (excludes member contributions)	3.60%	13.56%	5.43%	11.05%	6.94%	8.95%	4.98%	4.94%
b. UAL Cost	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
c. Total Employer Cost	3.60%	13.56%	5.43%	11.05%	6.94%	8.95%	4.98%	4.94%
3. Change in Actuarially Calculated Investment Plan Employer Contribution Rates due to Proposed Change								
a. Employer Cost	0.00%	0.08%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%
c. UAL Cost	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
d. Total Employer Cost	0.00%	0.08%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%

¹ As reported in the 2019-2020 Blended Rates Study dated December 2, 2016.

FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Effect on Proposed Blended Statutory Employer Contribution Rates for 2019-2020 Plan Year
Impact to FRS Pension Plan and FRS Investment Plan of Proposal for Firefighter ILOD Cancer Presumption Disability Benefit Enhancement Effective July 1, 2019 for Special Risk
Applicable to Twenty-One Cancers under Disability Definition 1 (Disabled from the Job)
Assumes 3.25% Annual Growth in Total Payroll

Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used

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	Regular	Special Risk	Special Risk Administrative	Judicial	-----Elected Officers' Class----- Leg-Atty-Cab	Local	Senior Management	Composite (excluding DROP)	DROP	Composite (including DROP)
A. Proposed Blended Statutory Normal Cost Contribution Rates Reflecting the Concept (Dollars in Thousands)										
1. Actuarially Calculated Defined Benefit Pension Plan Normal Cost										
a. Employer Pension Plan Normal Cost Rate	3.09%	12.46%	3.26%	12.46%	6.61%	8.63%	4.47%	4.70%	4.70%	4.70%
b. Projected Pension Plan Normal Cost Payroll	\$20,408,366	\$4,108,361	\$3,480	\$112,211	\$7,150	\$45,814	\$551,964	\$25,237,346	\$2,295,800	\$27,533,146
c. Total Employer Pension Plan Normal Cost [(1a) x (1b)]	\$630,619	\$511,902	\$113	\$13,981	\$473	\$3,954	\$24,673	\$1,185,715	\$107,903	\$1,293,618
2. Investment Plan Employer Cost										
a. Employer Rates effective July 1, 2018 (Sec 121.72-73; 121.735)	3.60%	13.48%	5.43%	11.05%	6.94%	8.95%	4.98%	4.93%	0.00%	4.93%
b. Additional Contribution Due to Concept	0.00%	0.08%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%	0.00%	0.01%
c. Total Employer Contribution Rate effective July 1, 2019	3.60%	13.56%	5.43%	11.05%	6.94%	8.95%	4.98%	4.94%	0.00%	4.94%
d. Projected Investment Plan Payroll	\$4,960,465	\$753,373	\$708	\$14,552	\$1,707	\$19,950	\$197,449	\$5,948,204	\$0	\$5,948,204
e. Total Employer Investment Plan Cost [(2c) x (2d)]	\$178,577	\$102,157	\$38	\$1,608	\$118	\$1,786	\$9,833	\$294,117	\$0	\$294,117
3. Proposed Blended Statutory Employer Normal Cost Rate (Pension Plan + Investment Plan)										
a. Total Employer Normal Cost Contribution [(1c) + (2e)]	\$809,196	\$614,059	\$151	\$15,589	\$591	\$5,740	\$34,506	\$1,479,832	\$107,903	\$1,587,735
b. Total System Projected Payroll [(1b) + (2d)]	\$25,368,831	\$4,861,734	\$4,188	\$126,763	\$8,857	\$65,764	\$749,413	\$31,185,550	\$2,295,800	\$33,481,350
c. Proposed Blended Statutory Employer Normal Cost Contribution Rate ¹ As a Percentage of Total Payroll [(3a) / (3b)]	3.19%	12.63%	3.61%	12.30%	6.67%	8.73%	4.60%	4.75%	4.70%	4.74%
B. Proposed Blended Statutory Unfunded Actuarial Liability (UAL) Cost Contribution Rates Reflecting the Concept (Dollars in Thousands)										
1. Actuarially Calculated Defined Benefit Pension Plan UAL Cost										
a. Pension Plan UAL Cost Rate	4.30%	13.18%	40.04%	31.59%	58.20%	53.62%	25.75%	6.21%	8.24%	6.36%
b. Projected Pension Plan UAL Cost Payroll	\$23,850,651	\$4,128,510	\$3,480	\$112,680	\$7,707	\$50,181	\$566,224	\$28,719,433	\$2,295,800	\$31,015,233
c. Total Employer UAL Cost [(1a) x (1b)]	\$1,025,578	\$544,138	\$1,393	\$35,596	\$4,485	\$26,907	\$145,803	\$1,783,900	\$189,174	\$1,973,074
2. Investment Plan Projected Payroll	\$4,960,465	\$753,373	\$708	\$14,552	\$1,707	\$19,950	\$197,449	\$5,948,204	\$0	\$5,948,204
3. Proposed Blended Statutory Employer UAL Contribution Rate (Pension Plan + Investment Plan)										
a. Total Employer UAL Cost [(1c)]	\$1,025,578	\$544,138	\$1,393	\$35,596	\$4,485	\$26,907	\$145,803	\$1,783,900	\$189,174	\$1,973,074
b. Total System Projected Payroll [(1b) + (2)]	\$28,811,116	\$4,881,883	\$4,188	\$127,232	\$9,414	\$70,131	\$763,673	\$34,667,637	\$2,295,800	\$36,963,437
c. Proposed Blended Statutory Employer UAL Contribution Rate ¹ As a Percentage of Total Payroll [(3a) / (3b)]	3.56%	11.15%	33.26%	27.98%	47.64%	38.37%	19.09%	5.14%	8.24%	5.34%

¹ Rates shown do not include the HIS contribution rate or IP administrative fees.

FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Effect on Proposed Blended Statutory Employer Contribution Rates for 2019-2020 Plan Year
Impact to FRS Pension Plan and FRS Investment Plan of Proposal for Firefighter ILOD Cancer Presumption Disability Benefit Enhancement Effective July 1, 2019 for Special Risk
Applicable to Twenty-One Cancers under Disability Definition 1 (Disabled from the Job)
Assumes 3.25% Annual Growth in Total Payroll

Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used

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	Regular	Special Risk	Special Risk Administrative	Judicial	-----Elected Officers' Class----- Leg-Atty-Cab	Local	Senior Management	Composite (excluding DROP)	DROP	Composite (including DROP)
C. Proposed Blended Statutory Employer Contribution Rates Reflecting the Concept										
1. Proposed Blended Statutory Employer Contribution Rates Based on July 1, 2018 Valuation ²										
a. Employer Normal Cost Contribution Rate	3.19%	12.53%	3.61%	12.30%	6.67%	8.73%	4.60%	4.73%	4.68%	4.73%
b. Employer UAL Contribution Rate	<u>3.56%</u>	<u>11.14%</u>	<u>33.26%</u>	<u>27.98%</u>	<u>47.64%</u>	<u>38.37%</u>	<u>19.09%</u>	<u>5.14%</u>	<u>8.24%</u>	<u>5.34%</u>
c. Total Employer Contribution Rate [(C1a) + (C1b)]	6.75%	23.67%	36.87%	40.28%	54.31%	47.10%	23.69%	9.87%	12.92%	10.07%
2. Proposed Blended Statutory Employer Contribution Rates Reflecting Proposed Change ¹										
a. Employer Normal Cost Contribution Rate [(A3c)]	3.19%	12.63%	3.61%	12.30%	6.67%	8.73%	4.60%	4.75%	4.70%	4.74%
b. Employer UAL Contribution Rate [(B3c)] ³	<u>3.56%</u>	<u>11.15%</u>	<u>33.26%</u>	<u>27.98%</u>	<u>47.64%</u>	<u>38.37%</u>	<u>19.09%</u>	<u>5.14%</u>	<u>8.24%</u>	<u>5.34%</u>
c. Total Employer Contribution Rate [(C2a) + (C2b)]	6.75%	23.78%	36.87%	40.28%	54.31%	47.10%	23.69%	9.89%	12.94%	10.08%
3. Change in Proposed Blended Statutory Employer Contribution Rates due to Proposed Change										
a. Employer Normal Cost Contribution Rate [(C2a) - (C1a)]	0.00%	0.10%	0.00%	0.00%	0.00%	0.00%	0.00%	0.02%	0.02%	0.01%
b. Employer UAL Contribution Rate [(C2b) - (C1b)]	<u>0.00%</u>	<u>0.01%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
c. Total Employer Contribution Rate [(C3a) + (C3b)]	0.00%	0.11%	0.00%	0.00%	0.00%	0.00%	0.00%	0.02%	0.02%	0.01%
D. Additional / (Reduced) Proposed Statutory Employer Contributions for the 2019-2020 Plan Year Due to Proposed Change										
1. State	\$0	\$1,124,696	\$0	\$0	\$0	\$0	\$0	\$1,124,696	\$68,270	\$1,192,966
2. School Boards	\$0	\$36,661	\$0	\$0	\$0	\$0	\$0	\$36,661	\$199,325	\$235,986
3. State Universities	\$0	\$34,027	\$0	\$0	\$0	\$0	\$0	\$34,027	\$17,417	\$51,444
4. Community Colleges	\$0	\$3,183	\$0	\$0	\$0	\$0	\$0	\$3,183	\$13,836	\$17,019
5. Counties	\$0	\$3,843,546	\$0	\$0	\$0	\$0	\$0	\$3,843,546	\$136,979	\$3,980,525
6. Other	<u>\$0</u>	<u>\$307,809</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$307,809</u>	<u>\$23,333</u>	<u>\$331,142</u>
7. Total	\$0	\$5,349,922	\$0	\$0	\$0	\$0	\$0	\$5,349,922	\$459,160	\$5,809,082

¹ Rates shown do not include the HIS contribution rate or IP administrative fees.

² As reported in the 2019-2020 Blended Rates Study dated December 4, 2018.

³ Employers of employee groups subject to only the UAL contribution rate would pay the rates shown in line (C.2.b.) and line (C.3.b.).

FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Effect on July 1, 2018 Defined Benefit FRS Pension Plan Actuarial Valuation Results
Impact to FRS Pension Plan of Proposal for Firefighter ILOD Cancer Presumption Death and Disability Benefits Effective July 1, 2019 for Special Risk
Applicable to Twenty-One Cancers under Disability Definition 2 (Disabled from all Employment)
Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used
(Dollars in Thousands)

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	Regular	Special Risk	Special Risk Administrative	-----Elected Officers' Class----- Judicial	Leg-Atty-Cab	Local	Senior Management	Composite (excluding DROP)	DROP	Composite (including DROP)
A. Actuarially Calculated Pension Plan Employer Contribution Rates (prior to blending to create proposed blended statutory contribution rates)										
1. Actuarially Calculated Pension Plan Employer Contribution Rates Developed in July 1, 2018 Valuation ¹										
a. Employer Normal Cost	3.09%	12.36%	3.26%	12.46%	6.61%	8.63%	4.47%	4.68%	4.68%	4.68%
b. UAL Cost	<u>4.30%</u>	<u>13.17%</u>	<u>40.04%</u>	<u>31.59%</u>	<u>58.20%</u>	<u>53.62%</u>	<u>25.75%</u>	<u>6.21%</u>	<u>8.24%</u>	<u>6.36%</u>
c. Total Employer Cost	7.39%	25.53%	43.30%	44.05%	64.81%	62.25%	30.22%	10.89%	12.92%	11.04%
2. Actuarially Calculated Pension Plan Employer Contribution Rates Reflecting Proposed Change										
a. Employer Normal Cost	3.09%	12.44%	3.26%	12.46%	6.61%	8.63%	4.47%	4.70%	4.70%	4.70%
b. UAL Cost	<u>4.30%</u>	<u>13.19%</u>	<u>40.04%</u>	<u>31.59%</u>	<u>58.20%</u>	<u>53.62%</u>	<u>25.75%</u>	<u>6.21%</u>	<u>8.24%</u>	<u>6.36%</u>
c. Total Employer Cost	7.39%	25.63%	43.30%	44.05%	64.81%	62.25%	30.22%	10.91%	12.94%	11.06%
3. Change in Actuarially Calculated Pension Plan Employer Contribution Rates due to Proposed Change										
a. Normal Cost	0.00%	0.08%	0.00%	0.00%	0.00%	0.00%	0.00%	0.02%	0.02%	0.02%
b. UAL Cost	<u>0.00%</u>	<u>0.02%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
c. Total Cost	0.00%	0.10%	0.00%	0.00%	0.00%	0.00%	0.00%	0.02%	0.02%	0.02%
B. FRS Pension Plan Unfunded Actuarial Liability (UAL) and Present Value of Projected Benefits (Dollars in Thousands)										
1. July 1, 2018 Actuarial Valuation UAL ²	\$15,987,344	\$8,076,264	\$18,652	\$521,161	\$66,212	\$390,166	\$2,109,948	\$27,169,747	\$2,675,982	\$29,845,729
2. July 1, 2018 UAL Reflecting Proposed Change	<u>15,987,344</u>	<u>8,087,120</u>	<u>18,652</u>	<u>521,161</u>	<u>66,212</u>	<u>390,166</u>	<u>2,109,948</u>	<u>27,180,603</u>	<u>2,675,982</u>	<u>29,856,585</u>
3. Increase in UAL due to Proposed Change	\$0	\$10,856	\$0	\$0	\$0	\$0	\$0	\$10,856	\$0	\$10,856
4. Increase in Present Value of Future Normal Costs	<u>\$0</u>	<u>\$36,940</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$36,940</u>	<u>\$0</u>	<u>\$36,940</u>
5. Increase in Present Value of Projected Benefits (3. + 4.)	\$0	\$47,796	\$0	\$0	\$0	\$0	\$0	\$47,796	\$0	\$47,796

¹ As reported in the July 1, 2018 valuation - Table 4-11

² As reported in the July 1, 2018 valuation - Table 3-2

FLORIDA RETIREMENT SYSTEM

FISCAL IMPACT ANALYSIS

**Impact to FRS Investment Plan of Proposal for Firefighter ILOD Cancer Presumption Death and Disability Benefits Effective July 1, 2019 for Special Risk
Applicable to Twenty-One Cancers under Disability Definition 2 (Disabled from all Employment)**

Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used
(Dollars in Thousands)

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	Regular	Special Risk	Special Risk Administrative	Judicial	-----Elected Officers' Class----- Leg-Atty-Cab	Local	Senior Management	Composite
A. Actuarially Calculated Investment Plan Employer Contribution Rates (prior to blending to create proposed blended statutory contribution rates)								
1. Employer Rates effective since July 1, 2012 (Sec 121.72-73; 121.735) ¹								
a. Employer Cost (excludes member contributions)	3.60%	13.48%	5.43%	11.05%	6.94%	8.95%	4.98%	4.93%
b. UAL Cost	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
c. Total Employer Cost	3.60%	13.48%	5.43%	11.05%	6.94%	8.95%	4.98%	4.93%
2. Actuarially Calculated Investment Plan Employer Contribution Rates Reflecting Proposed Change								
a. Employer Cost (excludes member contributions)	3.60%	13.54%	5.43%	11.05%	6.94%	8.95%	4.98%	4.94%
b. UAL Cost	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
c. Total Employer Cost	3.60%	13.54%	5.43%	11.05%	6.94%	8.95%	4.98%	4.94%
3. Change in Actuarially Calculated Investment Plan Employer Contribution Rates due to Proposed Change								
a. Employer Cost	0.00%	0.06%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%
c. UAL Cost	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
d. Total Employer Cost	0.00%	0.06%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%

¹ As reported in the 2019-2020 Blended Rates Study dated December 2, 2016.

FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Effect on Proposed Blended Statutory Employer Contribution Rates for 2019-2020 Plan Year
Impact to FRS Pension Plan and FRS Investment Plan of Proposal for Firefighter ILOD Cancer Presumption Disability Benefit Enhancement Effective July 1, 2019 for Special Risk
Applicable to Twenty-One Cancers under Disability Definition 2 (Disabled from all Employment)
Assumes 3.25% Annual Growth in Total Payroll

Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used

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A. Proposed Blended Statutory Normal Cost Contribution Rates Reflecting the Concept (Dollars in Thousands)										
1. Actuarially Calculated Defined Benefit Pension Plan Normal Cost										
a. Employer Pension Plan Normal Cost Rate	3.09%	12.44%	3.26%	12.46%	6.61%	8.63%	4.47%	4.70%	4.70%	4.70%
b. Projected Pension Plan Normal Cost Payroll	\$20,408,366	\$4,108,361	\$3,480	\$112,211	\$7,150	\$45,814	\$551,964	\$25,237,346	\$2,295,800	\$27,533,146
c. Total Employer Pension Plan Normal Cost [(1a) x (1b)]	\$630,619	\$511,080	\$113	\$13,981	\$473	\$3,954	\$24,673	\$1,184,893	\$107,903	\$1,292,796
2. Investment Plan Employer Cost										
a. Employer Rates effective July 1, 2018 (Sec 121.72-73; 121.735)	3.60%	13.48%	5.43%	11.05%	6.94%	8.95%	4.98%	4.93%	0.00%	4.93%
b. Additional Contribution Due to Concept	0.00%	0.06%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%	0.00%	0.01%
c. Total Employer Contribution Rate effective July 1, 2019	3.60%	13.54%	5.43%	11.05%	6.94%	8.95%	4.98%	4.94%	0.00%	4.94%
d. Projected Investment Plan Payroll	\$4,960,465	\$753,373	\$708	\$14,552	\$1,707	\$19,950	\$197,449	\$5,948,204	\$0	\$5,948,204
e. Total Employer Investment Plan Cost [(2c) x (2d)]	\$178,577	\$102,007	\$38	\$1,608	\$118	\$1,786	\$9,833	\$293,967	\$0	\$293,967
3. Proposed Blended Statutory Employer Normal Cost Rate (Pension Plan + Investment Plan)										
a. Total Employer Normal Cost Contribution [(1c) + (2e)]	\$809,196	\$613,087	\$151	\$15,589	\$591	\$5,740	\$34,506	\$1,478,860	\$107,903	\$1,586,763
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c. Proposed Blended Statutory Employer Normal Cost Contribution Rate ¹ As a Percentage of Total Payroll [(3a) / (3b)]	3.19%	12.61%	3.61%	12.30%	6.67%	8.73%	4.60%	4.74%	4.70%	4.74%
B. Proposed Blended Statutory Unfunded Actuarial Liability (UAL) Cost Contribution Rates Reflecting the Concept (Dollars in Thousands)										
1. Actuarially Calculated Defined Benefit Pension Plan UAL Cost										
a. Pension Plan UAL Cost Rate	4.30%	13.19%	40.04%	31.59%	58.20%	53.62%	25.75%	6.21%	8.24%	6.36%
b. Projected Pension Plan UAL Cost Payroll	\$23,850,651	\$4,128,510	\$3,480	\$112,680	\$7,707	\$50,181	\$566,224	\$28,719,433	\$2,295,800	\$31,015,233
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2. Investment Plan Projected Payroll	\$4,960,465	\$753,373	\$708	\$14,552	\$1,707	\$19,950	\$197,449	\$5,948,204	\$0	\$5,948,204
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c. Proposed Blended Statutory Employer UAL Contribution Rate ¹ As a Percentage of Total Payroll [(3a) / (3b)]	3.56%	11.15%	33.26%	27.98%	47.64%	38.37%	19.09%	5.14%	8.24%	5.34%

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FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

***Effect on Proposed Blended Statutory Employer Contribution Rates for 2019-2020 Plan Year
Impact to FRS Pension Plan and FRS Investment Plan of Proposal for Firefighter ILOD Cancer Presumption Disability Benefit Enhancement Effective July 1, 2019 for Special Risk
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C. Proposed Blended Statutory Employer Contribution Rates Reflecting the Concept										
1. Proposed Blended Statutory Employer Contribution Rates Based on July 1, 2018 Valuation ²										
a. Employer Normal Cost Contribution Rate	3.19%	12.53%	3.61%	12.30%	6.67%	8.73%	4.60%	4.73%	4.68%	4.73%
b. Employer UAL Contribution Rate	<u>3.56%</u>	<u>11.14%</u>	<u>33.26%</u>	<u>27.98%</u>	<u>47.64%</u>	<u>38.37%</u>	<u>19.09%</u>	<u>5.14%</u>	<u>8.24%</u>	<u>5.34%</u>
c. Total Employer Contribution Rate [(C1a) + (C1b)]	6.75%	23.67%	36.87%	40.28%	54.31%	47.10%	23.69%	9.87%	12.92%	10.07%
2. Proposed Blended Statutory Employer Contribution Rates Reflecting Proposed Change ¹										
a. Employer Normal Cost Contribution Rate [(A3c)]	3.19%	12.61%	3.61%	12.30%	6.67%	8.73%	4.60%	4.74%	4.70%	4.74%
b. Employer UAL Contribution Rate [(B3c)] ³	<u>3.56%</u>	<u>11.15%</u>	<u>33.26%</u>	<u>27.98%</u>	<u>47.64%</u>	<u>38.37%</u>	<u>19.09%</u>	<u>5.14%</u>	<u>8.24%</u>	<u>5.34%</u>
c. Total Employer Contribution Rate [(C3a) + (C3b)]	6.75%	23.76%	36.87%	40.28%	54.31%	47.10%	23.69%	9.88%	12.94%	10.08%
3. Change in Proposed Blended Statutory Employer Contribution Rates due to Proposed Change										
a. Employer Normal Cost Contribution Rate [(C2a) - (C1a)]	0.00%	0.08%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%	0.02%	0.01%
b. Employer UAL Contribution Rate [(C2b) - (C1b)]	<u>0.00%</u>	<u>0.01%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
c. Total Employer Contribution Rate [(C3a) + (C3b)]	0.00%	0.09%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%	0.02%	0.01%
D. Additional / (Reduced) Proposed Statutory Employer Contributions for the 2019-2020 Plan Year Due to Proposed Change										
1. State	\$0	\$920,329	\$0	\$0	\$0	\$0	\$0	\$920,329	\$68,270	\$988,599
2. School Boards	\$0	\$30,003	\$0	\$0	\$0	\$0	\$0	\$30,003	\$199,325	\$229,328
3. State Universities	\$0	\$27,849	\$0	\$0	\$0	\$0	\$0	\$27,849	\$17,417	\$45,266
4. Community Colleges	\$0	\$2,604	\$0	\$0	\$0	\$0	\$0	\$2,604	\$13,836	\$16,440
5. Counties	\$0	\$3,144,926	\$0	\$0	\$0	\$0	\$0	\$3,144,926	\$136,979	\$3,281,905
6. Other	<u>\$0</u>	<u>\$251,864</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$251,864</u>	<u>\$23,333</u>	<u>\$275,197</u>
7. Total	\$0	\$4,377,575	\$0	\$0	\$0	\$0	\$0	\$4,377,575	\$459,160	\$4,836,735

¹ Rates shown do not include the HIS contribution rate or IP administrative fees.

² As reported in the 2019-2020 Blended Rates Study dated December 4, 2018.

³ Employers of employee groups subject to only the UAL contribution rate would pay the rates shown in line (C.2.b.) and line (C.3.b.).



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 12, 2019

I respectfully request that **Senate Bill #426**, relating to Firefighters, be placed on the:

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

A handwritten signature in black ink that reads "Anitere Flores".

Senator Anitere Flores
Florida Senate, District 39

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

426

Bill Number (if applicable)

Topic Firefighter Cancer Bill

Amendment Barcode (if applicable)

Name Ashley Rabon

Job Title widow

Address 1801 sternwheel drive

Phone 9043044812

Street

jacksonville

fl

32223

Email amrabon@comcast.net

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing widows of Florida firefighters

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11

Meeting Date

SB 426

Bill Number (if applicable)

Topic Firefighters

Amendment Barcode (if applicable)

Name Chase Mitchell

Job Title Senior Management Analyst

Address PL 21, The Capitol

Phone (850) 413-2890

Street

Tallahassee

FL

32399

City

State

Zip

Email chase.mitchell@myfloridacfo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing CFO Jimmy Patronis

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-11-19

Meeting Date

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

426

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

City

FL

State

33128

Zip

Email JMM2@MIAMIDADE.GOV

Speaking: ☐ For ☐ Against ☐ Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

426
Bill Number (if applicable)

Topic Fire fighters

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 701-3621

Street

Tallahassee

FL

32302

City

State

Zip

Email ahughes@flcities.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

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

4/11/2019

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

426

Meeting Date

Bill Number (if applicable)

Topic Firefighters cancer

Amendment Barcode (if applicable)

Name Jim Tolley

Job Title President

Address 343 West Madison Street

Phone 850-224-7333

Street

Tallahassee

FL

32301

City

State

Zip

Email jimt@fpfp.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Professional Firefighters

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 442

INTRODUCER: Military and Veterans Affairs and Space Committee; and Senators Lee, Broxson, Cruz, and others

SUBJECT: Postsecondary Education for Certain Military Personnel

DATE: April 10, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Sikes	ED	Favorable
2.	Brown	Caldwell	MS	Fav/CS
3.	Underhill	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 442 adds military experience to the list of qualifying bases for which servicemembers and veterans may earn postsecondary course credit from a public postsecondary educational institution. The bill requires the Board of Governors of the State University System of Florida (BOG) and the State Board of Education (SBE), in consultation with the Florida Department of Veterans' Affairs (FDVA) to adopt regulations and rules, respectively, which create a uniform system for the awarding of postsecondary credit based on military experience, training, and education.

The Articulation Coordinating Committee (Committee) of the Florida Department of Education will convene a 13-member workgroup consisting of the chair of the committee (to serve as chair), administrators and faculty from state universities and Florida College System institutions, faculty from career centers, and veterans. The workgroup will develop a uniform process for determining when military experience and credentials are appropriate for postsecondary credit. The Committee will then approve a list of postsecondary course equivalencies, including minimum credit, based on military experience and credentials. The list is subject to approval by the BOG and the SBE.

The bill additionally provides active duty servicemembers and honorably discharged veterans, and their spouses and dependents, a fee waiver on a transcript from a state university, Florida

College System institution, career center operated by a school district¹, or a charter technical career center². Each of these institutions must annually report to the BOG and the SBE the number and value of transcript fee waivers granted.

The bill would have a minimal fiscal impact on the SBE, state colleges, and universities.

While the bill takes effect July 1, 2019, the Committee must approve the list by November 30, 2020, subject to adoption by the BOG and the SBE at the next publicly noticed meeting of each board.

II. Present Situation:

Florida provides a number of educational benefits specifically to servicemembers and veterans.

Academic College Credit for Training and Education Acquired in the Military

Florida law requires the Board of Governors of the State University System (BOG) and the State Board of Education (SBE) to enable, through regulation and rule, eligible servicemembers and veterans to earn academic college credit at public postsecondary educational institutions based on college-level training and education acquired in the military.³

In adopting regulations and rules, the BOG and the SBE must include procedures to evaluate credentials and the award of academic college credit, including providing for the:

- Equivalency and alignment of military coursework with appropriate college courses;
- Course descriptions;
- Type and amount of college credit that may be awarded; and
- Transfer of credit.⁴

Tuition and Fee Waivers

Florida law provides tuition and fee waivers to students, in certain circumstances, including veterans and active duty members of the United States Armed Forces, United States Reserve Forces, and National Guard who meet specified criteria.⁵ Some waivers are mandatory,⁶ while others are permissive.⁷

The following fee waivers apply to current or former members of the U.S. Armed Forces or U.S. Reserve Forces:

¹ The term “career center” refers to an educational institution under the control of the district school board which offers terminal courses of a technical nature, and courses for out-of-school youth and adults, pursuant to s. 1001.44(3)(a), F.S.

² The term “charter technical career center” refers to a public school or a public technical center operated under a charter granted by the district school board or a Florida College System (FCS) institution board of trustees or a consortium, including one or more district school boards and FCS institution boards of trustees, that include the school district in which the facility is located, that is nonsectarian, and that is managed by a board of directors, pursuant to s. 1002.34(3)(a), F.S.

³ Section 1004.096, F.S.; *see also* Board of Governors, Regulation 6.013 and Rule 6A-14.0302, F.A.C.

⁴ *Id.*

⁵ Section 1009.26, F.S.

⁶ Section 1009.26 (5), (7)-(8), (12)-(14), F.S.

⁷ Section 1009.26 (1)-(4), (6), (9)-(11), and (15), F.S.

- An honorably discharged veteran of the United States Armed Forces, the United States Reserve Forces, or the National Guard who resides in-state while enrolled in the program or who uses the educational assistance provided by the United States Department of Veterans Affairs (VA), is eligible for, and must receive an out-of-state fee waiver from a state university, a Florida College System institution, a career center operated by a school district, or a charter technical career center.⁸
- An active duty member of the United States Armed Forces residing or stationed out-of-state is eligible for, and must receive an out-of-state fee waiver from a state university, Florida College System institution, career center operated by a school district, or charter technical career center.⁹
- An active duty member of the United States Armed Forces using military tuition assistance provided by the United States Department of Defense is eligible for, and may receive a waiver of any portion of the student activity and service fee, the financial aid fee, the technology fee, the capital improvement fee, and any other fees otherwise authorized in law from a Florida College System institution.¹⁰
- A recipient of a Purple Heart or another combat decoration superior in precedence who is currently or was at the time of the military action a resident of the state is eligible for, and must receive a tuition waiver for an undergraduate or career certificate program from a state university, a Florida College System institution, a career center operated by a school district or a charter technical career center.¹¹

Articulation Coordinating Committee (Committee)

The Commissioner of Education, in consultation with the Chancellor of the State University System, establishes the Articulation Coordinating Committee (Committee), whose primary role is to recommend statewide articulation policies.¹² Specifically, the Committee must monitor the alignment between the exit requirements of one education system and admission requirements of another education system into which students typically transfer. The Committee also proposes guidelines for interinstitutional agreements between institutions, including universities, career, and technical centers.¹³ The Office of K-20 Articulation within the Florida Department of Education provides administrative support to the Committee.¹⁴

III. Effect of Proposed Changes:

Academic College Credit for Training and Education Acquired in the Military

The bill adds military experience to the list of qualifying bases (currently consisting of college-level training and education acquired in the military) for which servicemembers and veterans may earn academic college credit from a public postsecondary educational institution. The bill requires the BOG and the State Board of Education (SBE), in consultation with the FDVA to

⁸ Section 1009.26(13)(a), F.S.

⁹ Section 1009.26(14)(a), F.S.

¹⁰ Section 1009.26(15), F.S.

¹¹ Section 1009.26(8), F.S.

¹² Section 1007.01(3), F.S.

¹³ Section 1007.01(3)(a)b), F.S.

¹⁴ Section 1007.01(3), F.S.; s. 20.15(3)(h), F.S.

adopt regulations and rules, respectively, which create a uniform system for the awarding of postsecondary credit based on military experience, training, and education.

The bill requires the Committee to convene a workgroup by August 31, 2019, to establish a uniform process for determining when military experience and credentials are appropriate for credit.

The workgroup will consist of the following 13 members:

- The chair of the Committee, serving as chair;
- Four members representing academic affairs administrators and faculty from state universities, appointed by the chair of the BOG;
- Four members representing academic affairs administrators and faculty from Florida College System institutions, appointed by the chair of the SBE;
- Two members representing faculty from career centers, appointed by the chair of the State Board of Education; and
- Two members representing veterans, appointed by the executive director of the FDVA.

The Office of K-20 Articulation will provide administrative support for the workgroup.

The workgroup must provide recommendations to the BOG and the SBE by December 1, 2019, regarding postsecondary course equivalencies and the minimum credit that must be awarded. The BOG and the SBE must then review the recommendations for approval at the next publicly noticed meeting of each board. If approved, no later than January 1, 2020, the Committee must facilitate its review. By November 30, 2020, and annually thereafter, the Committee must approve the list of postsecondary course equivalencies and the minimum credit that must be awarded for military experience and credentials. After the Committee approves the list, the BOG and the SBE must adopt the list at the next publicly noticed meeting of each board.

Under the bill, each public postsecondary educational institution is required to award credit based on the list, if the credit is applicable to the student's degree or certificate. If appropriate, institutions have the option to award additional credit. The bill also guarantees the transfer of credit awarded through this process, to other public institutions.

Requiring the BOG and the SBE to adopt a uniform system could provide greater consistency to active duty servicemembers and veterans who seek the award of academic credit at different institutions.

Fee Waivers

The bill provides active duty servicemembers and honorably discharged veterans, and their spouses and dependents a fee waiver of the transcript fee from a state university, FCS institution, career center operated by a school district, or a charter technical career center. Each of these institutions must annually report to the BOG and the SBE the number and value of transcript fee waivers granted. The BOG and the SBE are required to adopt regulations and rules, respectively, to provide for this transfer fee.

The bill takes effect July 1, 2019.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

Qualifying servicemembers and honorably discharged veterans may save money by receiving postsecondary credit for military experience and through the transcript fee waiver. The transcript fee waiver also applies to spouses and dependents.

C. Government Sector Impact:

The BOG and the SBE may incur fiscal costs from the bill, based on the provisions that require the BOG and the SBE to amend or adopt new regulations and rules, and that require a workgroup to convene and draft recommendations.

Additionally, institutions will have to waive the transcript fee for active duty servicemembers and honorably discharged veterans, and their spouses and dependents, and annually report the number of waivers to the BOG and the SBE.

The fiscal impact from these requirements is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1004.096 and 1009.26.

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

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

CS by Military and Veterans Affairs and Space on March 26, 2019:

- Provides for the Florida Department of Veterans' Affairs to participate in regulation and rulemaking with the Board of Governors (BOG) and the State Board of Education (SBE);
- Establishes a workgroup convened by the Articulation Coordinating Committee to develop a uniform process and make recommendations for the award of postsecondary credit based on military experience and credentials;
- Staffs the workgroup with 13 members representing various entities;
- Requires the Office of K-20 Articulation to provide administrative support to the workgroup;
- Authorizes an institution to award credit even if it is not for the purpose of earning a degree or certification;
- Imposes the following deadlines:
 - The workgroup must provide recommendations to the BOG and the SBE by December 1, 2019;
 - The Articulation Coordinating Committee must facilitate the review of military experience and credentials for postsecondary course equivalencies by January 1, 2020; and
 - The Articulation Coordinating Committee must approve a list of postsecondary course equivalencies and credit no later than November 30, 2020; and

Enables spouses and dependents, in addition to active duty servicemembers and veterans, to have the fee waived on a transcript request.

B. Amendments:

None.

By the Committee on Military and Veterans Affairs and Space; and
Senators Lee, Broxson, Cruz, Mayfield, and Diaz

583-03495-19

2019442c1

1 A bill to be entitled
2 An act relating to postsecondary education for certain
3 military personnel; amending s. 1004.096, F.S.;
4 requiring the Board of Governors and State Board of
5 Education, in consultation with the Department of
6 Veterans' Affairs, to create a uniform system for the
7 award of postsecondary credit to certain
8 servicemembers and veterans of the United States Armed
9 Forces; requiring the Articulation Coordinating
10 Committee to convene a workgroup by a specified date;
11 providing membership and duties of the workgroup;
12 providing administrative support for the workgroup;
13 requiring the workgroup to provide recommendations to
14 the Board of Governors and State Board of Education by
15 a specified date; requiring the Articulation
16 Coordinating Committee to review and identify military
17 experience and credentials for postsecondary credit by
18 a specified date; requiring the Articulation
19 Coordinating Committee to approve and the Board of
20 Governors and State Board of Education to adopt a
21 specified list; requiring certain postsecondary
22 institutions to award credit for specified military
23 experience and credentials; authorizing the award of
24 additional credits; requiring that certain credits be
25 transferrable between specified postsecondary
26 institutions; amending s. 1009.26, F.S.; requiring
27 specified postsecondary institutions to waive the
28 transcript fee for active duty members of the Armed
29 Forces of the United States, certain veterans, and

Page 1 of 5

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

583-03495-19

2019442c1

30 their spouses and dependents; providing reporting
31 requirements for such institutions; requiring the
32 Board of Governors and the State Board of Education,
33 respectively, to adopt regulations and rules;
34 providing an effective date.
35

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

37
38 Section 1. Section 1004.096, Florida Statutes, is amended
39 to read:

40 1004.096 College credit for military experience and
41 training and education courses.—

42 (1) In consultation with the Department of Veterans'
43 Affairs, the Board of Governors shall adopt regulations and the
44 State Board of Education shall adopt rules that create a uniform
45 system that enables ~~enable~~ eligible servicemembers or veterans
46 of the United States Armed Forces to earn postsecondary academic
47 ~~college~~ credit at public postsecondary educational institutions
48 for experience and college-level training and education acquired
49 in the military. The regulations and rules shall include
50 procedures for credential evaluation and the award of
51 postsecondary academic ~~college~~ credit, including, but not
52 limited to, equivalency and alignment of military coursework
53 with appropriate postsecondary college courses, and course
54 descriptions, ~~type and amount of college credit that may be~~
55 ~~awarded, and transfer of credit.~~

56 (2) The Articulation Coordinating Committee shall convene a
57 workgroup by August 31, 2019, to develop a uniform process for
58 determining when military experience and credentials are

Page 2 of 5

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583-03495-19

2019442c1

appropriate for postsecondary credit and to meet the requirements of this section.

(a) The workgroup shall be composed of the following 13 members:

1. The chair of the Articulation Coordinating Committee, who shall serve as chair.

2. Four members representing academic affairs administrators and faculty from state universities, appointed by the chair of the Board of Governors.

3. Four members representing academic affairs administrators and faculty from Florida College System institutions, appointed by the chair of the State Board of Education.

4. Two members representing faculty from career centers, appointed by the chair of the State Board of Education.

5. Two members representing veterans, appointed by the executive director of the Department of Veterans' Affairs.

(b) The Office of K-20 Articulation shall provide administrative support for the workgroup.

(c) The workgroup shall provide recommendations regarding a uniform process for determining postsecondary course equivalencies and the minimum credit that must be awarded for military experience and credentials to the Board of Governors and the State Board of Education by December 1, 2019, for approval at the next publicly noticed meeting of each board.

(d) The Articulation Coordinating Committee shall facilitate the review of military experience and credentials for postsecondary course equivalencies and the amount of credit that must be awarded beginning no later than January 1, 2020, in

583-03495-19

2019442c1

accordance with the approved process.

(e) The Articulation Coordinating Committee shall approve a list of postsecondary course equivalencies and the minimum credit that must be awarded for military experience and credentials no later than November 30, 2020, and annually thereafter. The Board of Governors and the State Board of Education shall adopt the list approved by the Articulation Coordinating Committee at the next publicly noticed meeting of each board.

(f) State universities, Florida College System institutions, and career centers must award postsecondary credit for military experience and credentials based on the list adopted by the Board of Governors and the State Board of Education, if the credit is applicable toward the student's degree or certificate. Institutions may award additional postsecondary credit if appropriate. Credit awarded in accordance with minimum credit requirements is guaranteed to transfer to other state universities, Florida College System institutions, and career centers as if the credit were earned at the receiving institution.

Section 2. Subsection (16) is added to section 1009.26, Florida Statutes, to read:

1009.26 Fee waivers.—

(16)(a) A state university, Florida College System institution, career center operated by a school district under s. 1001.44, or charter technical career center shall waive the transcript fee for a person who is an active duty member or an honorably discharged veteran of the Armed Forces of the United States and his or her spouse and dependents.

583-03495-19

2019442c1

117 (b) Each state university, Florida College System
118 institution, career center operated by a school district under
119 s. 1001.44, and charter technical career center shall report to
120 the Board of Governors and the State Board of Education,
121 respectively, the number and value of fee waivers granted
122 annually under this subsection.

123 (c) The Board of Governors and the State Board of Education
124 shall respectively adopt regulations and rules to administer
125 this subsection.

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 27, 2019

I respectfully request that **Senate Bill # 442**, relating to Postsecondary Education for Certain Military Personnel, be placed on the:

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

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

Senator Tom Lee
Florida Senate, District 20

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

442

Bill Number (if applicable)

Topic Post Secondary Education for Military Personnel

Amendment Barcode (if applicable)

Name Heather Davidson

Job Title Director, Public Policy

Address 1300 S. Andrews Ave.

Street

Fort Lauderdale, FL

City

State

33316

Zip

Phone 954 308 9077

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing United Way of Broward County

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)

11 April 19

Meeting Date

442

Bill Number (if applicable)

Topic Postsecondary Education for Military Personnel

Amendment Barcode (if applicable)

Name James Mosteller

Job Title Advocacy Assoicate

Address 215 South Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-727-3712

Email JamesM@excelined.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/19

Meeting Date

442

Bill Number (if applicable)

Topic Postsecondary Education for Certain Military Personnel Amendment Barcode (if applicable)

Name Kaitlyn Gardner

Job Title Consultant

Address 113 E. College Ave

Street

Tallahassee FL 32301

City

State

Zip

Phone 913-422-9871

Email Kaitlyn@rsaconsultingllc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing United Way Suncoast

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.

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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)

04/11/19

Meeting Date

0442

Bill Number (if applicable)

Topic

Postsecondary Education for Certain Military Personnel

Amendment Barcode (if applicable)

Name

Amanda Gorski

Job Title

Director of Public Policy

Address

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Phone

305 646 7024

Street

Miami

FL

33129

City

State

Zip

Email

gorskia@unitedwaymiami.org

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

United Way of Miami-Dade

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

442

Bill Number (if applicable)

322368

Amendment Barcode (if applicable)

Topic Education Military/ Veterans

Name Dan Hendrickson

Job Title president, Tallahassee Veterans Legal Collaborative

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Street

Tallahassee

City

FL

State

32301

Zip

Phone 850/ 570-1967

Email danbhendrickson@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

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/CS/SB 452

INTRODUCER: Governmental Oversight and Accountability Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Gibson

SUBJECT: Elder Abuse Fatality Review Teams

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hendon	Hendon	CF	Fav/CS
2. Davis	Cibula	JU	Fav/CS
3. Hackett	McVaney	GO	Fav/CS
4. Gerbrandt	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 452 authorizes the establishment of elder abuse fatality review teams, composed of volunteer members, in each of the 20 judicial circuits. The teams must review closed cases of fatal incidents of elder abuse and make policy and other recommendations to help prevent future incidents of elder abuse-related fatalities. The review teams are housed within the Department of Elder Affairs (DOEA) for administrative purposes only. The DOEA must submit a report, annually by November 1, that summarizes the findings and recommendations of the review teams to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

According to the Department of Elder Affairs, the bill will have an indeterminate fiscal impact that can be absorbed within existing resources.

The bill takes effect July 1, 2019.

II. Present Situation:

The Adult Protective Services Act, chapter 415, Florida Statutes, charges the Department of Children and Families (DCF), to investigate reports of abuse or exploitation of a vulnerable adult or elderly person. The mandatory reporting requirement of persons who are required to

investigate reports of abuse, neglect, or exploitation also extends to alleged deaths due to abuse or neglect.¹

Florida Abuse Hotline and Investigations

The Florida Abuse Hotline, administered by the DCF, screens allegations of adult abuse and neglect to determine if the allegations meet the criteria for an abuse report. If the allegations meet the criteria, a protective investigation is initiated to confirm whether the evidence substantiates that abuse has occurred, whether the situation presents an immediate or long-term risk to the victim, and whether the victim needs additional services for protection.²

Section 415.1034, F.S., enumerates people who have an immediate, mandatory requirement to report to the central abuse hotline if they know, have suspicion, or have reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited. Additionally, any person required to investigate reports of abuse, neglect, or exploitation and who has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation must immediately report the suspicion to the appropriate medical examiner, the appropriate criminal justice agency and to the DCF, notwithstanding the existence of a death certificate signed by a practicing physician.³

The DCF is required, upon receipt of a report alleging abuse, neglect, or exploitation of a vulnerable adult, to begin within 24 hours a protective investigation of the matter.⁴ For each report it receives, the DCF must perform an onsite investigation to determine, among other things, if the person meets the definition of a vulnerable adult and, if so, if the person is in need of services; whether there is an indication that the vulnerable adult was abused, neglected, or exploited; and if protective, treatment, and ameliorative services are necessary to safeguard and ensure the vulnerable adult's well-being.⁵

Adult Protection Teams

Section 415.1102, F.S., authorizes the DCF to develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of its regions. A "multidisciplinary adult protection team" is defined as a team of two or more persons trained in the prevention, identification, and treatment of abuse of elderly persons.⁶ The multidisciplinary teams may be composed of, but are not limited to, psychiatrists, psychologists, or other trained counseling personnel; law enforcement officers; medical personnel with experience or training to provide health services; social workers who have experience or training in the prevention of abuse of the elderly or dependent persons; and public and professional guardians.⁷ The multidisciplinary team

¹ Section 415.1034, F.S.

² See s. 415.103, F.S. and Florida Department of Children and Families; Protecting Vulnerable Adults, *available at*: <http://www.myflfamilies.com/service-programs/abuse-hotline/> (last visited April 4, 2019).

³ Section 415.1034(2), F.S.

⁴ Section 415.104(1), F.S.

⁵ Section 415.104(3), F.S.

⁶ Section 415.1102(1), F.S.

⁷ Section 415.1102(2), F.S.

is convened to supplement the protective services activities of the Adult Protective Services program of the DCF.⁸

Records Access

Section 415.107(3), F.S., enumerates persons and entities that may have access to records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline, otherwise held confidential and exempt from s. 119.07(1), F.S. The identity of any person reporting abuse, neglect, or exploitation of a vulnerable person shall not be released to these persons and entities.

III. Effect of Proposed Changes:

Elder Abuse Fatality Review Teams

Creation

The bill creates s. 415.1103, F.S., authorizing the establishment of an elder abuse fatality review team, made up of volunteers, in each of the 20 judicial circuits. The teams are authorized to review fatal incidents of abuse, neglect, or violence against the elderly. The review teams are housed within the Department of Elderly affairs for administrative purposes only.

Organization

The state attorney, or his or her designee, in each judicial circuit may initiate a review team and call for the team's initial organizational meeting. At the initial meeting the members must choose two co-chairs and must establish a schedule for future meetings. The review team must meet at least once during each fiscal year.

Composition

Each review team is composed of volunteers from numerous state and local agencies as well as community partners.⁹ Each volunteer serves without compensation for a two-year term and the co-chairs will determine the team's staggered terms. Members may not be reimbursed for per diem or travel expenses. Any extraneous administrative costs incurred by the review team must be borne by the team members themselves or the entities that they represent.

Operations

Each team will determine how it operates and the process to select cases. The cases, however, must be limited to closed cases in which an elderly person's death is found to have been caused

⁸ Section 415.1102(3), F.S.

⁹ The bill provides for membership to include, but not be limited to, the following or their representatives: law enforcement agencies; the state attorney; the medical examiner; a county court judge; adult protective services; area agency on aging; the State Long-Term Care Ombudsman Program; the Agency for Health Care Administration; the Office of the Attorney General; the Office of State Courts Administrator; the clerk of the court; a victim services program; an elder law attorney; emergency services personnel; a certified domestic violence center; an advocacy organization for victims of sexual violence; a funeral home director; a forensic pathologist; a geriatrician; a geriatric nurse; a geriatric psychiatrist or other individual licensed to offer behavioral health services; a hospital discharge planner; a public guardian; and other persons with relevant expertise who are recommended by the review team.

by or related to abuse or neglect in order to avoid interference with an ongoing criminal investigation or prosecution. All information that would identify the person must be redacted in the documents that the team reviews.

Responsibilities

The elder abuse fatality team must:

- Review deaths of elderly people in its judicial circuit that were found to have been caused by, or related to, abuse or neglect;
- Consider events leading up to the fatal incident, available resources, current law and policies, and the actions taken by systems and individuals related to the fatal incident;
- Identify potential gaps and deficiencies in the delivery of services by agencies which may be related to the deaths;
- Develop communitywide approaches to address causes and contributing factors related to deaths reviewed by the team; and
- Develop recommendations and possible changes in law and policies to support the care for the elderly and prevent elder abuse deaths.

Prohibited Contact

Team members are prohibited from directly contacting someone in the deceased person's family as part of the review unless the team member is authorized to do so in the course of his or her employment duties. However, nothing in the bill prohibits a family member from voluntarily providing information or records to the review team.

Reporting Requirements

Each team is required to submit its findings and recommendations to the DOEA annually by September 1. The report may include descriptive statistics, current policies that contribute to the incidence of elder abuse and deaths with recommendation for improvements, and any other recommendations to prevent deaths from elder abuse or neglect.

Additionally, by November 1 of each year, the DOEA must prepare a summary report of the information provided by the review teams, and submit the report to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

Protection from Liability for Team Members

Unless a team member acts in bad faith with wanton and willful disregard of human rights, safety, or property, he or she is not liable financially or subject to a cause of action for damages due to the performance of duties as a review team member with regard to any discussions, deliberations, or recommendations of the team or the member.

The bill takes effect July 1, 2019.

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

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

B. Public Records/Open Meetings Issues:

The information received by the elder abuse fatality review teams should be from closed cases and therefore previously redacted; all information received by the teams is public record subject to copying and inspection.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Elder Affairs, CS/CS/CS/SB 452 will have an indeterminate fiscal impact that can be absorbed within existing resources.¹⁰

VI. Technical Deficiencies:

The bill does not specify the appointing authority for the members of the review team. The bill does allow each state attorney to initiate a review team.

¹⁰ Email from Christopher Evans, Budget Director, Florida Department of Elder Affairs (April 5, 2019), (on file with the Appropriations Subcommittee on Health and Human Services).

VII. Related Issues:

The bill does not define the term “elder,” specifically the age at which a person is deemed to be an elder, which may lead to inconsistency in the cases a team chooses to review.

VIII. Statutes Affected:

The bill creates section 415.1103 of the Florida Statutes.

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

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

CS/CS/CS by Governmental Oversight and Accountability on March 26, 2019:

The committee substitute:

- Changes language regarding the cases received to include only those in which an elderly person’s death is confirmed to have been a result of or related to abuse;
- Removes language providing that information and records acquired by the review team are not subject to discovery or introduction into evidence;
- Removes language providing that a participant in a meeting may not be allowed or required to testify in any proceeding regarding information produced or discussed; and
- Removes language prohibiting teams and members from disclosing any confidential information.

CS/CS by Judiciary on March 13, 2019:

The committee substitute corrects a scrivener’s error in section 415.1103(5)(a), F.S., and moves the word “and” from the end of sub-paragraph 3. to sub-paragraph 2.

CS by Children, Families, and Elder Affairs on February 19, 2019:

- The CS removes language amending s. 415.101, F.S., the Adult Protective Services Act that would have expressed the intent of the Legislature that all adult protective service investigators be certified by a third-party credentialing agency selected by the Department of Children and Families.
- The CS removes language amending s. 415.107, F.S., which would have granted access to confidential records of an adult protective service investigation to the elder abuse fatality review team.

B. Amendments:

None.

By the Committees on Governmental Oversight and Accountability;
Judiciary; and Children, Families, and Elder Affairs; and
Senator Gibson

585-03510-19

2019452c3

A bill to be entitled

An act relating to elder abuse fatality review teams;
creating s. 415.1103, F.S.; authorizing the
establishment of elder abuse fatality review teams in
each judicial circuit and housing the review teams,
for administrative purposes only, in the Department of
Elderly Affairs; providing conditions for review team
membership, establishment, and organization;
specifying requirements for the review team operations
and meeting schedules; assigning responsibility for
paying the administrative costs of review team
operations to the team members or the entities they
represent; authorizing elder abuse fatality review
teams in existence on a certain date to continue;
requiring such existing teams to comply with specified
requirements; specifying review team duties; requiring
each review team to submit annually a summary report
by a certain date to the Department of Elderly Affairs
containing specified information; requiring the
department to prepare annually a summary report on the
review teams' information and submit the summary to
the Governor, the Legislature, and the Department of
Children and Families; providing immunity from
monetary liability for review team members under
certain conditions; providing an effective date.

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

Section 1. Section 415.1103, Florida Statutes, is created

Page 1 of 6

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

585-03510-19

2019452c3

to read:

415.1103 Elder abuse fatality review teams.—

(1) (a) An elder abuse fatality review team may be
established in each judicial circuit to review deaths of elderly
persons found to have been caused by, or related to, abuse or
neglect. The review teams are housed, for administrative
purposes only, in the Department of Elderly Affairs.

(b) An elder abuse fatality review team may include, but is
not limited to, representatives from the following entities in
the review team's judicial circuit:

1. Law enforcement agencies;

2. The state attorney;

3. The medical examiner;

4. A county court judge;

5. Adult protective services;

6. The area agency on aging;

7. The State Long-Term Care Ombudsman Program;

8. The Agency for Health Care Administration;

9. The Office of the Attorney General;

10. The Office of the State Courts Administrator;

11. The clerk of the court;

12. A victim services program;

13. An elder law attorney;

14. Emergency services personnel;

15. A certified domestic violence center;

16. An advocacy organization for victims of sexual
violence;

17. A funeral home director;

18. A forensic pathologist;

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59 19. A geriatrician;
 60 20. A geriatric nurse;
 61 21. A geriatric psychiatrist or other individual licensed
 62 to offer behavioral health services;
 63 22. A hospital discharge planner;
 64 23. A public guardian; or
 65 24. Any other persons who have knowledge regarding fatal
 66 incidents of elder abuse, domestic violence, or sexual violence,
 67 including knowledge of research, policy, law, and other matters
 68 connected with such incidents involving elders, or who are
 69 recommended for inclusion by the review team.
 70 (c) A state attorney, or his or her designee, may initiate
 71 the establishment of a review team in his or her judicial
 72 circuit and may call the first organizational meeting of the
 73 team. At the initial meeting, members of the review team shall
 74 choose two members to serve as co-chairs and shall establish a
 75 schedule for future meetings.
 76 (d) Participation in a review team is voluntary. Members of
 77 the review team shall serve without compensation and may not be
 78 reimbursed for per diem or travel expenses.
 79 (e) Members shall serve for terms of 2 years, to be
 80 staggered as determined by the co-chairs. Chairs may be
 81 reelected by a majority vote of the review team but not for more
 82 than two consecutive terms.
 83 (f) A review team shall determine the local operations of
 84 the team, including, but not limited to, the process for case
 85 selection. Reviews must be limited to closed cases in which an
 86 elderly person's death is found to have been caused by, or
 87 related to, abuse or neglect. All identifying information

Page 3 of 6

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88 concerning the person must be redacted in documents received for
 89 review. The review team shall meet at least once each fiscal
 90 year.
 91 (g) Administrative costs of operating the review team must
 92 be borne by the team members or entities that they represent.
 93 (2) An elder abuse fatality review team in existence on
 94 July 1, 2019, may continue to exist and shall comply with the
 95 requirements of this section.
 96 (3) An elder abuse fatality review team shall do all of the
 97 following:
 98 (a) Review deaths of elderly persons in its judicial
 99 circuit found to have been caused by, or related to, abuse or
 100 neglect.
 101 (b) Consider the events leading up to a fatal incident,
 102 available community resources, current law and policies, and the
 103 actions taken by systems or individuals related to the fatal
 104 incident.
 105 (c) Identify potential gaps, deficiencies, or problems in
 106 the delivery of services to elderly persons by public and
 107 private agencies which may be related to deaths reviewed by the
 108 review team.
 109 (d) Whenever possible, develop communitywide approaches to
 110 address causes of, and contributing factors to, deaths reviewed
 111 by the review team.
 112 (e) Develop recommendations and potential changes in law,
 113 rules, and policies to support the care of elderly persons and
 114 to prevent elder abuse deaths.
 115 (4) (a) Review teams in this state may share with each other
 116 any relevant information that pertains to the review of the

Page 4 of 6

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585-03510-19

2019452c3

117 death of an elderly person.

118 (b) A review team member may not contact, interview, or
 119 obtain information by request directly from a member of the
 120 deceased elder's family as part of the review unless a team
 121 member is authorized to do so in the course of his or her
 122 employment duties. A member of the deceased elder's family may
 123 voluntarily provide information or records to a review team but
 124 must be informed that such information or records are subject to
 125 public disclosure unless a public records exemption applies.

126 (5) (a) Annually by September 1, each elder abuse fatality
 127 review team shall submit a summary report to the Department of
 128 Elderly Affairs which includes, but is not limited to:

129 1. Descriptive statistics regarding cases reviewed by the
 130 review team, including demographic information on victims and
 131 the causes and nature of deaths;

132 2. Current policies, procedures, rules, or statutes that
 133 the review team identified as contributing to the incidence of
 134 elder abuse and elder deaths, and recommendations for system
 135 improvements and needed resources, training, or information
 136 dissemination to address those identified issues; and

137 3. Any other recommendations to prevent deaths from elder
 138 abuse or neglect, based on an analysis of the data and
 139 information presented in the report.

140 (b) Annually by November 1, the Department of Elderly
 141 Affairs shall prepare a summary report of the review team
 142 information required under paragraph (a). The department shall
 143 provide the summary report to the Governor, the President of the
 144 Senate, the Speaker of the House of Representatives, and the
 145 Department of Children and Families.

Page 5 of 6

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585-03510-19

2019452c3

146 (6) There is no monetary liability on the part of, and a
 147 cause of action for damages may not arise against, any member of
 148 an elder abuse fatality review team due to the performance of
 149 his or her duties as a review team member in regard to any
 150 discussions by, or deliberations or recommendations of, the team
 151 or the member, unless such member acted in bad faith, with
 152 wanton and willful disregard of human rights, safety, or
 153 property.

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

Page 6 of 6

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON

Minority Leader
6th District

March 26, 2019

Senator Rob Bradley, Chair
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

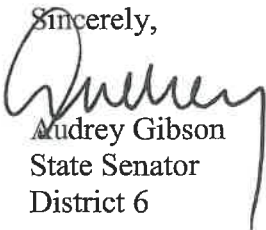
Chair Bradley 

I respectfully request that SB 452, be placed on the next committee agenda.

SB 452, ^{allows} creates an elder abuse fatality team in each judicial circuit to review closed files from the State Attorney's office in which an elderly person's death is verified to have been caused by abuse or neglect. The teams will prepare a summary report with recommendations related to any gaps in services, abuse and neglect to be presented to the President of Senate, Speaker of the House and the Governor. The bill passed unanimously in all previous referenced committees.

Thank you for your kind and consideration.

Sincerely,


Audrey Gibson
State Senator
District 6

SENATE APPROPRIATIONS
RECEIVED
19 MAR 27 AM 8:00
SENT TO CHAIRMAN
STAFF DIR. STAFF

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

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/11/19

Meeting Date

0452

Bill Number (if applicable)

Topic Elder Abuse Fatality Review

Amendment Barcode (if applicable)

Name Ivonne Fernandez

Job Title Associate State Director

Address _____

Street

Doral FL

City

State

Zip

Phone 954-850-7262

Email fernandez@22rp.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AARP

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.

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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 464 (112706)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senators Flores and Montford

SUBJECT: Prepaid College Plans

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</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>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 464 modifies the Stanley G. Tate Florida Prepaid College Program to authorize students at a state university or Florida College System (FCS) institution to use the fees associated with a dormitory residence plan to cover the cost of housing provided by a qualified nonprofit organization that is approved by the state university or FCS institution. The bill defines a “qualified nonprofit organization” as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code that provides housing to full-time students at an FCS institution or state university, primarily supports students who lack financial resources, and has been approved by the Florida Prepaid Board.

The bill also specifies that dormitory fees paid to a qualified nonprofit organization may not exceed the average fees charged for state university dormitories, or for fees charged for dormitories or residency opportunities provided by FCS institution or FCS institution direct-support organizations, whichever is less.

The bill also modifies membership of the Florida Prepaid College Board direct-support organization.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2019.

II. Present Situation:

Stanley G. Tate Florida Prepaid College Program

The Legislature created the Stanley G. Tate Florida Prepaid College Program (Prepaid Program) in 1987¹ to provide Florida's families a mechanism through which the cost of registration and dormitory residence may be paid in advance of enrollment in a state postsecondary institution at a rate lower than the projected corresponding cost at the time of actual enrollment.² Since its inception, more than 1.9 million Prepaid Program plans have been purchased, and more than 464,000 students have attended college using Prepaid Program plans.³

The Prepaid Program is administered by the Florida Prepaid College Board (Prepaid Board).⁴ The Prepaid Board is required to make advance payment contracts available for two independent plans called the Florida College System institution plan and the university plan.⁵ The advance payment contracts are financially guaranteed by the State of Florida⁶ and lock-in many of the costs associated with enrollment in state universities and FCS institutions (e.g., registration fees, tuition differential fees, local fees, and dormitory fees) at the time such contracts are purchased.⁷ Families may choose from the following Prepaid Program options:⁸

- 2-Year Florida College Plan (10.9 percent of 2016-2017 Prepaid Plans sold).
- 4-Year Florida College Plan (6.7 percent of 2016-2017 Prepaid Plans sold).
- 2+2 Florida Plan (12.9 percent of 2016-2017 Prepaid Plans sold).
- 1-Year Florida University Plan (18.4 percent of 2016-2017 Prepaid Plans sold).
- 4-Year Florida University Plan (51.1 percent of 2016-2017 Prepaid Plans sold).⁹

Dormitory Residence Plan

Dormitory plans may be added to the 2+2 Florida Plan, the 1-Year Florida University Plan, and the 4-Year Florida University Plan.¹⁰

¹ Section 1, ch. 1987-132, L.O.F.; see also Florida Prepaid College Board, *Our History*, <https://www.myfloridaprepaid.com/about-us/our-history/> (last visited Mar. 12, 2019).

² Section 1009.98(1), F.S.

³ Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 2.

⁴ Section 1009.971(1), F.S. The Florida Prepaid College Board consists of seven members to be composed of the Attorney General, the Chief Financial Officer, the Chancellor of the State University System, the Chancellor of the Division of Florida Colleges, and three members appointed by the Governor and subject to confirmation by the Senate for a term of three years. Each member appointed by the Governor must possess knowledge, skill, and experience in the areas of accounting, actuary, risk management, or investment management. Section 1009.971(2), F.S.

⁵ Section 1009.98(2), F.S. In Fall, 2016, 34,018 students attended 28 Florida College System institutions, and 56,661 students attended 12 state universities using a Prepaid Plan. Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 10-11.

⁶ Section 1009.98(7), F.S.

⁷ Section 1009.98(2), F.S.

⁸ Florida Prepaid College Board, *Plans & Pricing*, <https://www.myfloridaprepaid.com/prepaid-plans/plans-and-pricing/> (last visited Mar. 12, 2019).

⁹ Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 7.

¹⁰ Florida Prepaid College Plan, *Plans and Pricing*, <https://www.myfloridaprepaid.com/prepaid-plans/plans-and-pricing/> (last visited Mar. 12, 2019).

State University Dormitory Plan

Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university.¹¹ The dormitory plan is designed to pay for a double-occupancy, air-conditioned dormitory room at a state university in Florida. Qualified beneficiaries have the highest priority in the assignment of housing within university residence halls. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan.¹² The value of the dormitory plan may be used to cover other university-held housing, as approved by the Prepaid Board.¹³ The Prepaid Board will provide a specified refund if the university does not have available units, or if the student lives off-campus or in privately held housing.¹⁴

Florida College System Dormitory Plan

A qualified beneficiary who chooses to attend an FCS institution, or who is not admitted to a state university, may use the fees associated with a dormitory residence plan for dormitory or residency opportunities operated by an FCS institution or FCS institution direct-support organization (DSO).¹⁵ Such dormitory fees may not exceed the maximum fees charged for state university dormitories, or the fees charged for an FCS institution or FCS institution DSO, whichever is less.¹⁶

An FCS institution or DSO has limited authority to plan and construct facilities and to acquire additional property.¹⁷ Residency opportunities within the FCS are predominately off campus and provided through a third party, often for specific student populations such as international students, student athletes, or specific scholarship recipients.¹⁸ However, Florida law authorizes an FCS institution campus within a municipality designated as an area of critical state concern,¹⁹ which meets planning and development requirements, to construct dormitories for up to 300 beds for FCS institution students.²⁰

¹¹ Section 1009.98(2)(d), F.S. A maximum of two semesters of dormitory fees may be prepaid for each year of state university coverage. *Id.*

¹² Section 1009.98(2)(d), F.S.

¹³ Florida Prepaid, *Prepaid Plans FAQs, Dormitory Specific Questions*, <https://www.myfloridaprepaid.com/prepaid-plans/faqs/#what-residence-halls-are-covered> (last visited Mar. 12, 2019).

¹⁴ If there are no available units, the refund will equal the statewide average for eligible double-occupancy, air-conditioned dormitory rooms payable by the Prepaid Plan in the State of Florida. If the student lives off-campus or in privately held housing, then the refund is equal to payments made, less any fees, usage and other refunds. *Id.*

¹⁵ Section 1009.98(2)(d), F.S.

¹⁶ *Id.*

¹⁷ Section 1013.40, F.S.

¹⁸ Florida College System, *Student Housing in the Florida College System*, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082726-faqhousing.pdf>.

¹⁹ Section 380.05, F.S. The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972." The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources. The designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, the Florida Keys Area, and the City of Key West Area.

²⁰ Section 1013.40(4), F.S. Currently, only Florida Keys Community College meets this requirement and is able to construct such dormitory facilities.

Florida Prepaid College Board Direct-Support Organization

In 1989, the Legislature authorized the Prepaid Board to establish a direct support organization.²¹ The Prepaid Board subsequently established the Stanley G. Tate Florida Prepaid College Foundation (Foundation) to provide scholarships to students who may not have otherwise had the opportunity to go to college.²²

The chair and the executive director of the Prepaid Board serve as directors of the Foundation and jointly name, at a minimum, three other individuals to serve as directors of the Foundation.²³

III. Effect of Proposed Changes:

This bill amends s. 1009.98, F.S., to authorize a beneficiary at a state university to use the fees associated with a dormitory residence plan to cover the costs of housing provided by a qualified nonprofit organization that is approved by the state university. In addition, the bill authorizes that a beneficiary at a Florida College System (FCS) institution may use the fees associated with a dormitory residence plan to cover the costs of housing provided by a qualified nonprofit organization that is approved by the FCS institution.

The bill defines a “qualified nonprofit organization” as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code²⁴ that provides dormitories or residency opportunities to full-time students at a FCS institution or state university, primarily supports students that lack financial resources, and has been approved by the Florida Prepaid Board for inclusion in the dormitory residence plan.

The bill also specifies that the fees from a dormitory residence plan paid to a qualified nonprofit organization may not exceed the average fees charged for state university dormitory residences, or for fees charged for FCS institution or FCS institution direct-support organization dormitories or residency opportunities, whichever is less.

The bill also modifies the membership of the Florida Prepaid Board’s direct-support organization (DSO), to specify that only the chair of the Prepaid Board serves as director of the DSO. In addition, the bill requires that the chair of the Prepaid Board and the executive director of the Florida Prepaid College Program appoint four, rather than three, other individuals to serve as directors of the DSO.

The bill takes effect July 1, 2019.

²¹ Section 1, ch. 1989-316, L.O.F., codified as section 240.551(22), F.S., recodified in 2002 as section 1009.983(1), F.S.

²² Stanley G. Tate Florida Prepaid College Foundation, *2017 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/documents/pdf/foundation/foundation-annual-report-2017.pdf> at 3.

²³ Section 1009.983(5), F.S.

²⁴ To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. Organizations described in section 501(c)(3) are commonly referred to as charitable organizations. Internal Revenue Service, *Exemption Requirements - 501(c)(3) Organizations*, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations> (last visited Mar. 12, 2019).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1009.98 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Education on April 4, 2019:

The committee substitute:

Modifies the membership of the Florida Prepaid College Board (Prepaid Board) direct-support organization (DSO) to specify that the chair of the Prepaid Board serves as director of the DSO, and that the chair and the executive director of the Florida Prepaid College Program appoint four, rather than three, other individuals to serve as directors of the DSO.

CS by Education on March 19, 2019:

The committee substitute:

- Maintains the provision in the bill that a state university may approve a qualified nonprofit organization that provides housing, but provides a technical process change to specify that a state university may transfer or cause to have transferred dormitory residence fees to such nonprofit organization.
- Specifies that a Florida College System (FCS) institution may approve a qualified nonprofit organization that provides housing, and that the FCS institution may transfer or cause to have transferred dormitory residence fees to such nonprofit organization.
- Maintains in the definition of a qualified nonprofit organization the requirement relating to the Internal Revenue Code, but modifies the definition by:
 - Removing the requirement that student living housing provided by a qualified nonprofit organization must be on or near the state university or FCS institution campus; and
 - Adding to the definition that the nonprofit organization must primarily support students that lack financial resources, and that the nonprofit organization must be approved by the Florida Prepaid Board for inclusion in the dormitory residence plan.
- Changes the restriction on fees paid to a qualified nonprofit organization to specify that the fees may not exceed the average fees, rather than maximum fees, charged for dormitories or residences at state universities, FCS institutions, or FCS institution direct-support organizations.

- B. **Amendments:**

None.



112706

576-03857-19

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

A bill to be entitled

An act relating to prepaid college plans; amending s.
1009.98, F.S.; authorizing the transfer of fees
associated with dormitory residency to approved
qualified nonprofit organizations under certain
circumstances; prohibiting transferred fees from
exceeding a specified amount; defining the term
"qualified nonprofit organization"; amending s.
1009.983, F.S.; revising the governance of the Florida
Prepaid College Board's direct-support organization;
providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) of section
1009.98, Florida Statutes, is amended to read:

1009.98 Stanley G. Tate Florida Prepaid College Program.—

(2) PREPAID COLLEGE PLANS.—At a minimum, the board shall
make advance payment contracts available for two independent
plans to be known as the Florida College System institution plan
and the university plan. The board may also make advance payment
contracts available for a dormitory residence plan. The board
may restrict the number of participants in the Florida College
System institution plan, university plan, and dormitory
residence plan, respectively. However, any person denied
participation solely on the basis of such restriction shall be
granted priority for participation during the succeeding year.



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(d) 1. Through the dormitory residence plan, the advance
payment contract may provide prepaid housing fees for a maximum
of 10 semesters of full-time undergraduate enrollment in a state
university. Dormitory residence plans ~~must~~ shall be purchased in
increments of 2 semesters. The cost of participation in the
dormitory residence plan shall be based primarily on the average
current and projected housing fees within the State University
System and the number of years expected to elapse between the
purchase of the plan on behalf of a qualified beneficiary and
the exercise of the benefits provided in the plan by such
beneficiary. Qualified beneficiaries shall have the highest
priority in the assignment of housing within university
residence halls. Qualified beneficiaries shall bear the cost of
any additional elective charges such as laundry service or long-
distance telephone service. Each state university may specify
the residence halls or other university-held residences eligible
for inclusion in the plan. In addition, any state university may
request immediate termination of a dormitory residence contract
based on a violation or multiple violations of rules of the
residence hall or other university-held residences. In the event
that sufficient housing is not available for all qualified
beneficiaries, the board shall refund the purchaser or qualified
beneficiary an amount equal to the fees charged for dormitory
residence during that semester. If a qualified beneficiary is
admitted to the state university and finds housing with a
qualified nonprofit organization, as defined in subparagraph 2.,
that is approved by the state university, the state university
may transfer or cause to have transferred to the qualified
nonprofit organization the fees associated with dormitory



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57 residence. If a qualified beneficiary fails to be admitted to a
58 state university or chooses to attend a Florida College System
59 institution that operates one or more dormitories or residency
60 opportunities, or has one or more dormitories or residency
61 opportunities operated by the Florida College System institution
62 direct-support organization, the qualified beneficiary may
63 transfer or cause to have transferred to the Florida College
64 System institution, or Florida College System institution
65 direct-support organization, the fees associated with dormitory
66 residence. If a qualified beneficiary attends a Florida College
67 System institution and finds housing with a qualified nonprofit
68 organization, as defined in subparagraph 2., that is approved by
69 the Florida College System institution, the Florida College
70 System institution may transfer or cause to have transferred to
71 the qualified nonprofit organization the fees associated with
72 dormitory residence. Dormitory fees transferred to a the Florida
73 College System institution, or Florida College System
74 institution direct-support organization, or qualified nonprofit
75 organization may not exceed the average maximum fees charged for
76 state university dormitory residence for the purposes of this
77 section, or the fees charged for Florida College System
78 institution or Florida College System institution direct-support
79 organization dormitories or residency opportunities, whichever
80 is less.

81 2. For purposes of this paragraph, the term "qualified
82 nonprofit organization" means a nonprofit organization under s.
83 501(c)(3) of the United States Internal Revenue Code which
84 provides one or more dormitories or residency opportunities to
85 students enrolled full-time in a state university or Florida



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86 College System institution, primarily supports students that
87 lack financial resources, and has been approved by the board for
88 inclusion in the plan.

89 Section 2. Subsection (5) of section 1009.983, Florida
90 Statutes, is amended to read:

91 1009.983 Direct-support organization; authority.—

92 (5) The chair ~~and the executive director~~ of the board shall
93 be a director ~~directors~~ of the direct-support organization. The
94 chair and the executive director of the board and shall jointly
95 name, at a minimum, four ~~three~~ other individuals to serve as
96 directors of the organization.

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

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 464

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senators Flores and Montford

SUBJECT: Prepaid College Plans

DATE: April 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</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>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 464 modifies the Stanley G. Tate Florida Prepaid College Program to authorize students at a state university or Florida College System (FCS) institution to use the fees associated with a dormitory residence plan to cover the cost of housing provided by a qualified nonprofit organization that is approved by the state university or FCS institution. The bill defines a “qualified nonprofit organization” as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code that provides housing to full-time students at an FCS institution or state university, primarily supports students who lack financial resources, and has been approved by the Florida Prepaid Board.

The bill also specifies that dormitory fees paid to a qualified nonprofit organization may not exceed the average fees charged for state university dormitories, or for fees charged for dormitories or residency opportunities provided by FCS institution or FCS institution direct-support organizations, whichever is less.

The bill also modifies membership of the Florida Prepaid College Board direct-support organization.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2019.

II. Present Situation:

Stanley G. Tate Florida Prepaid College Program

The Legislature created the Stanley G. Tate Florida Prepaid College Program (Prepaid Program) in 1987¹ to provide Florida's families a mechanism through which the cost of registration and dormitory residence may be paid in advance of enrollment in a state postsecondary institution at a rate lower than the projected corresponding cost at the time of actual enrollment.² Since its inception, more than 1.9 million Prepaid Program plans have been purchased, and more than 464,000 students have attended college using Prepaid Program plans.³

The Prepaid Program is administered by the Florida Prepaid College Board (Prepaid Board).⁴ The Prepaid Board is required to make advance payment contracts available for two independent plans called the Florida College System institution plan and the university plan.⁵ The advance payment contracts are financially guaranteed by the State of Florida⁶ and lock-in many of the costs associated with enrollment in state universities and FCS institutions (e.g., registration fees, tuition differential fees, local fees, and dormitory fees) at the time such contracts are purchased.⁷ Families may choose from the following Prepaid Program options:⁸

- 2-Year Florida College Plan (10.9 percent of 2016-2017 Prepaid Plans sold).
- 4-Year Florida College Plan (6.7 percent of 2016-2017 Prepaid Plans sold).
- 2+2 Florida Plan (12.9 percent of 2016-2017 Prepaid Plans sold).
- 1-Year Florida University Plan (18.4 percent of 2016-2017 Prepaid Plans sold).
- 4-Year Florida University Plan (51.1 percent of 2016-2017 Prepaid Plans sold).⁹

Dormitory Residence Plan

Dormitory plans may be added to the 2+2 Florida Plan, the 1-Year Florida University Plan, and the 4-Year Florida University Plan.¹⁰

¹ Section 1, ch. 1987-132, L.O.F.; see also Florida Prepaid College Board, *Our History*, <https://www.myfloridaprepaid.com/about-us/our-history/> (last visited Mar. 12, 2019).

² Section 1009.98(1), F.S.

³ Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 2.

⁴ Section 1009.971(1), F.S. The Florida Prepaid College Board consists of seven members to be composed of the Attorney General, the Chief Financial Officer, the Chancellor of the State University System, the Chancellor of the Division of Florida Colleges, and three members appointed by the Governor and subject to confirmation by the Senate for a term of three years. Each member appointed by the Governor must possess knowledge, skill, and experience in the areas of accounting, actuary, risk management, or investment management. Section 1009.971(2), F.S.

⁵ Section 1009.98(2), F.S. In Fall, 2016, 34,018 students attended 28 Florida College System institutions, and 56,661 students attended 12 state universities using a Prepaid Plan. Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 10-11.

⁶ Section 1009.98(7), F.S.

⁷ Section 1009.98(2), F.S.

⁸ Florida Prepaid College Board, *Plans & Pricing*, <https://www.myfloridaprepaid.com/prepaid-plans/plans-and-pricing/> (last visited Mar. 12, 2019).

⁹ Florida Prepaid College Board, *2017 Annual Report*, available at https://www.myfloridaprepaid.com/wp-content/uploads/fpcb_2017_annual_report.pdf, at 7.

¹⁰ Florida Prepaid College Plan, *Plans and Pricing*, <https://www.myfloridaprepaid.com/prepaid-plans/plans-and-pricing/> (last visited Mar. 12, 2019).

State University Dormitory Plan

Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university.¹¹ The dormitory plan is designed to pay for a double-occupancy, air-conditioned dormitory room at a state university in Florida. Qualified beneficiaries have the highest priority in the assignment of housing within university residence halls. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan.¹² The value of the dormitory plan may be used to cover other university-held housing, as approved by the Prepaid Board.¹³ The Prepaid Board will provide a specified refund if the university does not have available units, or if the student lives off-campus or in privately held housing.¹⁴

Florida College System Dormitory Plan

A qualified beneficiary who chooses to attend an FCS institution, or who is not admitted to a state university, may use the fees associated with a dormitory residence plan for dormitory or residency opportunities operated by an FCS institution or FCS institution direct-support organization (DSO).¹⁵ Such dormitory fees may not exceed the maximum fees charged for state university dormitories, or the fees charged for an FCS institution or FCS institution DSO, whichever is less.¹⁶

An FCS institution or DSO has limited authority to plan and construct facilities and to acquire additional property.¹⁷ Residency opportunities within the FCS are predominately off campus and provided through a third party, often for specific student populations such as international students, student athletes, or specific scholarship recipients.¹⁸ However, Florida law authorizes an FCS institution campus within a municipality designated as an area of critical state concern,¹⁹ which meets planning and development requirements, to construct dormitories for up to 300 beds for FCS institution students.²⁰

¹¹ Section 1009.98(2)(d), F.S. A maximum of two semesters of dormitory fees may be prepaid for each year of state university coverage. *Id.*

¹² Section 1009.98(2)(d), F.S.

¹³ Florida Prepaid, *Prepaid Plans FAQs, Dormitory Specific Questions*, <https://www.myfloridaprepaid.com/prepaid-plans/faqs/#what-residence-halls-are-covered> (last visited Mar. 12, 2019).

¹⁴ If there are no available units, the refund will equal the statewide average for eligible double-occupancy, air-conditioned dormitory rooms payable by the Prepaid Plan in the State of Florida. If the student lives off-campus or in privately held housing, then the refund is equal to payments made, less any fees, usage and other refunds. *Id.*

¹⁵ Section 1009.98(2)(d), F.S.

¹⁶ *Id.*

¹⁷ Section 1013.40, F.S.

¹⁸ Florida College System, *Student Housing in the Florida College System*, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082726-faqhousing.pdf>.

¹⁹ Section 380.05, F.S. The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972." The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources. The designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, the Florida Keys Area, and the City of Key West Area.

²⁰ Section 1013.40(4), F.S. Currently, only Florida Keys Community College meets this requirement and is able to construct such dormitory facilities.

Florida Prepaid College Board Direct-Support Organization

In 1989, the Legislature authorized the Prepaid Board to establish a direct support organization.²¹ The Prepaid Board subsequently established the Stanley G. Tate Florida Prepaid College Foundation (Foundation) to provide scholarships to students who may not have otherwise had the opportunity to go to college.²²

The chair and the executive director of the Prepaid Board serve as directors of the Foundation and jointly name, at a minimum, three other individuals to serve as directors of the Foundation.²³

III. Effect of Proposed Changes:

This bill amends s. 1009.98, F.S., to authorize a beneficiary at a state university to use the fees associated with a dormitory residence plan to cover the costs of housing provided by a qualified nonprofit organization that is approved by the state university. In addition, the bill authorizes that a beneficiary at a Florida College System (FCS) institution may use the fees associated with a dormitory residence plan to cover the costs of housing provided by a qualified nonprofit organization that is approved by the FCS institution.

The bill defines a “qualified nonprofit organization” as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code²⁴ that provides dormitories or residency opportunities to full-time students at a FCS institution or state university, primarily supports students that lack financial resources, and has been approved by the Florida Prepaid Board for inclusion in the dormitory residence plan.

The bill also specifies that the fees from a dormitory residence plan paid to a qualified nonprofit organization may not exceed the average fees charged for state university dormitory residences, or for fees charged for FCS institution or FCS institution direct-support organization dormitories or residency opportunities, whichever is less.

The bill also modifies the membership of the Florida Prepaid Board’s direct-support organization (DSO), to specify that only the chair of the Prepaid Board serves as director of the DSO. In addition, the bill requires that the chair of the Prepaid Board and the executive director of the Florida Prepaid College Program appoint four, rather than three, other individuals to serve as directors of the DSO.

The bill takes effect July 1, 2019.

²¹ Section 1, ch. 1989-316, L.O.F., codified as section 240.551(22), F.S., recodified in 2002 as section 1009.983(1), F.S.

²² Stanley G. Tate Florida Prepaid College Foundation, *2017 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/documents/pdf/foundation/foundation-annual-report-2017.pdf> at 3.

²³ Section 1009.983(5), F.S.

²⁴ To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. Organizations described in section 501(c)(3) are commonly referred to as charitable organizations. Internal Revenue Service, *Exemption Requirements - 501(c)(3) Organizations*, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations> (last visited Mar. 12, 2019).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1009.98 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations on April 11, 2019:**

The committee substitute modifies the membership of the Florida Prepaid College Board (Prepaid Board) direct-support organization (DSO) to specify that the chair of the Prepaid Board serves as director of the DSO, and that the chair and the executive director of the Florida Prepaid College Program appoint four, rather than three, other individuals to serve as directors of the DSO.

CS by Education on March 19, 2019:

The committee substitute:

- Maintains the provision in the bill that a state university may approve a qualified nonprofit organization that provides housing, but provides a technical process change to specify that a state university may transfer or cause to have transferred dormitory residence fees to such nonprofit organization.
- Specifies that a Florida College System (FCS) institution may approve a qualified nonprofit organization that provides housing, and that the FCS institution may transfer or cause to have transferred dormitory residence fees to such nonprofit organization.
- Maintains in the definition of a qualified nonprofit organization the requirement relating to the Internal Revenue Code, but modifies the definition by:
 - Removing the requirement that student living housing provided by a qualified nonprofit organization must be on or near the state university or FCS institution campus; and
 - Adding to the definition that the nonprofit organization must primarily support students that lack financial resources, and that the nonprofit organization must be approved by the Florida Prepaid Board for inclusion in the dormitory residence plan.
- Changes the restriction on fees paid to a qualified nonprofit organization to specify that the fees may not exceed the average fees, rather than maximum fees, charged for dormitories or residences at state universities, FCS institutions, or FCS institution direct-support organizations.

B. Amendments:

None.

By the Committee on Education; and Senator Flores

581-03243-19

2019464c1

A bill to be entitled

An act relating to prepaid college plans; amending s. 1009.98, F.S.; authorizing the transfer of fees associated with dormitory residency to approved qualified nonprofit organizations under certain circumstances; prohibiting transferred fees from exceeding a specified amount; defining the term "qualified nonprofit organization"; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) of section 1009.98, Florida Statutes, is amended to read:

1009.98 Stanley G. Tate Florida Prepaid College Program.—

(2) PREPAID COLLEGE PLANS.—At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the Florida College System institution plan and the university plan. The board may also make advance payment contracts available for a dormitory residence plan. The board may restrict the number of participants in the Florida College System institution plan, university plan, and dormitory residence plan, respectively. However, any person denied participation solely on the basis of such restriction shall be granted priority for participation during the succeeding year.

(d) 1. Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university. Dormitory residence plans must ~~shall~~ be purchased in

Page 1 of 3

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

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increments of 2 semesters. The cost of participation in the dormitory residence plan shall be based primarily on the average current and projected housing fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall have the highest priority in the assignment of housing within university residence halls. Qualified beneficiaries shall bear the cost of any additional elective charges such as laundry service or long-distance telephone service. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan. In addition, any state university may request immediate termination of a dormitory residence contract based on a violation or multiple violations of rules of the residence hall or other university-held residences. In the event that sufficient housing is not available for all qualified beneficiaries, the board shall refund the purchaser or qualified beneficiary an amount equal to the fees charged for dormitory residence during that semester. If a qualified beneficiary is admitted to the state university and finds housing with a qualified nonprofit organization, as defined in subparagraph 2., that is approved by the state university, the state university may transfer or cause to have transferred to the qualified nonprofit organization the fees associated with dormitory residence. If a qualified beneficiary fails to be admitted to a state university or chooses to attend a Florida College System institution that operates one or more dormitories or residency opportunities, or has one or more dormitories or residency

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

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59 opportunities operated by the Florida College System institution
60 direct-support organization, the qualified beneficiary may
61 transfer or cause to have transferred to the Florida College
62 System institution, or Florida College System institution
63 direct-support organization, the fees associated with dormitory
64 residence. If a qualified beneficiary attends a Florida College
65 System institution and finds housing with a qualified nonprofit
66 organization, as defined in subparagraph 2., that is approved by
67 the Florida College System institution, the Florida College
68 System institution may transfer or cause to have transferred to
69 the qualified nonprofit organization the fees associated with
70 dormitory residence. Dormitory fees transferred to a the Florida
71 College System institution, ~~or~~ Florida College System
72 institution direct-support organization, or qualified nonprofit
73 organization may not exceed the average ~~maximum~~ fees charged for
74 state university dormitory residence for the purposes of this
75 section, or the fees charged for Florida College System
76 institution or Florida College System institution direct-support
77 organization dormitories or residency opportunities, whichever
78 is less.

79 2. For purposes of this paragraph, the term "qualified
80 nonprofit organization" means a nonprofit organization under s.
81 501(c)(3) of the United States Internal Revenue Code which
82 provides one or more dormitories or residency opportunities to
83 students enrolled full-time in a state university or Florida
84 College System institution, primarily supports students that
85 lack financial resources, and has been approved by the board for
86 inclusion in the plan.

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

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 626 (973990)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senators Brandes and Broxson

SUBJECT: Insurer Guaranty Associations

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.	Babin/Davis	Betta	AEG	Recommend: Fav/CS
3.	Babin/Davis	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 626 revises provisions relating to the Florida Life and Health Insurance Guaranty Association (association or FLAHIGA)¹ and the Florida Health Maintenance Organization Consumer Assistance Plan (HMOCAP).² In response to recent long-term care insurer insolvencies, the bill incorporates some recent changes made to a National Association of Insurance Commissioners' (NAIC) model act and additional recommendations of stakeholders. The bill:

- Expands the assessment base of the association to fund long-term care insurer impairments and insolvencies by including health maintenance organizations (HMOs), life insurers, and annuity insurers. Any assessments related to a long-term care insurer would be allocated 50 percent to health member insurers and HMOs, and the remaining 50 percent to life and annuity member insurers. Total assessments on member insurers and HMOs are capped at 0.5 percent of premiums per year. Currently, only health insurers are assessed.

¹ The purpose of the association is to protect policyholders against failure in the performance of contractual obligations under life and health insurance policies and annuity contracts due to the impairment or insolvency of the member insurer that issued the policies or contracts.

² The purpose of the HMOCAP is to protect subscribers enrolled with HMOs, subject to certain limitations, against the failure of their HMO to perform its contractual obligations due to its insolvency.

- Exempts any nonprofit HMO from the long-term care insurance assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made.
- Increases the number of directors that may be on the association's board and requires that one director be a member director of the HMOCAP.

The bill has an indeterminate fiscal impact on the corporate income tax and an indeterminate fiscal impact on the insurance premium tax, both on a recurring basis. See Section V.

The bill takes effect upon becoming a law.

II. Present Situation:

People need long-term care when they are unable to take care of themselves. Long-term care services may include assistance with activities of daily living, home health care, respite care, hospice care, adult day care, or care in an assisted living facility or nursing home. Current estimates suggest the annual costs of care in a nursing home are \$85,000, and home health care can cost upwards of \$25,000 per year. The demand for long-term care has increased significantly, as people live longer and the U.S. population ages.³

Insurer Insolvency

States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. In Florida, the Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers and other risk-bearing entities.⁴ The OIR monitors the solvency of insurers, examines insurers, and takes administrative action, if necessary.⁵

Federal law provides that insurance companies may not file for bankruptcy.⁶ The state, through the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS), is instead responsible for rehabilitating or liquidating an insurer.⁷ If an insurer is found to be insolvent and is ordered to be liquidated by a court, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. Generally, once an insurance company is liquidated, an insurance guaranty association becomes liable for the policy or contract obligations of the liquidated insurance company. Insurance guaranty funds are

³ National Association of Insurance Commissioners, *Long Term Care Insurance Fact Sheet*, May 2018, available at https://www.naic.org/documents/consumer_alert_ltc.htm (last viewed Feb. 27, 2019). Life expectancy after age 65 is now 19.4 years. From 2015 to 2055, the number of people aged 85 and older is expected to almost triple from over six million to over 18 million.

⁴ Section 20.121(3), F.S.

⁵ Part VI, ch. 624, F.S.

⁶ The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. s. 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. See 15 U.S.C. ss. 1011- 1012.

⁷ Sections 631.051 and 631.061, F.S. Chapter 631, F.S., governs the receivership process for insurance companies in Florida.

designed to protect policyholders of liquidated insurers from financial losses and delays in claim payments, up to limits provided by law. The Florida Legislature has created five guaranty funds.⁸

Florida Life and Health Insurance Guaranty Association

Part III of ch. 631, F.S., governs the powers and duties of the Florida Life and Health Insurance Guaranty Association (association or FLAHIGA).⁹ The association services covered policies and contracts, collects premiums, and pays valid claims.¹⁰ All insurers authorized to write life insurance policies, health insurance policies, supplemental contracts, and annuity contracts (with exceptions) in Florida are required, as a condition of doing business in this state, to be member insurers of the association.¹¹ Currently, the association does not provide coverage for or assess health maintenance organizations.¹²

The association's aggregate liability with respect to one life may not exceed the following:

- Life Insurance Death Benefit: \$300,000 per insured life.
- Life Insurance Cash Surrender: \$100,000 per insured life.
- Health Insurance or Long-term Care Insurance Claims: \$300,000 per insured life.
- Annuity Cash Surrender: \$250,000 for deferred annuity contracts per contract owner.
- Annuity in Benefit: \$300,000 per contract owner.¹³

The board of directors of the association must be composed of not fewer than five but not more than nine member insurers.¹⁴ At least one member of the board must be a domestic insurer.¹⁵ The member insurers elect the members of the board, and the members of the board are subject to the approval of the DFS. In approving or appointing members to the board, the DFS must consider whether all member insurers are represented fairly.

The association has three operating accounts: health insurance, life insurance, and annuity for purposes of administration and assessments.¹⁶ The association may impose Class A assessments for administrative costs¹⁷ and Class B assessments to administer its duties relating to impaired or insolvent insurers.¹⁸ Class B assessments are calculated based on the premiums collected by each assessed member insurer on policies or contracts covered for each account in proportion to

⁸ See parts II-V of ch. 631, F.S. and s. 440.385, F.S. (The Florida Insurance Guaranty Association, Florida Life and Health Insurance Guaranty Association, Florida Health Maintenance Organization Consumer Assistance Plan, Florida Workers' Compensation Insurance Guaranty Association, and the Florida Self-Insurers Guaranty Association, respectively.)

⁹ In 1979, the Florida Legislature enacted provisions of the National Association of Insurance Commissioners' *Life and Health Insurance Guaranty Association Model Act*, which created FLAHIGA. Ch. 79-189, L.O.F. The National Association of Insurance Commissioners (NAIC) is a voluntary association of insurance regulators from all 50 states. The NAIC coordinates regulation and examination of multistate insurers, provides a forum for addressing major insurance issues, and promotes uniform model laws among the states.

¹⁰ See association's website available at <http://www.flahiga.org/aboutus.cfm> (last viewed Feb. 18, 2019).

¹¹ Sections 631.713 and 631.715, F.S.

¹² Section 631.713(3)(e), F.S.

¹³ Section 631.717(9), F.S. FLAHIGA, *Frequently Asked Questions*, available at <https://www.flahiga.org/FAQ> (last viewed Feb. 28, 2019).

¹⁴ Section 631.716(1), F.S.

¹⁵ Section 624.06, F.S.

¹⁶ Section 631.715(2), F.S.

¹⁷ Section 631.718(2) and (3), F.S.

¹⁸ *Id.*

premiums collected by all assessed member insurers for the three most recent calendar years. Florida law limits assessments on a member insurer to a maximum of one percent of the sum of the insurer's written premium in Florida regarding business covered by the account received during the three calendar years preceding the year in which the assessment is made, divided by three.¹⁹

Member insurers of the association may offset the amount of an assessment against the insurance premium tax or corporate income tax.²⁰ The credit may be taken in an amount of five percent of the assessments for each of the 20 years following the year in which the assessment was paid.²¹

Florida Health Maintenance Organization Consumer Assistance Plan (HMOCAP)

Part IV of ch. 631, F.S., creates the HMOCAP. The purpose of the HMOCAP is to protect subscribers of commercial health maintenance organizations (HMOs) against the risk of harm resulting from an HMO's insolvency. All HMOs authorized in Florida are required to be members.²² The board of directors of the HMOCAP must consist of at least five and not more than nine persons.²³ Member HMOs select board members, and the board members are subject to approval by the DFS. Coverage by the HMOCAP²⁴ ceases six months after the date of the insolvency; once the HMOCAP has provided \$300,000 in covered benefits; or when a subscriber obtains coverage with another HMO or health insurer.

To provide funds for the administration of the plan and the payment of claims, the plan may assess members of the plan to fund claims paid by the plan.²⁵ Assessments against member HMOs are levied as a percentage of annual earned premium revenue for non-Medicare and non-Medicaid contracts. The assessment in any calendar year may not exceed 0.5 percent of each member HMO's annual earned premium revenue for non-Medicare and non-Medicaid contracts.²⁶

Section 631.828, F.S., allows a member HMO to offset against its corporate income tax liability or other liabilities, on an individual or consolidated basis, as applicable, any assessments described in s. 631.819, F.S. The credit may be taken to the extent of 20 percent of the amount of such assessment for each of the five calendar years following the year in which such assessment was paid.

Long-term Care Insurance and Insolvencies

Many individuals buy long-term care insurance policies²⁷ to help pay for some of their long-term care needs. Despite the growing long-term care need, the number of long-term care insurance

¹⁹ Section 631.718(5), F.S.

²⁰ Section 631.72, F.S.

²¹ *Id.*

²² Section 631.815, F.S.

²³ Section 631.816, F.S.

²⁴ Section 631.817, F.S.

²⁵ Section 631.819, F.S.

²⁶ Section 631.819(3), F.S.

²⁷ In Florida, a long-term care insurance policy is any insurance policy or rider advertised, marketed, offered, or designed to provide coverage on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically

policies have fallen from 754,000 in 2002 to 129,000 in 2014. The number of insurers offering the coverage has declined from about 100 in 2002 to about 12 today.²⁸ This may be attributable to the premium rates for newly issued policies increasing as the remaining issuers of existing policies have refined their pricing due to inaccurate pricing assumptions relating to claim costs, mortality, interest rates, and policy lapses, which lead to an underpriced product.

Funding Claims of Insolvent Insurers

In 2017, Penn Treaty,²⁹ which was domiciled in Pennsylvania, was liquidated. The insurer wrote approximately 75,000 (primarily long-term care insurance) policies.³⁰ The insolvency is expected to be the second-largest insolvency in insurance guaranty fund history (the largest for an accident and health insurer).³¹ As of December 31, 2018, there were 7,468 in-force policies in Florida.³²

According to the NAIC, all states regulate long-term care insurance as health insurance.³³ The Penn Treaty insolvency resulted in health insurers bearing the majority of the assessments because long-term care insurance is classified as health insurance. Life insurers, however, wrote the majority of long-term care insurance premiums. In Florida, health insurers have paid almost \$336 million in assessments for the Penn Treaty insolvency.³⁴ The estimated actuarial liability on December 31, 2018, which is subject to change, was \$110 million.³⁵

NAIC Life and Health Insurance Guaranty Association Model Act

To address concerns with guaranty fund coverage and assessments for any future long-term care insurer insolvency, the NAIC modified the *Life and Health Insurance Guaranty Association Model Act* to expand the assessment base to include HMOs, life and annuity insurers for funding long-term care insurer insolvencies and impairments. Assessments for long-term care impairments and insolvencies are allocated equally between the life and health accounts. The NAIC clarifies the authority of the guaranty associations to adjust rates and coverage in the case of liquidation. Further, the NAIC clarifies that federal programs, such as Medicare and Medicaid, are excluded from the assessment base. Life and annuity policies with long-term care insurance riders are considered the same as the underlying product, not as a health insurance product.

necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital. Section 627.9404, F.S.

²⁸ NAIC, *Long-term Care Challenges*, Jan. 14, 2019, available at https://www.naic.org/cipr_topics/topic_long_term_care.htm (last viewed Feb. 10, 2019).

²⁹ Penn Treaty collectively includes Penn Treaty Network America Insurance Company and its affiliate, American Network Insurance Company.

³⁰ National Organization of Life and Health Insurance Guaranty Associations (NOLHGA), *Guaranty System to Provide Safety Net for Policyholders of Penn Treaty/American Network Insurance Companies*, Mar. 1, 2017) available at <https://www.nolhga.com/resource/file/NOLHGAPennTreatyPressReleaseFINAL.pdf> (last viewed Feb. 20, 2019).

³¹ Chicago Fed Letter, *The risks of pricing new insurance products: The case of long-term care*, 2018 Number 397.

³² Correspondence from FLAHIGA, Feb. 24, 2019, on file with Senate Banking and Insurance Committee.

³³ NAIC and NOLHGA, *State of the U.S. long-term care insurance industry*, March 30, 2017.

³⁴ Assessments paid from 2015 to 2019. Correspondence on file with the Senate Committee on Banking and Insurance.

³⁵ *Id.*

III. Effect of Proposed Changes:

Florida Life and Health Insurance Guaranty Association (association or FLAHIGA) (Sections 1-7)

Section 1 amends s. 631.713, F.S., to revise application of this part and subject HMOs to Class B assessments for long-term care insurer impairments or insolvencies. Currently, HMOs are exempt from assessments by the association. The section removes the interest rate cap for FLAHIGA coverage for long-term care or any other health insurance benefit as many long-term care policies contain inflation protection benefits that exceed the current interest rate cap.³⁶ The section clarifies that the association does not provide coverage for federal programs (Medicare, Medicaid, or Children's Health Insurance program)³⁷ and certain structured settlement annuity benefits.

Section 2 amends 631.716, F.S., to revise the board of directors for the association by increasing the maximum number of members from nine to 11. One member of the HMOCAP board of directors, or alternate, must serve on the association's board of directors and has the right to attend all board meetings and has full voting rights on all issues. The association board of directors must confirm, subject to approval by the DFS, the HMOCAP member.

Section 3 amends s. 631.717, F.S., to revise the powers and duties of the association. The section provides that, in the event of a long-term care insurer impairment or insolvency, the association is required to coordinate its activities with the HMOCAP, including the development of any plan for administering the impairment or insolvency. Further, the association is required to share information, including data, with and assist, if applicable, the HMOCAP with the administration and collection of member HMO assessments for long-term care insurer impairments or insolvencies.

The section clarifies that the association's maximum coverage for long-term care policies is \$300,000, and that any portion of a long-term care rider to a life insurance policy or annuity contract is considered the same type of benefit as the base life insurance policy or annuity contract to which the rider relates. The section also provides technical changes.

The association is authorized to file with the OIR for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under part III of ch. 631, F.S., if certain conditions are met. The approval authority for the association to issue certain alternative policies or contracts is changed from the receivership court to the DFS. The association is authorized to reissue policies or contracts.

Section 4 amends s. 631.718, F.S., to establish an assessment methodology for long-term care insurer insolvencies and impairments that is subject to approval by the DFS. The methodology must provide for 50 percent of the assessment to be allocated to health member insurers and 50

³⁶ Office of Insurance Regulation, *2019 Agency Legislative Bill Analysis of Senate Bill 626* (Feb. 6, 2019) (on file with the Appropriations Subcommittee on Agriculture, Environment, and General Government).

³⁷ The program, established pursuant to Title XXI of the U.S. Social Security Act, is a program administered by the United States Department of Health and Human Services that provides matching funds to states for health insurance to families with children.

percent to be allocated to life and annuity member insurers. The health members' share of the assessment is calculated by including the assessable premiums of member HMOs of the HMOCAP.

The total assessment for long-term care impairments or insolvencies upon a member insurer or member HMO may not exceed 0.5 percent in any one calendar year of the sum of the member insurer or member HMO premiums written in Florida covered by the account received during the calendar year preceding the year in which the assessment is made. If this information is unavailable, the member insurers of the association or the member HMOs of the HMOCAP may use other premium information.

Section 5 amends s. 631.721, F.S., to require the association to revise its plan of operation to provide for the coordination of efforts between the association and the HMOCAP in regards to assessments for long-term care insurer impairments or insolvencies.

Section 6 creates s. 631.738, F.S., relating to applicability as to certain member insurers and HMOs, to exempt any member insurer from long-term care assessment obligations if the member insurer has been adjudged insolvent by a court of competent jurisdiction, or has been determined insolvent by the DFS on or before the effective date of this act. The section also exempts any nonprofit HMO from the assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made.

Florida Health Maintenance Organization Consumer Assistance Plan (Sections 7 through 11)

Sections 7 through 10 amend ss. 631.816, 631.818, 631.819, and 631.820, F.S. The HMOCAP is required to designate one representative to serve on the association's board of directors, subject to approval by the DFS. In the event of a long-term care insurer impairment or insolvency, the HMOCAP must:

- Collect and transmit all information requested by the association to determine the appropriate assessment base;
- Levy and collect assessments from member HMOs;
- Coordinate the administration and collection of member assessments with the association insolvency;
- Issue a certificate of contribution to each member HMO paying a long-term care insurer assessment; and
- Revise the plan of operations by including procedures for coordinating the administration and collection of member HMO assessments with the association.

Section 11 amends s. 631.821, to provide a technical conforming change.

Section 12 provides the amendments made by the bill to ss. 631.713, 631.717, 631.718, 631.721, 631.818, 631.819, and 631.820, F.S., relating to long-term care assessment obligations apply only to long-term care assessment obligations assessed as a result of an insurer being adjudged insolvent by a court of competent jurisdiction or being determined by the OIR to be impaired on or after the effective date of this bill.

Section 13 directs the Division of Law Revision to replace the phrase, “effective date of this act” wherever it occurs in this act with the date this act becomes law.

Section 14 provides this bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expansion of the assessment base will provide access to more funds for the payment of policyholder claims in a more expedient manner.

For future impairments or insolvencies of long-term care insurers, life and annuity insurers and HMOs would be subject to assessments; however the fiscal impact is indeterminate. The bill exempts any nonprofit HMO operating only in Florida that has statutory capital and surplus of less than \$200 million, as of December 31 of the year preceding the year the assessment is made, from the assessment obligation.

Subject to certain conditions, assessments may offset insurance premium tax liabilities or corporate income tax liabilities. Currently only health insurers are subject to assessments. This would expand the assessment base, and potentially reduce future assessments for health insurers.

C. Government Sector Impact:

According to the Revenue Estimating Conference, any impact of the bill is dependent upon future insolvencies and the size and timing of future assessments. The bill is expected to have an indeterminate fiscal impact on the corporate income tax and an offsetting indeterminate fiscal impact on the insurance premium tax, both on a recurring basis.³⁸

VI. Technical Deficiencies:

Section 6 of the bill provides that the DFS or the OIR may determine whether an insurer is impaired. The OIR makes the initial determination on whether an insurer is impaired.

Section 6 exempts “any nonprofit health maintenance organization that operates only in this state” and meets certain capital and surplus requirements. The section could be clarified by amending it to exempt “any member nonprofit member health maintenance organization of the Florida Health Maintenance Organization Consumer Assistance Plan transacting business only in this state...”

VII. Related Issues:

The NAIC’s *Life and Health Insurance Guaranty Association Model Act* does not provide an assessment exemption for nonprofit entities that meet certain capital or surplus requirements.

However, ss. 631.718 and 631.819, F.S., authorize the association and the HMOCAP, respectively, to defer temporarily, in whole or in part, the assessment of a member if, in the opinion of the board, payment of an assessment would endanger the ability of the insurer or HMO to fulfill its contractual obligations.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 631.713, 631.716, 631.717, 631.718, 631.721, 631.816, 631.818, 631.819, 631.820, and 631.821.

This bill creates section 631.738 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on March 19, 2019:

The committee substitute:

- Deletes the term and definition of “long-term care assessment obligations.”

³⁸ Revenue Estimating Conference, *Insurance Premium Tax/Corporate Income Tax*, SB 626, Feb. 15, 2019, available at <http://edr.state.fl.us/Content/> (last viewed Mar. 11, 2019).

- Clarifies the HMOCAP director who is added to the board of the FLAHIGA cannot be a FLAHIGA member that is currently serving on the FLAHIGA's board.
- Deletes proposed assessments against accident member insurers for long-term care providers' insolvencies.
- Replaces the "department" with "office" referring to the OIR instead of the DFS; and
- Clarifies the applicable provisions of the bill are not retroactive.

CS by Banking and Insurance on March 4, 2019:

The CS:

- Exempts any nonprofit HMO from the assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made; and
- Provides technical, clarifying changes.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to insurer guaranty associations;
amending s. 631.713, F.S.; revising applicability of
part III of ch. 631, F.S., as to health maintenance
organizations, long-term care insurance benefits,
certain health care benefits, and certain structured
settlement annuity benefits; amending s. 631.716,
F.S.; revising the number of members and composition
of the Florida Life and Health Insurance Guaranty
Association's board of directors; specifying
requirements relating to the director of the Florida
Health Maintenance Organization Consumer Assistance
Plan to be confirmed to the association's board;
specifying rights of the director or his or her
alternate; deleting an obsolete provision; amending s.
631.717, F.S.; adding the reissuance of covered
policies to a list of duties of the association
relating to insolvent insurers; providing
construction; specifying duties of the association as
to potential long-term care insurer impairments or
insolvencies, sharing information, and providing
assistance to the Florida Health Maintenance
Organization Consumer Assistance Plan's board of
directors; revising applicability of a specified limit
on the association's liability for the contractual
obligations of an insolvent insurer; conforming a



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provision to changes made by the act; requiring that
the Department of Financial Services, rather than a
receivership court, approve certain alternative
policies or contracts; authorizing the board to file
directly for actuarially justified rate or premium
increases; amending s. 631.718, F.S.; specifying the
calculation and allocation of Class B assessments for
long-term care insurance; specifying a limit on
certain assessments on a member insurer or member
health maintenance organization; providing that the
Financial Services Commission, rather than the
department, prescribes the form of a certain
certificate of contribution; providing that the Office
of Insurance Regulation, rather than the department,
approves certain assets shown on insurer financial
statements; conforming provisions to changes made by
the act; amending s. 631.721, F.S.; deleting an
obsolete provision; revising the requirements of the
association's plan of operation relating to long-term
care insurer impairments and insolvencies; conforming
a cross-reference; creating s. 631.738, F.S.;
providing that certain provisions do not apply to
certain member insurers and health maintenance
organizations; amending s. 631.816, F.S.; adding
duties of the board of directors of the Florida Health
Maintenance Organization Consumer Assistance Plan to
conform to changes made by the act; amending s.
631.818, F.S.; adding to the duties of the plan to
conform to changes made by the act; amending s.



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56 631.819, F.S.; specifying requirements for long-term
57 care insurer impairment and insolvency assessments for
58 member health maintenance organizations; requiring the
59 plan to issue certificates of contribution to member
60 health maintenance organizations paying certain
61 assessments; specifying requirements of, and the use
62 of, such certificates; amending s. 631.820, F.S.;
63 conforming provisions to changes made by the act;
64 amending s. 631.821, F.S.; making a technical change;
65 providing applicability; providing a directive to the
66 Division of Law Revision; providing an effective date.
67
68 Be It Enacted by the Legislature of the State of Florida:
69
70 Section 1. Subsection (3) of section 631.713, Florida
71 Statutes, is amended to read:
72 631.713 Application of part.—
73 (3) This part does not apply to:
74 (a) That portion or part of a variable life insurance
75 contract or variable annuity contract not guaranteed by an
76 insurer.
77 (b) That portion or part of any policy or contract under
78 which the risk is borne by the policyholder.
79 (c) Any policy or contract or part thereof assumed by the
80 impaired or insolvent insurer under a contract of reinsurance,
81 other than reinsurance for which assumption certificates have
82 been issued.
83 (d) Fraternal benefit societies as defined in s. 632.601.
84 (e) Health maintenance organizations, except for



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85 assessments levied pursuant to ss. 631.715(2)(a)1.,
86 631.718(3)(b), and 631.819(2)(c) for long-term care insurer
87 impairments or insolvencies insurance.
88 (f) Dental service plan insurance.
89 (g) Pharmaceutical service plan insurance.
90 (h) Optometric service plan insurance.
91 (i) Ambulance service association insurance.
92 (j) Preneed funeral merchandise or service contract
93 insurance.
94 (k) Prepaid health clinic insurance.
95 (l) Any annuity contract or group annuity contract that is
96 not issued to and owned by an individual, except to the extent
97 of any annuity benefits:
98 1. Guaranteed directly and not through an intermediary to
99 an individual by an insurer under such contract or certificate;
100 2. Under an annuity issued by an insurer under 26 U.S.C. s.
101 408(b); or
102 3. Under an annuity issued by an insurer and held by a
103 custodian or trustee in accordance with 26 U.S.C. s. 408(a).
104
105 This paragraph applies to every insolvency regardless of its
106 date of inception, and an assessment base may not include
107 premiums for such excluded products.
108 (m) Any federal employees' group policy or contract that,
109 under 5 U.S.C. s. 8909(f), is prohibited from being subject to
110 an assessment under s. 631.718.
111 (n) Except as provided in this paragraph, a portion of a
112 policy or contract, to the extent that the rate of interest on
113 which the policy or contract is based, or the interest rate,



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crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

1. Averaged over the period of 4 years immediately preceding the date on which the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier, exceeds the rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average averaged for that same 4-year period or for such lesser period if the policy or contract was issued less than 4 years before the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier; and

2. On and after the date on which the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier, exceeds the rate of interest determined by subtracting 3 percentage points from the most current version of Moody's Corporate Bond Yield Average.

This paragraph does not apply to any portion of a policy or contract, including a rider, which provides long-term care or any other health insurance benefit.

(o) A portion of a policy or contract to the extent the policy or contract provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which has not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this part. However, if the interest or change in



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value is credited less frequently than annually as determined by using the procedures defined in the policy or contract, interest or change in value shall be credited by using the procedure defined in the policy or contract as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and shall not be subject to forfeiture.

(p) A policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to Title XVIII (Medicare), Title XIX (Medicaid), or Title XXI (the Children's Health Insurance Program) of the Social Security Act ~~Medicare part C or part D~~ or any regulations promulgated thereunder ~~issued pursuant to Medicare Part C or Part D.~~

(q) Structured settlement annuity benefits to which a payee, or a beneficiary if the payee is deceased, has transferred his or her rights in a structured settlement factoring transaction, as that term is defined in 26 U.S.C. s. 5891(c)(3)(A).

Section 2. Subsection (1) of section 631.716, Florida Statutes, is amended to read:

631.716 Board of directors.—

(1)(a) The board of directors of the association shall have at least 9, but no more than 11, members. The members shall be comprised of not fewer than five nor more than nine member insurers, serving terms as established in the plan of operation and 1 Florida Health Maintenance Organization Consumer Assistance Plan director confirmed pursuant to paragraph (b). At all times, at least 1 ~~one~~ member of the board must ~~shall~~ be a domestic insurer as defined in s. 624.06(1). The members of the



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172 board who are member insurers shall be elected by member
173 insurers, subject to the approval of the department.
174 (b) The board shall confirm, subject to the approval of the
175 department, the Florida Health Maintenance Organization Consumer
176 Assistance Plan director. The confirmed director must not be a
177 member insurer serving on the board of the association. The
178 director confirmed to the board must be designated by the
179 Florida Health Maintenance Organization Consumer Assistance
180 Plan's board of directors to serve on the board and represent
181 the interests of the Florida Health Maintenance Organization
182 Consumer Assistance Plan and its board of directors. An
183 individual serving as a Florida Health Maintenance Organization
184 Consumer Assistance Plan director on the board must be a member
185 of the Florida Health Maintenance Organization Consumer
186 Assistance Plan's board of directors. The Florida Health
187 Maintenance Organization Consumer Assistance Plan director, or
188 his or her alternate, has the right to be present at all
189 meetings of the board and has full voting rights on all issues.
190 (c) A vacancy on the board shall be filled for the
191 remaining period of the term by a majority vote of the remaining
192 board members, subject to the approval of the department. Prior
193 to the selection of the initial board of directors and the
194 organization of the association, the department shall give
195 notice to all member insurers of the time and place of the
196 organizational meeting. At the organizational meeting, each
197 member insurer shall be entitled to one vote, in person or by
198 proxy. If the board of directors is not elected within 60 days
199 after notice of the organizational meeting, the department may
200 appoint the initial members.



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201 Section 3. Present subsections (9) through (12) of section
202 631.717, Florida Statutes, are redesignated as subsections (12)
203 through (15), respectively, new subsections (9), (10), and (11)
204 are added to that section, subsections (2) and (3), paragraph
205 (c) of present subsection (9), and paragraph (g) of present
206 subsection (12) are amended, and paragraph (h) is added to
207 present subsection (12) of that section, to read:
208 631.717 Powers and duties of the association.-
209 (2) If a domestic insurer is an insolvent insurer, the
210 association shall, subject to the approval of the department:
211 (a) Guarantee, assume, reissue, or reinsure, or cause to be
212 guaranteed, assumed, reissued, or reinsured, the covered
213 policies of persons referred to in s. 631.713(2); and
214 (b) Provide moneys, pledges, notes, guarantees, or other
215 means that are proper and reasonably necessary to implement
216 paragraph (a) in order to assure payment of the contractual
217 obligations of the insolvent insurer with regard to persons
218 referred to in s. 631.713(2).
219 (3) If a foreign or alien insurer is an insolvent insurer,
220 the association shall, subject to the approval of the
221 department:
222 (a) Guarantee, assume, reissue, or reinsure, or cause to be
223 guaranteed, assumed, reissued, or reinsured, the covered
224 policies of residents of this state; and
225 (b) Provide moneys, pledges, notes, guarantees, or other
226 means that are proper and reasonably necessary to implement
227 paragraph (a) in order to assure payment of the contractual
228 obligations of the insolvent insurer with regard to persons
229 referred to in s. 631.713(2).



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However, this subsection does not apply when the department has determined that the foreign or alien insurer's domiciliary jurisdiction or state of entry provides, by statute, protection substantially similar to that provided by this part for residents of this state.

(9) For purposes of this part, benefits provided by a long-term care rider to a life insurance policy or annuity contract are considered the same type of benefits as the base life insurance policy or annuity contract to which the rider relates.

(10) In the event of a potential long-term care insurer impairment or insolvency, the association shall coordinate its activities with the Florida Health Maintenance Organization Consumer Assistance Plan, including the development of any plan for handling the administration of the impairment or insolvency.

(11) The association shall share information, including data, with and assist, as applicable, the board of directors of the Florida Health Maintenance Organization Consumer Assistance Plan with the administration and collection of member health maintenance organization assessments for long-term care insurer impairments or insolvencies pursuant to ss. 631.715(2)(a)1., 631.718(3)(b), 631.818(2), and 631.819(2)(c).

(12)(9) The association's liability for the contractual obligations of the insolvent insurer must be as great as, but no greater than, the contractual obligations of the insurer in the absence of such insolvency, unless such obligations are reduced as permitted by subsection (4), but the aggregate liability of the association with respect to one life shall not exceed the following:



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(c) For all other benefits, including in long-term care policies, \$300,000, including cash values, except as provided in paragraph (d).

In no event is the association liable for any penalties or interest.

(15)(12)

(g) In carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts under subsections (2) and (3), the association may, subject to approval of the department receivership court, issue an alternative policy or contract to substitute coverage for a policy or contract providing that provides an interest rate, crediting rate, or similar factor that was determined by use of an index or other external reference stated in the policy or contract and employed in calculating returns or changes in value by issuing an alternative policy or contract. In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract must provide for a fixed interest rate, payment of dividends with minimum guarantees, or a different method for calculating interest or changes in value. In such case:

1. There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract.

2. The alternative policy or contract shall be substantially similar to the replaced policy or contract in all other material terms.

(h) In accordance with the terms and conditions of the



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288 policy or contract, the board may directly file for actuarially
289 justified rate or premium increases for any policy or contract
290 for which it provides coverage under this part.

291 Section 4. Paragraph (b) of subsection (3), paragraph (a)
292 of subsection (5), and subsection (8) of section 631.718,
293 Florida Statutes, are amended to read:

294 631.718 Assessments.—

295 (3)

296 (b) 1. The amount of any Class B assessment, except for
297 assessments related to long-term care insurance, must shall be
298 allocated for assessment purposes among the accounts pursuant to
299 an allocation formula, which may be based on the premiums or
300 reserves of the impaired or insolvent insurer.

301 2. The amount of the Class B assessment for long-term care
302 insurance written by the impaired or insolvent insurer must be
303 allocated according to a methodology included in the plan of
304 operation and approved by the department. The methodology must
305 provide for 50 percent of the assessment to be allocated to
306 health member insurers and 50 percent to be allocated to life
307 and annuity member insurers.

308 3. For the purposes of the methodology outlined in
309 subparagraph 2. and included in the plan of operation, the
310 health member insurers' share of the assessment must be
311 calculated by including the assessable premiums of member health
312 maintenance organizations of the Florida Health Maintenance
313 Organization Consumer Assistance Plan.

314 (5) (a) 1. The total of all assessments upon a member insurer
315 for each account may not in any one calendar year exceed 1
316 percent of the sum of the insurer's premiums written in this



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317 state regarding business covered by the account received during
318 the 3 calendar years preceding the year in which the assessment
319 is made, divided by three. If premium information for the 3-year
320 period is not reasonably available for each member insurer, the
321 association may use any reasonably available premium
322 information.

323 2. For long-term care insurer impairments and insolvencies
324 only, the total assessments upon a member insurer or member
325 health maintenance organization of the Florida Health
326 Maintenance Organization Consumer Assistance Plan may not, in
327 any one calendar year, exceed 0.5 percent of the sum of the
328 member insurer's or member health maintenance organization's
329 premiums written in this state regarding business covered by the
330 account received during the calendar year preceding the year in
331 which the assessment is made. If premium information is not
332 reasonably available for each member insurer or member health
333 maintenance organization of the Florida Health Maintenance
334 Organization Consumer Assistance Plan, the association or the
335 Florida Health Maintenance Organization Consumer Assistance Plan
336 may use any reasonably available premium information.

337 (8) The association shall issue to each member insurer
338 paying an assessment under this part, other than a Class A
339 assessment, a certificate of contribution, in a form prescribed
340 by the commission department, for the amount of the assessment
341 so paid. All outstanding certificates are of equal dignity and
342 priority without reference to amounts or dates of issue. A
343 certificate of contribution may be shown by the insurer in its
344 financial statement as an asset in such form and for such
345 amount, if any, and period of time as the office department



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approves. However, any amount offset pursuant to s. 631.72 may not be shown as an asset of the insurer on any of its financial statements.

Section 5. Paragraph (b) of subsection (1), paragraph (f) of subsection (3), and subsection (4) of section 631.721, Florida Statutes, are amended to read:

631.721 Plan of operation.—

(1)

~~(b) If the association fails to submit a suitable proposed plan of operation within 180 days following October 1, 1979, or~~
If at any time ~~thereafter~~ the association fails to submit suitable amendments to the plan, the department shall, after notice and hearing, adopt such reasonable rules as are necessary to effectuate the provisions of this part. Such rules shall continue in force until modified by the department or superseded by a proposed plan submitted by the association and approved by the department.

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this part:

(f) Establish any additional procedures for assessments under s. 631.718, including procedures to share assessment information, including data, with and assist, as applicable, the board of directors of the Florida Health Maintenance Organization Consumer Assistance Plan with the administration, collection, and deposit of member health maintenance organization assessments for long-term care insurer impairments and insolvencies into the health account established under s. 631.715.

(4) The plan of operation may provide that any or all



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powers and duties of the association, except those under ~~ss. 631.717(13)(c) and 631.718~~ ~~ss. 631.717(10)(c) and 631.718~~, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the department and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this part.

Section 6. Section 631.738, Florida Statutes, is created to read:

631.738 Applicability as to certain member insurers and health maintenance organizations.—The provisions of this part which relate to long-term care assessment obligations do not apply to:

(1) Any member insurer or health maintenance organization that, on or before the effective date of this act, has been adjudged insolvent by a court of competent jurisdiction or has been determined by the department or by the office to be impaired.

(2) Any nonprofit health maintenance organization that operates only in this state and whose statutory capital and surplus is less than \$200 million as of December 31 of the year preceding the year in which the assessment is made.

Section 7. Subsection (7) is added to section 631.816,



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Florida Statutes, to read:

631.816 Board of directors.—

(7) Subject to the approval of the department, the board shall designate one representative to serve as a member of the board of directors of the Florida Life and Health Insurance Guaranty Association pursuant to s. 631.716(1). The representative, or his or her alternate, has the right to be present during all meetings of the association board of directors and shall have full voting rights.

Section 8. Present subsections (2) through (6) of section 631.818, Florida Statutes, are redesignated as subsections (3) through (7), respectively, a new subsection (2) is added to that section, present subsection (4) is amended, present paragraph (f) of present subsection (6) is redesignated as paragraph (g), and a new paragraph (f) is added to that subsection, to read:

631.818 Powers and duties of the plan.—

(2) In the event of a long-term care insurer impairment or insolvency, pursuant to s. 631.819(2)(c), the plan shall:

(a) Collect and transmit all information requested by the Florida Life and Health Insurance Guaranty Association for the association to determine the appropriate assessment base of the health insurance account pursuant to ss. 631.715(2)(a)1. and 631.718(3)(b).

(b) Levy and collect assessments from HMOs.

(c) Coordinate the administration and collection of member HMO assessments for long-term care insurer impairments and insolvencies with the Florida Life and Health Insurance Guaranty Association.

(5)(4) The plan may render assistance and advice to the



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department, at the department's request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any HMO subject to a delinquency proceeding ~~or a proceeding under s. 624.90.~~

(7)(6) The plan may:

(f) In the event of a long-term care insurer impairment or insolvency, coordinate with the Florida Life and Health Insurance Guaranty Association to carry out the responsibilities of the association for the limited purpose of the long-term care insurer impairment or insolvency, including the development of any plan for handling the administration of the impairment or insolvency.

Section 9. Subsections (1) and (3) of section 631.819, Florida Statutes, are amended, paragraph (c) is added to subsection (2), and subsection (6) is added to that section, to read:

631.819 Assessments.—

(1) For the purposes of providing the funds necessary to carry out the powers and duties of the plan, the board of directors shall assess the member HMOs at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after written notice to the member HMOs ~~insurers~~.

(2) Assessments for funds to meet the requirements of the plan with respect to an insolvent HMO shall not be made until necessary to implement the purposes of this part. In order to carry out its duties and powers under this part, upon the insolvency of an HMO, the plan shall levy and collect



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assessments as follows:

(c) For the purposes of long-term care insurer impairment and insolvency assessments under s. 631.718(3)(b), member HMOs must be assessed in the same manner as member insurers of the Florida Life and Health Insurance Guaranty Association under part III of this chapter. Long-term care insurer impairment and insolvency assessments must be levied and collected by the plan pursuant to this part, deposited into the health insurance account established under s. 631.715, and used solely for long-term care insurer impairment or insolvency obligations. Assessments collected from member HMOs are considered part of and satisfy the obligations of the health insurance account under ss. 631.715(2)(a)1. and 631.718(3)(b).

(3) All assessments against HMOs, including long-term care insurer impairment and insolvency assessments, must ~~shall~~ be levied as a percentage of annual earned premium revenue for non-Medicare and non-Medicaid contracts. In no event may the plan assess in any calendar year more than 0.5 percent of each HMO's annual earned premium revenue for non-Medicare and non-Medicaid contracts.

(6) The plan shall issue, in a form prescribed by the commission, a certificate of contribution to each member HMO paying a long-term care insurer impairment or insolvency assessment under this part for the amount of the assessment so paid. All outstanding certificates are of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member HMO in its financial statement as an asset in such form and for such amount and period of time as the office approves. However, any



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amount offset pursuant to s. 631.828 may not be shown as an asset of the member HMO on any of its financial statements.

Section 10. Paragraph (f) of subsection (3) and paragraph (a) of subsection (4) of section 631.820, Florida Statutes, are amended to read:

631.820 Plan of operation.—

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this part:

(f) Establish any additional procedures for assessments under this part, including procedures to coordinate the administration and collection of member HMO assessments for long-term care insurer impairments and insolvencies with the board of directors of the Florida Life and Health Insurance Guaranty Association.

(4) (a) The plan of operation may provide that any or all powers and duties of the plan, except those under ss. 631.818(7)(b) and (c) and 631.819 ss. ~~631.818(6)(b) and (c) and 631.819~~, are delegated to an administrator that ~~which~~ may be a corporation, association, or other organization that ~~which~~ performs or will perform functions similar to those of this plan, or its equivalent.

Section 11. Subsection (2) of section 631.821, Florida Statutes, is amended to read:

631.821 Powers and duties of the department.—

(2) Any action of the board of directors of the plan may be appealed to the office by any member HMO if such appeal is taken within 21 days of the action being appealed; however, the HMO must comply with such action pending exhaustion of appeal ~~under s. 631.818(2)~~. Any appeal shall be promptly determined by the



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520 office, and final action or order of the office shall be subject
521 to judicial review in a court of competent jurisdiction.

522 Section 12. The amendments made by this act to ss. 631.713,
523 631.717, 631.718, 631.721, 631.818, 631.819, and 631.820,
524 Florida Statutes, apply only to assessments that result from a
525 long-term care insurer being adjudged insolvent by a court of
526 competent jurisdiction or being determined by the Office of
527 Insurance Regulation to be impaired on or after the effective
528 date of this act.

529 Section 13. The Division of Law Revision is directed to
530 replace the phrase "the effective date of this act" wherever it
531 occurs in this act with the date this act becomes a law.

532 Section 14. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 626

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senators Brandes and Broxson

SUBJECT: Insurer Guaranty Associations

DATE: April 12, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Johnson	Knudson	BI	Fav/CS
2. Babin/Davis	Betta	AEG	Recommend: Fav/CS
3. Babin/Davis	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 626 revises provisions relating to the Florida Life and Health Insurance Guaranty Association (association or FLAHIGA)¹ and the Florida Health Maintenance Organization Consumer Assistance Plan (HMOCAP).² In response to recent long-term care insurer insolvencies, the bill incorporates some recent changes made to a National Association of Insurance Commissioners' (NAIC) model act and additional recommendations of stakeholders. The bill:

- Expands the assessment base of the association to fund long-term care insurer impairments and insolvencies by including health maintenance organizations (HMOs), life insurers, and annuity insurers. Any assessments related to a long-term care insurer would be allocated 50 percent to health member insurers and HMOs, and the remaining 50 percent to life and annuity member insurers. Total assessments on member insurers and HMOs are capped at 0.5 percent of premiums per year. Currently, only health insurers are assessed.

¹ The purpose of the association is to protect policyholders against failure in the performance of contractual obligations under life and health insurance policies and annuity contracts due to the impairment or insolvency of the member insurer that issued the policies or contracts.

² The purpose of the HMOCAP is to protect subscribers enrolled with HMOs, subject to certain limitations, against the failure of their HMO to perform its contractual obligations due to its insolvency.

- Exempts any nonprofit HMO from the long-term care insurance assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made.
- Increases the number of directors that may be on the association's board and requires that one director be a member director of the HMOCAP.

The bill has an indeterminate fiscal impact on the corporate income tax and an indeterminate fiscal impact on the insurance premium tax, both on a recurring basis. See Section V.

The bill takes effect upon becoming a law.

II. Present Situation:

People need long-term care when they are unable to take care of themselves. Long-term care services may include assistance with activities of daily living, home health care, respite care, hospice care, adult day care, or care in an assisted living facility or nursing home. Current estimates suggest the annual costs of care in a nursing home are \$85,000, and home health care can cost upwards of \$25,000 per year. The demand for long-term care has increased significantly, as people live longer and the U.S. population ages.³

Insurer Insolvency

States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. In Florida, the Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers and other risk-bearing entities.⁴ The OIR monitors the solvency of insurers, examines insurers, and takes administrative action, if necessary.⁵

Federal law provides that insurance companies may not file for bankruptcy.⁶ The state, through the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS), is instead responsible for rehabilitating or liquidating an insurer.⁷ If an insurer is found to be insolvent and is ordered to be liquidated by a court, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. Generally, once an insurance company is liquidated, an insurance guaranty association becomes liable for the policy or contract obligations of the liquidated insurance company. Insurance guaranty funds are

³ National Association of Insurance Commissioners, *Long Term Care Insurance Fact Sheet*, May 2018, available at https://www.naic.org/documents/consumer_alert_ltc.htm (last viewed Feb. 27, 2019). Life expectancy after age 65 is now 19.4 years. From 2015 to 2055, the number of people aged 85 and older is expected to almost triple from over six million to over 18 million.

⁴ Section 20.121(3), F.S.

⁵ Part VI, ch. 624, F.S.

⁶ The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. s. 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. See 15 U.S.C. ss. 1011- 1012.

⁷ Sections 631.051 and 631.061, F.S. Chapter 631, F.S., governs the receivership process for insurance companies in Florida.

designed to protect policyholders of liquidated insurers from financial losses and delays in claim payments, up to limits provided by law. The Florida Legislature has created five guaranty funds.⁸

Florida Life and Health Insurance Guaranty Association

Part III of ch. 631, F.S., governs the powers and duties of the Florida Life and Health Insurance Guaranty Association (association or FLAHIGA).⁹ The association services covered policies and contracts, collects premiums, and pays valid claims.¹⁰ All insurers authorized to write life insurance policies, health insurance policies, supplemental contracts, and annuity contracts (with exceptions) in Florida are required, as a condition of doing business in this state, to be member insurers of the association.¹¹ Currently, the association does not provide coverage for or assess health maintenance organizations.¹²

The association's aggregate liability with respect to one life may not exceed the following:

- Life Insurance Death Benefit: \$300,000 per insured life.
- Life Insurance Cash Surrender: \$100,000 per insured life.
- Health Insurance or Long-term Care Insurance Claims: \$300,000 per insured life.
- Annuity Cash Surrender: \$250,000 for deferred annuity contracts per contract owner.
- Annuity in Benefit: \$300,000 per contract owner.¹³

The board of directors of the association must be composed of not fewer than five but not more than nine member insurers.¹⁴ At least one member of the board must be a domestic insurer.¹⁵ The member insurers elect the members of the board, and the members of the board are subject to the approval of the DFS. In approving or appointing members to the board, the DFS must consider whether all member insurers are represented fairly.

The association has three operating accounts: health insurance, life insurance, and annuity for purposes of administration and assessments.¹⁶ The association may impose Class A assessments for administrative costs¹⁷ and Class B assessments to administer its duties relating to impaired or insolvent insurers.¹⁸ Class B assessments are calculated based on the premiums collected by each assessed member insurer on policies or contracts covered for each account in proportion to

⁸ See parts II-V of ch. 631, F.S. and s. 440.385, F.S. (The Florida Insurance Guaranty Association, Florida Life and Health Insurance Guaranty Association, Florida Health Maintenance Organization Consumer Assistance Plan, Florida Workers' Compensation Insurance Guaranty Association, and the Florida Self-Insurers Guaranty Association, respectively.)

⁹ In 1979, the Florida Legislature enacted provisions of the National Association of Insurance Commissioners' *Life and Health Insurance Guaranty Association Model Act*, which created FLAHIGA. Ch. 79-189, L.O.F. The National Association of Insurance Commissioners (NAIC) is a voluntary association of insurance regulators from all 50 states. The NAIC coordinates regulation and examination of multistate insurers, provides a forum for addressing major insurance issues, and promotes uniform model laws among the states.

¹⁰ See association's website available at <http://www.flahiga.org/aboutus.cfm> (last viewed Feb. 18, 2019).

¹¹ Sections 631.713 and 631.715, F.S.

¹² Section 631.713(3)(e), F.S.

¹³ Section 631.717(9), F.S. FLAHIGA, *Frequently Asked Questions*, available at <https://www.flahiga.org/FAQ> (last viewed Feb. 28, 2019).

¹⁴ Section 631.716(1), F.S.

¹⁵ Section 624.06, F.S.

¹⁶ Section 631.715(2), F.S.

¹⁷ Section 631.718(2) and (3), F.S.

¹⁸ *Id.*

premiums collected by all assessed member insurers for the three most recent calendar years. Florida law limits assessments on a member insurer to a maximum of one percent of the sum of the insurer's written premium in Florida regarding business covered by the account received during the three calendar years preceding the year in which the assessment is made, divided by three.¹⁹

Member insurers of the association may offset the amount of an assessment against the insurance premium tax or corporate income tax.²⁰ The credit may be taken in an amount of five percent of the assessments for each of the 20 years following the year in which the assessment was paid.²¹

Florida Health Maintenance Organization Consumer Assistance Plan (HMOCAP)

Part IV of ch. 631, F.S., creates the HMOCAP. The purpose of the HMOCAP is to protect subscribers of commercial health maintenance organizations (HMOs) against the risk of harm resulting from an HMO's insolvency. All HMOs authorized in Florida are required to be members.²² The board of directors of the HMOCAP must consist of at least five and not more than nine persons.²³ Member HMOs select board members, and the board members are subject to approval by the DFS. Coverage by the HMOCAP²⁴ ceases six months after the date of the insolvency; once the HMOCAP has provided \$300,000 in covered benefits; or when a subscriber obtains coverage with another HMO or health insurer.

To provide funds for the administration of the plan and the payment of claims, the plan may assess members of the plan to fund claims paid by the plan.²⁵ Assessments against member HMOs are levied as a percentage of annual earned premium revenue for non-Medicare and non-Medicaid contracts. The assessment in any calendar year may not exceed 0.5 percent of each member HMO's annual earned premium revenue for non-Medicare and non-Medicaid contracts.²⁶

Section 631.828, F.S., allows a member HMO to offset against its corporate income tax liability or other liabilities, on an individual or consolidated basis, as applicable, any assessments described in s. 631.819, F.S. The credit may be taken to the extent of 20 percent of the amount of such assessment for each of the five calendar years following the year in which such assessment was paid.

Long-term Care Insurance and Insolvencies

Many individuals buy long-term care insurance policies²⁷ to help pay for some of their long-term care needs. Despite the growing long-term care need, the number of long-term care insurance

¹⁹ Section 631.718(5), F.S.

²⁰ Section 631.72, F.S.

²¹ *Id.*

²² Section 631.815, F.S.

²³ Section 631.816, F.S.

²⁴ Section 631.817, F.S.

²⁵ Section 631.819, F.S.

²⁶ Section 631.819(3), F.S.

²⁷ In Florida, a long-term care insurance policy is any insurance policy or rider advertised, marketed, offered, or designed to provide coverage on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically

policies have fallen from 754,000 in 2002 to 129,000 in 2014. The number of insurers offering the coverage has declined from about 100 in 2002 to about 12 today.²⁸ This may be attributable to the premium rates for newly issued policies increasing as the remaining issuers of existing policies have refined their pricing due to inaccurate pricing assumptions relating to claim costs, mortality, interest rates, and policy lapses, which lead to an underpriced product.

Funding Claims of Insolvent Insurers

In 2017, Penn Treaty,²⁹ which was domiciled in Pennsylvania, was liquidated. The insurer wrote approximately 75,000 (primarily long-term care insurance) policies.³⁰ The insolvency is expected to be the second-largest insolvency in insurance guaranty fund history (the largest for an accident and health insurer).³¹ As of December 31, 2018, there were 7,468 in-force policies in Florida.³²

According to the NAIC, all states regulate long-term care insurance as health insurance.³³ The Penn Treaty insolvency resulted in health insurers bearing the majority of the assessments because long-term care insurance is classified as health insurance. Life insurers, however, wrote the majority of long-term care insurance premiums. In Florida, health insurers have paid almost \$336 million in assessments for the Penn Treaty insolvency.³⁴ The estimated actuarial liability on December 31, 2018, which is subject to change, was \$110 million.³⁵

NAIC Life and Health Insurance Guaranty Association Model Act

To address concerns with guaranty fund coverage and assessments for any future long-term care insurer insolvency, the NAIC modified the *Life and Health Insurance Guaranty Association Model Act* to expand the assessment base to include HMOs, life and annuity insurers for funding long-term care insurer insolvencies and impairments. Assessments for long-term care impairments and insolvencies are allocated equally between the life and health accounts. The NAIC clarifies the authority of the guaranty associations to adjust rates and coverage in the case of liquidation. Further, the NAIC clarifies that federal programs, such as Medicare and Medicaid, are excluded from the assessment base. Life and annuity policies with long-term care insurance riders are considered the same as the underlying product, not as a health insurance product.

necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital. Section 627.9404, F.S.

²⁸ NAIC, *Long-term Care Challenges*, Jan. 14, 2019, available at https://www.naic.org/cipr_topics/topic_long_term_care.htm (last viewed Feb. 10, 2019).

²⁹ Penn Treaty collectively includes Penn Treaty Network America Insurance Company and its affiliate, American Network Insurance Company.

³⁰ National Organization of Life and Health Insurance Guaranty Associations (NOLHGA), *Guaranty System to Provide Safety Net for Policyholders of Penn Treaty/American Network Insurance Companies*, Mar. 1, 2017) available at <https://www.nolhga.com/resource/file/NOLHGAPennTreatyPressReleaseFINAL.pdf> (last viewed Feb. 20, 2019).

³¹ Chicago Fed Letter, *The risks of pricing new insurance products: The case of long-term care*, 2018 Number 397.

³² Correspondence from FLAHIGA, Feb. 24, 2019, on file with Senate Banking and Insurance Committee.

³³ NAIC and NOLHGA, *State of the U.S. long-term care insurance industry*, March 30, 2017.

³⁴ Assessments paid from 2015 to 2019. Correspondence on file with the Senate Committee on Banking and Insurance.

³⁵ *Id.*

III. Effect of Proposed Changes:

Florida Life and Health Insurance Guaranty Association (association or FLAHIGA) (Sections 1-7)

Section 1 amends s. 631.713, F.S., to revise application of this part and subject HMOs to Class B assessments for long-term care insurer impairments or insolvencies. Currently, HMOs are exempt from assessments by the association. The section removes the interest rate cap for FLAHIGA coverage for long-term care or any other health insurance benefit as many long-term care policies contain inflation protection benefits that exceed the current interest rate cap.³⁶ The section clarifies that the association does not provide coverage for federal programs (Medicare, Medicaid, or Children's Health Insurance program)³⁷ and certain structured settlement annuity benefits.

Section 2 amends 631.716, F.S., to revise the board of directors for the association by increasing the maximum number of members from nine to 11. One member of the HMOCAP board of directors, or alternate, must serve on the association's board of directors and has the right to attend all board meetings and has full voting rights on all issues. The association board of directors must confirm, subject to approval by the DFS, the HMOCAP member.

Section 3 amends s. 631.717, F.S., to revise the powers and duties of the association. The section provides that, in the event of a long-term care insurer impairment or insolvency, the association is required to coordinate its activities with the HMOCAP, including the development of any plan for administering the impairment or insolvency. Further, the association is required to share information, including data, with and assist, if applicable, the HMOCAP with the administration and collection of member HMO assessments for long-term care insurer impairments or insolvencies.

The section clarifies that the association's maximum coverage for long-term care policies is \$300,000, and that any portion of a long-term care rider to a life insurance policy or annuity contract is considered the same type of benefit as the base life insurance policy or annuity contract to which the rider relates. The section also provides technical changes.

The association is authorized to file with the OIR for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under part III of ch. 631, F.S., if certain conditions are met. The approval authority for the association to issue certain alternative policies or contracts is changed from the receivership court to the DFS. The association is authorized to reissue policies or contracts.

Section 4 amends s. 631.718, F.S., to establish an assessment methodology for long-term care insurer insolvencies and impairments that is subject to approval by the DFS. The methodology must provide for 50 percent of the assessment to be allocated to health member insurers and 50

³⁶ Office of Insurance Regulation, *2019 Agency Legislative Bill Analysis of Senate Bill 626* (Feb. 6, 2019) (on file with the Appropriations Subcommittee on Agriculture, Environment, and General Government).

³⁷ The program, established pursuant to Title XXI of the U.S. Social Security Act, is a program administered by the United States Department of Health and Human Services that provides matching funds to states for health insurance to families with children.

percent to be allocated to life and annuity member insurers. The health members' share of the assessment is calculated by including the assessable premiums of member HMOs of the HMOCAP.

The total assessment for long-term care impairments or insolvencies upon a member insurer or member HMO may not exceed 0.5 percent in any one calendar year of the sum of the member insurer or member HMO premiums written in Florida covered by the account received during the calendar year preceding the year in which the assessment is made. If this information is unavailable, the member insurers of the association or the member HMOs of the HMOCAP may use other premium information.

Section 5 amends s. 631.721, F.S., to require the association to revise its plan of operation to provide for the coordination of efforts between the association and the HMOCAP in regards to assessments for long-term care insurer impairments or insolvencies.

Section 6 creates s. 631.738, F.S., relating to applicability as to certain member insurers and HMOs, to exempt any member insurer from long-term care assessment obligations if the member insurer has been adjudged insolvent by a court of competent jurisdiction, or has been determined insolvent by the DFS on or before the effective date of this act. The section also exempts any nonprofit HMO from the assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made.

Florida Health Maintenance Organization Consumer Assistance Plan (Sections 7 through 11)

Sections 7 through 10 amend ss. 631.816, 631.818, 631.819, and 631.820, F.S. The HMOCAP is required to designate one representative to serve on the association's board of directors, subject to approval by the DFS. In the event of a long-term care insurer impairment or insolvency, the HMOCAP must:

- Collect and transmit all information requested by the association to determine the appropriate assessment base;
- Levy and collect assessments from member HMOs;
- Coordinate the administration and collection of member assessments with the association insolvency;
- Issue a certificate of contribution to each member HMO paying a long-term care insurer assessment; and
- Revise the plan of operations by including procedures for coordinating the administration and collection of member HMO assessments with the association.

Section 11 amends s. 631.821, to provide a technical conforming change.

Section 12 provides the amendments made by the bill to ss. 631.713, 631.717, 631.718, 631.721, 631.818, 631.819, and 631.820, F.S., relating to long-term care assessment obligations apply only to long-term care assessment obligations assessed as a result of an insurer being adjudged insolvent by a court of competent jurisdiction or being determined by the OIR to be impaired on or after the effective date of this bill.

Section 13 directs the Division of Law Revision to replace the phrase, “effective date of this act” wherever it occurs in this act with the date this act becomes law.

Section 14 provides this bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expansion of the assessment base will provide access to more funds for the payment of policyholder claims in a more expedient manner.

For future impairments or insolvencies of long-term care insurers, life and annuity insurers and HMOs would be subject to assessments; however the fiscal impact is indeterminate. The bill exempts any nonprofit HMO operating only in Florida that has statutory capital and surplus of less than \$200 million, as of December 31 of the year preceding the year the assessment is made, from the assessment obligation.

Subject to certain conditions, assessments may offset insurance premium tax liabilities or corporate income tax liabilities. Currently only health insurers are subject to assessments. This would expand the assessment base, and potentially reduce future assessments for health insurers.

C. Government Sector Impact:

According to the Revenue Estimating Conference, any impact of the bill is dependent upon future insolvencies and the size and timing of future assessments. The bill is expected to have an indeterminate fiscal impact on the corporate income tax and an offsetting indeterminate fiscal impact on the insurance premium tax, both on a recurring basis.³⁸

VI. Technical Deficiencies:

Section 6 of the bill provides that the DFS or the OIR may determine whether an insurer is impaired. The OIR makes the initial determination on whether an insurer is impaired.

Section 6 exempts “any nonprofit health maintenance organization that operates only in this state” and meets certain capital and surplus requirements. The section could be clarified by amending it to exempt “any member nonprofit member health maintenance organization of the Florida Health Maintenance Organization Consumer Assistance Plan transacting business only in this state...”

VII. Related Issues:

The NAIC’s *Life and Health Insurance Guaranty Association Model Act* does not provide an assessment exemption for nonprofit entities that meet certain capital or surplus requirements.

However, ss. 631.718 and 631.819, F.S., authorize the association and the HMOCAP, respectively, to defer temporarily, in whole or in part, the assessment of a member if, in the opinion of the board, payment of an assessment would endanger the ability of the insurer or HMO to fulfill its contractual obligations.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 631.713, 631.716, 631.717, 631.718, 631.721, 631.816, 631.818, 631.819, 631.820, and 631.821.

This bill creates section 631.738 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on April 11, 2019:

The committee substitute:

- Deletes the term and definition of “long-term care assessment obligations.”
- Clarifies the HMOCAP director who is added to the board of the FLAHIGA cannot be a FLAHIGA member that is currently serving on the FLAHIGA’s board.

³⁸ Revenue Estimating Conference, *Insurance Premium Tax/Corporate Income Tax*, SB 626, Feb. 15, 2019, available at <http://edr.state.fl.us/Content/> (last viewed Mar. 11, 2019).

- Deletes proposed assessments against accident member insurers for long-term care providers' insolvencies.
- Replaces the "department" with "office" referring to the OIR instead of the DFS; and
- Clarifies the applicable provisions of the bill are not retroactive.

CS by Banking and Insurance on March 4, 2019:

The CS:

- Exempts any nonprofit HMO from the assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made; and
- Provides technical, clarifying changes.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Brandes

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1 A bill to be entitled
 2 An act relating to insurer guaranty associations;
 3 amending s. 631.713, F.S.; revising applicability of
 4 part III of ch. 631, F.S., as to health maintenance
 5 organizations, long-term care insurance benefits,
 6 certain health care benefits, and certain structured
 7 settlement annuity benefits; amending s. 631.714,
 8 F.S.; defining the term "long-term care assessment
 9 obligations"; amending s. 631.716, F.S.; revising the
 10 number of members and composition of the Florida Life
 11 and Health Insurance Guaranty Association's board of
 12 directors; specifying requirements relating to the
 13 director of the Florida Health Maintenance
 14 Organization Consumer Assistance Plan to be confirmed
 15 to the association's board; specifying rights of the
 16 director or his or her alternate; deleting an obsolete
 17 provision; amending s. 631.717, F.S.; adding the
 18 reissuance of covered policies to a list of duties of
 19 the association relating to insolvent insurers;
 20 providing construction; specifying duties of the
 21 association as to potential long-term care insurer
 22 impairments or insolvencies, sharing information, and
 23 providing assistance to the Florida Health Maintenance
 24 Organization Consumer Assistance Plan's board of
 25 directors; revising applicability of a specified limit
 26 on the association's liability for the contractual
 27 obligations of an insolvent insurer; conforming a
 28 provision to changes made by the act; requiring that
 29 the Department of Financial Services, rather than a

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30 receivership court, approve certain alternative
 31 policies or contracts; authorizing the board to file
 32 directly for actuarially justified rate or premium
 33 increases; amending s. 631.718, F.S.; specifying the
 34 calculation and allocation of Class B assessments for
 35 long-term care insurance; specifying a limit on
 36 certain assessments on a member insurer or member
 37 health maintenance organization; conforming provisions
 38 to changes made by the act; amending s. 631.721, F.S.;
 39 deleting an obsolete provision; revising the
 40 requirements of the association's plan of operation
 41 relating to long-term care insurer impairments and
 42 insolvencies; conforming a cross-reference; creating
 43 s. 631.738, F.S.; providing applicability of certain
 44 provisions to certain member insurers and health
 45 maintenance organizations; amending s. 631.816, F.S.;
 46 adding duties of the board of directors of the Florida
 47 Health Maintenance Organization Consumer Assistance
 48 Plan to conform to changes made by the act; amending
 49 s. 631.818, F.S.; adding to the duties of the plan to
 50 conform to changes made by the act; amending s.
 51 631.819, F.S.; specifying requirements for long-term
 52 care insurer impairment and insolvency assessments for
 53 member health maintenance organizations; requiring the
 54 plan to issue certificates of contribution to member
 55 health maintenance organizations paying certain
 56 assessments; specifying requirements of, and the use
 57 of, such certificates; amending s. 631.820, F.S.;
 58 conforming provisions to changes made by the act;

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amending s. 631.821, F.S.; making a technical change;
 providing a directive to the Division of Law Revision;
 providing an effective date.

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

Section 1. Subsection (3) of section 631.713, Florida Statutes, is amended to read:

631.713 Application of part.—

(3) This part does not apply to:

(a) That portion or part of a variable life insurance contract or variable annuity contract not guaranteed by an insurer.

(b) That portion or part of any policy or contract under which the risk is borne by the policyholder.

(c) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

(d) Fraternal benefit societies as defined in s. 632.601.

(e) Health maintenance organizations, except for assessments levied pursuant to ss. 631.715(2)(a)1., 631.718(3)(b), and 631.819(2)(c) for long-term care insurer impairments or insolvencies insurance.

(f) Dental service plan insurance.

(g) Pharmaceutical service plan insurance.

(h) Optometric service plan insurance.

(i) Ambulance service association insurance.

(j) Preneed funeral merchandise or service contract

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insurance.

(k) Prepaid health clinic insurance.

(l) Any annuity contract or group annuity contract that is not issued to and owned by an individual, except to the extent of any annuity benefits:

1. Guaranteed directly and not through an intermediary to an individual by an insurer under such contract or certificate;

2. Under an annuity issued by an insurer under 26 U.S.C. s. 408(b); or

3. Under an annuity issued by an insurer and held by a custodian or trustee in accordance with 26 U.S.C. s. 408(a).

This paragraph applies to every insolvency regardless of its date of inception, and an assessment base may not include premiums for such excluded products.

(m) Any federal employees' group policy or contract that, under 5 U.S.C. s. 8909(f), is prohibited from being subject to an assessment under s. 631.718.

(n) Except as provided in this paragraph, a portion of a policy or contract, to the extent that the rate of interest on which the policy or contract is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

1. Averaged over the period of 4 years immediately preceding the date on which the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier, exceeds the rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average

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averaged for that same 4-year period or for such lesser period if the policy or contract was issued less than 4 years before the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier; and

2. On and after the date on which the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier, exceeds the rate of interest determined by subtracting 3 percentage points from the most current version of Moody's Corporate Bond Yield Average.

This paragraph does not apply to any portion of a policy or contract, including a rider, which provides long-term care or any other health insurance benefit.

(o) A portion of a policy or contract to the extent the policy or contract provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which has not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this part. However, if the interest or change in value is credited less frequently than annually as determined by using the procedures defined in the policy or contract, interest or change in value shall be credited by using the procedure defined in the policy or contract as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and shall not be subject to forfeiture.

(p) A policy or contract providing any hospital, medical,

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prescription drug, or other health care benefits pursuant to Title XVIII (Medicare), Title XIX (Medicaid), or Title XXI (the Children's Health Insurance Program) of the Social Security Act ~~Medicare part C or part D or any regulations promulgated thereunder issued pursuant to Medicare Part C or Part D.~~

(q) Structured settlement annuity benefits to which a payee, or a beneficiary if the payee is deceased, has transferred his or her rights in a structured settlement factoring transaction, as that term is defined in 26 U.S.C. s. 5891(c)(3)(A).

Section 2. Present subsections (7) through (10) of section 631.714, Florida Statutes, are redesignated as subsections (8) through (11), respectively, and a new subsection (7) is added to that section, to read:

631.714 Definitions.—As used in this part, the term:

(7) "Long-term care assessment obligations" means the long-term care impairment and long-term care insolvency assessment obligations of the association which are subject to assessment pursuant to ss. 631.715(2)(a)1. and 631.718(3)(b) in coordination with the Florida Health Maintenance Organization Consumer Assistance Plan, through a methodology provided in the association's plan of operation. All obligations other than long-term care assessment obligations are subject to assessment exclusively by the association in accordance with s. 631.718(2)(b) and (3)(c), without contribution or involvement of the Florida Health Maintenance Organization Consumer Assistance Plan.

Section 3. Subsection (1) of section 631.716, Florida Statutes, is amended to read:

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631.716 Board of directors.—

(1) (a) The board of directors of the association shall have at least 9, but no more than 11, members. The members shall be comprised of not fewer than five nor more than nine member insurers, serving terms as established in the plan of operation and 1 Florida Health Maintenance Organization Consumer Assistance Plan director confirmed pursuant to paragraph (b), who shall be a nonmember-insurer board representative. At all times, at least 1 ~~one~~ member of the board must ~~shall~~ be a domestic insurer as defined in s. 624.06(1). The members of the board who are member insurers shall be elected by member insurers, subject to the approval of the department.

(b) The board shall confirm, subject to the approval of the department, the Florida Health Maintenance Organization Consumer Assistance Plan director. The director confirmed to the board must be designated by the Florida Health Maintenance Organization Consumer Assistance Plan's board of directors to serve on the board and represent the interests of the Florida Health Maintenance Organization Consumer Assistance Plan and its board of directors. An individual serving as a Florida Health Maintenance Organization Consumer Assistance Plan director on the board must be a member of the Florida Health Maintenance Organization Consumer Assistance Plan board of directors. The Florida Health Maintenance Organization Consumer Assistance Plan director, or his or her alternate, has the right to be present at all meetings of the board and has full voting rights on all issues.

(c) A vacancy on the board shall be filled for the remaining period of the term by a majority vote of the remaining

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board members, subject to the approval of the department. ~~Prior to the selection of the initial board of directors and the organization of the association, the department shall give notice to all member insurers of the time and place of the organizational meeting. At the organizational meeting, each member insurer shall be entitled to one vote, in person or by proxy. If the board of directors is not elected within 60 days after notice of the organizational meeting, the department may appoint the initial members.~~

Section 4. Present subsections (9) through (12) of section 631.717, Florida Statutes, are redesignated as subsections (12) through (15), respectively, new subsections (9), (10), and (11) are added to that section, subsections (2) and (3), paragraph (c) of present subsection (9), and paragraph (g) of present subsection (12) are amended, and paragraph (h) is added to present subsection (12) of that section, to read:

631.717 Powers and duties of the association.—

(2) If a domestic insurer is an insolvent insurer, the association shall, subject to the approval of the department:

(a) Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, the covered policies of persons referred to in s. 631.713(2); and

(b) Provide moneys, pledges, notes, guarantees, or other means that are proper and reasonably necessary to implement paragraph (a) in order to assure payment of the contractual obligations of the insolvent insurer with regard to persons referred to in s. 631.713(2).

(3) If a foreign or alien insurer is an insolvent insurer, the association shall, subject to the approval of the

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233 department:

234 (a) Guarantee, assume, reissue, or reinsure, or cause to be
 235 guaranteed, assumed, reissued, or reinsured, the covered
 236 policies of residents of this state; and

237 (b) Provide moneys, pledges, notes, guarantees, or other
 238 means that are proper and reasonably necessary to implement
 239 paragraph (a) in order to assure payment of the contractual
 240 obligations of the insolvent insurer with regard to persons
 241 referred to in s. 631.713(2).
 242

243 However, this subsection does not apply when the department has
 244 determined that the foreign or alien insurer's domiciliary
 245 jurisdiction or state of entry provides, by statute, protection
 246 substantially similar to that provided by this part for
 247 residents of this state.

248 (9) For purposes of this part, benefits provided by a long-
 249 term care rider to a life insurance policy or annuity contract
 250 are considered the same type of benefits as the base life
 251 insurance policy or annuity contract to which the rider relates.

252 (10) In the event of a potential long-term care insurer
 253 impairment or insolvency, the association shall coordinate its
 254 activities with the Florida Health Maintenance Organization
 255 Consumer Assistance Plan, including the development of any plan
 256 for handling the administration of the impairment or insolvency.

257 (11) The association shall share information, including
 258 data, with and assist, as applicable, the board of directors of
 259 the Florida Health Maintenance Organization Consumer Assistance
 260 Plan with the administration and collection of member health
 261 maintenance organization assessments for long-term care insurer

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262 impairments or insolvencies pursuant to ss. 631.715(2)(a)1.,
 263 631.718(3)(b), 631.818(2), and 631.819(2)(c).

264 ~~(12)(9)~~ The association's liability for the contractual
 265 obligations of the insolvent insurer must be as great as, but no
 266 greater than, the contractual obligations of the insurer in the
 267 absence of such insolvency, unless such obligations are reduced
 268 as permitted by subsection (4), but the aggregate liability of
 269 the association with respect to one life shall not exceed the
 270 following:

271 (c) For all other benefits, including in long-term care
 272 policies, \$300,000, including cash values, except as provided in
 273 paragraph (d).
 274

275 In no event is the association liable for any penalties or
 276 interest.

277 ~~(15)(12)~~

278 (g) In carrying out its duties in connection with
 279 guaranteeing, assuming, reissuing, or reinsuring policies or
 280 contracts under subsections (2) and (3), the association may,
 281 subject to approval of the department ~~receivership court~~, issue
 282 an alternative policy or contract to substitute coverage for a
 283 policy or contract providing that ~~provides~~ an interest rate,
 284 crediting rate, or similar factor that was determined by use of
 285 an index or other external reference stated in the policy or
 286 contract and employed in calculating returns or changes in value
 287 ~~by issuing an alternative policy or contract~~. In lieu of the
 288 index or other external reference provided for in the original
 289 policy or contract, the alternative policy or contract must
 290 provide for a fixed interest rate, payment of dividends with

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minimum guarantees, or a different method for calculating interest or changes in value. In such case:

1. There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract.

2. The alternative policy or contract shall be substantially similar to the replaced policy or contract in all other material terms.

(h) In accordance with the terms and conditions of the policy or contract, the board may directly file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this part.

Section 5. Paragraph (b) of subsection (3), paragraph (a) of subsection (5), and subsection (8) of section 631.718, Florida Statutes, are amended to read:

631.718 Assessments.—

(3)

(b)1. The amount of any Class B assessment, except for assessments related to long-term care insurance, must ~~shall~~ be allocated for assessment purposes among the accounts pursuant to an allocation formula, which may be based on the premiums or reserves of the impaired or insolvent insurer.

2. The amount of the Class B assessment for long-term care insurance written by the impaired or insolvent insurer must be allocated according to a methodology included in the plan of operation and approved by the department. The methodology must provide for 50 percent of the assessment to be allocated to accident and health member insurers and 50 percent to be allocated to life and annuity member insurers.

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3. For the purposes of the methodology outlined in subparagraph 2. and included in the plan of operation, the accident and health member insurers' share of the assessment must be calculated by including the assessable premiums of member health maintenance organizations of the Florida Health Maintenance Organization Consumer Assistance Plan.

(5) (a) 1. The total of all assessments upon a member insurer for each account may not in any one calendar year exceed 1 percent of the sum of the insurer's premiums written in this state regarding business covered by the account received during the 3 calendar years preceding the year in which the assessment is made, divided by three. If premium information for the 3-year period is not reasonably available for each member insurer, the association may use any reasonably available premium information.

2. For long-term care insurer impairments and insolvencies only, the total assessments upon a member insurer or member health maintenance organization of the Florida Health Maintenance Organization Consumer Assistance Plan may not, in any one calendar year, exceed 0.5 percent of the sum of the member insurer or member health maintenance organization's premiums written in this state regarding business covered by the account received during the calendar year preceding the year in which the assessment is made. If premium information is not reasonably available for each member insurer or member health maintenance organization of the Florida Health Maintenance Organization Consumer Assistance Plan, the association or the Florida Health Maintenance Organization Consumer Assistance Plan may use any reasonably available premium information.

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(8) The association shall issue to each member insurer paying an assessment under this part, other than a Class A assessment, a certificate of contribution, in a form prescribed by the department, for the amount of the assessment so paid. All outstanding certificates are of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the department approves. However, any amount offset pursuant to s. 631.72 may not be shown as an asset of the insurer on any of its financial statements.

Section 6. Paragraph (b) of subsection (1), paragraph (f) of subsection (3), and subsection (4) of section 631.721, Florida Statutes, are amended to read:

631.721 Plan of operation.—

(1)

(b) ~~If the association fails to submit a suitable proposed plan of operation within 180 days following October 1, 1979, or~~ If at any time thereafter the association fails to submit suitable amendments to the plan, the department shall, after notice and hearing, adopt such reasonable rules as are necessary to effectuate the provisions of this part. Such rules shall continue in force until modified by the department or superseded by a proposed plan submitted by the association and approved by the department.

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this part:

(f) Establish any additional procedures for assessments under s. 631.718, including procedures to share assessment

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information, including data, with and assist, as applicable, the board of directors of the Florida Health Maintenance Organization Consumer Assistance Plan with the administration, collection, and deposit of member health maintenance organization assessments for long-term care insurer impairments and insolvencies into the health account established under s. 631.715.

(4) The plan of operation may provide that any or all powers and duties of the association, except those under ss. 631.717(13)(c) and 631.718 ss. 631.717(10)(c) and 631.718, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the department and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this part.

Section 7. Section 631.738, Florida Statutes, is created to read:

631.738 Applicability as to certain member insurers and health maintenance organizations.—The provisions of this part which relate to long-term care assessment obligations do not apply to:

(1) Any member insurer or health maintenance organization that, on or before the effective date of this act, has been

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407 adjudged insolvent by a court of competent jurisdiction or has
 408 been determined by the department or by the office to be
 409 impaired.

410 (2) Any nonprofit health maintenance organization that
 411 operates only in this state and whose statutory capital and
 412 surplus is less than \$200 million as of December 31 of the year
 413 preceding the year in which the assessment is made.

414 Section 8. Subsection (7) is added to section 631.816,
 415 Florida Statutes, to read:

416 631.816 Board of directors.—

417 (7) Subject to the approval of the department, the board
 418 shall designate one representative to serve as a member of the
 419 board of directors of the Florida Life and Health Insurance
 420 Guaranty Association pursuant to s. 631.716(1). The
 421 representative, or his or her alternate, has the right to be
 422 present during all meetings of the association board of
 423 directors and shall have full voting rights.

424 Section 9. Present subsections (2) through (6) of section
 425 631.818, Florida Statutes, are redesignated as subsections (3)
 426 through (7), respectively, a new subsection (2) is added to that
 427 section, present subsection (4) is amended, present paragraph
 428 (f) of present subsection (6) is redesignated as paragraph (g),
 429 and a new paragraph (f) is added to that subsection, to read:

430 631.818 Powers and duties of the plan.—

431 (2) In the event of a long-term care insurer impairment or
 432 insolvency, pursuant to s. 631.819(2)(c), the plan shall:

433 (a) Collect and transmit all information requested by the
 434 Florida Life and Health Insurance Guaranty Association for the
 435 association to determine the appropriate assessment base of the

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436 health insurance account pursuant to ss. 631.715(2)(a)1. and
 437 631.718(3)(b).

438 (b) Levy and collect assessments from HMOs.

439 (c) Coordinate the administration and collection of member
 440 HMO assessments for long-term care insurer impairments and
 441 insolvencies with the Florida Life and Health Insurance Guaranty
 442 Association.

443 (5)(4) The plan may render assistance and advice to the
 444 department, at the department's request, concerning
 445 rehabilitation, payment of claims, continuance of coverage, or
 446 the performance of other contractual obligations of any HMO
 447 subject to a delinquency proceeding ~~or a proceeding under s.~~
 448 ~~624.90.~~

449 (7)(6) The plan may:

450 (f) In the event of a long-term care insurer impairment or
 451 insolvency, coordinate with the Florida Life and Health
 452 Insurance Guaranty Association to carry out the responsibilities
 453 of the association for the limited purpose of the long-term care
 454 insurer impairment or insolvency, including the development of
 455 any plan for handling the administration of the impairment or
 456 insolvency.

457 Section 10. Subsections (1) and (3) of section 631.819,
 458 Florida Statutes, are amended, paragraph (c) is added to
 459 subsection (2), and subsection (6) is added to that section, to
 460 read:

461 631.819 Assessments.—

462 (1) For the purposes of providing the funds necessary to
 463 carry out the powers and duties of the plan, the board of
 464 directors shall assess the member HMOs at such time and for such

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amounts as the board finds necessary. Assessments shall be due not less than 30 days after written notice to the member HMOs ~~insurers~~.

(2) Assessments for funds to meet the requirements of the plan with respect to an insolvent HMO shall not be made until necessary to implement the purposes of this part. In order to carry out its duties and powers under this part, upon the insolvency of an HMO, the plan shall levy and collect assessments as follows:

(c) For the purposes of long-term care insurer impairment and insolvency assessments under s. 631.718(3)(b), member HMOs must be assessed in the same manner as member insurers of the Florida Life and Health Insurance Guaranty Association under part III of this chapter. Long-term care insurer impairment and insolvency assessments must be levied and collected by the plan pursuant to this part, deposited into the health insurance account established under s. 631.715, and used solely for long-term care insurer impairment or insolvency obligations. Assessments collected from member HMOs are considered part of and satisfy the obligations of the health insurance account under ss. 631.715(2)(a)1. and 631.718(3)(b).

(3) All assessments against HMOs, including long-term care insurer impairment and insolvency assessments, must ~~shall~~ be levied as a percentage of annual earned premium revenue for non-Medicare and non-Medicaid contracts. In no event may the plan assess in any calendar year more than 0.5 percent of each HMO's annual earned premium revenue for non-Medicare and non-Medicaid contracts.

(6) The plan shall issue, in a form prescribed by the

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department, a certificate of contribution to each member HMO paying a long-term care insurer impairment or insolvency assessment under this part for the amount of the assessment so paid. All outstanding certificates are of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member HMO in its financial statement as an asset in such form and for such amount and period of time as the department approves. However, any amount offset pursuant to s. 631.828 may not be shown as an asset of the member HMO on any of its financial statements.

Section 11. Paragraph (f) of subsection (3) and paragraph (a) of subsection (4) of section 631.820, Florida Statutes, are amended to read:

631.820 Plan of operation.—

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this part:

(f) Establish any additional procedures for assessments under this part, including procedures to coordinate the administration and collection of member HMO assessments for long-term care insurer impairments and insolvencies with the board of directors of the Florida Life and Health Insurance Guaranty Association.

(4) (a) The plan of operation may provide that any or all powers and duties of the plan, except those under ss. 631.818(7)(b) and (c) and 631.819 ~~ss. 631.818(6)(b) and (c) and 631.819~~, are delegated to an administrator that ~~which~~ may be a corporation, association, or other organization that ~~which~~ performs or will perform functions similar to those of this plan, or its equivalent.

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523 Section 12. Subsection (2) of section 631.821, Florida
524 Statutes, is amended to read:
525 631.821 Powers and duties of the department.—
526 (2) Any action of the board of directors of the plan may be
527 appealed to the office by any member HMO if such appeal is taken
528 within 21 days of the action being appealed; however, the HMO
529 must comply with such action pending exhaustion of appeal ~~under~~
530 ~~s. 631.818(2)~~. Any appeal shall be promptly determined by the
531 office, and final action or order of the office shall be subject
532 to judicial review in a court of competent jurisdiction.
533 Section 13. The Division of Law Revision is directed to
534 replace the phrase "the effective date of this act" wherever it
535 occurs in this act with the date this act becomes a law.
536 Section 14. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 19, 2019

I respectfully request that **Senate Bill #626**, relating to **Insurer Guaranty Associations**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

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

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/11/2019

Meeting Date

SB 626

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Paul Sanford

Job Title _____

Address 106 South Monroe street

Phone 850-222-7200

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Life And Health Insurance Guaranty 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)

04/11/2019

Meeting Date

SB 626

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Paul Sanford _____

Job Title _____

Address 106 South Monroe street _____ Phone 850-222-7200 _____

Street

Tallahassee

FL

32301

*City**State**Zip*

Email _____

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

Representing Florida Blue _____

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-11-19

Meeting Date

626

Bill Number (if applicable)

Topic Insurance Guaranty Associations

Amendment Barcode (if applicable)

Name Audrey Brown

Job Title President & CEO

Address 200 W. College Ave

Phone

Street

Tallahassee FL 32301

City

State

Zip

Email audrey@fahp.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Health Plans

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

4/11/19
Meeting Date

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

626
Bill Number (if applicable)

Topic LTC / FLHGA

Amendment Barcode (if applicable)

Name Caitlin Murray

Job Title Director of Government Affairs

Address 200 E. Gaines St.
Street

Phone (850) 413-5005

Tallahassee FL 32399
City State Zip

Email Caitlin.murray@flhga.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of Insurance Regulation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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 720

INTRODUCER: Senator Flores

SUBJECT: Renaming of Florida College System Institutions

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Olenick</u>	<u>Sikes</u>	<u>ED</u>	Favorable
2. <u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3. <u>Underhill</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SB 720 changes the name of “Florida Keys Community College” to “College of the Florida Keys” and the name of “North Florida Community College” to “North Florida College.”

The bill does not have an impact to state revenues or expenditures.

The bill takes effect July 1, 2019.

II. Present Situation:

Under Florida law, a Florida College System (FCS) institution, with the approval of its district board of trustees, may change its name as listed in s. 1000.21(3), F.S., and use the designation “college” or “state college” if:

- It has been authorized to grant baccalaureate degrees and has been accredited as a baccalaureate-degree-granting institution by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC).¹
- A district board of trustees that approves the use of the designation “college” or “state college” seeks statutory codification of the name change during the next regular legislative session.²

Currently, 24 of the 28 FCS institutions use the designation “college” or “state college”.³

¹ Section 1001.60(2)(b)1., F.S.

² Section 1001.60(2)(c), F.S.

³ (Broward College, College of Central Florida, Chipola College, Daytona State College, Eastern Florida State College, Florida Gateway College, Florida SouthWestern State College, Florida State College at Jacksonville, Gulf Coast State College, Indian River State College, Lake-Sumter State College, Miami-Dade College, Northwest Florida State College, Palm Beach State College, Pasco-Hernando State College, Pensacola State College, Polk State College, Seminole State

On January 6, 2016, the State Board of Education (SBE) approved Florida Keys Community College's proposal to offer its first baccalaureate degree.⁴ On December 4, 2016, the SACSCOC accredited the college to offer the Bachelor of Applied Science in Supervision and Management effective January 2017.⁵

On September 23, 2016, the SBE approved North Florida Community College's proposal to offer its first baccalaureate degree.⁶ On June 15, 2017, the SACSCOC accredited the college to offer the Bachelor of Science in Nursing effective August 2017.⁷

As required by statute, both colleges sought statutory codification of the name change during the 2018 Legislative Session.⁸

III. Effect of Proposed Changes:

The bill amends s. 1000.21, F.S., to change the name of "Florida Keys Community College" to "College of the Florida Keys" and change the name of "North Florida Community College" to "North Florida College." The colleges have complied with the statutory requirements for name changes.⁹

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

College of Florida, South Florida State College, St. Johns River State College, Santa Fe College, St. Petersburg College, State College of Florida, Manatee-Sarasota, Valencia College), Section 1000.21, F.S.

⁴ State Board of Education, State Board of Education Agenda, (Jan. 6, 2016), <http://www.fldoe.org/core/fileparse.php/13170/urlt/agenda.pdf> (last visited March 6, 2019); Florida Keys Community College, Bachelor's Degree Approval, Jan. 6, 2016, <https://www.fkcc.edu/2016/01/bachelors-degree-approved-by-state-board/> (last visited Mar. 6, 2019).

⁵ Southern Association of Colleges and Schools, Commission on Colleges, *Accreditation Actions Taken by the SACSCOC Board of Trustees*, Dec. 4, 2016; p. 2. https://www.usg.edu/assets/academic_programs/documents/SACS_December_2016_Actions_Disclosure_Statement.pdf (last visited Mar. 6, 2019).

⁶ Florida Board of Education, State Board of Education Agenda, Action Item, Sept. 23, 2016, <http://www.fldoe.org/core/fileparse.php/18330/urlt/bacc.pdf> (last visited Feb 26, 2019); Florida Board of Education, State Board of Education Agenda, Action Item, Oct. 26, 2016, <http://www.fldoe.org/core/fileparse.php/18349/urlt/minutes.pdf> (last visited Feb. 26, 2019).

⁷ Southern Association of Colleges and Schools, Commission on Colleges, *Accreditation Actions Taken by the SACSCOC Board of Trustees*, Jun. 15, 2017; p. 3. https://www.usg.edu/assets/academic_programs/documents/sacs_june_2017_accreditation_actions.pdf (last visited Feb. 26, 2019).

⁸ SB 946 (2018) and CS/HB 619 (2018).

⁹ Email, Florida Department of Education (March 8, 2018).

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 have an impact to state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1001.21 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Flores

39-01152-19

2019720__

A bill to be entitled

An act relating to the renaming of Florida College System institutions; amending s. 1000.21, F.S.; changing the name of "Florida Keys Community College" to "The College of the Florida Keys"; changing the name of "North Florida Community College" to "North Florida College"; providing an effective date.

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

Section 1. Paragraphs (h) and (p) of subsection (3) of section 1000.21, Florida Statutes, are amended to read:

1000.21 Systemwide definitions.—As used in the Florida K-20 Education Code:

(3) "Florida College System institution" except as otherwise specifically provided, includes all of the following public postsecondary educational institutions in the Florida College System and any branch campuses, centers, or other affiliates of the institution:

(h) The College of the Florida Keys ~~Community College~~, which serves Monroe County.

(p) North Florida ~~Community~~ College, which serves Hamilton, Jefferson, Lafayette, Madison, Suwannee, and Taylor Counties.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 720

Bill Number (if applicable)

Topic RENAMING OF FLORIDA COLLEGE SYSTEM INSTITUTION Amendment Barcode (if applicable)

Name DIANA PADGETT

Job Title GOV. CONSULTANT

Address 1492 VIEUX CARRE
Street

Phone 850-212-4204

TALL
City

FL
State

32308
Zip

Email DHPCONSULTANT@EARTH LINK.NET

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NORTH FLORIDA COMMUNITY COLLEGE

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/CS/SB 796

INTRODUCER: Appropriations Committee; Infrastructure and Security Committee; Innovation, Industry, and Technology Committee; and Senators Gruters, Bracy, Montford, and others

SUBJECT: Public Utility Storm Protection Plans

DATE: April 15, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	Fav/CS
2.	Price	Miller	IS	Fav/CS
3.	Sanders	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 796 creates a recovery clause¹ for storm protection costs instead of recovering these costs through base rates, as is done now; provides for recovery of a return on capital costs (profit) through the clause; and potentially requires the Public Service Commission (PSC) to approve cost recovery without consideration of the actual costs. The bill makes specific legislative findings that it is in the public interest to promote storm protection activities that will reduce restoration costs and outage times and increase reliability.

The bill applies to only public utilities, which are the investor-owned utilities (IOUs): Florida Power and Light, Duke Energy Florida, Gulf Power Company, Tampa Electric Company, and the Florida Public Utilities Corporation. Initially, the bill builds on the PSC's rule, requiring that, as part of the storm hardening plan required by the rule, each IOU must submit to the PSC, pursuant to PSC rule, for review and approval a transmission and distribution storm protection plan that covers the utility's immediate 10-year planning period.

¹ Most of an investor-owned utility's costs and profits are recovered through base rates, the per-kilowatt-hour charges on a customer's bill. Recovery clause charges are additional charges, usually in separate line item charges on the bill. A recovery clause is typically used to make an annual recovery of costs that are difficult to plan for, are a simple pass-through of actual costs, do not include capital costs or a return on those capital costs, and for which regulatory lag in recovering such costs would be problematic.

The bill requires the PSC to adopt rules to implement and administer its provisions, as soon as practicable after the effective date, but no later than October 31, 2019.

The bill appropriates for Fiscal Year 2019-2020, \$261,270 in recurring funds and \$15,020 in nonrecurring funds from the Regulatory Trust Fund and authorizes four positions with associated salary rate to implement the bill. Proceedings will also involve the Office of Public Counsel (OPC),² which may incur costs should there be an increase in evidentiary hearings; however, these costs are indeterminate.³

The bill takes effect upon becoming a law.

II. Present Situation:

Electric Utilities and the Public Service Commission

Chapter 366, F.S., provides for regulation of electric utilities in Florida. Section 366.02, F.S., provides definitions for these purposes.

- “Commission” means the Florida Public Service Commission.
- “Electric utility” means any municipal electric utility, investor-owned electric utility, or rural electric cooperative that owns, maintains, or operates an electric generation, transmission, or distribution system within the state.
- “Public utility” means every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity ... to or for the public within this state; but the term “public utility” does not include either a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; ...

The PSC has grid reliability authority over all Florida electric utilities.⁴ It has full economic regulation authority over the public utilities, including setting rates, and ensuring service quality standards.⁵ The public utilities are the investor-owned utilities: Florida Power and Light, Duke Energy Florida, Gulf Power Company, Tampa Electric Company, and the Florida Public Utilities Corporation.

Hurricane-Related Costs

Until recently, the subject of electric utility costs associated with a hurricane meant the costs of post-hurricane repair of the electric grid, the system of transmission and distribution lines and associated infrastructure. Then after the 2004-2005 hurricane seasons, there was an emphasis on storm hardening and the resulting costs. The IOUs now incur, and recover from their ratepayers (their customers), two types of costs associated with hurricanes and storms: after-the-fact repair costs and pre-storm hardening costs.⁶

² The Office of Public Counsel represents utility customers in PSC proceedings (s. 350.0611, F.S.).

³ Conversation with J.R. Kelly, Public Counsel, Office of Public Counsel (April 2, 2019).

⁴ Sections 366.04(2)(c) and 366.05(8), F.S.

⁵ Section 366.04(1), F.S.

⁶ Florida Public Service Commission, *Review of Florida’s Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 5 (July 2018).

Storm hardening and cost recovery are governed by PSC rule.⁷ The rule applies to all IOUs and is intended:

- To ensure safe, adequate, and reliable electric transmission and distribution service for both operational and emergency purposes;
- To require the cost-effective strengthening of critical electric infrastructure to increase the ability of transmission and distribution facilities to withstand extreme weather conditions; and
- To reduce restoration costs and outage times associated with extreme weather conditions.

Under the rule, each IOU filed an initial plan for the PSC's review and approval, after which each utility's plan must be updated every three years. In a proceeding to approve a utility's plan, the PSC is to consider whether the utility's plan meets the desired objectives of enhancing reliability and reducing restoration costs and outage times in a prudent, practical, and cost-effective manner to the affected parties.

The rule requires each utility storm-hardening plan to contain a detailed description of the construction standards, policies, practices, and procedures to be employed to enhance the reliability of overhead and underground electrical transmission and distribution facilities. Each filing must, at a minimum, address the extent to which the utility's storm hardening plan:

- Complies with a specified national safety code;
- Adopts specified extreme wind loading standards;
- Is designed to mitigate damage to underground and supporting overhead transmission and distribution facilities due to flooding and storm surges; and
- Provides for the placement of new and replacement distribution facilities to facilitate safe and efficient access for installation and maintenance.

Each storm hardening plan must explain the systematic approach the utility will follow to achieve the desired objectives of enhancing reliability and reducing restoration costs and outage times associated with extreme weather events. The explanation of the deployment strategy must include, but is not limited to, the following:

- A description of the facilities affected, including technical design specifications, construction standards, and construction methodologies employed;
- The communities and areas within the utility's service area where the electric infrastructure improvements are to be made;
- The extent to which the electric infrastructure improvements involve joint-use facilities on which third-party attachments exist;
- An estimate of the costs and benefits to the utility of making the improvements, including the effect on reducing storm restoration costs and customer outages; and
- An estimate of the costs and benefits to third-party attachers affected by the electric infrastructure improvements, including the effect on reducing storm restoration costs and customer outages realized by the third-party attachers.

⁷ Fla. Admin. Code R. 25-6.0342 (2007).

Approval of an IOU's storm-hardening plan does not guarantee the IOU the recovery of all costs incurred to implement the plan. After the IOU takes steps to implement the plan, the IOU must seek cost recovery during its next general rate case proceeding, where the PSC reviews the costs and determines whether they were prudently incurred before adding the approved costs to the IOU's base rates.⁸ This helps to protect the IOU's ratepayers.

Each IOU has a rate-case settlement in place with a provision freezing the IOU's base rates and they cannot get an increase to recover these costs until the settlement expires and they initiate another rate case.

Recovery Clauses

The vast majority of an IOU's general costs of providing service, including the IOU's profit, or allowed range of rates of return, is recovered through base rates. Base rates are set in a rate case, where all of an IOU's projected costs of doing business are reviewed and individual costs or categories of costs can be reviewed separately for a determination of accuracy and prudence. All approved costs are added together, an allowed range of rates of return is set, and a "revenue requirement" is established, the total revenue necessary to recover all these costs and the profit. The rates for different customer classes are then set that will provide recovery of this revenue requirement. The process protects the interests of both the IOU and its ratepayers.

There are, however, some exceptions where costs are recovered through a recovery clause, an additional charge usually in a separate line item charge on the bill. The primary recovery clause is the fuel-cost recovery clause charge. Fuel costs can vary, sometimes significantly, from year to year and are recovered through the fuel-cost recovery clause. A recovery clause is used when the costs at issue are volatile, unusual, or short-term and are therefore difficult to plan for, and when regulatory lag in recovering such costs would be problematic. Recovery clause proceedings are typically conducted on an annual basis and provide only for a pass-through of actual costs. As capital expenditures are typically made based on long-term plans, recovery clauses typically do not include capital costs or a return on those capital costs. An IOU cannot use a recovery clause to recover capital expenses and a rate of return on those expenses when there is an existing, applicable rate-settlement agreement containing a rate freeze.⁹

Undergrounding Lines

The construction of underground electrical distribution systems is more expensive than overhead systems, and the ratepayers served by the underground line are responsible for the difference in the costs between underground and overhead. The costs and benefits of storm hardening are factored into the cost difference calculation for new construction or conversion to underground facilities.¹⁰

⁸ Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 12 (July 2018).

⁹ See, e.g., *Citizens of the State v. Graham*, 213 So. 3d 703, 715-717 (Fla. 2017).

¹⁰ Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 12 (July 2018).

The data collected after Hurricane Irma showed that underground lines suffered minimal outages during storms. It should be noted, while underground facilities fared particularly well during Hurricane Irma, they still are susceptible to damage caused by uprooted trees and flooding, and these repairs typically take longer to complete.¹¹

In response to data requests from PSC staff, the three largest IOUs¹² stated that approximately 40 percent of all distribution lines are underground and that the majority of recent underground projects were for new construction, rather than the conversion of overhead to underground. Since 2006, the installed underground facilities have increased by approximately 5,300 miles for the IOUs. The total amount of installed underground facilities during the past five years was approximately 2,200 miles for an average rate of 440 miles/year.¹³

In an effort to further the deployment of underground facilities, Duke Energy Florida and Florida Power and Light have initiated targeted undergrounding programs that: began in 2018, focused on historically poor performing lateral circuits¹⁴ to replace several hundred miles of overhead lines, and were funded through current base rates. Duke Energy Florida's pilot program is scheduled over a period of ten years and Florida Power and Light's for three years. The goal for each program is to test different construction techniques and identify impediments to converting these targeted overhead facilities to underground.¹⁵

III. Effect of Proposed Changes:

The bill creates s. 366.96, F.S., to require a recovery clause for storm protection costs, provide for recovery of a return on capital costs (profit) through the clause, and potentially require the PSC's approval of recovery without consideration of the cost.

The bill makes legislative findings that it is in the public interest to promote storm protection activities that will reduce restoration costs and outage times and increase reliability. It creates the following definitions:

- "Public utility" or "utility" has the same meaning as in s. 366.02(1), F.S.,¹⁶ except that the bill provides the new section of law does not apply to a gas utility.
- "Transmission and distribution storm protection plan" or "plan" means a plan for the overhead hardening of electric transmission and distribution facilities, undergrounding of electric distribution facilities, and vegetation management.
- "Transmission and distribution storm protection plan costs" means the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan.

¹¹ *Id.*, 30.

¹² Florida Power and Light, Duke Energy Florida, and Tampa Electric Company.

¹³ Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 11-12 (July 2018).

¹⁴ An IOU's distribution grid consists of feeder and lateral circuits. Feeders run outward from substations and can serve thousands of customers. Laterals branch out from feeders and are the final portion of the electric delivery system, serving smaller numbers of customers and typically associated with residential areas. Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 9-10 (July 2018).

¹⁵ *Id.*, 12.

¹⁶ Section 366.02(1), F.S., defines "public utility" to mean "every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state." The definition also contains a list of exclusions from the definition.

- “Vegetation management” means the actions a public utility takes to prevent or curtail vegetation from interfering with public utility infrastructure. The term includes the mowing of vegetation, application of herbicides, trimming of trees, and removal of trees or brush near and around electric transmission and distribution facilities.

The bill requires each public utility to file, pursuant to the PSC rule and for the PSC review, a transmission and distribution storm protection plan that covers the utility’s immediate 10-year planning period. The PSC must approve or modify the plan within six months after the public utility files the plan with the PSC. In doing so, the PSC must give due consideration to all of the following:

- Whether the plan enhances reliability, strengthens infrastructure, and reduces restoration costs and outage times in a prudent, practical and cost-efficient manner, including whether the plan prioritizes areas of lower reliability performance.
- Whether storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility’s service territory, including in flood zones and rural areas.
- The estimated rate impact that will result from the implementation of the public utility’s proposed transmission and distribution storm protection plan during the first three years addressed in the plan.

Each public utility must submit an updated transmission and distribution storm protection plan at least every three years after the PSC’s approval of its most recent plan. The PSC must approve or modify the plan using the same considerations as applied to the original plan.

After a storm protection plan has been approved, proceeding with actions to implement the plan does not constitute and is not evidence of imprudence. The bill requires the PSC to conduct an annual proceeding to allow a public utility to recover prudently incurred transmission and distribution storm protection plan costs through a storm protection cost recovery clause. Once the PSC determines that the costs were prudently incurred, the costs are not subject to disallowance or further prudence review, except for situations involving fraud, perjury, or the intentional withholding of key information by the public utility.

The annual transmission and distribution storm protection plan costs that are recoverable through the storm protection cost recovery clause do not include costs recoverable through the public utility’s base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the PSC.

If a capital expenditure cost is recoverable through a storm protection cost recovery clause, the public utility may recover the annual depreciation on such cost, calculated at the public utility’s current approved depreciation rates. The IOU may also recover a return on the depreciated balance of the costs calculated at the public utility’s weighted average cost of capital using the return on equity last approved by the PSC in a rate case or settlement order.

The bill requires the PSC to adopt rules to implement and administer its provisions as soon as practicable after the effective date, but no later than October 31, 2019.

Furthermore, the bill requires the Division of Law Revision to replace the phrase “the effective date of this act” where it occurs in this act with the date this act becomes law.

In order to implement provisions within the act, the bill provides an appropriation for Fiscal Year 2019-2020 of \$261,270 in recurring funds and \$15,020 in nonrecurring funds from the Regulatory Trust Fund and authorizes four positions with associated salary rate.

The bill takes effect upon becoming a law.

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:

Each IOU may have to wait until its currently applicable rate settlement agreement expires to use the storm protection cost recovery clause provisions of the bill. Both the federal and state constitutions prohibit passage or implementation of a law impairing the obligation of contracts.¹⁷ A settlement agreement is a contract, and this prohibition would be applicable. The question, then, is whether the state’s “significant and legitimate public purpose” outweighs the intrusion into the parties’ bargain.¹⁸ Allowing an IOU to recover capital expenses and a rate of return despite a rate freeze provision in a settlement agreement may violate the constitution’s prohibition against impairment of contract.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁷ U.S. CONST. Art. I, s. 10 and FLA. CONST. Art. I, s.10.

¹⁸ See, e.g., *Searcy, Denney, Scarola, Barnhart & Shipley, Etc., et al. v. State of Florida*, 209 So. 3d 1181 (Fla. 2017), 1192

B. Private Sector Impact:

Public utilities will incur unknown costs to develop and implement the transmission and distribution storm protection plans, which will be passed on to their customers. Customers will get the benefits of the energy grid improvements, but these benefits cannot be quantified with any certainty because they depend on many variables, such as what improvements are made and the details of future storms and outages.

C. Government Sector Impact:

The bill appropriates, for Fiscal Year 2019-2020, \$261,269 in recurring costs and \$15,020 in nonrecurring costs from the Regulatory Trust Fund, four positions and associated rate to implement the storm protection cost recovery clause within the bill.

The bill requires the PSC to adopt rules to implement and administer its provisions. The PSC will incur costs to adopt the required rules and to hold hearings to develop the disaster preparation and energy grid improvement plans. There will be additional costs to continue to monitor and periodically modify the plans.

The hearings held by the PSC will also involve the Office of Public Counsel (OPC),¹⁹ which may incur costs should there be an increase in evidentiary hearings; however, these costs are indeterminate.²⁰

VI. Technical Deficiencies:

Lines 58-62 and 66-71 define “transmission and distribution storm protection plan” to include the costs of “vegetation management” in a broadly inclusive manner. Existing storm hardening plans include vegetation management²¹ and the resulting costs are included in existing base rate charges,²² so it is unclear how future vegetation management costs would be recovered.

VII. Related Issues:

In their analysis on the bill, the Public Service Commission staff raised several concerns.²³

Approval of a Storm Protection Plan versus a Storm Hardening Plan

The bill does not appear to require changes to the PSC’s current review of storm hardening plans or the method of cost recovery for their implementation. The activities and costs incurred for storm hardening remain a consideration during rate cases.

¹⁹ The Office of Public Counsel represents utility customers in PSC proceedings (s. 350.0611, F.S.).

²⁰ Conversation with J.R. Kelly, Public Counsel, Office of Public Counsel (April 2, 2019).

²¹ Florida Public Service Commission, *Review of Florida’s Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 5 (July 2018).

²² *Id.*, 12.

²³ Public Service Commission, *Senate Bill 796 2019 Agency Legislative Bill Analysis* (March 4, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

However, the PSC must address storm protection plans differently because implementation of the storm protection plan activities and associated costs will become subject to an annual clause. The PSC orders on storm protection plans may need to address in detail each activity, level of activity, management oversight, and other similar aspects in addition to the specific factors set forth in the bill.

Separating Storm Protection Plan Cost Recovery from Base Rate Revenues

According to the PSC, revenues from base rates are currently addressing the utility's costs for targeted undergrounding and all storm hardening activities. Utility activities and costs fluctuate year-to-year based in part on the utility's management decisions and external factors such as extreme weather events. Year-to-year fluctuation of costs that are addressed by base rate revenues is normal.

The PSC indicated that the intent of the bill appears to promote an incremental increase of the same types of activities and costs that are already described by the existing storm hardening plans. However, there is no direct mechanism to measure or establish exactly what level of activities and associated costs are included in current base rates because fluctuations are normal. Consequently, there could be tension in assessing the level of activity and ultimately the costs that may qualify for recovery through the clause.

Administrative Timeline

The PSC indicated that allowing only six months for the PSC to complete its review of a public utility's transmission and distribution storm protection plans, hold hearings, and make a determination of approval or modification is aggressive. The bill language is unclear whether the six month period includes the additional time after the PSC vote that may be necessary for issuance of a final order. It is unlikely that six months is reasonably sufficient for an intervening party to perform a rigorous review assessing the factors required by the bill and validating that the costs identified by the utility are not included in base rates. In March 2016, all five public utilities filed storm hardening plans and the PSC voted on the plans in December, reflecting an administrative timeline of nine months.

VIII. Statutes Affected:

This bill creates section 366.96 of the Florida Statutes.

IX. Additional Information:

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

CS/CS/CS by Appropriations on April 11, 2019:

The committee substitute:

- States that a utility is to file a petition for storm protection plan review and approval pursuant to commission rule.

- Deletes the current provision: “After a storm protection plan has been approved, costs to implement the plan are not subject to challenge unless the commission finds that certain costs were imprudently incurred”.
- Adds to the existing requirement that the commission adopt rules to implement and administer the new law a requirement that the commission propose a rule for adoption as soon as practicable after the effective date, but no later than October 31, 2019.
- Requires the Division of Law Revision to replace the phrase “the effective date of this act” wherever it occurs in this act with the date this act becomes a law.
- Adds an appropriation, for the 2019-2020 fiscal year, of \$261,270 in recurring funds and \$15,020 in nonrecurring funds from the Regulatory Trust Fund to the Public Service Commission, and authorizes four positions with an associated salary rate of 180,583 for the purpose of implementing this act.
- Replaces the current effective date of July 1, 2019, with upon becoming a law.

CS/CS by Infrastructure and Security on March 20, 2019:

The committee substitute:

- Defines “public utility” or “utility” to have the same meaning as in 2. 366.02(1), F.S., except that the new section of law created by the bill does not apply to a gas utility.
- Removes the word “increased” before “vegetation management” in the definition of “transmission and distribution storm protection plan” or “plan.”
- Removes the requirement that each public utility transmission and distribution storm protection plan be filed for the PSC’s review as part of its storm hardening plan required by the PSC under s. 366.04(2)(c), F.S.
- Requires each public utility to file for the PSC’s review, a transmission and distribution storm protection plan that covers the utility’s immediate 10-year planning period, instead of a plan that covers 30 years.
- Revises the due consideration the PSC must give in approving or modifying a plan to include:
 - Whether the plan prioritizes areas of lower reliability performance, and
 - The estimated rate impact that will result from the implementation of the public utility’s proposed transmission and distribution storm protection plan during the first three years addressed in the plan.
- Provides that after a storm protection plan has been approved, costs to implement the plan are not subject to challenge unless the PSC finds that certain costs were imprudently incurred, and proceeding with actions to implement the plan does not constitute and is not evidence of imprudence.
- Provides that costs that are recoverable through the storm protection cost recovery clause do not include costs recoverable through the public utility’s base rates.
- Revises a reference to an authorized return on a “depreciated balance” to reference an authorized return on an “undepreciated balance.”

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

The committee substitute:

- Requires each transmission and distribution storm protection plan to cover 30 years of planned improvements;

- Provides each plan should prioritize areas in order to generate the highest impact on system resiliency and efficiency and should focus on areas with large numbers of customers, high frequency outages, and lengthy outages;
- Deletes from the bill all provisions relating to federal corporate income tax benefits;
- Deletes from the bill the restriction on undergrounding (burying) of lines to no more than four percent of a utility's lateral distribution lines per year;
- Deletes from the bill the reference to ch. 120, F.S., in the provisions on Public Service Commission approval of a plan;
- Revises the provisions on updates plans to require that they address at least a 30-year period, require that the Public Service Commission approve or modify each updated plan, and require that it do so using the criteria used for approving or modifying the original plan; and
- Deletes the definitions of the terms commission and public utility, as those terms are already defined within ch. 366, F.S.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 366.96, Florida Statutes, is created to
read:

366.96 Storm protection plan cost recovery.-

(1) The Legislature finds that:

(a) During extreme weather conditions, high winds can cause
vegetation and debris to blow into and damage electrical



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transmission and distribution facilities, resulting in power outages.

(b) A majority of the power outages that occurred during the recent extreme weather conditions in the state were caused by vegetation blown by the wind.

(c) It is in the public interest to promote overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management in this state.

(d) Protecting and strengthening transmission and distribution electric utility infrastructure from extreme weather conditions will reduce restoration costs and outage times to customers and improve overall service reliability for customers.

(e) When considering costs, reliability, storm protection and restoration, and the public convenience, it is in the state's best interest that utilities focus primarily on distribution laterals when undergrounding electric distribution lines.

(f) It is in the public interest for each utility to mitigate additional costs to utility customers when developing transmission and distribution storm hardening plans.

(g) All customers benefit from the reduced costs of storm restoration.

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

(a) "Public utility" or "utility" has the same meaning as in s. 366.02(1), except that this section does not apply to a gas utility.

(b) "Transmission and distribution storm protection plan"



880822

or "plan" means a plan for the overhead hardening of electric transmission and distribution facilities, undergrounding of electric distribution facilities, and vegetation management.

(c) "Transmission and distribution storm protection plan costs" means the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan.

(d) "Vegetation management" means the actions a public utility takes to prevent or curtail vegetation from interfering with public utility infrastructure. The term includes the mowing of vegetation, application of herbicides, trimming of trees, and removal of trees or brush near and around electric transmission and distribution facilities.

(3) Each public utility shall file, pursuant to commission rule and for commission review, a transmission and distribution storm protection plan that covers the utility's immediate 10-year planning period. The commission must approve or modify the plan within 6 months after the public utility files the plan with the commission. The commission must give due consideration to all of the following:

(a) Whether the plan enhances reliability, strengthens infrastructure, and reduces restoration costs and outage times in a prudent, practical, and cost-efficient manner, including whether the plan prioritizes areas of lower reliability performance.

(b) Whether storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility's service territory, including in flood zones and rural areas.

(c) The estimated rate impact that will result from the



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69 implementation of the public utility's proposed transmission and
70 distribution storm protection plan during the first 3 years
71 addressed in the plan.

72 (4) Each public utility must submit an updated transmission
73 and distribution storm protection plan at least every 3 years
74 after commission approval of its most recent plan. The
75 commission shall approve or modify each updated plan pursuant to
76 the criteria set forth in subsection (3).

77 (5) After a storm protection plan has been approved,
78 proceeding with actions to implement the plan does not
79 constitute and is not evidence of imprudence. The commission
80 shall conduct an annual proceeding to allow a public utility to
81 recover prudently incurred transmission and distribution storm
82 protection plan costs through a storm protection cost recovery
83 clause. Once the commission determines that the costs were
84 prudently incurred, the costs are not subject to disallowance or
85 further prudence review, except for situations involving fraud,
86 perjury, or the intentional withholding of key information by
87 the public utility.

88 (6) The annual transmission and distribution storm
89 protection plan costs recoverable through the storm protection
90 cost recovery clause do not include costs recovered through the
91 public utility's base rates and must be allocated to customer
92 classes pursuant to the rate design most recently approved by
93 the commission.

94 (7) If a capital expenditure cost is recoverable through a
95 storm protection cost recovery clause, the public utility may
96 recover the annual depreciation on such cost, calculated at the
97 public utility's current approved depreciation rates, and a



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return on the undepreciated balance of the costs calculated at the public utility's weighted average cost of capital using the return on equity last approved by the commission in a rate case or settlement order.

(8) The commission shall adopt rules to implement and administer this section, and shall propose a rule for adoption as soon as practicable after the effective date of this act, but not later than October 31, 2019.

Section 2. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 3. For the 2019-2020 fiscal year, the sums of \$261,270 in recurring funds and \$15,020 in nonrecurring funds from the Regulatory Trust Fund are appropriated to the Public Service Commission, and 4 full-time equivalent positions with an associated salary rate of 180,583 are authorized for the purpose of implementing this act.

Section 4. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public utility storm protection
plans; creating s. 366.96, F.S.; providing legislative
findings; defining terms; requiring public utilities
to individually submit to the Public Service
Commission, for review and approval, a transmission



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and distribution storm protection plan; requiring utilities to update their respective plans on a specified basis; requiring the commission to approve or modify submitted plans within a specified timeframe, taking into consideration specified factors; requiring the commission to conduct an annual proceeding to allow utilities to justify and recover certain costs through a storm protection cost recovery clause; providing that utilities may not include certain costs in their base rates; providing for the allocation of such costs; authorizing utilities to recover depreciation on certain capital costs through the recovery clause; requiring the commission to adopt rules; requiring the commission to propose a rule for adoption within a specified timeframe; providing a directive to the Division of Law Revision; providing appropriations and authorizing positions; providing an effective date.

By the Committees on Infrastructure and Security; and
Innovation, Industry, and Technology; and Senators Gruters,
Bracy, Montford, and Broxson

596-03300-19

2019796c2

1 A bill to be entitled
2 An act relating to public utility storm protection
3 plans; creating s. 366.96, F.S.; providing legislative
4 findings; defining terms; requiring public utilities
5 to individually submit to the Public Service
6 Commission, for review and approval, a transmission
7 and distribution storm protection plan; requiring
8 utilities to update their respective plans on a
9 specified basis; requiring the commission to approve
10 or modify submitted plans within a specified
11 timeframe, taking into consideration specified
12 factors; requiring the commission to conduct an annual
13 proceeding to allow utilities to justify and recover
14 certain costs through a storm protection cost recovery
15 clause; providing that a party may challenge the
16 prudence of certain costs; providing that utilities
17 may not include certain costs in their base rates;
18 providing for the allocation of such costs;
19 authorizing utilities to recover depreciation on
20 certain capital costs through the recovery clause;
21 requiring the commission to adopt rules; providing an
22 effective date.
23
24 Be It Enacted by the Legislature of the State of Florida:
25
26 Section 1. Section 366.96, Florida Statutes, is created to
27 read:
28 366.96 Storm protection plan cost recovery.-
29 (1) The Legislature finds that:

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30 (a) During extreme weather conditions, high winds can cause
31 vegetation and debris to blow into and damage electrical
32 transmission and distribution facilities, resulting in power
33 outages.
34 (b) A majority of the power outages that occurred during
35 the recent extreme weather conditions in the state were caused
36 by vegetation blown by the wind.
37 (c) It is in the public interest to promote overhead
38 hardening of electrical transmission and distribution
39 facilities, the undergrounding of certain electrical
40 distribution lines, and vegetation management in this state.
41 (d) Protecting and strengthening transmission and
42 distribution electric utility infrastructure from extreme
43 weather conditions will reduce restoration costs and outage
44 times to customers and improve overall service reliability for
45 customers.
46 (e) When considering costs, reliability, storm protection
47 and restoration, and the public convenience, it is in the
48 state's best interest that utilities focus primarily on
49 distribution laterals when undergrounding electric distribution
50 lines.
51 (f) It is in the public interest for each utility to
52 mitigate additional costs to utility customers when developing
53 transmission and distribution storm hardening plans.
54 (g) All customers benefit from the reduced costs of storm
55 restoration.
56 (2) As used in this section, the term:
57 (a) "Public utility" or "utility" has the same meaning as
58 in s. 366.02(1), except that this section does not apply to a

596-03300-19

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59 gas utility.

60 (b) "Transmission and distribution storm protection plan"
 61 or "plan" means a plan for the overhead hardening of electric
 62 transmission and distribution facilities, undergrounding of
 63 electric distribution facilities, and vegetation management.

64 (c) "Transmission and distribution storm protection plan
 65 costs" means the reasonable and prudent costs to implement an
 66 approved transmission and distribution storm protection plan.

67 (d) "Vegetation management" means the actions a public
 68 utility takes to prevent or curtail vegetation from interfering
 69 with public utility infrastructure. The term includes the mowing
 70 of vegetation, application of herbicides, trimming of trees, and
 71 removal of trees or brush near and around electric transmission
 72 and distribution facilities.

73 (3) Each public utility shall file for commission review, a
 74 transmission and distribution storm protection plan that covers
 75 the utility's immediate 10-year planning period. The commission
 76 must approve or modify the plan within 6 months after the public
 77 utility files the plan with the commission. The commission must
 78 give due consideration to all of the following:

79 (a) Whether the plan enhances reliability, strengthens
 80 infrastructure, and reduces restoration costs and outage times
 81 in a prudent, practical, and cost-efficient manner, including
 82 whether the plan prioritizes areas of lower reliability
 83 performance.

84 (b) Whether storm protection of transmission and
 85 distribution infrastructure is feasible, reasonable, or
 86 practical in certain areas of the utility's service territory,
 87 including in flood zones and rural areas.

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88 (c) The estimated rate impact that will result from the
 89 implementation of the public utility's proposed transmission and
 90 distribution storm protection plan during the first 3 years
 91 addressed in the plan.

92 (4) Each public utility must submit an updated transmission
 93 and distribution storm protection plan at least every 3 years
 94 after commission approval of its most recent plan. The
 95 commission shall approve or modify each updated plan pursuant to
 96 the criteria set forth in subsection (3).

97 (5) After a storm protection plan has been approved, costs
 98 to implement the plan are not subject to challenge unless the
 99 commission finds that certain costs were imprudently incurred.
 100 Proceeding with actions to implement the plan does not
 101 constitute and is not evidence of imprudence. The commission
 102 shall conduct an annual proceeding to allow a public utility to
 103 recover prudently incurred transmission and distribution storm
 104 protection plan costs through a storm protection cost recovery
 105 clause. Once the commission determines that the costs were
 106 prudently incurred, the costs are not subject to disallowance or
 107 further prudence review, except for situations involving fraud,
 108 perjury, or the intentional withholding of key information by
 109 the public utility.

110 (6) The annual transmission and distribution storm
 111 protection plan costs recoverable through the storm protection
 112 cost recovery clause do not include costs recovered through the
 113 public utility's base rates and must be allocated to customer
 114 classes pursuant to the rate design most recently approved by
 115 the commission.

116 (7) If a capital expenditure cost is recoverable through a

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117 storm protection cost recovery clause, the public utility may
118 recover the annual depreciation on such cost, calculated at the
119 public utility's current approved depreciation rates, and a
120 return on the undepreciated balance of the costs calculated at
121 the public utility's weighted average cost of capital using the
122 return on equity last approved by the commission in a rate case
123 or settlement order.

124 (8) The commission shall adopt rules to implement and
125 administer this section.

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

From: Katherine Pennington <KPENNING@PSC.STATE.FL.US>
Sent: Thursday, March 28, 2019 1:56 PM
To: Sanders, Michelle <Michelle.Sanders@LASPBS.STATE.FL.US>
Subject: Fwd: 796 sand 797

Fiscal for SB 796

Sent from my iPad

Begin forwarded message:

From: Peter Queirolo <PQueirol@PSC.STATE.FL.US>
Date: March 1, 2019 at 12:06:36 PM EST
To: Katherine Pennington <KPENNING@PSC.STATE.FL.US>
Subject: RE: 796 sand 797

House Bill 797 Public Utility Storm Protection Plans

Position Title	Class Code	Pay Grade	Pay Plan	# of FTE	Rate	Salaries & Benefits	HR	Recurring Expense	Non-Recurring Expense
Senior Attorney - SES (Rule)	7738	230	08	1.00	51,627	\$72,819	\$344	\$6,140	\$3,755
Public Utility Analyst II	2254	022	01	1.00	36,468	\$55,259	\$344	\$6,140	\$3,755
Public Utility Analyst II	2254	022	01	1.00	36,468	\$55,259	\$344	\$6,140	\$3,755
Engineering Specialist I	4627	021	01	1.00	34,501	\$52,979	\$344	\$5,157	\$3,755
				4.00	159,064	\$236,316	\$1,376	\$23,577	\$15,020

	(FY 19-20) <u>Amount / FTE</u>	(FY 20-21) <u>Amount / FTE</u>	(FY 21-22) <u>Amount / FTE</u>
A. Revenues			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
B. Expenditures			
1. Recurring	\$261,269 / 4 FTE	\$261,269 / 4 FTE	\$261,269 / 4 FTE
2. Non-Recurring	\$15,020		



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

March 25, 2019

The Honorable Rob Bradley, Chair
Appropriations Committee
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I am writing to request that Senate Bill 796, Public Utility Storm Protection Plans, be placed on the agenda of the next Appropriations Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me.
Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Cynthia Sauls Kynoch, Staff Director
Jamie DeLoach, Deputy Staff Director
Ross McSwain, Deputy Staff Director
John Shettle, Deputy Staff Director
Alicia Weiss, Committee Administrative Assistant

SENATE APPROPRIATIONS
RECEIVED
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STAFF DE. STAFF

REPLY TO:

- ☐ 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- ☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

513 796

Bill Number (if applicable)

Topic Storm Hardening

Amendment Barcode (if applicable)

Name John Grant

Job Title Member

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing GO Plus Assn.

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)

APPEARANCE RECORD

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

4/11/19
Meeting Date796
Bill Number (if applicable)

Topic Storm Plans

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 W Adam
Street

Phone

City TLH State Zip

Email bbevis@cah

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 796

Bill Number (if applicable)

Topic Public Utility Storm Protection Plans

Amendment Barcode (if applicable)

Name Frank Walker

Job Title VP, LA

Address 136 S. Bronough St.
Street

Phone

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Chamber of Commerce

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.

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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)

04/11/19

Meeting Date

0796

Bill Number (if applicable)

Topic Public Utility Storm Prot Plans

Amendment Barcode (if applicable)

Name Ivonne Fernandez

Job Title Associate State Director

Address

Street

Doral

City

FL

State

Zip

Phone

954-850-7262

Email

fernandez@23p.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AARP

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 796

Bill Number (if applicable)

Topic Storm Hardening

Amendment Barcode (if applicable)

Name Jim Martin

Job Title Chairman

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing 60 Plus 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

4/11/19

Meeting Date

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

SB 796

Bill Number (if applicable)

Topic Storm Hardening

Amendment Barcode (if applicable)

Name Paul Griffin

Job Title Exec. Director

Address 2844 Whitetail Cir

Phone 303 709-9600

Street

Lafayette CO 80026

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Energy Fairness

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/19

Meeting Date

796

Bill Number (if applicable)

Topic Electric Line Undergrounding

Amendment Barcode (if applicable)

Name Jon Moyle

Job Title

Address 118 N. Gadsden St

Street

Phone 681-3828

TAMMASEE FL

City

State

Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FIA. Industrial Power Users Group

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 796

Bill Number (if applicable)

Topic SB 796

Amendment Barcode (if applicable)

Name Katherine Pennington

Job Title Legis. Director

Address Public Service Commissioner

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 answer questions only if there are questions

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 828

INTRODUCER: Criminal Justice Committee; and Senators Rader and Rouson

SUBJECT: Lewd or Lascivious Exhibition

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Storch	Jones	CJ	Fav/CS
2. Forbes	Jameson	ACJ	Recommend: Favorable
3. Forbes	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 828 expands the scope of the prohibition on lewd or lascivious exhibition in the presence of an employee of a correctional institution to include any person employed at or performing contractual work for a *county detention facility*. Current law prohibits such conduct in a state or private correctional facility only.

The Criminal Justice Impact Conference has determined the fiscal impact for this bill will be positive insignificant (increase of 10 or fewer prison beds). See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

II. Present Situation:

Sexual Harassment at Correctional Facilities

Employees, specifically females, in many correctional institutions face sexual harassment and sexual abuse directed at them by prisoners.¹ For example, “gunning” refers to the practice of inmates exposing themselves and masturbating directly at female staff members.² Correctional

¹ 2010 (7) AELE Mo. L. J. 301, *Civil Liability for Sexual Harassment of Female Employees by Prisoners*, pg. 301, (July 2010), available at <http://www.aele.org/law/2010all07/2010-07MLJ301.pdf> (last visited April 1, 2019).

² *Id.* at 302.

agencies have a legal obligation to take reasonable measures to prevent and remedy sexual harassment in the workplace and failure to respond properly can result in extensive civil liability. Despite this fact, gunning and other lewd or lascivious conduct has been a crippling issue at both federal and state correctional institutions.³

Sexual Harassment at Federal Institutions

The sexual harassment of female employees at the federal level came to light almost a decade ago when the Equal Employment Opportunity Commission (EEOC) issued a report concluding that the Bureau of Prison (Bureau) mishandled harassment claims.⁴ The report detailed that Bureau employees were advised not to report things and that there was a fear of retaliation among employees.⁵ Additionally, the report concluded that anti-sexual harassment training occurred on an infrequent and inconsistent basis.⁶ In its recommendation, the EEOC advised the Bureau to establish a broad anti-harassment policy with effective procedures for preventing and addressing sexual harassment complaints.⁷

Despite the implementation of new policies required by that report, the problem still remains at federal prisons. In 2017, 524 female prison workers filed a class-action complaint, alleging that inmates at the Coleman Federal Correctional Complex in Sumter County, Florida, regularly made lewd comments and rape threats toward female employees in the prison. The parties to the complaint agreed to a \$20 million settlement, signifying one of the largest class-action sexual harassment settlements in U.S. history. In the case, the court also permitted a group of the women to take action against their employer for failing to address sexual harassment by non-employees.⁸

The terms of the settlement specified new procedures that would be in place, such as the requirement for prison staff to identify inmates who are harassing female workers, which could lead to those inmates losing privileges, in addition to providing notice to inmates that repeated harassment of female staffers would result in a referral to psychological services.⁹

Sexual Harassment at State Institutions

Similar problems have plagued state correctional facilities as well. Since 1987, the Department of Corrections (DOC) has paid more than \$5 million in settlements to state workers who alleged they were sexually harassed at work. In 2009, a class action lawsuit brought by mostly women

³ *Id.* at 301.

⁴ Caitlyn Dickerson, *Hazing, Humiliation, Terror: Working While Female in Federal Prison*, The New York Times (November 17, 2018), available at <https://www.nytimes.com/2018/11/17/us/prison-sexual-harassment-women.html> (last visited April 1, 2019).

⁵ EEO Commission Final Report on BOP, pg. 23 (November 24, 2010), available at <https://www.scribd.com/document/74311966/EEO-Commission-Final-Rpt-on-BOP-Nov-24-2010> (last visited April 1, 2019).

⁶ *Supra* n. 5 at pg. 12.

⁷ *Supra* n. 5 at pg. 28.

⁸ Hanna Kozłowska, *Female prison workers, harassed by inmates and ignored by bosses, stood up for their rights – and won*, Quartz, (February 16, 2017), available at <https://qz.com/910810/female-prison-workers-harassed-by-inmates-and-ignored-by-bosses-stood-up-for-their-rights-and-won/> (last visited April 1, 2019).

⁹ Mike Schneider, *Harassed Female Workers at Federal Prison Reach Settlement*, U.S. News, (February 13, 2017), available at <https://www.usnews.com/news/florida/articles/2017-02-13/harassed-female-workers-at-federal-prison-reach-settlement> (last visited April 1, 2019).

claimed inmates would expose themselves and masturbate in front of them. Further, the complaint alleged that the DOC failed to remedy the sexually hostile work environment created by male inmates. The lawsuit went into further detail, alleging that, upon seeing female staff members approaching a dorm, prisoners would commit the practice of “gunning,” exposing themselves and masturbating directly at the staff.¹⁰ In its discussion of the jury’s ruling, the court found that pursuant to Title VII (of the Civil Rights Act of 1964), the DOC is required to adopt reasonably remedial measures to protect its female employees from the sexually hostile environment that the inmates created.¹¹

The DOC appealed this decision, but the court upheld the judgment, ruling that exhibitionist masturbation, especially gunning, is sex based and highly offensive conduct. Furthermore, the court held that the jury was entitled to find that the DOC made almost no effort to protect its employees from this sex-based harassment.¹² As a result of this decision, the DOC paid out more than \$1.14 million in settlements.¹³

Lewd or Lascivious Exhibition

Section 800.09, F.S., was created in response to the class action lawsuit brought against the DOC in 2009, as a way to deter such lewd or lascivious conduct.¹⁴ Specifically, the law prohibits a person who is detained in a state correctional institution¹⁵ or a private correctional facility¹⁶ from doing any of the following in the presence of a person he or she knows or reasonably should know is an employee:

- Intentionally masturbating;
- Intentionally exposing the genitals in a lewd or lascivious manner; or
- Intentionally committing any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to:
 - Sadoomasochistic abuse;
 - Sexual bestiality; or
 - The simulation of any act involving sexual activity.¹⁷

An “employee” is defined as:

- Any person employed by or performing contractual services for a public or private entity operating a facility;

¹⁰ Lauren Sweeney, *Florida paid out \$11 million in sexual harassment claims to more than 300 state workers*, Wink News, (February 27, 2018), available at <http://www.winknews.com/2018/02/26/florida-paid-11-million-sexual-harassment-claims/> (last visited April 1, 2019).

¹¹ *Beckford v. Dep’t of Corrections*, 605 F.3d 951, 960 (11th Cir. 2010).

¹² *Id.*

¹³ *Supra*, n. 10.

¹⁴ Ch. 2010-64, s. 4, Laws of Fla. (2010).

¹⁵ “State correctional institution” means any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the DOC. Section 944.02(8), F.S.

¹⁶ “Private correctional facility” means any facility, which is not operated by the DOC, for the incarceration of adults or juveniles who have been sentenced by a court and committed to the custody of the DOC. Section 944.710(3), F.S.

¹⁷ Section 800.09(2)(a), F.S.

- Any person employed by or performing contractual services for the corporation operating the prison industry enhancement programs or the correctional programs under part II, ch. 946, F.S.; or
- Any person who is a parole examiner with the Florida Commission on Offender Review.¹⁸

Any person who violates s. 800.09(2)(a), F.S., commits a third degree felony.¹⁹ Since the law's passage in 2010, reports of such lewd or lascivious conduct has decreased in correctional facilities. For example, the DOC wrote 99 disciplinary reports at Charlotte Correctional Institution in Punta Gorda, Florida, for gunning in 2017, which was down from the average of 300 reports written at the prison every year prior to 2010.²⁰

III. Effect of Proposed Changes:

Current law prohibits lewd or lascivious exhibition in the presence of an employee in a state correctional institution or private correctional facility. The bill expands the scope of the prohibition on such conduct to include any person employed at or performing contractual work for a *county detention facility*.

Additionally, the bill defines a county detention facility as a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor.²¹

The bill is effective July 1, 2019.

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.

¹⁸ Section 800.09(1)(a), F.S.

¹⁹ Section 800.09(2)(b), F.S. A third degree felony is punishable by a term of imprisonment not exceeding 5 years, a fine of \$5,000, or both. Sections 775.082 and 775.083, F.S.

²⁰ *Supra*, n. 13.

²¹ This is the same definition as provided in s. 951.23(1)(a), F.S.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference has determined the fiscal impact for this bill will be positive insignificant (increase of 10 or fewer prison beds)²². According to the DOC, five offenders were sentenced under the current statute, with two of those offenders sentenced to prison during FY 2017-18.²³ The overall fiscal impact to the inmate and community supervision population is indeterminate²⁴.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 800.09 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on March 4, 2019:

The Committee Substitute clarifies that lewd or lascivious exhibition is prohibited in the presence of *any person employed at or performing contractual work* for a county detention facility.

²² Estimate from Office of Economic and Demographic Research, February 27, 2019 Criminal Justice Impact Conference.

²³ Information provided by EDR staff (on file with the Senate Criminal Justice Committee).

²⁴ The DOC, SB 828 Agency Analysis, p. 3.

B. Amendments:

None.

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

By the Committee on Criminal Justice; and Senator Rader

591-02644-19

2019828c1

A bill to be entitled

An act relating to lewd or lascivious exhibition;
amending s. 800.09, F.S.; prohibiting certain lewd or
lascivious acts in the presence of county correctional
personnel; providing criminal penalties; providing an
effective date.

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

Section 1. Section 800.09, Florida Statutes, is amended to
read:

800.09 Lewd or lascivious exhibition in the presence of an
employee.—

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

(a) "Employee" means:

1. Any person employed by or performing contractual
services for a public or private entity operating a state
correctional institution or private correctional facility; or

2. Any person employed by or performing contractual
services for the corporation operating the prison industry
enhancement programs or the correctional work programs under
part II of chapter 946;—The term also includes

3. Any person who is a parole examiner with the Florida
Commission on Offender Review; or

4. Any person employed at or performing contractual
services for a county detention facility.

(b) "Facility" means a state correctional institution as
defined in s. 944.02, ~~or~~ a private correctional facility as
defined in s. 944.710, or a county detention facility as defined

Page 1 of 2

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

591-02644-19

2019828c1

in s. 951.23.

(2) (a) A person who is detained in a facility may not:

1. Intentionally masturbate;

2. Intentionally expose the genitals in a lewd or
lascivious manner; or

3. Intentionally commit any other sexual act that does not
involve actual physical or sexual contact with the victim,
including, but not limited to, sadomasochistic abuse, sexual
bestiality, or the simulation of any act involving sexual
activity,

in the presence of a person he or she knows or reasonably should
know is an employee.

(b) A person who violates paragraph (a) commits lewd or
lascivious exhibition in the presence of an employee, a felony
of the third degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

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

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Vice Chair*
Agriculture
Appropriations Subcommittee on Health
and Human Services
Children, Families, and Elder Affairs

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR KEVIN J. RADER

29th District

April 4, 2019

Chairman Rob Bradley
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Bradley,

I respectfully request that you place CS/SB 828, relating to Lewd or Lascivious Exhibition, on the agenda of the Committee on Appropriations at your earliest convenience.

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

Kindest Regards,

A handwritten signature in black ink that reads "Kevin Rader". The signature is written in a cursive, flowing style.

Senator Kevin J. Rader
Florida Senate, District 29

cc: Cynthia Kynoch, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:

- ☐ 5301 North Federal Hwy, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- ☐ 222 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

4/11/19
Meeting Date

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

828
Bill Number (if applicable)

Topic Lewd or Lascivious

Amendment Barcode (if applicable)

Name Lauren Jackson

Job Title Consultant

Address 205 S. Adams St.
Street

Phone 850-224-0880

Tallahassee FL 32301
City State Zip

Email Lauren@ericksconsultants.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Federation of Public Employees

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4-11-19

Meeting Date

828

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

City

State

Zip

Email JMM2@MIAMIDADE.GOV

Speaking: ☐ For ☐ Against ☐ Information

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

Representing MIAMI-DADE COUNTY

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 844

INTRODUCER: Appropriations Committee; Infrastructure and Security Committee; and Senators Berman, Bean, Hutson, and others

SUBJECT: At-Risk Adult Alert Plan

DATE: April 15, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Proctor	Miller	IS	Fav/CS
2. Delia	Hendon	CF	Favorable
3. Sneed	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 844 creates the Orange Alert, a standardized state system which aids in the search for a missing adult:

- With a mental or cognitive disability; an intellectual or developmental disability; a brain injury; or other physical, mental, emotional disability or impaired judgement not related to substance abuse;
- Whose disappearance poses a credible threat of immediate danger or serious bodily harm to himself or herself; and
- Who does not meet the criteria for activation of the Silver Alert Plan.

The bill:

- Requires the Florida Department of Law Enforcement (FDLE), in cooperation with the Department of Transportation (DOT), Department of Highway Safety and Motor Vehicles (DHSMV), the Department of the Lottery and local law enforcement agencies to establish and implement the plan;
- Requires a local law enforcement agency to broadcast information to the public and media about certain missing adults;
- Allows local law enforcement to request a case to be opened with the FDLE's Missing Endangered Persons Information Clearinghouse (MEPIC); and
- Requires the FDLE to adopt rules to implement the plan.

The bill appropriates to the FDLE for the 2019-2020 fiscal year, \$152,836 in recurring funds from the General Revenue Fund and 3 full-time equivalent positions with associated salary rate for staff to meet the workload requirements for Orange Alert. The bill also appropriates to the FDLE \$170,000 in nonrecurring funds from the General Revenue Fund for necessary modifications to its existing technology systems.

The bill takes effect July 1, 2019.

II. Present Situation:

Missing Person Investigations

All of Florida's state and local law enforcement agencies are required to submit information concerning missing endangered persons to the FDLE's MEPIC.¹ The clearinghouse serves as the central repository of information regarding missing endangered persons. Upon receiving information about a missing endangered person, MEPIC is required to coordinate with the FDOT and the DHSMV for the activation of dynamic message signs on state highways and the immediate broadcast of critical information to the public about the missing person.

A "missing endangered person" is defined in state law as:

- A missing child;²
- A missing adult younger than 26 years of age;
- A missing adult 26 years of age or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity; or
- A missing adult who meets the criteria for activation of the Silver Alert Plan.³

Upon receiving a report that a child is missing, a law enforcement agency must inform all on-duty officers of the report, communicate the report to every other law enforcement agency having jurisdiction in the county where the child was last seen, and transmit the report for inclusion within the Florida Crime Information Center (FCIC) and the National Crime Information Center (NCIC) databases within two hours.⁴ When a missing adult report is filed, the law enforcement agency receiving the report must transmit the report for inclusion within the FCIC and NCIC databases within two hours.⁵

Section 937.021, F.S., provides civil immunity for specified entities requested by law enforcement to record, report, transmit, display, or release information pertaining to a missing person if such entity complied with the request in good faith. These entities include:

- The FDLE, a state or local law enforcement agency, and agency personnel;
- A radio or television network, broadcaster, or other media representative; or

¹ Section 937.022(3)(b), F.S.

² Florida Department of Law Enforcement, Missing Child Alert, "Missing child" means a person younger than 18 years of age, <http://www.fdle.state.fl.us/AMBER-Plan/Missing-Child-Alert> (last visited March 21, 2019).

³ *Id.*

⁴ Section 937.021(4)(a), F.S.

⁵ Section 937.021(4)(b), F.S.

- A dealer of communications services as defined in s. 202.11, F.S.⁶

Entities who report, transmit, display, or release information pertaining to a missing person are presumed to have acted in good faith.⁷ The presumption of good faith is not overcome if a technical or clerical error is made by an agency, employee, individual, or entity acting at the request of the local law enforcement agency having jurisdiction or if the missing person information is incomplete or incorrect because the information received from the local law enforcement agency was incomplete or incorrect.⁸

Silver Alert

The Silver Alert Plan broadcasts information to the public about a missing adult.⁹ A law enforcement agency can issue a local or regional Silver Alert when a missing person:

- Is age 60 or older; and
- Suffers from a verified irreversible deterioration of intellectual faculties.¹⁰

To maintain the integrity of the system and not dilute its effectiveness, law enforcement issues a Silver Alert primarily for this narrow population. However, a Silver Alert may be issued in rare instances when:

- A missing adult is 18 to 59 years old and has irreversible deterioration of intellectual faculties;
- Law enforcement has determined the individual lacks the capacity to consent; and
- The use of dynamic message signs may be the only possible way to rescue the missing person.¹¹

The Silver Alert Plan has two levels of activation: local and state. If an adult meeting the Silver Alert criteria goes missing on foot, local law enforcement will activate a local Silver Alert. Although each agency has its own criteria for activation of a local Silver Alert, law enforcement generally:

- Conducts a preliminary investigation to conclude that the disappearance poses a credible threat to the person's welfare and safety;
- Enters the missing adult's identifying information into FCIC;
- Contacts media outlets in the area and surrounding jurisdictions; and
- Issues a statewide "Be On The Look Out" notice to other law enforcement and 911 centers.¹²

If an adult meeting the Silver Alert criteria goes missing in a vehicle, local law enforcement may request that the FDLE activate a statewide Silver Alert. After local law enforcement determines

⁶ Examples of a dealer of communications services include a cable or satellite television service provider, a telephone service provider, or a mobile communication service provider. s. 937.021, F.S.

⁷ Section 937.021(5)(c), F.S.

⁸ *Id.*

⁹ Florida Department of Law Enforcement, *Silver Activation Steps* (2018), <http://www.fdle.state.fl.us/Silver-Alert-Plan/Activation-Steps> (last visited March 21, 2019).

¹⁰ *Id.* Agency policy determines how the local law enforcement agency verifies that the person suffers from an irreversible deterioration of intellectual faculties.

¹¹ *Id.*

¹² *Id.*

that the disappearance poses a credible threat to the person's welfare and safety and enters the missing adult into FCIC, the agency contacts MEPIC at the FDLE. Once the FDLE confirms the case meets Silver Alert criteria, the FDLE notifies the:

- Florida Highway Patrol to send a statewide officer notification;
- FDOT to activate dynamic message signs¹³ on highways; and
- Department of Elder Affairs to notify the public through an email alert system.¹⁴

As of January 31, 2019, law enforcement has recovered 260 individuals through the use of the Silver Alert activation.¹⁵

Department of the Lottery

The Department of Lottery (DOL) partners with the FDLE to distribute information pertaining to emergency alerts to the public. The alerts include: Amber¹⁶, Silver¹⁷, Blue¹⁸ and Missing Child.¹⁹ Upon notification by the FDLE of an active alert, the DOL disseminates information provided by the FDLE to retailer based terminal systems. All alerts provided through the terminal system discontinue sales and must be acknowledged by the retailer before transactions may continue. At the request of the FDLE, Amber alerts are the only alerts that are currently displayed to the public at lottery ticket sales locations, although the DOL does have the ability to add other alerts for display to the public. At the present, alerts are sent state-wide but can be sent out to specific regions if requested.²⁰

Cognitive Disorder

Cognitive disorders include a wide range of mental deficits in adults and children and can impair a person's thinking, communication, understanding and memory.²¹ A person may suffer from an illness creating progressive impairment, or have lower levels of ability to learn or remember that will remain constant throughout life. Common cognitive disorders include Alzheimer's disease

¹³ Dynamic message signs are electronic signs on the highway that typically display information about travel lane blockage information, travel times, scheduled construction activities, safety messages and special events. Florida Department of Transportation, <https://sunguide.info/its-program/dynamic-message-signs-dms/> (last visited March 21, 2019).

¹⁴ Members of the public may sign up to receive Silver Alert email updates on the DOEAs website. Department of Elder Affairs, <https://lists.elderaffairs.org/listmanager/listinfo/silveralert> (last visited March 21, 2019).

¹⁵ Law enforcement has directly recovered 215 individuals and indirectly recovered 45 individuals due to the Silver Alert activation. A direct recovery is recovery due to the activation of the State Silver Alert, primarily through state agency action. An indirect recovery is recovery through local agency actions in coordination with the Silver Alert Plan. Florida Department of Law Enforcement, *Silver Alert Monthly Report* (Jan. 2019), <http://www.fdle.state.fl.us/Silver-Alert-Plan/Monthly-Reports/2019-Monthly-Reports/January-2019> (last visited March 21, 2019).

¹⁶ Section 937.021, F.S.

¹⁷ *Id.*

¹⁸ Section 784.071, F.S.

¹⁹ Section 937.021, F.S.

²⁰ Email from Jake Felder, Legislative Affairs Director, Department of the Lottery, SB 844 Answers (March 13, 2019), (On file with the Committee on Infrastructure and Security).

²¹ Disabled World, *Cognitive Disability: Information on Intellectual Disabilities* (June 4, 2016), <https://www.disabled-world.com/disability/types/cognitive/> (last visited March 21, 2019).

and related dementias, Parkinson's disease, brain injury, brain tumor, developmental and intellectual disability, and HIV-associated dementia.²²

Developmental Disability

Developmental disability is a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, Autism Spectrum Disorder (ASD), spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before age 18; and constitutes a substantial handicap that can reasonably be expected to continue indefinitely.²³

ASD is a developmental disorder that is characterized, in varying degrees, by repetitive behaviors and difficulties with social interaction and verbal and nonverbal communication.²⁴ The ASD diagnosis once included Autistic Disorder, Asperger Syndrome, Pervasive Developmental Disorder Not Otherwise Specified, and other disorders; however, in June 2013, all autism disorders were merged into one umbrella diagnosis of ASD when the fifth edition of the Diagnostic and Statistical Manual of Mental Disorder (DSM-5) was published. Although there has been little research on the prevalence of ASD in adults, the Centers for Disease Control and Prevention estimates that approximately one in 59 children have been identified with ASD.²⁵ A 2011 British study found ASD rates in adults are similar to the rates observed among children.²⁶

Intellectual Disability

Intellectual disability is significantly subaverage intellectual functioning²⁷ existing concurrently with deficits in adaptive behavior²⁸ which manifests before age 18 and can reasonably be expected to continue indefinitely. An individual with an intellectual disability is more likely to have a coexisting psychiatric or cognitive condition than a member of the general population.²⁹ At least 25 percent of individuals with an intellectual disorder also have a psychiatric condition including schizophrenia, depression, or attention deficit hyperactivity disorder.³⁰ About ten percent of individuals with an intellectual disability also have ASD or autistic traits.³¹

²² Family Caregiver Alliance, *Caring for Adults with Cognitive and Memory Impairment* (2004), <https://www.caregiver.org/caring-adults-cognitive-and-memory-impairment> (last visited March 21, 2019).

²³ Section 393.063(12), F.S.

²⁴ Center for Disease Control and Prevention, *Facts about ASD*, <https://www.cdc.gov/ncbddd/autism/facts.html> (last visited March 21, 2019).

²⁵ Center for Disease Control and Prevention, *Data & Statistics on Autism Spectrum Disorder*, <https://www.cdc.gov/ncbddd/autism/data.html> (last visited March 21, 2019).

²⁶ Gael Orsmond et al., *Social Participation Among Young Adults with an Autism Spectrum Disorder* (2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3795788/> (last visited March 21, 2019).

²⁷ Significantly subaverage general intellectual functioning is performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the Agency for Persons with Disabilities rules. s. 393.063(24), F.S.

²⁸ Adaptive behavior is the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of their age, cultural group, and community. s. 393.063(24), F.S.

²⁹ Committee to Evaluate the Supplemental Security Income Disability Program for Children with Mental Disorders, *Mental Disorders and Disabilities Among Low-Income Children* (Oct. 28, 2015), <https://www.ncbi.nlm.nih.gov/books/NBK332877/> (last visited March 21, 2019).

³⁰ *Id.*

³¹ The Children's Hospital of Philadelphia, *Intellectual Disability and ASD* (June 29, 2016), <https://www.carautismroadmap.org/intellectual-disability-and-asd/> (last visited March 21, 2019).

Wandering

Wandering is generally characterized by aimless, slow, or pointless movement that is not associated with normal daily activity.³² Twelve to 60 percent of individuals with a cognitive disorder wander and approximately five percent of wandering instances result in physical harm.³³ Missing incidents can be life-threatening and an impaired person is at risk even in a closely monitored setting. For those missing more than 24 hours, the death rate can be as high as 50 percent, with the most common causes of death being exposure to natural elements, drowning and vehicular accidents.³⁴

Wandering occurs frequently in individuals with ASD, and the risk of wandering behavior increases with autism severity.³⁵ From 2009 to early 2017, a total of 158 individuals with ASD died after wandering from their home, a public place, or a group home.³⁶ Although children represent the largest percentage of reported ASD missing person cases, over 30 percent of reported ASD wandering cases involve individuals age 20 or older.³⁷

III. Effect of Proposed Changes:

The bill creates the Orange Alert, which will aid in the search for a missing adult:

- With a mental or cognitive disability; an intellectual or developmental disability; a brain injury; or other physical, mental, emotional disability or impaired judgement not related to substance abuse;³⁸
- Whose disappearance poses a credible threat of immediate personal danger or serious bodily harm to the person; and
- Who does not meet the criteria for the activation of the Silver Alert Plan.

The bill requires the FDLE, in cooperation with the FDOT, the DHSMV, the DOL and local law enforcement agencies, to establish and implement the Orange Alert.

³² Merriam-Webster, <https://www.merriam-webster.com/dictionary/wandering> (last visited Mar. 6, 2019).

³³ Joseph Wherton et al., *Wandering as a Sociomaterial Practice: Extending the Theorization of GPS Tracking in Cognitive Impairment*, Qualitative Health Research (2019), <https://journals.sagepub.com/doi/10.1177/1049732318798358#articleCitationDownloadContainer> (last visited Mar. 6, 2019).

Wandering estimates range from 12 to 60 percent due to difficulties defining and recording such instances.

³⁴ *Id.*

³⁵ National Autism Association, *Wandering* (2017), <http://nationalautismassociation.org/resources/aware-wandering/> (last visited Mar. 6, 2019).

³⁶ National Autism Association, *Mortality & Risk in ASD Wandering/Elopement 2011-2016* (March 2017), <http://nationalautismassociation.org/wp-content/uploads/2017/04/NAAMortalityRiskASDElopement.pdf> (last visited Mar. 6, 2019).

³⁷ *Id.*

³⁸ See s. 393.063, F.S., which defines “developmental disability” as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely. Defines “intellectual disability” as significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. For the purposes of the term “intellectual disability”, the term: “adaptive behavior” means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community, “Significantly subaverage general intellectual functioning” means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency.

The bill expands the definition of “missing endangered person” to include a missing adult who meets the Orange Alert activation criteria. It further requires the Orange Alert provide for the protection of the privacy, dignity, independence, and autonomy of the missing adult by including standards that aim to safeguard his or her civil liberties through preventing the inadvertent or unnecessary broadcasting or dissemination of sensitive health and diagnostic information.

The bill provides that the broadcasting and dissemination of alerts and related information be limited to the geographic areas where the missing adult could reasonably be, considering the person’s circumstances and physical and mental condition, the modes of transportation available to the person, and the circumstances of the person’s disappearance.

The bill requires the local law enforcement agency broadcasting information for the Orange Alert be the agency that is best able to notify the media and disseminate the information by cellular telephone alerts and other technologies in order to communicate with the residents in the jurisdiction where the missing adult is believed to be, including the lottery terminals in gas stations, convenience stores, and supermarkets in those areas.

Under the bill, the following entities are immune from civil liability for performing actions related to an Orange Alert in good faith:

- The FDLE, a state or local law enforcement agency, and the personnel of these agencies;
- A radio or television network, broadcaster, or other media representative; or
- A dealer of communications services, such as a cable television provider, as defined in s. 202.11, F.S.

The bill authorizes a local law enforcement agency to open an Orange Alert case with the FDLE's MEPIC, the central repository of missing endangered person information that provides analytical services to law enforcement agencies and engages the public in a missing person search. In cases in which a vehicle is involved, the clearinghouse must coordinate with the DOT and the DHSMV for the activation of dynamic message signs on state highways and the immediate broadcast of critical information to the public about the missing adult.

The bill requires the FDLE to develop procedures to monitor the use and activation of the plan and the results from its use. The Orange Alert plan must also include a strategy for informing and educating law enforcement, the media, and other stakeholders about the plan. The bill also requires the FDLE to adopt rules to implement the Orange Alert plan.

The bill takes effect July 1, 2019.

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:

For Fiscal Year 2019-2020, the bill provides appropriations to the FDLE from the General Revenue Fund of \$152,836 in recurring funds to hire three full-time equivalent positions (Crime Intelligence Analyst I) to meet workload requirements and \$170,000 in nonrecurring funds to modify existing technology systems. The FDLE estimates 287 new missing persons alerts will be issued each year.³⁹

According to the FDLE, the bill will have an indeterminate negative fiscal impact on local law enforcement agencies to develop policies; train dispatchers and officers; establish or enhance systems to perform mandated notifications, and maintain readiness to issue Orange Alerts.⁴⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³⁹ Florida Department of Law Enforcement, *Senate Bill 844 Fiscal Analysis* (Apr. 4, 2019). On file with the Senate Appropriations Committee.

⁴⁰ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 937.0201, 937.0205, 937.021, 937.022, and 429.918.

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 April 11, 2019:

The committee substitute:

- Renames the plan “Orange Alert.”
- Redefines an individual who falls under the Orange Alert criteria from a person with “an irreversible cognitive disorder or syndrome or brain injury, including, but not limited to, a developmental disability or an intellectual disability” to a person with “a mental or cognitive disability; an intellectual or developmental disability; a brain injury; another physical, mental, or emotional disability or impaired judgement not related to substance abuse; or a combination of any of these.”
- Clarifies that the Orange Alert is only activated when the disappearance of a missing person poses a credible threat of immediate danger or serious bodily harm to himself or herself, as determined by a local law enforcement agency.”
- Provides appropriations for the FDLE of \$152,836 in recurring and \$170,000 in nonrecurring general revenue funds and authorizes 3 full-time equivalent positions to address the department’s staffing and technology requirements.

CS by Infrastructure and Security on March 12, 2019:

The CS:

- Replaces “verified mental or cognitive impairment” with “irreversible cognitive disorder or syndrome or brain injury, including, but not limited to, a developmental disability or an intellectual disability.”
- Adds the Department of Lottery to the list of entities that will cooperate with the FDLE, which will allow alert information to be displayed on lottery terminals.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
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	.	

The Committee on Appropriations (Berman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) of section 937.0201, Florida
Statutes, is amended to read:

937.0201 Definitions.—As used in this chapter, the term:

(4) "Missing endangered person" means any of the following:

(a) A missing child.+

(b) A missing adult younger than 26 years of age.+



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(c) A missing adult 26 years of age or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity. ~~or~~

(d) A missing adult who meets the criteria for activation of the Silver Alert Plan of the Department of Law Enforcement.

(e) A missing adult who meets the criteria for activation of the Orange Alert of the Department of Law Enforcement pursuant to s. 937.0205.

Section 2. Section 937.0205, Florida Statutes, is created to read:

937.0205 Orange Alert.—

(1) The Legislature finds that a standardized state system is necessary to aid in the search for a missing adult as described in subparagraphs (4)(a)1., 2., and 3. The Legislature also finds that a coordinated local law enforcement and state agency response with prompt and widespread sharing of information will improve the chances of the person being found. Therefore, the Legislature intends to establish the Orange Alert pursuant to this section.

(2) It is the intent of the Legislature that the Orange Alert be established and implemented in a manner that seeks to safeguard the privacy rights and related health and diagnostic information of the missing adult to the greatest extent practicable.

(3) The Department of Law Enforcement, in cooperation with the Department of Transportation, the Department of Highway Safety and Motor Vehicles, the Department of the Lottery, and local law enforcement agencies, shall establish and implement the Orange Alert. At a minimum, the Orange Alert must:



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(a) Provide for the protection of the privacy, dignity, independence, and autonomy of the missing adult by including standards that aim to safeguard these civil liberties through preventing the inadvertent or unnecessary broadcasting or dissemination of sensitive health and diagnostic information in unwarranted circumstances; and

(b) Provide that the broadcasting and dissemination of alerts and related information be limited to the geographic areas where the missing adult could reasonably be, considering the person's circumstances and physical and mental condition, the modes of transportation available to the person, and the circumstances of the person's disappearance.

(4) (a) Under the Orange Alert, a local law enforcement agency may broadcast to persons who subscribe to receive notifications under this section and to the media information about a missing adult:

1. Who has a mental or cognitive disability; an intellectual disability or a developmental disability as those terms are defined in s. 393.063; a brain injury; another physical, mental, or emotional disability or impaired judgment not related to substance abuse; or a combination of any of these;

2. Whose disappearance poses a credible threat of immediate danger or serious bodily harm to himself or herself, as determined by the local law enforcement agency; and

3. Who does not meet the criteria for activation of the Silver Alert Plan of the Department of Law Enforcement.

(b) The local law enforcement agency broadcasting such information must be the agency that is best able to notify the



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media and the subscribers for such notifications in the jurisdiction where the missing adult is believed to be. Such local law enforcement agency may also request that the notification be broadcast on lottery terminals within the geographic regions where the missing adult may reasonably be, including, but not limited to, the lottery terminals in gas stations, convenience stores, and supermarkets in such regions.

(c) Under the Orange Alert, the local law enforcement agency may also request that a case be opened with the Department of Law Enforcement's Missing Endangered Persons Information Clearinghouse. To enhance the local or regional efforts, in cases in which a vehicle is involved, the clearinghouse must coordinate with the Department of Transportation and the Department of Highway Safety and Motor Vehicles for the activation of dynamic message signs on state highways and the immediate broadcast of critical information to the public about the missing adult in accordance with the alert.

(d) If a traffic emergency arises requiring that information pertaining to the traffic emergency be displayed on a dynamic message sign on a state highway in lieu of an Orange Alert, the agency responsible for posting the Orange Alert on the dynamic message sign does not violate this section.

(5) The Orange Alert must include procedures to monitor the use and activation of this system and the results from its use. The Orange Alert must also include a strategy for informing and educating law enforcement, the media, and other stakeholders about the alert.

(6) The Department of Law Enforcement may adopt rules to implement and administer this section.



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Section 3. Paragraphs (c), (d), and (e) of subsection (5) of section 937.021, Florida Statutes, are amended to read:

937.021 Missing child and missing adult reports.—

(5)

(c) Upon receiving a request to record, report, transmit, display, or release Silver Alert or Orange Alert information from the law enforcement agency having jurisdiction over the missing adult, the Department of Law Enforcement as the state Silver Alert and the Orange Alert coordinator, any state or local law enforcement agency, and the personnel of these agencies; any radio or television network, broadcaster, or other media representative; any dealer of communications services as defined in s. 202.11; or any agency, employee, individual, or entity is immune from civil liability for damages for complying in good faith with the request and is presumed to have acted in good faith in recording, reporting, transmitting, displaying, or releasing Silver Alert or Orange Alert information pertaining to the missing adult.

(d) The presumption of good faith is not overcome if a technical or clerical error is made by any agency, employee, individual, or entity acting at the request of the local law enforcement agency having jurisdiction, or if the Amber Alert, Missing Child Alert, missing child information, missing adult information, ~~or~~ Silver Alert, or Orange Alert information is incomplete or incorrect because the information received from the local law enforcement agency was incomplete or incorrect.

(e) Neither this subsection nor any other provision of law creates a duty of the agency, employee, individual, or entity to record, report, transmit, display, or release the Amber Alert,



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Missing Child Alert, missing child information, missing adult information, ~~or~~ Silver Alert, or Orange Alert information received from the local law enforcement agency having jurisdiction. The decision to record, report, transmit, display, or release information is discretionary with the agency, employee, individual, or entity receiving the information.

Section 4. Paragraph (b) of subsection (3) of section 937.022, Florida Statutes, is amended to read:

937.022 Missing Endangered Persons Information Clearinghouse.—

(3) The clearinghouse shall:

(b) Provide a centralized file for the exchange of information on missing endangered persons.

1. Every state, county, or municipal law enforcement agency shall submit to the clearinghouse information concerning missing endangered persons.

2. Any person having knowledge may submit a missing endangered person report to the clearinghouse concerning a child or adult younger than 26 years of age whose whereabouts is unknown, regardless of the circumstances, subsequent to reporting such child or adult missing to the appropriate law enforcement agency within the county in which the child or adult became missing, and subsequent to entry by the law enforcement agency of the child or person into the Florida Crime Information Center and the National Crime Information Center databases. The missing endangered person report shall be included in the clearinghouse database.

3. Only the law enforcement agency having jurisdiction over the case may submit a missing endangered person report to the



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clearinghouse involving a missing adult age 26 years or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity.

4. Only the law enforcement agency having jurisdiction over the case may make a request to the clearinghouse for the activation of a state Silver Alert or an Orange Alert involving a missing adult if circumstances regarding the disappearance have met the criteria for activation of the Silver Alert Plan or the Orange Alert.

Section 5. Paragraph (d) of subsection (6) and subsection (9) of section 429.918, Florida Statutes, are amended to read:

429.918 Licensure designation as a specialized Alzheimer's services adult day care center.—

(6)

(d) Each employee hired on or after July 1, 2012, who provides direct care to ADRD participants, must receive and review an orientation plan that includes, at a minimum:

1. Procedures to locate an ADRD participant who has wandered from the center. These procedures shall be reviewed regularly with all direct care staff.

2. Information on the Silver Alert program and the Orange Alert in this state.

3. Information regarding available products or programs used to identify ADRD participants or prevent them from wandering away from the center, their home, or other locations.

(9) An adult day care center having a license designated under this section must give to each person who enrolls as an ADRD participant in the center, or the caregiver, a copy of the ADRD participant's plan of care, as well as information



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regarding resources to assist in ensuring the safety and security of the ADRD participant, which must include, but need not be limited to, information pertaining to driving for those persons affected by dementia, available technology on wandering-prevention devices and identification devices, the Silver Alert program and the Orange Alert in this state, and dementia-specific safety interventions and strategies that can be used in the home setting.

Section 6. For the 2019-2020 fiscal year, the sums of \$152,836 in recurring and \$170,000 in nonrecurring funds from the General Revenue Fund are appropriated to the Florida Department of Law Enforcement, and three full-time equivalent positions with associated salary rate of 83,779, are authorized for the purpose of implementing this act.

Section 7. This act shall take effect July 1, 2020.

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

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Orange Alert; amending s.
937.0201, F.S.; redefining the term "missing
endangered person" to include a missing adult who
meets the criteria for activation of the Orange Alert
of the Department of Law Enforcement; creating s.
937.0205, F.S.; providing legislative findings and
intent; requiring the Department of Law Enforcement,
in cooperation with the Department of Transportation,



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the Department of Highway Safety and Motor Vehicles,
the Department of the Lottery, and local law
enforcement agencies, to establish and implement the
Orange Alert; providing alert requirements;
authorizing local law enforcement agencies to
broadcast to subscribers of notifications, to the
media, and on lottery terminals about certain missing
adults; specifying which local law enforcement agency
may broadcast such information; authorizing the local
law enforcement agency to request that a case be
opened with the Department of Law Enforcement's
Missing Endangered Persons Information Clearinghouse;
requiring the clearinghouse to coordinate with the
Department of Transportation and the Department of
Highway Safety and Motor Vehicles for the activation
of dynamic message signs on state highways and the
immediate broadcast of certain critical information
under certain circumstances; specifying that an agency
responsible for posting an Orange Alert on dynamic
message signs does not violate the act if other
emergency information must be posted instead;
requiring the Orange Alert to include certain
procedures; specifying additional requirements for the
alert; authorizing the Department of Law Enforcement
to adopt rules; amending s. 937.021, F.S.; providing
that the Department of Law Enforcement, as the Orange
Alert coordinator, and certain agencies, employees,
individuals, and entities are immune from civil
liability for damages for performing certain actions



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243 in good faith; providing that the presumption of good
244 faith is not overcome under certain circumstances;
245 providing construction; amending s. 937.022, F.S.;
246 authorizing only the law enforcement agency having
247 jurisdiction over a case to make a request to the
248 clearinghouse for the activation of a state Orange
249 Alert involving a missing adult under certain
250 circumstances; amending s. 429.918, F.S.; conforming
251 provisions to changes made by the act; providing an
252 appropriation; providing an effective date.

By the Committee on Infrastructure and Security; and Senator
Berman

596-02974-19

2019844c1

1 A bill to be entitled
2 An act relating to the At-Risk Adult Alert Plan;
3 amending s. 937.0201, F.S.; redefining the term
4 "missing endangered person" to include a missing adult
5 who meets the criteria for activation of the At-Risk
6 Adult Alert Plan of the Department of Law Enforcement;
7 creating s. 937.0205, F.S.; providing legislative
8 findings and intent; requiring the Department of Law
9 Enforcement, in cooperation with the Department of
10 Transportation, the Department of Highway Safety and
11 Motor Vehicles, the Department of the Lottery, and
12 local law enforcement agencies, to establish and
13 implement the At-Risk Adult Alert Plan; providing plan
14 requirements; authorizing local law enforcement
15 agencies to broadcast to subscribers of notifications,
16 to the media, and on lottery terminals about certain
17 missing adults; specifying which local law enforcement
18 agency may broadcast such information; authorizing the
19 local law enforcement agency to request that a case be
20 opened with the Department of Law Enforcement's
21 Missing Endangered Persons Information Clearinghouse;
22 requiring the clearinghouse to coordinate with the
23 Department of Transportation and the Department of
24 Highway Safety and Motor Vehicles for the activation
25 of dynamic message signs on state highways and the
26 immediate broadcast of certain critical information
27 under certain circumstances; specifying that an agency
28 responsible for posting an At-Risk Adult Alert on
29 dynamic message signs does not violate the act if

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30 other emergency information must be posted instead;
31 requiring the At-Risk Adult Alert Plan to include
32 certain procedures; specifying additional requirements
33 for the plan; authorizing the Department of Law
34 Enforcement to adopt rules; amending s. 937.021, F.S.;
35 providing that the Department of Law Enforcement, as
36 the At-Risk Adult Alert coordinator, and certain
37 agencies, employees, individuals, and entities are
38 immune from civil liability for damages for performing
39 certain actions in good faith; providing that the
40 presumption of good faith is not overcome under
41 certain circumstances; providing construction;
42 amending s. 937.022, F.S.; authorizing only the law
43 enforcement agency having jurisdiction over a case to
44 make a request to the clearinghouse for the activation
45 of a state At-Risk Adult Alert involving a missing
46 adult under certain circumstances; amending s.
47 429.918, F.S.; conforming provisions to changes made
48 by the act; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Subsection (4) of section 937.0201, Florida
53 Statutes, is amended to read:
54 937.0201 Definitions.—As used in this chapter, the term:
55 (4) "Missing endangered person" means any of the following:
56 (a) A missing child.~~+~~
57 (b) A missing adult younger than 26 years of age.~~+~~
58 (c) A missing adult 26 years of age or older who is

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suspected by a law enforcement agency of being endangered or the victim of criminal activity.~~,-or~~

(d) A missing adult who meets the criteria for activation of the Silver Alert Plan of the Department of Law Enforcement.

(e) A missing adult who meets the criteria for activation of the At-Risk Adult Alert Plan of the Department of Law Enforcement pursuant to s. 937.0205.

Section 2. Section 937.0205, Florida Statutes, is created to read:

937.0205 At-Risk Adult Alert Plan.-

(1) The Legislature finds that a standardized state system is necessary to aid in the search for a missing adult who has an irreversible cognitive disorder or syndrome or brain injury, whose disappearance poses a credible threat to the person's welfare and safety, and who does not meet the criteria for activation of the Silver Alert Plan of the Department of Law Enforcement. The Legislature also finds that a coordinated local law enforcement and state agency response with prompt and widespread sharing of information will improve the chances of the person being found. Therefore, the Legislature intends to establish the At-Risk Adult Alert Plan pursuant to this section.

(2) It is the intent of the Legislature that the At-Risk Adult Alert Plan be established and implemented in a manner that seeks to safeguard the privacy rights and related health and diagnostic information of the missing adult to the greatest extent practicable.

(3) The Department of Law Enforcement, in cooperation with the Department of Transportation, the Department of Highway Safety and Motor Vehicles, the Department of the Lottery, and

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local law enforcement agencies, shall establish and implement the At-Risk Adult Alert Plan. At a minimum, the At-Risk Adult Alert Plan must:

(a) Provide for the protection of the privacy, dignity, independence, and autonomy of the missing adult by including standards that aim to safeguard these civil liberties through preventing the inadvertent or unnecessary broadcasting or dissemination of sensitive health and diagnostic information in unwarranted circumstances; and

(b) Provide that the broadcasting and dissemination of alerts and related information be limited to the geographic areas where the missing adult could reasonably be, considering the person's circumstances and physical and mental condition, the modes of transportation available to the person, and the circumstances of the person's disappearance.

(4) (a) Under the At-Risk Adult Alert Plan, a local law enforcement agency may broadcast to persons who subscribe for notifications and to the media about a missing adult:

1. Who has an irreversible cognitive disorder or syndrome or brain injury, including, but not limited to, a developmental disability or an intellectual disability, as those terms are defined in s. 393.063;

2. Whose disappearance poses a credible threat to the person's welfare and safety; and

3. Who does not meet the criteria for activation of the Silver Alert Plan of the Department of Law Enforcement.

(b) The local law enforcement agency broadcasting such information must be the agency that is best able to notify the media and the subscribers for such notifications in the

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jurisdiction where the missing adult is believed to be. Such local law enforcement agency may also request that the notification be broadcast on lottery terminals within the geographic regions where the missing adult may reasonably be, including, but not limited to, the lottery terminals in gas stations, convenience stores, and supermarkets in such regions.

(c) Under the plan, the local law enforcement agency may also request that a case be opened with the Department of Law Enforcement's Missing Endangered Persons Information Clearinghouse. To enhance the local or regional efforts, in cases in which a vehicle is involved, the clearinghouse must coordinate with the Department of Transportation and the Department of Highway Safety and Motor Vehicles for the activation of dynamic message signs on state highways and the immediate broadcast of critical information to the public about the missing adult in accordance with the plan.

(d) If a traffic emergency arises requiring that information pertaining to the traffic emergency be displayed on a dynamic message sign on a state highway in lieu of an At-Risk Adult Alert, the agency responsible for posting the At-Risk Adult Alert on the dynamic message sign does not violate this section.

(5) The At-Risk Adult Alert Plan must include procedures to monitor the use and activation of this system and the results from its use. The plan must also include a strategy for informing and educating law enforcement, the media, and other stakeholders about the plan.

(6) The Department of Law Enforcement may adopt rules to implement and administer this section.

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Section 3. Paragraphs (c), (d), and (e) of subsection (5) of section 937.021, Florida Statutes, are amended to read:

937.021 Missing child and missing adult reports.—

(5)

(c) Upon receiving a request to record, report, transmit, display, or release Silver Alert or At-Risk Adult Alert information from the law enforcement agency having jurisdiction over the missing adult, the Department of Law Enforcement as the state Silver Alert and the At-Risk Adult Alert coordinator, any state or local law enforcement agency, and the personnel of these agencies; any radio or television network, broadcaster, or other media representative; any dealer of communications services as defined in s. 202.11; or any agency, employee, individual, or entity is immune from civil liability for damages for complying in good faith with the request and is presumed to have acted in good faith in recording, reporting, transmitting, displaying, or releasing Silver Alert or At-Risk Adult Alert information pertaining to the missing adult.

(d) The presumption of good faith is not overcome if a technical or clerical error is made by any agency, employee, individual, or entity acting at the request of the local law enforcement agency having jurisdiction, or if the Amber Alert, Missing Child Alert, missing child information, missing adult information, ~~or~~ Silver Alert, or At-Risk Adult Alert information is incomplete or incorrect because the information received from the local law enforcement agency was incomplete or incorrect.

(e) Neither this subsection nor any other provision of law creates a duty of the agency, employee, individual, or entity to record, report, transmit, display, or release the Amber Alert,

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Missing Child Alert, missing child information, missing adult information, ~~or Silver Alert, or At-Risk Adult Alert~~ information received from the local law enforcement agency having jurisdiction. The decision to record, report, transmit, display, or release information is discretionary with the agency, employee, individual, or entity receiving the information.

Section 4. Paragraph (b) of subsection (3) of section 937.022, Florida Statutes, is amended to read:

937.022 Missing Endangered Persons Information Clearinghouse.—

(3) The clearinghouse shall:

(b) Provide a centralized file for the exchange of information on missing endangered persons.

1. Every state, county, or municipal law enforcement agency shall submit to the clearinghouse information concerning missing endangered persons.

2. Any person having knowledge may submit a missing endangered person report to the clearinghouse concerning a child or adult younger than 26 years of age whose whereabouts is unknown, regardless of the circumstances, subsequent to reporting such child or adult missing to the appropriate law enforcement agency within the county in which the child or adult became missing, and subsequent to entry by the law enforcement agency of the child or person into the Florida Crime Information Center and the National Crime Information Center databases. The missing endangered person report shall be included in the clearinghouse database.

3. Only the law enforcement agency having jurisdiction over the case may submit a missing endangered person report to the

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clearinghouse involving a missing adult age 26 years or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity.

4. Only the law enforcement agency having jurisdiction over the case may make a request to the clearinghouse for the activation of a state Silver Alert or an At-Risk Adult Alert involving a missing adult if circumstances regarding the disappearance have met the criteria for activation of the Silver Alert or the At-Risk Adult Alert Plan.

Section 5. Paragraph (d) of subsection (6) and subsection (9) of section 429.918, Florida Statutes, are amended to read:

429.918 Licensure designation as a specialized Alzheimer's services adult day care center.—

(6)

(d) Each employee hired on or after July 1, 2012, who provides direct care to ADRD participants, must receive and review an orientation plan that includes, at a minimum:

1. Procedures to locate an ADRD participant who has wandered from the center. These procedures shall be reviewed regularly with all direct care staff.

2. Information on the Silver Alert program and the At-Risk Adult Alert Plan in this state.

3. Information regarding available products or programs used to identify ADRD participants or prevent them from wandering away from the center, their home, or other locations.

(9) An adult day care center having a license designated under this section must give to each person who enrolls as an ADRD participant in the center, or the caregiver, a copy of the ADRD participant's plan of care, as well as information

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233 regarding resources to assist in ensuring the safety and
234 security of the ADRD participant, which must include, but need
235 not be limited to, information pertaining to driving for those
236 persons affected by dementia, available technology on wandering-
237 prevention devices and identification devices, the Silver Alert
238 program and the At-Risk Adult Alert Plan in this state, and
239 dementia-specific safety interventions and strategies that can
240 be used in the home setting.

241 Section 6. This act shall take effect July 1, 2020.



2019 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION

BILL NUMBER:	CS/SB 844
BILL TITLE:	<u>At-Risk Adult Alert Plan</u>
BILL SPONSOR:	Berman
EFFECTIVE DATE:	July 1, 2019

COMMITTEES OF REFERENCE

1) Infrastructure and Security
2) Children, Families, and Elder Affairs
3) Appropriations
4)
5)

CURRENT COMMITTEE

Appropriations

SIMILAR BILLS

BILL NUMBER:	HB 305
SPONSOR:	Ausley

PREVIOUS LEGISLATION

BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	Revised April 4, 2019 Revised March 19, 2019 February 25, 2019
LEAD AGENCY ANALYST:	Sherry Gomez
ADDITIONAL ANALYST(S):	Donna Uzzell, Seth Montgomery, Mary Coffee, Becky Bezemek
LEGAL ANALYST:	Jason Jones; Jeff Dambly; Elisabeth Yerkes
FISCAL ANALYST:	Cynthia Barr, Deshawn Byrd

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Requires FDLE, in cooperation with the Department of Transportation (DOT), the Department of Highway Safety and Motor Vehicles (DHSMV), and local law enforcement agencies, to establish and implement an At-Risk Adult Alert Plan for certain missing adults with a verified mental or cognitive impairment; requires local law enforcement agencies to broadcast information to public and media via cellular telephone alerts subscribers and other technologies regarding certain missing adults; requires FDLE to coordinate with DOT and DHSMV to activate dynamic message signs when a vehicle is involved with an At-Risk Adult Alert. If approved, this bill would be effective July 1, 2019.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

There is not currently a provision for an At-Risk Adult Alert Plan in Florida Statutes. FDLE coverage of all existing alert types is 24 hours per day, seven days a week by analysts, on-call Inspectors and supervisors.

2. EFFECT OF THE BILL:

Proposes an "At-Risk Adult Alert Plan" amending s. 937.0201, s. 937.021, and s. 937.022, F.S., and creates s. 937.0205, F.S., requiring FDLE, in cooperation with DOT, DHSMV, the Department of the Lottery, and local law enforcement agencies, to establish and implement an At-Risk Adult Alert Plan for missing adults who have a verified mental or cognitive impairment (CS/SB844 amends this to missing adults with an irreversible cognitive disorder or syndrome or brain injury including, but not limited to, a developmental disability or an intellectual disability, as defined in s. 393.063, F.S.), whose disappearance poses a credible threat to their welfare or safety, and who does not meet the criteria for activation under the Silver Alert Plan.

Local law enforcement agencies are required to broadcast information to the public and the media regarding At-Risk Adult Alerts and are required to disseminate the alert information by cellular telephone alerts. This bill requires local law enforcement dissemination of alert information via cellular telephone alerts, which utilize the Emergency Alert System (EAS) to send out Wireless Emergency Alerts (WEAs), and other technologies to communicate with residents in the jurisdiction where the missing adult is believed to be located. When a vehicle is involved, FDLE must coordinate with DOT and DHSMV for the activation of dynamic message signs on state highways and the immediate broadcast of information to the public regarding the missing adult. CS/SB844 removes the requirement for EAS/WEA use and amends the language to allow local law enforcement agencies to broadcast to persons who subscribe for notifications and to the media about a missing adult. Local law enforcement may request that the notification be broadcast on lottery terminals in the geographic regions where the missing adult may reasonably be.

Specifies the At-Risk Adult Alert Plan be established to safeguard the privacy rights and related health and diagnostic information of the missing adult to the greatest extent practicable. Additionally, the plan must include procedures to monitor the use and activation of this system and the results from its use must include a strategy for informing and educating law enforcement, the media and other stakeholders regarding the plan.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y ☒ N ☐

If yes, explain:	This bill directs FDLE, in conjunction with DOT, DHSMV, Department of the Lottery, and local law enforcement, to establish and implement the At-Risk Adult Alert Plan. This would require FDLE to create the criteria that must be met to issue an At-Risk Adult Alert and establish policies and procedures on how to activate and cancel such an alert. Also included is the requirement to monitor the use and activation of this system and the results from its use, as well as a requirement to create a strategy for informing and educating law enforcement, the media and other stakeholders about the plan. New policies and procedures would be required to implement these requirements.
What is the expected impact to the agency's core mission?	Y ☐ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☒ N ☐

If yes, provide a description:	The At-Risk Adult Alert Plan must include procedures to monitor the activation, use and results of this system.
Date Due:	None specified.
Bill Section Number:	2

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☒ N ☐**

Revenues:	
Expenditures:	Indeterminate cost to local law enforcement agencies to develop policies, train staff, including dispatchers and officers, establish or enhance necessary infrastructure and systems to perform mandated notifications and maintain 24/7 readiness to issue At-Risk Adult Alerts.
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐

Revenues:	
Expenditures:	FDLE coverage of all alert types is 24 hours per day, seven days a week by analysts, on-call Inspectors, and supervision. Based on the estimated number of new alerts this bill would create each year (287), FDLE would require three Crime Intelligence Analyst I positions to maintain current caseload and alerts while also training, activating and maintaining the newly added alerts. (\$164,101 in year one for salary, benefits, expense and human resources services and \$152,836 recurring). Depending on how the alert criteria are written and how many new alerts are activated, additional sworn staff may also be required. As noted in the Technological Impact section, the fiscal impact of hiring one programmer is estimated to be \$170,000/year. Total Fiscal Impact: \$334,101 (322,836 recurring) 04/04/2019- REVISED FISCAL: \$334,101 (152,836 recurring)
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☐

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☐

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	Requires establishment and implementation of an At-Risk Adult Alert Plan, including modifications to existing information technology systems. These modifications are estimated to take 12 months to complete and will require the efforts of a dedicated programmer. FDLE is requesting recurring funds for this programmer, estimated at \$170,000/year. REVISED 04/04/2019 – FDLE does not require recurring funds for the programmer.

	Due to the time estimated to complete the changes outlined in this bill, FDLE is recommending that the effective date be amended to July 1, 2020.

FEDERAL IMPACT

1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact including any fiscal impact.	The Electronic Code of Federal Regulations states that participating commercial mobile service providers are required to receive and transmit the following classes of Alert Messages: <i>Presidential Alerts, Imminent Threat Alerts, Child Abduction Emergency/AMBER Alerts</i> , and (as of May 1, 2019) <i>Public Safety Messages</i> . This Federal Code does not account for missing persons that do not fall under the criteria for a Child Abduction Emergency/AMBER Alert. The code would likely have to be amended to include non-abduction missing adult emergencies. Should that code be so amended, local law enforcement agencies without Wireless Emergency Alert (WEA) alerting authority would be required to successfully apply through the Federal Emergency Management Agency (FEMA) for alerting authority and obtain the necessary training and credentials to issue WEAs (see Additional Comments below for further information). CS/SB844 addresses this concern by removing EAS/WEA notifications.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	- Recommend defining "mental or cognitive impairment," (line 71, 105) as that can be interpreted broadly to incorporate unintentional concerns. CS/SB844 changes the criteria to a missing adult with an "irreversible cognitive disorder or syndrome or brain injury including, but not limited to, a developmental disability or an intellectual disability, as those terms are defined in s. 393.063, F.S." (line 106-107). Recommend defining "irreversible cognitive disorder or syndrome" to avoid an overbroad application of the term. Recommend defining "brain injury" or specifying a brain injury which results in impairment of cognitive abilities to avoid the term being applied broadly. - Verification (line 71, 105) of impairment may be problematic as true verification would require medical documentation, which may usually be obtained only pursuant to a court order in a criminal investigation. CS/SB844 addresses this concern by removing the verification of the impairment.

ADDITIONAL COMMENTS

- The proposed bill offers insufficient information regarding the intended criteria required to activate the At-Risk Adult Alert Plan. The plan requires a "verified mental or cognitive impairment." CS/SB844 changes the criteria to a missing adult with an irreversible cognitive disorder or syndrome or brain injury, including, but not limited to, a developmental disability or an intellectual disability, as those terms are defined in s. 393.063, F.S.
 - "Mental or cognitive impairment" is not defined and is exceptionally broad and vague. As written in the bill, "cognitive impairment" could include impairment due to drugs or alcohol. According to the 2017 Uniform Crime Report, there were 32,588 adult DUI arrests in Florida that year. Therefore, the amount of missing/endangered adults who could fit under "cognitive impairment" and meet the criteria for an At-Risk Adult Alert could be astronomical. CS/SB844 makes the criteria more specific and eliminates the possibility that this alert could encompass those who are impaired due to drugs/alcohol. However, there are still elements to the new criteria of the missing adult that are not defined, and the use of "including, but not limited to" in the criteria still presents a significant broadness issue.
 - Neither FDLE nor local law enforcement agencies have the capacity, expertise, or records access to determine mental illness or cognitive impairment (now an irreversible cognitive disorder or syndrome or brain injury per CS/SB844).

- The proposed bill specifies that the plan must be established in a manner that seeks to safeguard the privacy rights and related health and diagnostic information of the missing adult, including protection of dignity, independence, and autonomy, to the greatest extent practicable. Issuing an alert of this type to the public may raise privacy concerns simply by the nature of what an At-Risk Alert is (the public will immediately know the adult has mental or cognitive impairment [now an irreversible cognitive disorder or syndrome or brain injury per CS/SB844]), and the very nature of the alert requires restriction or lack of autonomy.
- Public engagement is paramount to the proven effectiveness of alert programs. The carefully vetted and precisely defined criteria for issuing Amber, Silver and Missing Child alerts are in place to locate and protect those missing endangered individuals most effectively. Increasing the number and frequency of alerts activated is likely to have a desensitizing effect on the public, and may significantly decrease the perceived gravity and actual effectiveness of *all* alerts including emergency weather, AMBER, Silver and Missing Child alerts.
- During 2018, the number of adult “endangered/disability/other” missing persons cases entered into the Florida Crime Information Center (FCIC) was 422.64% greater than the missing child cases entered of the same category.
 - o During calendar year 2018, FDLE issued 9 AMBER Alerts and 59 Missing Child Alerts for a total of 68 child related alerts.
 - o Based on 422.64% larger population of “endangered/disability/other” adults over children in the same category, implementation of the At-Risk Adult Alert could lead to a potential minimum of 287 additional alerts per year in Florida.
 - o In addition to the AMBER and Missing Child Alerts issued in 2018, FDLE issued 257 Silver Alerts. Combined Florida alerts in 2018, totaled 325.
 - o Adding the estimated 287 potential At-Risk Adult Alerts to the actual statistics for the most recent calendar year results in a projected total of 612 alerts per year, an 88% increase in alerts, averaging 51 alerts per month and more than one alert every day.
- CS/SB844 addresses this concern by removing EAS/WEA notifications. This bill requires local law enforcement dissemination of alert information via cellular telephone alerts, which utilize the EAS to send out WEAs. Title 47, Chapter 1, Part 10, Subpart D of the Electronic Code of Federal Regulations states that participating commercial mobile service providers are required to receive and transmit the following classes of WEAs:
 - o Presidential Alerts;
 - o Imminent Threat Alerts (used for weather emergencies and local emergencies requiring immediate action or evacuation);
 - o Child Abduction Emergency/AMBER Alerts; and
 - o As of May 1, 2019, Public Safety Messages (defined in the Code as an essential public safety advisory that prescribes one or more actions likely to save lives and/or safeguard property during an emergency and may only be issued in connection with a Presidential Alert, Imminent Threat Alert, or a Child Abduction Emergency/AMBER Alert).
- The federal code does not account for missing persons that do not fall under the criteria for a Child Abduction Emergency/AMBER Alert. The code would likely have to be amended to include non-abduction missing adult emergencies. If so amended, use of the EAS is not currently authorized for all of Florida’s local law enforcement agencies. Local agencies without alerting authority would be required to successfully apply through the Federal Emergency Management Agency (FEMA) for alerting authority and obtain the necessary training and credentials to issue WEAs. CS/SB844 addresses this concern by removing EAS/WEA notifications.
- Currently, the National Center for Missing and Exploited Children (NCMEC), in coordination with state and local public safety officials, issues WEAs via the EAS system specifically limited to AMBER Alerts. At this time a child abduction emergency is explicitly required to issue a NCMEC WEA. If the Electronic Code of Federal Regulations was amended to include non-abduction missing adult emergencies, it is probable that changes to both policy and system capabilities would be required for NCMEC to allow and have the capacity to issue WEAs for adult, non-abduction emergencies. CS/SB844 addresses this concern by removing EAS/WEA notifications.
- Established missing endangered person alert programs include AMBER, Missing Child and Silver Alerts. The determining criteria, issuance protocol and systems access and authority relating to each of these alerts are clearly defined and set forth under state and/or federal guidance.
 - o AMBER Alerts are proscribed and authorized under TITLE III -- Subtitle A of the federal “PROTECT” Act. AMBER Alerts utilize the Emergency Alert System and law enforcement is authorized through the PROTECT Act and by the Federal Communications Commission to utilize and interrupt regular services of radio, television and mobile communications within the strict parameters allowed for under the Act.
 - o Similarly, Florida Missing Child Alert (MCA) and Silver Alert criteria and protocols were developed drawing heavily from existing practices vetted through partnerships involving multiple Florida stakeholders including

Florida Governor's Office, Legislature, FDLE, the Florida Department of Transportation (DOT), the Florida Sheriffs Association (FSA), the Florida Police Chiefs Association (FPCA), the Florida Department of Elder Affairs (FDEA), the Florida Highway Patrol (FHP), the Florida Lottery, etc. Neither MCAs nor Silver Alerts utilize any Emergency Alert communications systems.

- AMBER alerts are the sole alert protocol that utilize and are authorized for WEAs. In 2018, 316 Missing Child Alerts and Silver Alerts were issued and 100% of them were resolved without the use of a WEA. Additionally, if WEAs are utilized for At-Risk Adult alerts, it may appear the state is prioritizing at-risk adults over missing endangered children or the elderly and other adults that meet the criteria for a Silver Alert. CS/SB844 addresses this concern by removing EAS/WEA notifications.
- This bill requires dissemination of cellular telephone alerts by local law enforcement agencies which do not currently have that capability. This would likely necessitate that FDLE distribute the WEA for the At-Risk Adult Alerts. CS/SB844 addresses this concern by removing EAS/WEA notifications.
- The bill also requires notification from local law enforcement via "other technologies," which could mean the state Lottery system. As written, local silver alerts may fall into the At-Risk Adult Alert plan. Currently, FDLE does not participate in the activation of local Silver Alerts. CS/SB844 removes reference to the phrase "other technologies," but adds that "local law enforcement" agencies may request broadcasting on lottery terminals "within the geographic regions where the missing adult may reasonably be."
 - o Lottery terminals are not activated by local law enforcement agencies; FDLE is the agency that requests lottery terminal activation.
 - o Lottery terminals cannot be activated in geographic regions, they must be statewide activations.
 - o A local Silver Alert is similar to a State Silver Alert, but is used when the missing person is on-foot. There were at least 374 local silver alerts issued by local law enforcement agencies in 2018.
 - o Local Silver Alerts are not administered under the Silver Alert Plan and therefore would fall under the proposed criteria for the At-Risk Adult Alert Plan.
 - o Consequently, FDLE may be required to issue a WEA (CS/SB844 removes the requirement to issue a WEA) and, if lottery activation is required for on-foot At-Risk Adult Alerts, FDLE may be required to activate lottery terminals for every local Silver Alert and At-Risk Adult Alert that is issued, and notifications on lottery terminals will be broadcast statewide.
 - o This can be remedied by specifying that FDLE may activate lottery terminals state wide for cases in which a vehicle is involved. Additionally, lottery terminals can only effectively display one image at a time and it is common for multiple alerts to be active at once. Therefore, lottery terminal activation is best served only when utilized in cases involving a missing adult who is traveling in a vehicle.
- The bill notes that the agency responsible for posting the At-Risk Adult Alert on a dynamic message sign does not violate the statute if a traffic emergency requiring use of the dynamic message sign arises. However, the bill does not define a priority hierarchy with simultaneous active At-Risk Adult, AMBER, Missing Child, Silver Alerts, or Blue Alerts utilizing the dynamic message signs, it does not speak to allowing agencies to modify notification methods to allow for such simultaneous alerts or hierarchy regarding display on lottery terminals, nor is there an accounting for liability if an active AMBER, Missing Child, or Silver Alert is displayed instead of an At-Risk Adult Alert.

Additional suggestions:

- Limit alerts to subjects who cannot consent or lack the *intellectual* capacity to consent. See s. 825.101(8), F.S., as an example, minus the references to the elderly, drug use, and intoxication: "Lacks capacity to consent" means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability... short-term memory loss, or other cause, that causes... [a] disabled adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning the...disabled adult's person or property."
- Clarify the difference between statewide alerts handled by FDLE, which require the person to be traveling in a vehicle, and local alerts handled by local law enforcement. This is clarified to a certain extent relating to dynamic message signs, but not in any other aspect of the situational elements of the At-Risk Adult Alert. This is especially important for lottery terminal broadcasting, which can only be done statewide.
- With the exception of lottery terminals and DOT dynamic message signs (which are coordinated by FDLE), the local law enforcement agency of jurisdiction should be responsible for requesting the alert and citizen notifications, not the "agency that is best able to notify media and subscribers for such notification in the jurisdiction where the missing adult is believed to be." This language fails to define and therefore assign the responsibility for issuing a local/regional At-Risk Adult Alert or requesting a statewide At-Risk Adult Alert. Such subjective ambiguity may delay the issuance of an alert.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

844

Bill Number (if applicable)

322368

Amendment Barcode (if applicable)

Topic At Risk Adults

Name Dan Hendrickson

Job Title president, Tallahassee Veterans Legal Collaborative

Address 319 E Park Ave

Street

Tallahassee

City

Fl

State

32301

Zip

Phone 850/ 570-1967

Email danbhendrickson@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

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)

04/11/19

Meeting Date

0844

Bill Number (if applicable)

Topic At-Risk Adult Alert Plan

Amendment Barcode (if applicable)

Name Ivonne Fernandez

Job Title Associate State Director

Address _____

Phone 954-850-7262

Street

Doral

FL

City

State

Zip

Email ifernandez@zarp.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AARA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19
Meeting Date

as amended - 7 SB 844
Bill Number (if applicable)

Topic At-Risk Adult Alert

Amendment Barcode (if applicable)

Name Margaret Hooper

Job Title Public Policy Coordinator

Address 124 Merritt Drive #203 Phone 850-488-4180

Street

Tallahassee
City

FL
State

32301
Zip

Email MargaretH@FDPC.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Developmental Disabilities Council

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)

April 11, 2019
Meeting Date

0844
Bill Number (if applicable)

Topic At-Risk Adult Alert Plan

Amendment Barcode (if applicable)

Name Barbara Alber

Job Title Educator

Address 123 Puffin Court
Street

Phone _____

Royal Palm Beach Florida 33411
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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
APPEARANCE RECORD

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

4-11-19

Meeting Date

844

Bill Number (if applicable)

Topic At-Risk Adult Alert Plan

Amendment Barcode (if applicable)

Name Ellen Baker

Job Title High School Spec. Ed. Teacher

Address _____

Phone _____

Palm Beach Gardens FL 33418

Street
City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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: PCS/SB 860 (363800)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); and Senators Stargel and Gibson

SUBJECT: Alzheimer's Disease

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Favorable
2.	Loe	Kidd	AHS	Recommend: Fav/CS
3.	Loe	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 860 revises the membership of the Alzheimer's Disease Advisory Committee (Committee) and requires the Department of Elder Affairs (DOEA) to collect and report pertinent information on the impact of Alzheimer's disease in Florida. The bill:

- Adds five members to the Committee, increasing the total membership to 15 members;
- Authorizes the Governor to appoint 11 members, and the President of the Senate and the Speaker of the House of Representatives to appoint two members each;
- Adds a first responder, a sitting member of the Senate, a sitting member of the House of Representatives, a citizen appointed by the President of the Senate, and a citizen appointed by the Speaker of the House of Representatives to the Committee;
- Requires the Committee to submit a report annually by September 1st to the Governor and Legislature that includes information and recommendations on Alzheimer's disease policy, state-funded efforts relating to Alzheimer's disease, and updates to the Alzheimer's disease state plan;
- Requires the DOEA to update the Alzheimer's disease state plan triennially beginning on or before November 1, 2020; and
- Establishes a memory disorder clinic at Miami Jewish Health Systems.

The bill does not have a fiscal impact on state expenditures.

The bill has an effective date of July 1, 2019.

II. Present Situation:

Alzheimer's disease is the most common type of dementia. It is a progressive disease that begins with mild memory loss and possibly leads to loss of the ability to carry on a conversation and respond to the environment. Alzheimer's disease involves parts of the brain that control thought, memory, and language. It can seriously affect a person's ability to carry out daily activities. Although scientists are studying the disease, it is still not known what causes Alzheimer's disease.¹

In the state of Florida there are an estimated 560,000 individuals living with Alzheimer's disease.² By 2025, it is anticipated that 720,000 individuals will be living with Alzheimer's disease. Nearly 12 percent of Florida's senior population has been diagnosed with Alzheimer's disease. Many patients diagnosed with Alzheimer's disease require care 24 hours a day, especially in the late stages of the disease.

The Legislature created the Alzheimer's Disease Initiative in 1985 to provide a continuum of services to meet the needs of individuals with Alzheimer's disease and similar memory disorders, and their families.³ The Department of Elder Affairs (DOEA) coordinates and develops policy to carry out the statutory requirements for the Alzheimer's Disease Initiative. In conjunction with a ten-member advisory committee appointed by the Governor, the program includes three components:

- Supportive services to offer counseling, consumable medical supplies, and respite for caregiver relief;
- Memory disorder clinics to provide diagnosis, research, treatment, education, and referrals; and
- A brain bank to support research.

During Fiscal Year 2017-2018, 5,228 individuals received respite and support services, including case management; specialized medical equipment, services, and supplies; and caregiver counseling, support groups, and training.⁴ The memory disorder clinics provide comprehensive diagnostic and referral services for persons with Alzheimer's disease and related disorders. The clinics had over 18,321 office visits during Fiscal Year 2017-2018 and provided telephone counseling, information, and support 16,283 times.⁵ The clinics routinely conduct community memory screening events that are free to the public. Individuals are screened, provided a score with an explanation of the results, and advised to follow-up with their own physicians. A total of 1,411 memory screens were recorded in Fiscal Year 2017-2018, and 25,601 referrals were made on the behalf of clients and caregivers.⁶

Chapter 2012-172, L.O.F., created a Purple Ribbon Task Force within the DOEA to address Alzheimer's disease. The task force reviewed trends in the disease, assessed the disease's impact

¹ Centers for Disease Control and Prevention, Alzheimer's Disease and Healthy Aging website. See <https://www.cdc.gov/aging/aginginfo/alzheimers.htm#AlzheimersDisease?>, last visited March 6, 2019.

² Department of Elder Affairs website. See <http://elderaffairs.state.fl.us/doea/alz.php>, last visited March 6, 2019.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

on the state, examined needs and services, and developed a state response to Alzheimer's disease. The findings and recommendations of the task force became the foundation for the Alzheimer's disease state plan. The task force ended with the submission of its report and plan on August 1, 2013.

III. Effect of Proposed Changes:

Section 1 amends s. 430.501, F.S., establishing the Alzheimer's Disease Advisory Committee (Committee), to add a first responder, a sitting member of the Senate, a sitting member of the House of Representatives, a citizen appointed by the President of the Senate, and a citizen appointed by the Speaker of the House of Representatives to the Committee. The bill requires the Committee to submit a report annually by September 1st to the Governor, the President of the Senate, and the Speaker of the House of Representatives with information and recommendations on Alzheimer's disease policy, state-funded efforts relating to Alzheimer's disease, and updates to the Alzheimer's disease state plan.

The bill requires the Department of Elder Affairs (DOEA) to update the Alzheimer's disease state plan triennially beginning on or before November 1, 2020. The state plan must include the same types of information included in the original Alzheimer's disease state plan submitted on August 1, 2013, by the Purple Ribbon Task Force established in chapter 2012-172, Laws of Florida. The DOEA must use the annual reports submitted by the Committee and collaborate with state Alzheimer's disease organizations and professionals when updating the state plan.

Section 2 amends s. 430.52(1), F.S., creating the Alzheimer's disease memory disorder clinics, to revise the provision stating that "memory disorder clinics *funded as of June 30, 1995*, shall not receive decreased funding due solely to subsequent addition of memory disorder clinics" to the list of memory disorder clinics enumerated in that subsection. Memory disorder clinics on the enumerated list are established for the purpose of research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. As revised, the subsection would provide that "memory disorder clinics shall not receive decreased funding due solely to the subsequent additions of additional memory disorder clinics" to s. 430.502(1), F.S., irrespective of the date those clinics received funding. The bill establishes an additional memory disorder clinic at Miami Jewish Health Systems.

Section 3 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have no fiscal impact on state expenditures.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 430.501 and 430.502.

⁷ Florida Department of Elder Affairs, *Senate Bill 860 Analysis* (Feb. 7, 2019) (on file with the Senate Appropriations Subcommittee on Health and Human Services). Telephone conversation with Department of Elder Affairs staff (Mar. 16, 2019).

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

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on March 20, 2019.

The committee substitute:

- Adds five members to the Alzheimer’s Disease Advisory Committee (Committee), increasing the total membership to 15 members.
- Revises who can make appoints to the Committee; the Governor would appoint 11 members, and the President of the Senate and the Speaker of the House of Representatives would appoint two members each.
- Revises the composition of the Committee to require one member to be: a first responder rather than a law enforcement officer, a sitting member of the Senate, a sitting member of the House of Representatives, a citizen appointed by the President of the Senate, and a citizen appointed by the Speaker of the House of Representatives.
- Requires the Alzheimer’s disease state plan to be reviewed and updated triennially beginning on or before November 1, 2020.
- Specifies the information required in the Alzheimer’s disease state plan, which is identical to the types of information contained in the plan submitted by the Purple Ribbon Task Force established in chapter 2012-172, Laws of Florida.
- Establishes a memory disorder clinic at Miami Jewish Health Systems.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to Alzheimer's disease; amending s. 430.501, F.S.; increasing membership of the Alzheimer's Disease Advisory Committee; revising representative requirements of the committee; requiring the committee to submit an annual report to specified parties which includes certain information and recommendations; requiring the Department of Elderly Affairs to review and update the Alzheimer's disease state plan every 3 years in collaboration with certain parties; providing requirements for the plan; amending s. 430.502, F.S.; establishing a specified memory disorder clinic; providing that certain clinics shall not receive decreased funding for a specified reason; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 430.501, Florida Statutes, are amended to read:

430.501 Alzheimer's Disease Advisory Committee; research grants.—

(2) There is created an Alzheimer's Disease Advisory Committee, composed of 15 ~~10~~ members ~~to be selected by the Governor~~, which shall advise the Department of Elderly Affairs in the performance of its duties under this act. All members must be residents of the state. The committee shall advise the



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department regarding legislative, programmatic, and administrative matters that relate to persons living with Alzheimer's disease ~~victims~~ and their caretakers.

(3) (a) The committee membership shall include the following ~~be representative as follows~~:

1. Eleven members appointed by the Governor.

a. At least 4 of the 11 ~~10~~ members must be licensed pursuant to chapter 458 or chapter 459 or hold a Ph.D. degree and be currently involved in the research of Alzheimer's disease.

b.2. ~~The 10 members must include~~ At least 4 of the 11 members must be persons who have been caregivers of persons living with ~~victims of~~ Alzheimer's disease.

c.3. Whenever possible, the ~~10~~ members appointed by the Governor shall include one ~~4~~ each of the following professionals: a gerontologist, a geriatric psychiatrist, a geriatrician, a neurologist, a social worker, ~~and~~ a registered nurse, and a first responder.

2. Two members appointed by the President of the Senate, one of whom must be a sitting member of the Senate, and two members appointed by the Speaker of the House of Representatives, one of whom must be a sitting member of the House of Representatives.

(b)1. The Governor shall appoint members from a broad cross-section of public, private, and volunteer sectors. All nominations shall be forwarded to the Governor by the Secretary of Elderly Affairs in accordance with this subsection.

2. Members shall be appointed to 4-year staggered terms in accordance with s. 20.052, except for the sitting members of the



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Senate and House of Representatives, who shall be appointed to a term corresponding to their term of office.

3. The Secretary of Elderly Affairs shall serve as an ex officio member of the committee.

4. The committee shall elect one of its members to serve as chair for a term of 1 year.

5. The committee may establish subcommittees as necessary to carry out the functions of the committee.

6. The committee shall meet quarterly, or as frequently as needed.

7. The committee shall submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Elderly Affairs on or before each September 1. The annual report shall include information and recommendations on Alzheimer's disease policy; all state-funded efforts in Alzheimer's disease research, clinical care, institutional, home-based, and community-based programs and the outcomes of such efforts; and any proposed updates to the Alzheimer's disease state plan submitted under subparagraph 8.

8. Beginning in 2020, and every third year thereafter, on or before November 1, the Department of Elderly Affairs shall review the Alzheimer's disease state plan and submit an updated state plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Department of Elderly Affairs shall utilize the annual reports submitted by the committee and collaborate with state Alzheimer's disease organizations and professionals when considering such updates to the Alzheimer's disease state plan. The state plan shall:



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a. Assess the current and future impact on the state of Alzheimer's disease and related forms of dementia.

b. Examine the existing industries, services, and resources addressing the needs of persons having Alzheimer's disease or a related form of dementia and their family caregivers.

c. Examine the needs of persons of all cultural backgrounds having Alzheimer's disease or a related form of dementia and how their lives are affected by the disease from early-onset, through mid-stage, to late-stage.

d. Develop a strategy to mobilize a state response to this public health crisis.

e. Provide information regarding:

(I) State trends with respect to persons having Alzheimer's disease or a related form of dementia and their needs, including, but not limited to:

(A) The role of the state in providing community-based care, long-term care, and family caregiver support, including respite, education, and assistance to persons who are in the early stages of Alzheimer's disease, who have early-onset Alzheimer's disease, or who have a related form of dementia.

(B) The development of state policy with respect to persons who have Alzheimer's disease or a related form of dementia.

(C) Surveillance of persons who have Alzheimer's disease or a related form of dementia for the purpose of accurately estimating the number of such persons in the state at present and projected population levels.

(II) Existing services, resources, and capacity, including, but not limited to:

(A) The type, cost, and availability of dementia-specific



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services throughout the state.

(B) Policy requirements and effectiveness for dementia-specific training for professionals providing care.

(C) Quality care measures employed by providers of care, including providers of respite, adult day care, assisted living facility, skilled nursing facility, and hospice services.

(D) The capability of public safety workers and law enforcement officers to respond to persons having Alzheimer's disease or a related form of dementia, including, but not limited to, responding to their disappearance, search and rescue, abuse, elopement, exploitation, or suicide.

(E) The availability of home and community-based services and respite care for persons having Alzheimer's disease or a related form of dementia and education and support services to assist their families and caregivers.

(F) An inventory of long-term care facilities and community-based services serving persons who have Alzheimer's disease or a related form of dementia.

(G) The adequacy and appropriateness of geriatric-psychiatric units for persons who have behavior disorders associated with Alzheimer's disease or a related form of dementia.

(H) Residential assisted living options for persons who have Alzheimer's disease or a related form of dementia.

(I) The level of preparedness of service providers before, during, and after a catastrophic emergency involving a person who have Alzheimer's disease or a related form of dementia and their caregivers and families.

(III) Needed state policies or responses, including, but



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not limited to, directions for the provision of clear and coordinated care, services, and support to persons who have Alzheimer's disease or a related form of dementia and their caregivers and families and strategies to address any identified gaps in the provision of services.

9.7- The Department of Elderly Affairs shall provide staff support to assist the committee in the performance of its duties.

10.8- Members of the committee and subcommittees shall receive no salary, but are entitled to reimbursement for travel and per diem expenses, as provided in s. 112.061, while performing their duties under this section.

Section 2. Subsection (1) of section 430.502, Florida Statutes, is amended to read:

430.502 Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(1) There is established:

(a) A memory disorder clinic at each of the three medical schools in this state;

(b) A memory disorder clinic at a major private nonprofit research-oriented teaching hospital, and may fund a memory disorder clinic at any of the other affiliated teaching hospitals;

(c) A memory disorder clinic at the Mayo Clinic in Jacksonville;

(d) A memory disorder clinic at the West Florida Regional Medical Center;

(e) A memory disorder clinic operated by Health First in Brevard County;



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173 (f) A memory disorder clinic at the Orlando Regional
174 Healthcare System, Inc.;

175 (g) A memory disorder center located in a public hospital
176 that is operated by an independent special hospital taxing
177 district that governs multiple hospitals and is located in a
178 county with a population greater than 800,000 persons;

179 (h) A memory disorder clinic at St. Mary's Medical Center
180 in Palm Beach County;

181 (i) A memory disorder clinic at Tallahassee Memorial
182 Healthcare;

183 (j) A memory disorder clinic at Lee Memorial Hospital
184 created by chapter 63-1552, Laws of Florida, as amended;

185 (k) A memory disorder clinic at Sarasota Memorial Hospital
186 in Sarasota County;

187 (l) A memory disorder clinic at Morton Plant Hospital,
188 Clearwater, in Pinellas County;

189 (m) A memory disorder clinic at Florida Atlantic
190 University, Boca Raton, in Palm Beach County; ~~and~~

191 (n) A memory disorder clinic at Florida Hospital in Orange
192 County; ~~and~~

193 (o) A memory disorder clinic at Miami Jewish Health Systems
194 in Miami-Dade County,
195
196 for the purpose of conducting research and training in a
197 diagnostic and therapeutic setting for persons suffering from
198 Alzheimer's disease and related memory disorders. However,
199 memory disorder clinics ~~funded as of June 30, 1995,~~ shall not
200 receive decreased funding due solely to subsequent additions of
201 memory disorder clinics in this subsection.



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202 Section 3. This act shall take effect July 1, 2019.
203

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 860

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); and Senators Stargel and Gibson

SUBJECT: Alzheimer's Disease

DATE: April 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Favorable
2.	Loe	Kidd	AHS	Recommend: Fav/CS
3.	Loe	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 860 revises the membership of the Alzheimer's Disease Advisory Committee (Committee) and requires the Department of Elder Affairs (DOEA) to collect and report pertinent information on the impact of Alzheimer's disease in Florida. The bill:

- Adds five members to the Committee, increasing the total membership to 15 members;
- Authorizes the Governor to appoint 11 members, and the President of the Senate and the Speaker of the House of Representatives to appoint two members each;
- Adds a first responder, a sitting member of the Senate, a sitting member of the House of Representatives, a citizen appointed by the President of the Senate, and a citizen appointed by the Speaker of the House of Representatives to the Committee;
- Requires the Committee to submit a report annually by September 1st to the Governor and Legislature that includes information and recommendations on Alzheimer's disease policy, state-funded efforts relating to Alzheimer's disease, and updates to the Alzheimer's disease state plan;
- Requires the DOEA to update the Alzheimer's disease state plan triennially beginning on or before November 1, 2020; and
- Establishes a memory disorder clinic at Miami Jewish Health Systems.

The bill does not have a fiscal impact on state expenditures.

The bill has an effective date of July 1, 2019.

II. Present Situation:

Alzheimer's disease is the most common type of dementia. It is a progressive disease that begins with mild memory loss and possibly leads to loss of the ability to carry on a conversation and respond to the environment. Alzheimer's disease involves parts of the brain that control thought, memory, and language. It can seriously affect a person's ability to carry out daily activities. Although scientists are studying the disease, it is still not known what causes Alzheimer's disease.¹

In the state of Florida there are an estimated 560,000 individuals living with Alzheimer's disease.² By 2025, it is anticipated that 720,000 individuals will be living with Alzheimer's disease. Nearly 12 percent of Florida's senior population has been diagnosed with Alzheimer's disease. Many patients diagnosed with Alzheimer's disease require care 24 hours a day, especially in the late stages of the disease.

The Legislature created the Alzheimer's Disease Initiative in 1985 to provide a continuum of services to meet the needs of individuals with Alzheimer's disease and similar memory disorders, and their families.³ The Department of Elder Affairs (DOEA) coordinates and develops policy to carry out the statutory requirements for the Alzheimer's Disease Initiative. In conjunction with a ten-member advisory committee appointed by the Governor, the program includes three components:

- Supportive services to offer counseling, consumable medical supplies, and respite for caregiver relief;
- Memory disorder clinics to provide diagnosis, research, treatment, education, and referrals; and
- A brain bank to support research.

During Fiscal Year 2017-2018, 5,228 individuals received respite and support services, including case management; specialized medical equipment, services, and supplies; and caregiver counseling, support groups, and training.⁴ The memory disorder clinics provide comprehensive diagnostic and referral services for persons with Alzheimer's disease and related disorders. The clinics had over 18,321 office visits during Fiscal Year 2017-2018 and provided telephone counseling, information, and support 16,283 times.⁵ The clinics routinely conduct community memory screening events that are free to the public. Individuals are screened, provided a score with an explanation of the results, and advised to follow-up with their own physicians. A total of 1,411 memory screens were recorded in Fiscal Year 2017-2018, and 25,601 referrals were made on the behalf of clients and caregivers.⁶

Chapter 2012-172, L.O.F., created a Purple Ribbon Task Force within the DOEA to address Alzheimer's disease. The task force reviewed trends in the disease, assessed the disease's impact

¹ Centers for Disease Control and Prevention, Alzheimer's Disease and Healthy Aging website. See <https://www.cdc.gov/aging/aginginfo/alzheimers.htm#AlzheimersDisease?>, last visited March 6, 2019.

² Department of Elder Affairs website. See <http://elderaffairs.state.fl.us/doea/alz.php>, last visited March 6, 2019.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

on the state, examined needs and services, and developed a state response to Alzheimer's disease. The findings and recommendations of the task force became the foundation for the Alzheimer's disease state plan. The task force ended with the submission of its report and plan on August 1, 2013.

III. Effect of Proposed Changes:

Section 1 amends s. 430.501, F.S., establishing the Alzheimer's Disease Advisory Committee (Committee), to add a first responder, a sitting member of the Senate, a sitting member of the House of Representatives, a citizen appointed by the President of the Senate, and a citizen appointed by the Speaker of the House of Representatives to the Committee. The bill requires the Committee to submit a report annually by September 1st to the Governor, the President of the Senate, and the Speaker of the House of Representatives with information and recommendations on Alzheimer's disease policy, state-funded efforts relating to Alzheimer's disease, and updates to the Alzheimer's disease state plan.

The bill requires the Department of Elder Affairs (DOEA) to update the Alzheimer's disease state plan triennially beginning on or before November 1, 2020. The state plan must include the same types of information included in the original Alzheimer's disease state plan submitted on August 1, 2013, by the Purple Ribbon Task Force established in chapter 2012-172, Laws of Florida. The DOEA must use the annual reports submitted by the Committee and collaborate with state Alzheimer's disease organizations and professionals when updating the state plan.

Section 2 amends s. 430.52(1), F.S., creating the Alzheimer's disease memory disorder clinics, to revise the provision stating that "memory disorder clinics *funded as of June 30, 1995*, shall not receive decreased funding due solely to subsequent addition of memory disorder clinics" to the list of memory disorder clinics enumerated in that subsection. Memory disorder clinics on the enumerated list are established for the purpose of research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. As revised, the subsection would provide that "memory disorder clinics shall not receive decreased funding due solely to the subsequent additions of additional memory disorder clinics" to s. 430.502(1), F.S., irrespective of the date those clinics received funding. The bill establishes an additional memory disorder clinic at Miami Jewish Health Systems.

Section 3 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have no fiscal impact on state expenditures.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 430.501 and 430.502.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on April 11, 2019.

The committee substitute:

⁷ Florida Department of Elder Affairs, *Senate Bill 860 Analysis* (Feb. 7, 2019) (on file with the Senate Appropriations Committee). Telephone conversation with Department of Elder Affairs staff (Mar. 16, 2019).

- Adds five members to the Alzheimer's Disease Advisory Committee (Committee), increasing the total membership to 15 members.
- Revises who can make appoints to the Committee; the Governor would appoint 11 members, and the President of the Senate and the Speaker of the House of Representatives would appoint two members each.
- Revises the composition of the Committee to require one member to be: a first responder rather than a law enforcement officer, a sitting member of the Senate, a sitting member of the House of Representatives, a citizen appointed by the President of the Senate, and a citizen appointed by the Speaker of the House of Representatives.
- Requires the Alzheimer's disease state plan to be reviewed and updated triennially beginning on or before November 1, 2020.
- Specifies the information required in the Alzheimer's disease state plan, which is identical to the types of information contained in the plan submitted by the Purple Ribbon Task Force established in chapter 2012-172, Laws of Florida.
- Establishes a memory disorder clinic at Miami Jewish Health Systems.

B. Amendments:

None.

By Senator Stargel

22-01113-19

2019860__

A bill to be entitled

An act relating to Alzheimer's disease; amending s. 430.501, F.S.; revising representative requirements of the Alzheimer's Disease Advisory Committee membership; requiring the committee to submit an annual report to specified parties that includes certain information and recommendations; requiring the Department of Elderly Affairs to review and update the Alzheimer's disease state plan every 3 years in collaboration with certain parties; amending s. 430.502, F.S.; providing that certain clinics shall not receive decreased funding for a specified reason; providing an effective date.

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

Section 1. Subsection (3) of section 430.501, Florida Statutes, is amended to read:

430.501 Alzheimer's Disease Advisory Committee; research grants.—

(3) (a) The committee membership shall be representative as follows:

1. At least 4 of the 10 members must be licensed pursuant to chapter 458 or chapter 459 or hold a Ph.D. degree and be currently involved in the research of Alzheimer's disease.

2. The 10 members must include at least 4 persons who have been caregivers of persons living with ~~victims of~~ Alzheimer's disease.

3. Whenever possible, the 10 members shall include 1 each

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

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of the following professionals: a gerontologist, a geriatric psychiatrist, a geriatrician, a neurologist, a social worker, ~~and a registered nurse, and a law enforcement officer.~~

(b)1. The Governor shall appoint members from a broad cross-section of public, private, and volunteer sectors. All nominations shall be forwarded to the Governor by the Secretary of Elderly Affairs in accordance with this subsection.

2. Members shall be appointed to 4-year staggered terms in accordance with s. 20.052.

3. The Secretary of Elderly Affairs shall serve as an ex officio member of the committee.

4. The committee shall elect one of its members to serve as chair for a term of 1 year.

5. The committee may establish subcommittees as necessary to carry out the functions of the committee.

6. The committee shall meet quarterly, or as frequently as needed.

7. The committee shall submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Elderly Affairs. The annual report shall include information and recommendations on Alzheimer's disease policy; all state-funded efforts in Alzheimer's disease research, clinical care, institutional, home-based and community-based programs, and the outcomes of such efforts; and any proposed updates to the Alzheimer's disease state plan created pursuant to chapter 2012-172, Laws of Florida, and maintained by the Department of Elderly Affairs.

8. Every 3 years, the Department of Elderly Affairs shall review and update the Alzheimer's disease state plan created

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pursuant to chapter 2012-172, Laws of Florida. The Department of Elderly Affairs shall utilize the annual reports submitted by the committee and collaborate with state Alzheimer's disease organizations and professionals when considering such updates to the Alzheimer's disease state plan.

9.7- The Department of Elderly Affairs shall provide staff support to assist the committee in the performance of its duties.

10.8- Members of the committee and subcommittees shall receive no salary, but are entitled to reimbursement for travel and per diem expenses, as provided in s. 112.061, while performing their duties under this section.

Section 2. Subsection (1) of section 430.502, Florida Statutes, is amended to read:

430.502 Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(1) There is established:

(a) A memory disorder clinic at each of the three medical schools in this state;

(b) A memory disorder clinic at a major private nonprofit research-oriented teaching hospital, and may fund a memory disorder clinic at any of the other affiliated teaching hospitals;

(c) A memory disorder clinic at the Mayo Clinic in Jacksonville;

(d) A memory disorder clinic at the West Florida Regional Medical Center;

(e) A memory disorder clinic operated by Health First in Brevard County;

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(f) A memory disorder clinic at the Orlando Regional Healthcare System, Inc.;

(g) A memory disorder center located in a public hospital that is operated by an independent special hospital taxing district that governs multiple hospitals and is located in a county with a population greater than 800,000 persons;

(h) A memory disorder clinic at St. Mary's Medical Center in Palm Beach County;

(i) A memory disorder clinic at Tallahassee Memorial Healthcare;

(j) A memory disorder clinic at Lee Memorial Hospital created by chapter 63-1552, Laws of Florida, as amended;

(k) A memory disorder clinic at Sarasota Memorial Hospital in Sarasota County;

(l) A memory disorder clinic at Morton Plant Hospital, Clearwater, in Pinellas County;

(m) A memory disorder clinic at Florida Atlantic University, Boca Raton, in Palm Beach County; and

(n) A memory disorder clinic at Florida Hospital in Orange County,

for the purpose of conducting research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. However, memory disorder clinics ~~funded as of June 30, 1995,~~ shall not receive decreased funding due solely to subsequent additions of memory disorder clinics in this subsection.

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

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



2019 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Elder Affairs

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 860
BILL TITLE:	Alzheimer's Disease - 2019
BILL SPONSOR:	Sen. Stargel
EFFECTIVE DATE:	July 1, 2019

<u>COMMITTEES OF REFERENCE</u>
1) Children, Families, and Elder Affairs
2) Appropriations Subcommittee on Health and Human Services
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Children, Families, and Elder Affairs

<u>SIMILAR BILLS</u>	
BILL NUMBER:	NA
SPONSOR:	NA

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	NA
SPONSOR:	NA
YEAR:	NA
LAST ACTION:	NA

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	HB 449
SPONSOR:	Rep. Plakon

Is this bill part of an agency package?
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	2/7/2019

LEAD AGENCY ANALYST:	Derek Miller, Legislative Analyst
ADDITIONAL ANALYST(S):	Catherine Anne Avery, Bureau Chief of Elder Rights
LEGAL ANALYST:	Click or tap here to enter text.
FISCAL ANALYST:	Chris Evans, Financial Administrator

POLICY ANALYSIS

1. **EXECUTIVE SUMMARY**

This bill revises representative requirements of Alzheimer's Disease Advisory Committee membership. Alzheimer's Disease Advisory Committee will submit an annual report to the Governor, the President of the Senate, the Speaker of the House and the Secretary of Elder Affairs. Also, every 3 years, Department of Elder Affairs would be required to review and update the state plan using the annual Alzheimer's Disease Advisory Committee reports and in collaboration with state Alzheimer's disease organizations and professionals.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

Currently, section. 430.501 F.S. directs the creation and scope of the Alzheimer's Disease Advisory Committee based upon the high percentage of Floridians, primarily those over 65 years of age, living with Alzheimer's disease and similar memory disorders. The committee is composed of 10 members selected by the Governor to advise the Department in the performance of its duties regarding legislative, programmatic, and administrative matters related to those living with Alzheimer's disease and their caretakers. The Alzheimer's Disease Advisory Committee is a part of the statewide \$27M "Alzheimer's Disease Initiative" which provides a continuum of services to meet the changing needs of individuals with Alzheimer's disease, similar memory disorders, and their families.

The committee membership shall be comprised of: at least 4 of the 10 members must be licensed pursuant to chapter 458 or chapter 459 or hold a Ph.D. degree and be currently involved in the research of Alzheimer's disease. Of the 10 members, at least 4 must have been caregivers of persons living with of Alzheimer's disease. Additionally, whenever possible, the 10 members shall include 1 of the following professionals: a gerontologist, a geriatric psychiatrist, a geriatrician, a neurologist, a social worker, and a registered nurse.

In 2012, HB 473 created the Purple Ribbon Task Force within the Department of Elder Affairs (DOEA) to develop a comprehensive state plan to address the needs of individuals with Alzheimer's disease and their caregivers. Of the recommendations made, the Department implemented the following:

- Revise the 701S Screening Tool to better identify issues related to Alzheimer's Disease and Related Dementias (ADRD) so consumers can be properly prioritized for services and be referred appropriately.
- Conduct a survey of family caregivers affected by ADRD.
- Create a specialized ADRD department within the Department that the ADAC would be reporting to regarding recommendations in the State Plan. This department would also be the source of access to community resources.
- Develop a well-coordinated and dementia-capable emergency management system.
- Enlist state and local government to facilitate Alzheimer's training for employees of government agencies that interface frequently with patients, families, adult day care centers and assisted living facilities, such as the Department of Elder Affairs, and Area Agencies on Aging.
- Increase the use of adult day care services for persons with ADRD.
- Review MDCs to ensure maximum efficiency and require MDCs to aggressively outreach to underserved, minority and rural families.

2. **EFFECT OF THE BILL:**

The bill would require the ADAC to develop an annual report to the Governor, the President of the Senate, the Speaker of the House, and the Secretary of Elder Affairs. The report should include information and recommendations on:

- Alzheimer's disease policy

- All state-funded efforts in Alzheimer's disease research
- Clinical care
- Institutional care
- Home-based and community care programs
- Outcomes of these efforts
- Proposed updates to the state plan created pursuant to chapter 2012-172, Laws of Florida (HB 473) (known as Purple Ribbon Task Force-PRTF)

Every 3 years, DOEA would be required to review and update the state plan using the annual ADAC reports and in collaboration with state Alzheimer's disease organizations and professionals.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	NA
Is the change consistent with the agency's core mission?	Y ☐ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	NA

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☒ N ☐

If yes, provide a description:	ADAC to develop an annual report to the Governor, the President of the Senate, the Speaker of the House, and the Secretary of Elder Affairs.
Date Due:	No date
Bill Section Number(s):	Section 1

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	Alzheimer's Disease Advisory Committee.
Board Purpose:	To address the needs of individuals with Alzheimer's disease and their caregivers.
Who Appoints:	The Governor.
Changes:	The statute adds a law enforcement officer.
Bill Section Number(s):	Section 1

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?Y ☐ N ☐

Revenues:	NA
Expenditures:	NA
Does the legislation increase local taxes or fees? If yes, explain.	NA
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	NA

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☐ N ☐

Revenues:	NA
Expenditures:	NA
Does the legislation contain a State Government appropriation?	NA
If yes, was this appropriated last year?	NA

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☐ N ☒

Revenues:	NA
Expenditures:	NA
Other:	NA

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	NA
Bill Section Number:	NA

TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

NA

FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.

NA

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

Click or tap here to enter text.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining

SENATOR KELLI STARGEL

22nd District

March 26, 2019

The Honorable Rob Bradley
Senate Committee on Appropriations, Chair
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley:

I respectfully request that SB 860, related to *Alzheimer's Disease*, be placed on the Appropriations Committee meeting agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in dark ink, reading "Kelli Stargel". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Kelli Stargel
State Senator, District 22

Cc: Cindy Kynoch/Staff Director
Alicia Weiss/AA

REPLY TO:

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

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

04/11/19

Meeting Date

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

0860

Bill Number (if applicable)

Topic Alzheimer's Disease

Amendment Barcode (if applicable)

Name Ivonne Fernandez

Job Title Associate State Director

Address _____

Phone 954-850-7262

Street

Doral

FL

City

State

Zip

Email lfernandez@aar.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AARP

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 910

INTRODUCER: Senators Gainer and Passidomo

SUBJECT: Court-ordered Treatment Programs

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2. <u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	Recommend: Favorable
3. <u>Dale</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SB 910 expands the eligibility criteria for individuals who may participate in a military veterans' and servicemembers' court program, more commonly known as veterans' courts. A veterans' court is a problem-solving court providing treatment intervention to military veterans and servicemembers who are charged with or convicted of criminal offenses and who are also suffering military-related injuries, such as post-traumatic stress disorder, traumatic brain injury, or a substance abuse disorder.

Currently, individuals who are eligible to participate in a veterans' court include honorably discharged veterans, generally discharged veterans, and active duty servicemembers. The bill expands participation eligibility by eliminating the requirement that a veteran be honorably or generally discharged. Instead, the bill provides that any veteran discharged or released under any condition is eligible to participate in a veterans' court.

Additionally, the bill expands participation eligibility beyond veterans and active duty servicemembers to individuals who are current or former United States defense contractors and military members of a foreign allied country.

While the bill may increase the number of cases referred to veterans' courts, the bill does not have a fiscal impact on state funds. See Section V.

The bill takes effect on October 1, 2020.

II. Present Situation:

Veterans' courts are problem-solving courts aimed at addressing the root causes of criminal behavior.¹ Modeled after the drug court treatment programs, the purpose of the veterans' courts is to divert eligible defendants who are veterans or servicemembers into treatment programs for military-related conditions or war-related trauma, such as post-traumatic stress disorder, mental illness, traumatic brain injury, or substance abuse. Diversion to a veterans' court treatment program may occur either before trial or at sentencing.²

Veterans' courts consider whether an individual's military-related condition can be addressed through an individualized treatment program.³ Like the drug courts, the veterans' courts implement the following 10 key components⁴ when addressing the needs of the individual:

- Integration of alcohol, drug treatment, and mental health services into justice system case processing;
- Nonadversarial approach;
- Early identification of eligible participants;
- Continuum of services;
- Alcohol and drug testing for abstinence;
- Coordinated strategy for responses to participants' compliance;
- Ongoing judicial interaction;
- Monitoring and evaluation for program effectiveness;
- Interdisciplinary education; and
- Partnerships with stakeholders.⁵

Significantly, veterans' courts involve not only nonadversarial cooperation among "traditional partners found in drug courts, such as the judge, state attorney, public defender, case manager, treatment provider, probation, and law enforcement[.]" but also cooperation with "representatives of the Veterans Health Administration (VHA) and the Veterans Benefit Administration as well as State Departments of Veterans Affairs, Vet Centers, Veterans Service Organizations, Department of Labor, volunteer veteran mentors, and other veterans support groups."⁶ Veterans' courts are also able to "leverage resources available from the U.S. Department of Veterans Affairs" to provide treatment and other services to veterans and servicemembers.⁷

¹ Florida Courts, *Problem-Solving Courts*, <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/> (last visited March 10, 2019).

² See notes 14, 15, and 16 and accompanying text, *infra*.

³ Section 394.47891, F.S.

⁴ Section 397.334(4), F.S.

⁵ See Florida Courts, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited March 10, 2019), noting that the 10 key components derive from "The Ten Key Components of Veterans Treatment Court" provided by Justice for Vets, a division of the National Association of Drug Court Professionals. See also Justice for Vets, *The Ten Key Components of Veterans Treatment Courts*, <https://justiceforvets.org/wp-content/uploads/2017/02/The-Ten-Key-Components-of-Veterans-Treatment-Courts.pdf> (last visited March 10, 2019).

⁶ Florida Courts, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited March 10, 2019).

⁷ *Id.*

Florida's Veterans' Courts

In 2012, the Florida Legislature passed the “T. Patt Maney Veterans’ Treatment Intervention Act.”⁸ The Act created the military veterans and servicemembers court program,⁹ better known as veterans’ courts.¹⁰ Specifically, the Act authorizes the chief judge of each judicial circuit to establish a veterans’ court program to serve the special needs of eligible veterans¹¹ and active duty servicemembers¹² who are:

- Suffering a military-related condition, such as mental illness, traumatic brain injury, or substance abuse; and
- Charged with or convicted of a criminal offense.¹³

The Act also added provisions to chapter 948, F.S., providing for when veterans and servicemembers may be eligible to participate in the veterans’ court program for treatment and services. Eligible individuals may participate after being:

- Charged with a criminal misdemeanor¹⁴ or certain felony offenses but before being convicted (pretrial intervention);¹⁵ or
- Convicted and sentenced, as a condition of probation or community control.¹⁶

Pretrial Intervention Participation

After a criminal arrest, rather than being prosecuted, eligible veterans may be diverted to a pretrial intervention program. Prior to placement in a pretrial intervention program, a veterans’ treatment intervention team must develop an individualized, coordinated strategy for the veteran. The team must present the coordinated strategy to the veteran in writing before he or she agrees to enter the program. The strategy is modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs.¹⁷

If the defendant agrees to participate in the pretrial intervention program, while participating in the program, the court retains jurisdiction in the defendant’s case. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must

⁸ CS/CS/SB 922 (ch. 2012-159, Laws of Fla.).

⁹ Section 394.47891, F.S.

¹⁰ Florida Courts, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited March 10, 2019).

¹¹ Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions.

¹² Section 250.01(19), F.S., defines a servicemember as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces..

¹³ Section 394.47891, F.S.

¹⁴ Section 948.16(2), F.S., establishes the misdemeanor pretrial veterans’ treatment intervention program.

¹⁵ Section 948.08(7), F.S., authorizes courts to consider veterans charged with non-disqualifying felonies for pretrial veterans’ treatment intervention programs. There is also a cross-reference in section 948.08(7), F.S., to the disqualifying felony offenses listed in s. 948.06(8)(c), F.S., which lists 19 disqualifying felony offenses of a serious nature, including kidnapping, murder, sexual battery, treason, etc.

¹⁶ Section 948.21, F.S.

¹⁷ See section 948.08(7)(b), F.S. (requiring a coordinated strategy for veterans charged with felonies); section 948.16(2)(b), F.S. (requiring a coordinated strategy for veterans charged with misdemeanors). See also section 397.334(4), F.S. (requiring treatment based court programs to include therapeutic jurisprudence principles and components recognized by the United States Department of Justice and adopted by the Florida Supreme Court Treatment-based Drug Court Steering Committee).

dismiss the criminal charges. If the court finds that the veteran did not successfully complete the pretrial intervention program, the court can either order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.¹⁸

Eligible veterans who successfully complete the diversion program may petition the court to order the expunction of the arrest record and the plea.¹⁹

Participation in Treatment Program while on Probation or Community Control

Veterans and servicemembers may also qualify for treatment and services as part of their criminal sentence. For crimes committed on or after July 1, 2012, a court may order a veteran or servicemember suffering from a military-related mental illness, a traumatic brain injury, or a substance abuse disorder to successfully complete a mental health or substance abuse treatment program as a condition of probation or community control.²⁰

Current Court Statistics

According to the State Court Administrator's Office of Court Improvement, as of July 2018, there were 30 veterans' courts in Florida.²¹ Additionally, the Office of Court Improvement reports that in 2017, "Florida's veterans' courts admitted 1,051 participants and graduated 593."²²

Expansion of Participant Eligibility in Florida's Veterans' Courts

Under current law, to be eligible to participate in the veterans' court program, the defendant must allege that he or she is suffering a military-related injury and establish that he or she is:

- An honorably discharged veteran;²³
- A generally discharged veteran;²⁴ or
- An active duty servicemember.²⁵

By the recommendation of the Task Force on Substance Abuse and Mental Health Issues in the Courts,²⁶ Florida's court system has proposed that eligibility to participate in the veterans' courts be expanded to all veterans of any discharge status. The Task Force also recommends that

¹⁸ Section 948.08(7)(b)-(c), F.S.

¹⁹ Sections 948.16(2)(b), 948.08(7)(b), F.S.

²⁰ Section 948.21(1), F.S. For crimes committed after July 1, 2012, veterans discharged or released under a general discharge also qualified for participation in veterans' treatment programs as a condition of probation or community control. Section 948.21(2), F.S.

²¹ Florida Courts, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited Feb. 25, 2019).

²² Email from the Office of the State Courts Administrator, March 1, 2019 (on file with Senate Criminal and Civil Justice Appropriations Committee).

²³ Section 1.01(14), F.S.

²⁴ Section 948.21(2), F.S.

²⁵ Section 250.01(19), F.S.

²⁶ The "Task Force on Substance Abuse and Mental Health Issues in the Courts" is the task force "charged with developing a strategy for ensuring fidelity to nationally accepted key components of veterans courts" pursuant to Florida Supreme Court Administrative Order 14-46. See Judicial Branch 2019 Legislative Agenda, *Expansion of Veterans Court Eligibility*, p. 51, n. 17 (on file with Senate Judiciary Committee).

veterans' courts be extended to other military-related individuals: current or former United States defense contractors, and current or former military members of a foreign allied country.²⁷

The proposed expansion to include contractors and military members of foreign allied countries is in response to nationwide reports “that a large number of service personnel are being excluded from veterans courts because they do not meet the definition of ‘veteran’ or ‘servicemember’” who have “served our country and would respond well to veterans court interventions.”²⁸

III. Effect of Proposed Changes:

Section 1 amends s. 394.47891, F.S., to expand the eligibility criteria for who may participate in the Military Veterans' and Servicemembers' Court Program. This section does two things:

- It eliminates the requirement that a veteran be honorably or generally discharged, providing instead that any veteran discharged or released under any condition is eligible to participate.
- It expands eligibility beyond veterans and active duty servicemembers to include individuals who are current or former United States defense contractors and current or former military members of a foreign allied country.

Sections 2, 3, and 4 make conforming changes to the statutory provisions concerning pretrial intervention and sentencing based on the expanded eligibility for Veterans' court treatment programs set out in Section 1.

Section 2 amends s. 948.08, F.S., to clarify that pretrial intervention programs extend to any person charged with a **felony**²⁹ who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

Section 3 amends s. 948.16, F.S., to clarify that **misdemeanor** pretrial intervention programs extend to any person charged with a misdemeanor who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

Section 4 amends s. 948.21, F.S., to clarify that a court may impose a **condition of probation or community control** requiring participation in a treatment program to any person who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

Section 5 provides the bill takes effect on October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁷ *Id.* at 50.

²⁸ *Id.* at 52.

²⁹ Except the more serious felony offenses listed in s. 948.06(8)(c), F.S.

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:

Adults who participate in specialty court programs such as Veterans' Court may have to pay a fee, depending on the guidelines established by each individual judicial circuit. The participant may also have to pay restitution as part of the program. Additionally, the goal is to divert individuals away from costly incarceration and into more appropriate settings for treatment. This often allows individuals to remain employed which can have far-reaching positive economic and societal impacts.

C. Government Sector Impact:

The bill's expansion of eligible veterans and other military-related individuals (contractors and allied country military members) for purposes of veterans' courts will increase the number of people eligible to participate in veterans' court programs, which will likely increase the costs associated with these programs. While these individuals are already in the court system, problem solving courts are more time consuming than felony or misdemeanor court. Admissions to veterans' court are discretionary and courts would only be able to admit persons up to their program capacity which is limited by the amount of state funds (and local match) appropriated to such programs.

Other factors to consider include the additional workload associated with the Public Defender and State Attorney Offices. In general, specialty court programs are more intensive and require more appearances in front of judges. These costs may be offset to the extent that the need for prison beds is reduced by diversion to veterans' court programs. Recidivism rates are lower for participants of problem-solving courts overall.

Accordingly, the bill does not have a fiscal impact on state funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.47891, 948.08, 948.16, and 948.21.

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 Gainer

2-00872-19

2019910__

1 A bill to be entitled
 2 An act relating to court-ordered treatment programs;
 3 amending s. 394.47891, F.S.; providing that veterans
 4 who were discharged or released under any condition,
 5 individuals who are current or former United States
 6 Department of Defense contractors, and individuals who
 7 are current or former military members of a foreign
 8 allied country are eligible in a certain Military
 9 Veterans and Servicemembers Court Program; amending s.
 10 948.08, F.S.; authorizing a person who is charged with
 11 a certain felony and identified as a veteran who is
 12 discharged or released under any condition, an
 13 individual who is a current or former United States
 14 Department of Defense contractor, or an individual who
 15 is a current or former military member of a foreign
 16 allied country to be eligible for voluntary admission
 17 into a pretrial veterans' treatment intervention
 18 program under certain circumstances; amending s.
 19 948.16, F.S.; authorizing a veteran who is discharged
 20 or released under any condition, an individual who is
 21 a current or former United States Department of
 22 Defense contractor, or an individual who is a current
 23 or former military member of a foreign allied country
 24 and who is charged with a misdemeanor to be eligible
 25 for voluntary admission into a misdemeanor pretrial
 26 veterans' treatment intervention program under certain
 27 circumstances; amending s. 948.21, F.S.; authorizing
 28 the court to impose a condition requiring a
 29 probationer or community controllee who is a veteran

Page 1 of 5

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

2-00872-19

2019910__

30 discharged or released under any condition, an
 31 individual who is a current or former United States
 32 Department of Defense contractor, or an individual who
 33 is a current or former military member of a foreign
 34 allied country to participate in a certain treatment
 35 program under certain circumstances; providing an
 36 effective date.

37
 38 Be It Enacted by the Legislature of the State of Florida:

39
 40 Section 1. Section 394.47891, Florida Statutes, is amended
 41 to read:

42 394.47891 Military veterans and servicemembers court
 43 programs.—The chief judge of each judicial circuit may establish
 44 a Military Veterans and Servicemembers Court Program under which
 45 veterans, as defined in s. 1.01; ~~including~~ veterans who were
 46 discharged or released under any condition; a general discharge,
 47 ~~and~~ servicemembers, as defined in s. 250.01; individuals who are
 48 current or former United States Department of Defense
 49 contractors; and individuals who are current or former military
 50 members of a foreign allied country, who are charged or
 51 convicted of a criminal offense, and who suffer from a military-
 52 related mental illness, traumatic brain injury, substance abuse
 53 disorder, or psychological problem can be sentenced in
 54 accordance with chapter 921 in a manner that appropriately
 55 addresses the severity of the mental illness, traumatic brain
 56 injury, substance abuse disorder, or psychological problem
 57 through services tailored to the individual needs of the
 58 participant. Entry into any Military Veterans and Servicemembers

Page 2 of 5

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

2-00872-19

2019910__

Court Program must be based upon the sentencing court's assessment of the defendant's criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

Section 2. Paragraph (a) of subsection (7) of section 948.08, Florida Statutes, is amended to read:

948.08 Pretrial intervention program.—

(7) (a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a veteran, as defined in s. 1.01; including a veteran who is discharged or released under any condition; a general discharge, or servicemember, as defined in s. 250.01; an individual who is a current or former United States Department of Defense contractor; or an individual who is a current or former military member of a foreign allied country, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court may deny the defendant's admission to such a program.

2. If a defendant previously entered a court-ordered

2-00872-19

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veterans' treatment program, the court may deny the defendant's admission into the pretrial veterans' treatment program.

Section 3. Paragraph (a) of subsection (2) of section 948.16, Florida Statutes, is amended to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program; misdemeanor pretrial mental health court program.—

(2) (a) A veteran, as defined in s. 1.01; including a veteran who is discharged or released under any condition; a general discharge, or servicemember, as defined in s. 250.01; an individual who is a current or former United States Department of Defense contractor; or an individual who is a current or former military member of a foreign allied country, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, and who is charged with a misdemeanor is eligible for voluntary admission into a misdemeanor pretrial veterans' treatment intervention program approved by the chief judge of the circuit, for a period based on the program's requirements and the treatment plan for the offender, upon motion of either party or the court's own motion. However, the court may deny the defendant admission into a misdemeanor pretrial veterans' treatment intervention program if the defendant has previously entered a court-ordered veterans' treatment program.

Section 4. Subsection (2) of section 948.21, Florida Statutes, is amended to read:

948.21 Condition of probation or community control; military servicemembers and veterans.—

2-00872-19

2019910__

117 (2) Effective for a probationer or community controllee
118 whose crime is committed on or after July 1, 2016, and who is a
119 veteran, as defined in s. 1.01;~~including a veteran who is~~
120 discharged or released under any condition; ~~a general discharge,~~
121 ~~or~~ servicemember, as defined in s. 250.01; an individual who is
122 a current or former United States Department of Defense
123 contractor; or an individual who is a current or former military
124 member of a foreign allied country, who suffers from a military
125 service-related mental illness, traumatic brain injury,
126 substance abuse disorder, or psychological problem, the court
127 may, in addition to any other conditions imposed, impose a
128 condition requiring the probationer or community controllee to
129 participate in a treatment program capable of treating the
130 probationer or community controllee's mental illness, traumatic
131 brain injury, substance abuse disorder, or psychological
132 problem.

133 Section 5. This act shall take effect October 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Agriculture, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal
and Civil Justice
Military and Veterans Affairs and Space

SENATOR GEORGE B. GAINER

2nd District

March 19, 2019

Re: SB 910

Dear Chair Bradley,

I am respectfully requesting Senate Bill 910, related to Court Ordered Treatment Programs, be placed on the agenda for the next meeting of the Appropriations Committee.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in blue ink that reads "George B. Gainer".

Senator George Gainer
District 2

Cc. Cynthia Kynoch, Jamie DeLoach, Ross McSwain, John Shettle, Alicia Weiss, Taylor Ferguson, Mary Lee

REPLY TO:

- ☐ 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- ☐ 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- ☐ Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville, Florida 32578 (850) 747-5454

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

SB 910
Bill Number (if applicable)

Topic Veterans Court

Amendment Barcode (if applicable)

Name John Grant

Job Title Former Senator

Address 10025 Orange Grove Dr.
Street

Phone 813-787-9700

Tampa
City

FL
State

33618
Zip

Email John.Grant@johnggrant.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Veterans

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)

11 April 2019

Meeting Date

SB 910

Bill Number (if applicable)

Topic Expanded Admission Categories into Veterans Treatment Court (VTC)

Amendment Barcode (if applicable)

Name Colonel DJ Reyes, US Army (retired)

Job Title Senior Veteran Mentor, Program Coordinator, 13th Judicial Circuit Veterans Treatment Court (VTC)

Address 5215 S Jules Verne CT

Phone 856-470-4590

Street

Tampa

City

FL

State

33611

Zip

Email djreyes1957@gmail.com

Speaking: ☐ For ☒ Against ☒ Information

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

Representing VTC MENTOR PROGRAM, 13th Judicial Circuit VTC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/19

Meeting Date

910

Bill Number (if applicable)

Topic Veterans Treatment Courts

Amendment Barcode (if applicable)

Name Dan HendricksonJob Title president, Tallahassee Veterans Legal CollaborativeAddress 319 E Park Ave

Street

Tallahassee

City

Fl

State

32301

Zip

Phone 850/ 570-1967Email danbhendrickson@comcast.netSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVEAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

910

Bill Number (if applicable)

Topic Court-ordered Treatment Programs

Amendment Barcode (if applicable)

Name Sarah Naf Biehl

Job Title Chief of Legislative Affairs

Address 500 S. Duval St.

Phone 850-922-5692

Street

Tallahassee

FL

32399

City

State

Zip

Email nafs@flcourts.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Steering Committee on Problem-Solving Courts

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

4/11/19

Meeting Date

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

910

Bill Number (if applicable)

Topic Court-Ordered Treatment Programs

Amendment Barcode (if applicable)

Name Kaitlyn Gardner

Job Title Consultant

Address 113 E. College Ave

Phone 813-422-8571

Street

Tallahassee

FL

32301

City

State

Zip

Email Kaitlyn@rsaconsultingllc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing United Way Suncoast

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 974 (141874)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee and Senator Perry

SUBJECT: Damaged, Dismantled, Derelict, or Salvage Motor Vehicles

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Fav/CS
2.	Wells	Hrdlicka	ATD	Recommend: Fav/CS
3.	Wells	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 974 makes changes to the business of storing and selling or reselling damaged or dismantled motor vehicles.

The bill requires that when an insurance company notifies an independent entity in possession of a motor vehicle to release a vehicle, the insurance company must provide the independent entity a release statement authorizing release of the vehicle to the owner or *to the lienholder*.

The bill allows the independent entity's notice to the owner to be provided by a commercial delivery service that provides proof of delivery, in addition to certified mail. When the Department of Highway Safety and Motor Vehicles (DHSMV) does not have the owner's address on record, the bill allows the notice to be sent to the vehicle owner's address on file with the insurance company and on file with the vehicle's most recent titling jurisdiction.

The bill allows an independent entity in possession of a vehicle to apply for a certificate of destruction or a certificate of title if a vehicle is not claimed within 30 days after the attempted delivery of notice to the owner; at present, an application can be made only after delivery of the notice to the owner.

When applying for a certificate of destruction or salvage certificate of title, the bill requires the independent entity in possession of a vehicle to:

- Provide proof of all lien satisfactions or proof of a release on all liens on a vehicle;
- Provide an affidavit indicating a notice had been sent to all lienholders and 30 days has passed since the notice was delivered or delivery was attempted, in the event a lien satisfaction or a release of all liens on a vehicle cannot be obtained;
- Provide proof of notice delivery to the lienholder at the address on the certificate of title and, if the address is different than the one on file with the Department of State for the lienholder's registered agent, provide proof of notice delivery to that address.

Effective October 1, 2019, the bill allows a licensed salvage motor vehicle dealer or motor vehicle auction or insurance company that processes title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvaged vehicles to act as an electronic filing system agent of the DHSMV, if the entity does so in the normal course of business.

The bill does not have a significant fiscal impact to state and local government. See Section V.

The bill takes effect July 1, 2019.

II. Present Situation:

Notice of Possession

Pursuant to s. 319.30, F.S., an insurance company may notify an independent entity¹ that obtains possession of a damaged or dismantled motor vehicle (vehicle) to release the vehicle to the owner. The notice must include a release statement on a form prescribed by the Department of Highway Safety and Motor Vehicles (DHSMV) authorizing the independent entity to release the vehicle to the owner. The form must contain:

- The policy and claim number;
- The name and address of the insured;
- The vehicle identification number; and
- The signature of an authorized representative of the insurance company.

The independent entity in possession of the vehicle must send a notice by certified mail to the owner that the vehicle is available for pick up when it receives a release statement from the insurance company. It must inform the owner that he or she has 30 days after receipt of the notice to pick up the vehicle from the independent entity. If the vehicle is not claimed within 30 days after the owner receives the notice, the independent entity may apply for a certificate of destruction or a certificate of title.

¹ See s. 319.30(1)(g), F.S. ("Independent entity" means a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the sale or resale of damaged or dismantled motor vehicles. The term does not include a wrecker operator, a towing company, or a repair facility.)

The independent entity must make a notification in the National Motor Vehicle Title Information System before releasing any damaged or dismantled motor vehicle to the owner or before applying for a certificate of destruction or salvage certificate of title.

Upon applying for a certificate of destruction or salvage certificate of title, the independent entity must provide a copy of the release statement from the insurance company, proof of providing the 30-day notice to the owner, proof of notification to the National Motor Vehicle Title Information System, and payment of any applicable fees.

Electronic Filing System (EFS)

In 2009, legislation was passed which established state jurisdiction over the EFS program,² which is a software application that interacts with the Florida Real-time Vehicle Information System (FRVIS) to securely process title and registration transactions, customer inquiries, and updates in real-time. Certified service providers build their own interface systems that link up with the EFS to provide transaction services to EFS agents (primarily motor vehicle dealers). The EFS agents provide title and registration processing services to customers when products are purchased. The EFS will also generate the appropriate DHSMV documents, including the vehicle registration, title application form, and in some cases the title certificate (printed from Tallahassee).³ At the end of the EFS transaction, the customer's vehicle is titled and registered without having to visit a tax collector or a DHSMV office.

The tax collector is responsible for reviewing and approving EFS title and registration transactions processed by participating EFS agents in the county. Access to the EFS by dealers and other organizations is provided through a certified service provider (CSP). There are currently five certified service providers participating in the EFS:

- CVR.
- Title Technologies Auto Data Direct, Inc.
- Decision Dynamics, Inc.
- DLRdmv.⁴

These certified service providers have over 2,400 EFS agents providing title and registration services throughout the state.⁵ However, EFS is an optional service for EFS agents. All 67 counties have the capability to offer EFS connections to agents, however, all agents do not participate.

² Chapter 2009-206, s. 3, Laws of Fla., preempted to the state jurisdiction over the system.

³ The Department of Highway Safety and Motor Vehicles, Electronic Filing System (EFS), available at <https://www.flhsmv.gov/motor-vehicles-tags-titles/electronic-lien-titles/electronic-filing-system-efs/> (last visited Mar. 14, 2019).

⁴ *Id.*

⁵ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, EFS Background - 765 (March 7, 2019) (on file with the Senate Infrastructure and Security Committee).

Electronic Filing System Rule Requirements

Florida Administrative Code Chapter 15C-16 prescribes and defines the DHSMV EFS and the participation requirements, certification of service providers, system requirements, and enforcement authority for noncompliance.

A tax collector must:

- Appoint an EFS agent to the county after the DHSMV notifies the tax collector that the entity is authorized;
- Review supporting documentation from EFS transactions processed in the county; and
- Receive funds collected electronically from EFS transactions from the CSP and remit funds to the State.⁶

EFS agents must sell products that can be titled and registered, provide title and registration services on behalf of customers, enter into a contract with a CSP, apply to the DHSMV to become an authorized EFS agent, have a satisfactory background check with no felony convictions in the last 7 years, have no state-initiated disciplinary actions within the last 2 years, and may only operate in the county for which they are authorized.⁷

The DHSMV has enforcement over the EFS agents. Violations can result in revocation of an EFS agent's ability to use the electronic filing system. Violations include unauthorized access of data by users, failing to execute electronic funds transfers, charging title and registration fees in excess of those allowed by law, and failing to correct errors or clear pending transactions as required by the DHSMV.⁸

Salvage Dealers and Metal Recyclers

Secondary metals recyclers⁹ must be licensed by the Department of Revenue¹⁰ and salvage motor vehicle dealers¹¹ must be licensed by the DHSMV.¹² Currently salvage dealers and metal recyclers initiating a certificate of destruction, salvage title, and derelict vehicle certificate transactions must, in person or by mail, process the request at the tax collector office or license plate agency as directed by the DHSMV and pay any applicable fees for the transaction.¹³ Application documents are reviewed by the tax collector or license plate agency and then processed or rejected. If the documents are approved, the tax collector or license plate agency processes the transaction, uploads the documents to FRVIS, and prints the certificate of destruction, salvage title, or derelict vehicle certificate. If the documents are rejected, the salvage

⁶ Rule 15C-16.009, F.A.C.

⁷ Rule 15C-16.010, F.A.C.

⁸ Rule 15C-16.013, F.A.C.

⁹ Secondary metals recycler is defined in s. 538.18(11) F.S.

¹⁰ Section 538.25, F.S.

¹¹ See s. 320.27(1)(c)5., F.S. ("Salvage motor vehicle dealer" means any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.)

¹² *Id.*

¹³ Department of Highway Safety and Motor Vehicles, Division of Motorist Services, *Motor Vehicle Procedures Manual, Uninsured Motor Vehicles or Mobile Homes Declared Total Loss, Motor Vehicles Junked by Owners and Derelict Motor Vehicles* (December 18, 2014), available at <https://www3.flhsmv.gov/dmv/Proc/tl/tl-35.pdf> (last visited on Mar. 9, 2019).

dealers and metal recyclers must correct any errors in the documentation or application and start the process again.

III. Effect of Proposed Changes:

Section 1 amends s. 319.30(9), F.S., related to damaged or dismantled vehicles held by independent entities.

The insurance company is currently required to send the independent entity in possession of a vehicle a release statement that authorizes the independent entity to release the vehicle to the vehicle's owner. The bill requires the release statement to also authorize release to lienholders.

The bill allows the independent entity to provide the notice of pickup to the owner by another commercially available delivery service that provides proof of delivery in addition to the current option of sending the notice by certified mail. Under the bill the owner has 30 days *from the date of delivery or attempted delivery* of the notice to claim the vehicle, instead of 30 days *from the date of receipt* of the notice in current law.

Currently, the independent entity must deliver the notice to the owner's address that is in DHSMV records. Under the bill, if the DHSMV records do not contain the owner's address, then the independent entity must deliver the notice to the address in the release statement from the insurance company, as well as any address provided by the latest titling jurisdiction identified through the National Motor Vehicle Title Information System or an equivalent commercially available system.

All records related to the 30-day notice sent to the owner, the results of any searches of the National Motor Vehicle Title Information System or an equivalent commercially available system, and any notifications to the National Motor Vehicle Title Information System must be maintained for a minimum of three years by the independent entity.

The bill also adds a requirement that independent entities must provide proof of all lien satisfactions or proof of a release on all liens on a vehicle when applying for a certificate of destruction or salvage certificate of title. If the independent entity is unable to obtain a lien satisfaction or a release of all liens on the motor vehicle, the independent entity must provide an affidavit stating that:

- Notice was sent to all lienholders that the motor vehicle was available for pickup,
- 30 days have passed since the notice was delivered or attempted to be delivered,
- Attempts have been made to obtain a release from all lienholders, and
- All such attempts have been to no avail.

The notice to lienholders and attempts to obtain a release from lienholders may be by written request delivered in person or by certified mail or another commercially available delivery service that provides proof of delivery to the lienholder at the lienholder's address as provided on the certificate of title. If the lienholder's address on the certificate of title is different than the one on file with the Department of State (DOS) for a financial institution's registered agent for

service of process, notice, levy, or demand,¹⁴ then the independent entity must deliver the notice to the address on file with the DOS.

Effective October 1, 2019, **Section 2** amends s. 320.03, F.S., to authorize a licensed salvage motor vehicle dealer or motor vehicle auction¹⁵ or insurance company that processes title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvaged vehicles physically located in Florida to be an ESF agent if the entity does so in the normal course of business. The DHSMV is granted rule making authority to administer these activities, including, but not limited to, rules establishing participation requirements, certification of service providers, electronic filing system requirements, disclosures, and enforcement authority for noncompliance.

The bill takes effect July 1, 2019.

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.

¹⁴ See s. 655.0201(2), F.S., which provides requirements for service of process, notice, levy, or demand on financial institutions.

¹⁵ A “motor vehicle auction” is any person offering motor vehicles or recreational vehicles for sale to the highest bidder where buyers are licensed motor vehicle dealers. The person is prohibited from selling a vehicle to anyone other than a licensed motor vehicle dealer. Section 320.27(1)(c)4., F.S.

B. Private Sector Impact:

Salvage dealers, metal recyclers, and motor vehicle auctions may see a decrease in both processing time and cost for a certificate of destruction, salvage title, and derelict vehicle certificate transactions.

C. Government Sector Impact:

Tax collectors and license plate agency offices may see an indeterminate decrease in workload for processing a certificate of destruction, salvage title, and derelict vehicle certificate transaction.

The bill is not expected to impact revenues of the tax collectors and license plate agency offices for fees collected for use of the EFS. Transactions conducted by EFS agents include the collection of all required fees, which are paid to the tax collectors and license plate agency offices; the tax collectors and license plate agency offices are ultimately responsible for the final review and submittal of any electronic documents processed by EFS agents.

The changes made by the bill to the EFS will require the DHSMV to update its systems. The department estimates that 276 hours will be required for programming and implementation. These hours are estimated to have a fiscal impact to the department of \$9,660 in state employee and contracted resources which can be absorbed within existing resources.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DHSMV to adopt rules to administer the EFS.

The bill allows the independent entity to apply for a certificate of destruction or certificate of title 30 days after the delivery or *attempted delivery* of the required notice to a vehicle owner. The bill does not define *attempted delivery* and does not allow this event to begin the time period for other required notices.

On lines 102 to 104, the bill requires the independent entity to provide an affidavit that states that “30 days have passed since the notice was delivered or attempted to be delivered pursuant to this section.” By referencing “this section,” it is unclear if the notice referred to is the one that must be provided to the owner or the one provided to all lienholders.

Additionally, the affidavit statement required on lines 101 to 102 of the bill is the first instance that requires notice to be sent to all lienholders stating that the vehicle is available for pickup. If

¹⁶ Email from DHSMV to Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee staff on March 15, 2019 (on file with the subcommittee).

a 30-day notice must also be sent to all lienholders that a vehicle is available for pickup, then the requirement should be specifically stated prior to being required in the paragraph related to requirements for an application for certificate of destruction or salvage certificate of title.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.30 and 320.03.

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 Transportation, Tourism, and Economic Development on April 4, 2019:

The committee substitute:

- Authorizes an insurance company to notify an independent entity that has possession of a damaged or dismantled motor vehicle to release that vehicle to the lienholder as well as the owner.
- Allows a licensed salvage motor vehicle dealer, motor vehicle auction, or an insurance company to be an electronic filing system agent.

CS by Infrastructure and Security on March 12, 2019:

The CS allows for the use of a commercially available system, in addition to the National Motor Vehicle Title Information System, by an independent entity to obtain a vehicle owner's address.

- The CS adds a requirement that independent entities must provide proof of all lien satisfactions or proof of a release on all liens on a vehicle when applying for a certificate of destruction or salvage certificate of title.
- The CS also requires that if the lienholder's address is different than the one on file with the DOS for a financial institution's registered agent or service, then the notice must also be provided to the address on file with the DOS.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment

Delete line 140
and insert:
titled or registered and that, provides title and registration



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Between lines 39 and 40
insert:

Section 1. Present subsections (3) through (6) of section 316.235, Florida Statutes, are redesignated as subsections (4) through (7), respectively, and a new subsection (3) is added to that section, to read:

316.235 Additional lighting equipment.—

(3) Any motor vehicle may be equipped with one or more



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lamps or devices underneath the motor vehicle as long as such
lamps or devices do not emit light in violation of s.
316.2397(1) or (7) or s. 316.238.

Section 2. Subsections (1) and (3) and paragraph (c) of
subsection (7) of section 316.2397, Florida Statutes, are
amended to read:

316.2397 Certain lights prohibited; exceptions.—

(1) A No person may not ~~shall~~ drive or move or cause to be
moved any vehicle or equipment upon any highway within this
state with any lamp or device thereon showing or displaying a
red, red and white, or blue light visible from directly in front
thereof except for certain vehicles ~~hereinafter~~ provided in this
section.

(3) Vehicles of the fire department and fire patrol,
including vehicles of volunteer firefighters as permitted under
s. 316.2398, may show or display red or red and white lights.
Vehicles of medical staff physicians or technicians of medical
facilities licensed by the state as authorized under s.
316.2398, ambulances as authorized under this chapter, and buses
and taxicabs as authorized under s. 316.2399 may show or display
red lights. Vehicles of the fire department, fire patrol, police
vehicles, and such ambulances and emergency vehicles of
municipal and county departments, public service corporations
operated by private corporations, the Fish and Wildlife
Conservation Commission, the Department of Environmental
Protection, the Department of Transportation, the Department of
Agriculture and Consumer Services, and the Department of
Corrections as are designated or authorized by their respective
department or the chief of police of an incorporated city or any



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sheriff of any county may operate emergency lights and sirens in an emergency. Wreckers, mosquito control fog and spray vehicles, and emergency vehicles of governmental departments or public service corporations may show or display amber lights when in actual operation or when a hazard exists provided they are not used going to and from the scene of operation or hazard without specific authorization of a law enforcement officer or law enforcement agency. Wreckers must use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and may use such lights while towing a vehicle on wheel lifts, slings, or under reach if the operator of the wrecker deems such lights necessary. A flatbed, car carrier, or rollback may not use amber rotating or flashing lights when hauling a vehicle on the bed unless it creates a hazard to other motorists because of protruding objects. Further, escort vehicles may show or display amber lights when in the actual process of escorting overdimensioned equipment, material, or buildings as authorized by law. Vehicles owned or leased by private security agencies may show or display green and amber lights, with either color being no greater than 50 percent of the lights displayed, while the security personnel are engaged in security duties on private or public property.

(7) Flashing lights are prohibited on vehicles except:

(c) For the lamps authorized under subsections (1), (2), (3), (4), and (9), s. 316.2065, or s. 316.235(6) ~~s. 316.235(5)~~ which may flash.

Section 3. Section 316.2398, Florida Statutes, is amended to read:

316.2398 Display or use of red or red and white warning



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signals; motor vehicles of volunteer firefighters or medical staff.—

(1) A privately owned vehicle belonging to an active firefighter member of a regularly organized volunteer firefighting company or association, while en route to the fire station for the purpose of proceeding to the scene of a fire or other emergency or while en route to the scene of a fire or other emergency in the line of duty as an active firefighter member of a regularly organized firefighting company or association, may display or use red or red and white warning signals. ~~or~~ A privately owned vehicle belonging to a medical staff physician or technician of a medical facility licensed by the state, while responding to an emergency in the line of duty, may display or use red warning signals. Warning signals must be visible from the front and from the rear of such vehicle, subject to the following restrictions and conditions:

(a) No more than two red or red and white warning signals may be displayed.

(b) No inscription of any kind may appear across the face of the lens of the red or red and white warning signal.

(c) In order for an active volunteer firefighter to display such red or red and white warning signals on his or her vehicle, the volunteer firefighter must first secure a written permit from the chief executive officers of the firefighting organization to use the red or red and white warning signals, and this permit must be carried by the volunteer firefighter at all times while the red or red and white warning signals are displayed.

(2) ~~A It is unlawful for any~~ person who is not an active



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firefighter member of a regularly organized volunteer
firefighting company or association or a physician or technician
of the medical staff of a medical facility licensed by the state
may not ~~to~~ display on any motor vehicle owned by him or her, at
any time, any red or red and white warning signals as described
in subsection (1).

(3) ~~It is unlawful for~~ An active volunteer firefighter may
not ~~to~~ operate any red or red and white warning signals as
authorized in subsection (1), except while en route to the fire
station for the purpose of proceeding to the scene of a fire or
other emergency, or while at or en route to the scene of a fire
or other emergency, in the line of duty.

(4) ~~It is unlawful for~~ A physician or technician of the
medical staff of a medical facility may not ~~to~~ operate any red
warning signals as authorized in subsection (1), except when
responding to an emergency in the line of duty.

(5) A violation of this section is a nonmoving violation,
punishable as provided in chapter 318. In addition, a ~~any~~
volunteer firefighter who violates this section shall be
dismissed from membership in the firefighting organization by
the chief executive officers thereof.

Section 4. Subsection (3) of section 316.224, Florida
Statutes, is amended to read:

316.224 Color of clearance lamps, identification lamps,
side marker lamps, backup lamps, reflectors, and deceleration
lights.—

(3) All lighting devices and reflectors mounted on the rear
of any vehicle shall display or reflect a red color, except the
stop light or other signal device, which may be red, amber, or



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127 yellow, and except that the light illuminating the license plate
128 shall be white and the light emitted by a backup lamp shall be
129 white or amber. Deceleration lights as authorized by s.
130 316.235(6) ~~s. 316.235(5)~~ shall display an amber color.

131
132 ===== T I T L E A M E N D M E N T =====

133 And the title is amended as follows:

134 Delete lines 2 - 3

135 and insert:

136 An act relating to motor vehicles; amending s.
137 316.235, F.S.; authorizing any motor vehicle to be
138 equipped with certain lamps or devices under certain
139 circumstances; amending s. 316.2397, F.S.; authorizing
140 certain vehicles to display red and white lights;
141 amending s. 316.2398, F.S.; authorizing certain
142 vehicles to display red and white warning signals
143 under certain circumstances; providing requirements
144 and penalties; amending s. 316.224, F.S.; conforming a
145 cross-reference; amending s. 319.30, F.S.;



141874

576-03886-19

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to damaged, dismantled, derelict, or
salvage motor vehicles; amending s. 319.30, F.S.;
authorizing an insurance company to provide an
independent entity with a certain release statement
authorizing it to release a vehicle to the lienholder;
authorizing a certain notice sent by certified mail
that a motor vehicle is available for pickup to be
sent by another commercially available delivery
service that provides proof of delivery; requiring the
notice to state that the owner has a specified period
during which to pick up the vehicle; authorizing an
independent entity to apply for a certificate of
destruction or a certificate of title if the vehicle
is not claimed within a specified time after the
delivery or attempted delivery of the notice;
specifying requirements for an independent entity if
the Department of Highway Safety and Motor Vehicles'
records do not contain the owner's address; requiring
an independent entity to maintain specified records
for a minimum period; requiring an independent entity
to provide proof of all lien satisfactions or proof of
a release of all liens on a motor vehicle upon
applying for a certificate of destruction or salvage
certificate of title; requiring an independent entity
to provide an affidavit with specified statements if



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such entity is unable to obtain a lien satisfaction or
a release of all liens on the motor vehicle; providing
that notice to lienholders and attempts to obtain a
release from lienholders may be by certain written
request; amending s. 320.03, F.S.; authorizing
specified entities that process certain transactions
or certificates for derelict or salvage motor vehicles
to be authorized electronic filing system agents;
deleting obsolete provisions; authorizing the
department to adopt rules; providing effective dates.

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

Section 1. Subsection (9) of section 319.30, Florida
Statutes, is amended to read:

319.30 Definitions; dismantling, destruction, change of
identity of motor vehicle or mobile home; salvage.—

(9) (a) An insurance company may notify an independent
entity that obtains possession of a damaged or dismantled motor
vehicle to release the vehicle to the owner. The insurance
company shall provide the independent entity a release statement
on a form prescribed by the department authorizing the
independent entity to release the vehicle to the owner or
lienholder. The form must ~~shall~~, at a minimum, contain the
following:

1. The policy and claim number.
2. The name and address of the insured.
3. The vehicle identification number.
4. The signature of an authorized representative of the



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insurance company.

(b) The independent entity in possession of a motor vehicle must send a notice to the owner that the vehicle is available for pickup ~~pick up~~ when it receives a release statement from the insurance company. The notice shall be sent by certified mail or by another commercially available delivery service that provides proof of delivery to the owner at the owner's address contained ~~reflected~~ in the department's records. The notice must state inform the owner that the owner has 30 days after delivery receipt of the notice to the owner at the owner's address to pick up the vehicle from the independent entity. If the motor vehicle is not claimed within 30 days after the delivery or attempted delivery of the owner receives the notice, the independent entity may apply for a certificate of destruction or a certificate of title.

(c) If the department's records do not contain the owner's address, the independent entity must do all of the following:

1. Send a notice that meets the requirements of paragraph (b) to the owner's address that is provided by the insurance company in the release statement.

2. Identify the latest titling jurisdiction of the vehicle through use of the National Motor Vehicle Title Information System or an equivalent commercially available system and attempt to obtain the owner's address from that jurisdiction. If the jurisdiction returns an address that is different from the owner's address provided by the insurance company, the independent entity must send a notice that meets the requirements of paragraph (b) to both addresses.

(d) The independent entity shall maintain for a minimum of



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3 years the records related to the 30-day notice sent to the owner, the results of searches of the National Motor Vehicle Title Information System or an equivalent commercially available system, and the notification to the National Motor Vehicle Title Information System made pursuant to paragraph (e).

(e) ~~(e)~~ The independent entity shall make the required notification to the National Motor Vehicle Title Information System before releasing any damaged or dismantled motor vehicle to the owner or before applying for a certificate of destruction or salvage certificate of title.

(f) ~~(d)~~ Upon applying for a certificate of destruction or salvage certificate of title, the independent entity shall provide a copy of the release statement from the insurance company to the independent entity, proof of providing the 30-day notice to the owner, proof of notification to the National Motor Vehicle Title Information System, proof of all lien satisfactions or proof of a release of all liens on the motor vehicle, and applicable fees. If the independent entity is unable to obtain a lien satisfaction or a release of all liens on the motor vehicle, the independent entity must provide an affidavit stating that notice was sent to all lienholders that the motor vehicle is available for pickup, 30 days have passed since the notice was delivered or attempted to be delivered pursuant to this section, attempts have been made to obtain a release from all lienholders, and all such attempts have been to no avail. The notice to lienholders and attempts to obtain a release from lienholders may be by written request delivered in person or by certified mail or another commercially available delivery service that provides proof of delivery to the



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114 lienholder at the lienholder's address as provided on the
115 certificate of title and, if the address is different, as
116 designated with the Department of State pursuant to s.
117 655.0201(2).

118 (g)(e) The independent entity may not charge an owner of
119 the vehicle storage fees or apply for a title under s. 713.585
120 or s. 713.78.

121 Section 2. Effective October 1, 2019, subsection (10) of
122 section 320.03, Florida Statutes, is amended to read:

123 320.03 Registration; duties of tax collectors;
124 International Registration Plan.—

125 (10) Jurisdiction over the electronic filing system for use
126 by authorized electronic filing system agents to electronically
127 title or register motor vehicles, vessels, mobile homes, or off-
128 highway vehicles; process title transactions, derelict motor
129 vehicle certificates, and certificates of destruction for
130 derelict and salvage motor vehicles pursuant to s. 319.30(2),
131 (3), (7), and (8); issue or transfer registration license plates
132 or decals; electronically transfer fees due for the title and
133 registration process; and perform inquiries for title,
134 registration, and lienholder verification and certification of
135 service providers is expressly preempted to the state, and the
136 department shall have regulatory authority over the system. The
137 electronic filing system shall be available for use statewide
138 and applied uniformly throughout the state. An entity that, in
139 the normal course of its business, sells products that must be
140 titled or registered or that, provides title and registration
141 services on behalf of its consumers and a licensed salvage motor
142 vehicle dealer or motor vehicle auction or insurance company



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143 that, pursuant to s. 319.30(2), (3), (7), or (8) and in the
144 normal course of its business, processes title transactions,
145 derelict motor vehicle certificates, or certificates of
146 destruction for derelict or salvage motor vehicles physically
147 located in this state, any of which and meets all established
148 requirements, may be an authorized electronic filing system
149 agent and is shall not be precluded from participating in the
150 electronic filing system in any county. Upon request from a
151 qualified entity, the tax collector shall appoint the entity as
152 an authorized electronic filing system agent for that county.
153 The department shall adopt rules in accordance with chapter 120
154 to replace the December 10, 2009, program standards and to
155 administer the provisions of this section, including, but not
156 limited to, establishing participation requirements,
157 certification of service providers, electronic filing system
158 requirements, and enforcement authority for noncompliance. The
159 December 10, 2009, program standards, excluding any standards
160 which conflict with this subsection, shall remain in effect
161 until the rules are adopted. An authorized electronic filing
162 system agent may charge a fee to the customer for use of the
163 electronic filing system. The department may adopt rules to
164 administer this subsection, including, but not limited to, rules
165 establishing participation requirements, certification of
166 service providers, electronic filing system requirements,
167 disclosures, and enforcement authority for noncompliance.

168 Section 3. Except as otherwise expressly provided in this
169 act, this act shall take effect July 1, 2019.

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 974

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senator Perry

SUBJECT: Motor Vehicles

DATE: April 15, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Fav/CS
2.	Wells	Hrdlicka	ATD	Recommend: Fav/CS
3.	Wells	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 974 authorizes the use of *red and white* lights on vehicles operated by the fire department, fire patrol, and volunteer firefighters. It also authorizes motor vehicles to be equipped with lamps or devices underneath the vehicle.

The bill amends laws related to the business of storing and selling or reselling damaged or dismantled motor vehicles. The bill requires that when an insurance company notifies an independent entity in possession of a motor vehicle to release a vehicle, the insurance company must provide the independent entity a release statement authorizing release of the vehicle to the owner or to the lienholder.

The bill allows the independent entity's notice to the owner to be provided by a commercial delivery service that provides proof of delivery, in addition to certified mail. When the Department of Highway Safety and Motor Vehicles (DHSMV) does not have the owner's address on record, the bill allows the notice to be sent to the vehicle owner's address on file with the insurance company and on file with the vehicle's most recent titling jurisdiction.

The bill allows an independent entity in possession of a vehicle to apply for a certificate of destruction or a certificate of title if a vehicle is not claimed within 30 days after the attempted

delivery of notice to the owner; at present, an application can be made only after delivery of the notice to the owner.

When applying for a certificate of destruction or salvage certificate of title, the bill requires the independent entity in possession of a vehicle to:

- Provide proof of all lien satisfactions or proof of a release on all liens on a vehicle;
- Provide an affidavit indicating a notice had been sent to all lienholders and 30 days has passed since the notice was delivered or delivery was attempted, in the event a lien satisfaction or a release of all liens on a vehicle cannot be obtained;
- Provide proof of notice delivery to the lienholder at the address on the certificate of title and, if the address is different than the one on file with the Department of State for the lienholder's registered agent, provide proof of notice delivery to that address.

Effective October 1, 2019, the bill allows a licensed salvage motor vehicle dealer or motor vehicle auction or insurance company that processes title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvaged vehicles to act as an electronic filing system agent of the DHSMV, if the entity does so in the normal course of business.

The bill does not have a significant fiscal impact to state and local government. See Section V.

The bill takes effect July 1, 2019, except as otherwise expressly provided.

II. Present Situation:

Additional Lighting Equipment

No vehicles are allowed to drive or be moved on state roads that have a lamp or other device on them that shows or displays red or blue lights visible directly from the front of the vehicle. Additionally, flashing lights are generally prohibited on vehicles.¹

Section 316.235, F.S., authorizes the following additional lighting on motor vehicles:

- Two side cowl or fender lamps with amber or white non-glare lights;
- No more than one running board courtesy lamp with amber or white lights on each side of the vehicle; and
- One or more backup lamps that will not be lighted when the vehicle is moving forward.

A violation of the above is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S.² A nonmoving violation has a base fine of \$30; but with additional fees, the total fine is \$108.³

¹ Section 316.2397(1) and (7), F.S.

² Chapter 318, F.S., relates to the disposition of traffic infractions. Sections 316.235(6) and 316.2397(10), F.S.

³ Florida Clerk of Courts, *2018 Distribution Schedule of Court Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording*, July 1, 2019, p. 19, available at https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/public_documents/2018_distribution_schedule_1.pdf (April 13, 2019).

Firefighters – Red and White Warning Signals

Vehicles of the fire department and fire patrol, including privately owned vehicles of permitted volunteer firefighters, are authorized to show or display red warning signals.⁴ Specifically, active volunteer firefighters are authorized to display such red lights or warning signals if the volunteer firefighter has secured a written permit from the chief executive officers of the volunteer firefighting organization allowing the use of such signals. This permit is required to be carried at all times while the firefighter displays the red warning signals. The active firefighter may display red lights on his or her privately owned vehicle only while en route to a fire or other emergency in the line of duty or while en route to the fire station for the purpose of proceeding to a fire or other emergency.⁵

The warning signals must be visible from the front and rear of the vehicle and no more than two red warning signals may be displayed. Additionally, no inscription of any kind may appear across the face of the lens of the red warning signal.⁶

A violation of these requirements is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S.⁷ A nonmoving violation has a base fine of \$30; but with additional fees, the total fine is \$108.⁸ Further, any volunteer firefighter who violates these requirements must be dismissed from membership in the firefighting organization.⁹

Notice of Possession

Pursuant to s. 319.30, F.S., an insurance company may notify an independent entity¹⁰ that obtains possession of a damaged or dismantled motor vehicle (vehicle) to release the vehicle to the owner. The notice must include a release statement on a form prescribed by the Department of Highway Safety and Motor Vehicles (DHSMV) authorizing the independent entity to release the vehicle to the owner. The form must contain:

- The policy and claim number;
- The name and address of the insured;
- The vehicle identification number; and
- The signature of an authorized representative of the insurance company.

The independent entity in possession of the vehicle must send a notice by certified mail to the owner that the vehicle is available for pick up when it receives a release statement from the insurance company. It must inform the owner that he or she has 30 days after receipt of the notice to pick up the vehicle from the independent entity. If the vehicle is not claimed within

⁴ See ss. 316.2397(3) and 316.2398, F.S.

⁵ Section 316.2398(1), F.S.

⁶ Section 316.2398(1), F.S.

⁷ Section 316.2398(5), F.S.

⁸ Florida Clerk of Courts, *2018 Distribution Schedule* at p. 19.

⁹ Section 316.2398(5), F.S.

¹⁰ See s. 319.30(1)(g), F.S. (“Independent entity” means a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the sale or resale of damaged or dismantled motor vehicles. The term does not include a wrecker operator, a towing company, or a repair facility.)

30 days after the owner receives the notice, the independent entity may apply for a certificate of destruction or a certificate of title.

The independent entity must make a notification in the National Motor Vehicle Title Information System before releasing any damaged or dismantled motor vehicle to the owner or before applying for a certificate of destruction or salvage certificate of title.

Upon applying for a certificate of destruction or salvage certificate of title, the independent entity must provide a copy of the release statement from the insurance company, proof of providing the 30-day notice to the owner, proof of notification to the National Motor Vehicle Title Information System, and payment of any applicable fees.

Electronic Filing System (EFS)

In 2009, legislation was passed which established state jurisdiction over the EFS program,¹¹ which is a software application that interacts with the Florida Real-time Vehicle Information System (FRVIS) to securely process title and registration transactions, customer inquiries, and updates in real-time. Certified service providers build their own interface systems that link up with the EFS to provide transaction services to EFS agents (primarily motor vehicle dealers). The EFS agents provide title and registration processing services to customers when products are purchased. The EFS will also generate the appropriate DHSMV documents, including the vehicle registration, title application form, and in some cases the title certificate (printed from Tallahassee).¹² At the end of the EFS transaction, the customer's vehicle is titled and registered without having to visit a tax collector or a DHSMV office.

The tax collector is responsible for reviewing and approving EFS title and registration transactions processed by participating EFS agents in the county. Access to the EFS by dealers and other organizations is provided through a certified service provider (CSP). There are currently five certified service providers participating in the EFS:

- CVR.
- Title Technologies Auto Data Direct, Inc.
- Decision Dynamics, Inc.
- DLRdmv.¹³

These certified service providers have over 2,400 EFS agents providing title and registration services throughout the state.¹⁴ However, EFS is an optional service for EFS agents. All 67 counties have the capability to offer EFS connections to agents, however, all agents do not participate.

¹¹ Chapter 2009-206, s. 3, Laws of Fla., preempted to the state jurisdiction over the system.

¹² Department of Highway Safety and Motor Vehicles, Electronic Filing System (EFS), available at <https://www.flhsmv.gov/motor-vehicles-tags-titles/electronic-lien-titles/electronic-filing-system-efs/> (last visited April 13, 2019).

¹³ *Id.*

¹⁴ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, EFS Background - 765 (March 7, 2019) (on file with the Senate Infrastructure and Security Committee).

Electronic Filing System Rule Requirements

Florida Administrative Code Chapter 15C-16 prescribes and defines the DHSMV EFS and the participation requirements, certification of service providers, system requirements, and enforcement authority for noncompliance.

A tax collector must:

- Appoint an EFS agent to the county after the DHSMV notifies the tax collector that the entity is authorized;
- Review supporting documentation from EFS transactions processed in the county; and
- Receive funds collected electronically from EFS transactions from the CSP and remit funds to the State.¹⁵

EFS agents must sell products that can be titled and registered, provide title and registration services on behalf of customers, enter into a contract with a CSP, apply to the DHSMV to become an authorized EFS agent, have a satisfactory background check with no felony convictions in the last 7 years, have no state-initiated disciplinary actions within the last 2 years, and may only operate in the county for which they are authorized.¹⁶

The DHSMV has enforcement over the EFS agents. Violations can result in revocation of an EFS agent's ability to use the electronic filing system. Violations include unauthorized access of data by users, failing to execute electronic funds transfers, charging title and registration fees in excess of those allowed by law, and failing to correct errors or clear pending transactions as required by the DHSMV.¹⁷

Salvage Dealers and Metal Recyclers

Secondary metals recyclers¹⁸ must be licensed by the Department of Revenue¹⁹ and salvage motor vehicle dealers²⁰ must be licensed by the DHSMV.²¹ Currently salvage dealers and metal recyclers initiating a certificate of destruction, salvage title, and derelict vehicle certificate transactions must, in person or by mail, process the request at the tax collector office or license plate agency as directed by the DHSMV and pay any applicable fees for the transaction.²² Application documents are reviewed by the tax collector or license plate agency and then processed or rejected. If the documents are approved, the tax collector or license plate agency processes the transaction, uploads the documents to FRVIS, and prints the certificate of destruction, salvage title, or derelict vehicle certificate. If the documents are rejected, the salvage

¹⁵ Rule 15C-16.009, F.A.C.

¹⁶ Rule 15C-16.010, F.A.C.

¹⁷ Rule 15C-16.013, F.A.C.

¹⁸ Secondary metals recycler is defined in s. 538.18(11) F.S.

¹⁹ Section 538.25, F.S.

²⁰ See s. 320.27(1)(c)5., F.S. ("Salvage motor vehicle dealer" means any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.)

²¹ *Id.*

²² Department of Highway Safety and Motor Vehicles, Division of Motorist Services, *Motor Vehicle Procedures Manual, Uninsured Motor Vehicles or Mobile Homes Declared Total Loss, Motor Vehicles Junked by Owners and Derelict Motor Vehicles* (December 18, 2014), available at <https://www3.flhsmv.gov/dmv/Proc/tl/tl-35.pdf> (last visited on April 11, 2019).

dealers and metal recyclers must correct any errors in the documentation or application and start the process again.

III. Effect of Proposed Changes:

Additional Lighting Equipment

Section 1 amends s. 316.235, F.S., to authorize the use of one or more lamps or devices underneath a vehicle provided the lamps or devices:

- Do not display blue, red, or *red and white* lights visible directly from the front of the vehicle;²³
- Do not flash;²⁴ or
- Are not of a high beam distribution.²⁵

Section 2 amends s. 316.2397(1), F.S., to prohibit vehicles driven or moved on state roads to have a lamp or other device on them that shows or displays red and white lights visible directly from the front of the vehicle.

Firefighters – Red and White Warning Signals

Sections 2 and 3 amend ss. 316.2397 and 316.2398, F.S., to authorize the use of red and white lights on vehicles operated by the fire department, fire patrol, and volunteer firefighters.

Active volunteer firefighters are authorized to display red and white lights or warning signals if the volunteer firefighter has secured a written permit from the chief executive officers of the volunteer firefighting organization allowing the use of such signals. This permit is required to be carried at all times while the firefighter displays the red and white signals. The active firefighter may display red and white lights on his or her privately owned vehicle only while en route to a fire or other emergency in the line of duty, or while en route to the fire station for the purpose of proceeding to a fire or other emergency.

The warning signals must be visible from the front and rear of the vehicle and no more than two red and white warning signals may be displayed. Additionally, no inscription of any kind may appear across the face of the lens of the red and white warning signal.

Notice of Possession

Section 4 amends s. 319.30(9), F.S., related to damaged or dismantled vehicles held by independent entities.

The insurance company is currently required to send the independent entity in possession of a vehicle a release statement that authorizes the independent entity to release the vehicle to the vehicle's owner. The bill requires the release statement to also authorize release to lienholders.

²³ Section 316.2397(1), F.S.

²⁴ Section 316.2397(7), F.S.

²⁵ Section 316.238, F.S.

The bill allows the independent entity to provide the notice of pickup to the owner by another commercially available delivery service that provides proof of delivery in addition to the current option of sending the notice by certified mail. Under the bill the owner has 30 days *from the date of delivery or attempted delivery* of the notice to claim the vehicle, instead of 30 days *from the date of receipt* of the notice in current law.

Currently, the independent entity must deliver the notice to the owner's address that is in DHSMV records. Under the bill, if the DHSMV records do not contain the owner's address, then the independent entity must deliver the notice to the address in the release statement from the insurance company, as well as any address provided by the latest titling jurisdiction identified through the National Motor Vehicle Title Information System or an equivalent commercially available system.

All records related to the 30-day notice sent to the owner, the results of any searches of the National Motor Vehicle Title Information System or an equivalent commercially available system, and any notifications to the National Motor Vehicle Title Information System must be maintained for a minimum of three years by the independent entity.

The bill also adds a requirement that independent entities must provide proof of all lien satisfactions or proof of a release on all liens on a vehicle when applying for a certificate of destruction or salvage certificate of title. If the independent entity is unable to obtain a lien satisfaction or a release of all liens on the motor vehicle, the independent entity must provide an affidavit stating that:

- Notice was sent to all lienholders that the motor vehicle was available for pickup,
- 30 days have passed since the notice was delivered or attempted to be delivered,
- Attempts have been made to obtain a release from all lienholders, and
- All such attempts have been to no avail.

The notice to lienholders and attempts to obtain a release from lienholders may be by written request delivered in person or by certified mail or another commercially available delivery service that provides proof of delivery to the lienholder at the lienholder's address as provided on the certificate of title. If the lienholder's address on the certificate of title is different than the one on file with the Department of State (DOS) for a financial institution's registered agent for service of process, notice, levy, or demand,²⁶ then the independent entity must deliver the notice to the address on file with the DOS.

ESF Agents

Effective October 1, 2019, **Section 5** amends s. 320.03, F.S., to authorize a licensed salvage motor vehicle dealer or motor vehicle auction²⁷ or insurance company that processes title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvaged vehicles physically located in Florida to be an ESF agent if the entity does so in the

²⁶ See s. 655.0201(2), F.S., which provides requirements for service of process, notice, levy, or demand on financial institutions.

²⁷ A "motor vehicle auction" is any person offering motor vehicles or recreational vehicles for sale to the highest bidder where buyers are licensed motor vehicle dealers. The person is prohibited from selling a vehicle to anyone other than a licensed motor vehicle dealer. Section 320.27(1)(c)4., F.S.

normal course of business. The DHSMV is granted rule making authority to administer these activities, including, but not limited to, rules establishing participation requirements, certification of service providers, electronic filing system requirements, disclosures, and enforcement authority for noncompliance.

Other

Section 6 amends s. 316.224, F.S., to correct a cross-reference.

The bill takes effect July 1, 2019, except as otherwise expressly provided.

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:

Salvage dealers, metal recyclers, and motor vehicle auctions may see a decrease in both processing time and cost for a certificate of destruction, salvage title, and derelict vehicle certificate transactions.

A person who drives a vehicle with red and white lights in violation of the laws amended by the bill commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S. A nonmoving violation has a base fine of \$30; but with

additional fees, the total fine is \$108.²⁸ Further, any volunteer firefighter who violates the new requirements related to red and white lights must be dismissed from membership in the firefighting organization.²⁹

C. Government Sector Impact:

Any revenue impact for tickets written for the noncriminal traffic infraction created under the bill will be minimal.

Tax collectors and license plate agency offices may see an indeterminate decrease in workload for processing a certificate of destruction, salvage title, and derelict vehicle certificate transaction.

The bill is not expected to impact revenues of the tax collectors and license plate agency offices for fees collected for use of the ESF. Transactions conducted by ESF agents include the collection of all required fees, which are paid to the tax collectors and license plate agency offices; the tax collectors and license plate agency offices are ultimately responsible for the final review and submittal of any electronic documents processed by EFS agents.

The changes made by the bill to the EFS will require the DHSMV to update its systems. The department estimates that 276 hours will be required for programming and implementation. These hours are estimated to have a fiscal impact to the department of \$9,660 in state employee and contracted resources which can be absorbed within existing resources.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DHSMV to adopt rules to administer the EFS.

Section 322.01(4), F.S., defines an “authorized emergency vehicle” as a vehicle that is:

- On call to respond to emergencies;
- Equipped with extraordinary audible and visual warning devices; and
- Authorized by s. 316.2397, F.S., to display red or blue lights.

The definition includes fire trucks and other rescue vehicles, but does not include other vehicles used only incidentally for emergency purposes. The bill amends s. 316.2397, F.S., to authorize vehicles to also display red and white lights; however, it does not update the reference in s. 322.01(4), F.S. An amendment is recommended to update this cross-reference.

²⁸ Florida Clerk of Courts, *2018 Distribution Schedule* at p. 19.

²⁹ Section 316.2398(5), F.S.

³⁰ Email from DHSMV to Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee staff on March 15, 2019 (on file with the subcommittee).

The bill allows the independent entity to apply for a certificate of destruction or certificate of title 30 days after the delivery or *attempted delivery* of the required notice to a vehicle owner. The bill does not define *attempted delivery* and does not allow this event to begin the time period for other required notices.

On lines 102 to 104, the bill requires the independent entity to provide an affidavit that states that “30 days have passed since the notice was delivered or attempted to be delivered pursuant to this section.” By referencing “this section,” it is unclear if the notice referred to is the one that must be provided to the owner or the one provided to all lienholders.

Additionally, the affidavit statement required on lines 101 to 102 of the bill is the first instance that requires notice to be sent to all lienholders stating that the vehicle is available for pickup. If a 30-day notice must also be sent to all lienholders that a vehicle is available for pickup, then the requirement should be specifically stated prior to being required in the paragraph related to requirements for an application for certificate of destruction or salvage certificate of title.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.235, 316.2397, 316.2398, 316.224, 319.30, and 320.03.

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 April 11, 2019:

The committee substitute:

- Changes the title of the bill from “an act relating to damaged, dismantled, derelict, or salvage motor vehicles” to “an act relating to motor vehicles.”
- Prohibits a motor vehicle from driving with red and white lights that are visible directly in front of the vehicle.
- Authorizes a motor vehicle to be equipped with one or more lamps underneath the vehicle.
- Authorizes the use of red and white lights on a vehicle for fire departments, fire patrol, volunteer firefighters, and privately owned vehicles used by firefighters and volunteer firefighters en route to the fire station, a fire, or other emergency.
- Authorizes an insurance company to notify an independent entity that has possession of a damaged or dismantled motor vehicle to release that vehicle to the lienholder as well as the owner.
- Allows a licensed salvage motor vehicle dealer, motor vehicle auction, or an insurance company to be an electronic filing system agent.

CS by Infrastructure and Security on March 12, 2019:

The CS allows for the use of a commercially available system, in addition to the National

Motor Vehicle Title Information System, by an independent entity to obtain a vehicle owner's address.

The CS adds a requirement that independent entities must provide proof of all lien satisfactions or proof of a release on all liens on a vehicle when applying for a certificate of destruction or salvage certificate of title.

The CS also requires that if the lienholder's address is different than the one on file with the DOS for a financial institution's registered agent or service, then the notice must also be provided to the address on file with the DOS.

B. Amendments:

None.

By the Committee on Infrastructure and Security; and Senator
Perry

596-02975-19

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1 A bill to be entitled
2 An act relating to damaged, dismantled, derelict, or
3 salvage motor vehicles; amending s. 319.30, F.S.;
4 authorizing a certain notice sent by certified mail
5 that a motor vehicle is available for pickup to be
6 sent by another commercially available delivery
7 service that provides proof of delivery; requiring the
8 notice to state that the owner has a specified period
9 during which to pick up the vehicle; authorizing an
10 independent entity to apply for a certificate of
11 destruction or a certificate of title if the vehicle
12 is not claimed within a specified time after the
13 delivery or attempted delivery of the notice;
14 specifying requirements for an independent entity if
15 the Department of Highway Safety and Motor Vehicles'
16 records do not contain the owner's address; requiring
17 an independent entity to maintain specified records
18 for a minimum period; requiring an independent entity
19 to provide proof of all lien satisfactions or proof of
20 a release of all liens on a motor vehicle upon
21 applying for a certificate of destruction or salvage
22 certificate of title; requiring an independent entity
23 to provide an affidavit with specified statements if
24 such entity is unable to obtain a lien satisfaction or
25 a release of all liens on the motor vehicle; providing
26 that notice to lienholders and attempts to obtain a
27 release from lienholders may be by certain written
28 request; amending s. 320.03, F.S.; authorizing an
29 entity that processes certain transactions or

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

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30 certificates for derelict or salvage motor vehicles to
31 be an authorized electronic filing system agent;
32 deleting obsolete provisions; authorizing the
33 department to adopt rules; providing effective dates.
34
35 Be It Enacted by the Legislature of the State of Florida:
36
37 Section 1. Subsection (9) of section 319.30, Florida
38 Statutes, is amended to read:
39 319.30 Definitions; dismantling, destruction, change of
40 identity of motor vehicle or mobile home; salvage.—
41 (9) (a) An insurance company may notify an independent
42 entity that obtains possession of a damaged or dismantled motor
43 vehicle to release the vehicle to the owner. The insurance
44 company shall provide the independent entity a release statement
45 on a form prescribed by the department authorizing the
46 independent entity to release the vehicle to the owner. The form
47 must ~~shall~~, at a minimum, contain the following:
48 1. The policy and claim number.
49 2. The name and address of the insured.
50 3. The vehicle identification number.
51 4. The signature of an authorized representative of the
52 insurance company.
53 (b) The independent entity in possession of a motor vehicle
54 must send a notice to the owner that the vehicle is available
55 for pickup ~~pick-up~~ when it receives a release statement from the
56 insurance company. The notice shall be sent by certified mail or
57 by another commercially available delivery service that provides
58 proof of delivery to the owner at the owner's address contained

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59 ~~reflected~~ in the department's records. The notice must state
 60 ~~inform the owner~~ that the owner has 30 days after delivery
 61 ~~receipt~~ of the notice to the owner at the owner's address to
 62 pick up the vehicle from the independent entity. If the motor
 63 vehicle is not claimed within 30 days after the delivery or
 64 attempted delivery of the owner receives the notice, the
 65 independent entity may apply for a certificate of destruction or
 66 a certificate of title.

67 (c) If the department's records do not contain the owner's
 68 address, the independent entity must do all of the following:

69 1. Send a notice that meets the requirements of paragraph

70 (b) to the owner's address that is provided by the insurance
 71 company in the release statement.

72 2. Identify the latest titling jurisdiction of the vehicle
 73 through use of the National Motor Vehicle Title Information
 74 System or an equivalent commercially available system and
 75 attempt to obtain the owner's address from that jurisdiction. If
 76 the jurisdiction returns an address that is different from the
 77 owner's address provided by the insurance company, the
 78 independent entity must send a notice that meets the
 79 requirements of paragraph (b) to both addresses.

80 (d) The independent entity shall maintain for a minimum of
 81 3 years the records related to the 30-day notice sent to the
 82 owner, the results of searches of the National Motor Vehicle
 83 Title Information System or an equivalent commercially available
 84 system, and the notification to the National Motor Vehicle Title
 85 Information System made pursuant to paragraph (e).

86 (e) ~~(e)~~ The independent entity shall make the required
 87 notification to the National Motor Vehicle Title Information

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88 System before releasing any damaged or dismantled motor vehicle
 89 to the owner or before applying for a certificate of destruction
 90 or salvage certificate of title.

91 (f) ~~(d)~~ Upon applying for a certificate of destruction or
 92 salvage certificate of title, the independent entity shall
 93 provide a copy of the release statement from the insurance
 94 company to the independent entity, proof of providing the 30-day
 95 notice to the owner, proof of notification to the National Motor
 96 Vehicle Title Information System, proof of all lien
 97 satisfactions or proof of a release of all liens on the motor
 98 vehicle, and applicable fees. If the independent entity is
 99 unable to obtain a lien satisfaction or a release of all liens
 100 on the motor vehicle, the independent entity must provide an
 101 affidavit stating that notice was sent to all lienholders that
 102 the motor vehicle is available for pickup, 30 days have passed
 103 since the notice was delivered or attempted to be delivered
 104 pursuant to this section, attempts have been made to obtain a
 105 release from all lienholders, and all such attempts have been to
 106 no avail. The notice to lienholders and attempts to obtain a
 107 release from lienholders may be by written request delivered in
 108 person or by certified mail or another commercially available
 109 delivery service that provides proof of delivery to the
 110 lienholder at the lienholder's address as provided on the
 111 certificate of title and, if the address is different, as
 112 designated with the Department of State pursuant to s.
 113 655.0201(2).

114 (g) ~~(e)~~ The independent entity may not charge an owner of
 115 the vehicle storage fees or apply for a title under s. 713.585
 116 or s. 713.78.

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Section 2. Effective October 1, 2019, subsection (10) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(10) Jurisdiction over the electronic filing system for use by authorized electronic filing system agents to electronically title or register motor vehicles, vessels, mobile homes, or off-highway vehicles; process title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvage motor vehicles pursuant to s. 319.30(2), (3), (7), and (8); issue or transfer registration license plates or decals; electronically transfer fees due for the title and registration process; and perform inquiries for title, registration, and lienholder verification and certification of service providers is expressly preempted to the state, and the department shall have regulatory authority over the system. The electronic filing system shall be available for use statewide and applied uniformly throughout the state. An entity that, in the normal course of its business, sells products that must be titled or registered; provides title and registration services on behalf of its consumers; or processes title transactions, derelict motor vehicle certificates, or certificates of destruction for derelict or salvage motor vehicles pursuant to s. 319.30(2), (3), (7), or (8) and that meets all established requirements may be an authorized electronic filing system agent and is ~~shall~~ not be precluded from participating in the electronic filing system in any county. Upon request from a qualified entity, the tax collector shall appoint the entity as an authorized electronic filing system agent for that county.

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~~The department shall adopt rules in accordance with chapter 120 to replace the December 10, 2009, program standards and to administer the provisions of this section, including, but not limited to, establishing participation requirements, certification of service providers, electronic filing system requirements, and enforcement authority for noncompliance. The December 10, 2009, program standards, excluding any standards which conflict with this subsection, shall remain in effect until the rules are adopted. An authorized electronic filing system agent may charge a fee to the customer for use of the electronic filing system. The department may adopt rules to administer this subsection, including, but not limited to, rules establishing participation requirements, certification of service providers, electronic filing system requirements, disclosures, and enforcement authority for noncompliance.~~

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 4, 2019

I respectfully request that **Senate Bill #974**, relating to Damaged, Dismantled, Derelict, or Salvage Motor Vehicles, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive, flowing style.

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11
Meeting Date

974
Bill Number (if applicable)

111552
Amendment Barcode (if applicable)

Topic SB 974 -

Name Jim Taylor

Job Title Vice President

Address 1838 E. Park Ave

Phone 850-877-8804

Street

Tallahassee, FL 32301

City

State

Zip

Email jimt@add23.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Auto Data Direct, Inc.

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 1020

INTRODUCER: Appropriations Committee; Agriculture Committee; and Senators Bradley, Albritton, Hutson and others

SUBJECT: State Hemp Program

DATE: April 15, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Oxamendi	Imhof	IT	Favorable
2. Akhavein	Becker	AG	Fav/CS
3. Blizzard	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1020 authorizes the Department of Agriculture and Consumer Services (department) to create a state industrial hemp program to administer and oversee the cultivation, handling, processing, and sale of hemp. The Agricultural Improvement Act of 2018 (2018 Farm Bill) legalized the industrial use of hemp and removed it from the U.S. Drug Enforcement Agency's list of controlled substances, separating it from marijuana and placing it under the supervision of the U.S. Department of Agriculture.

Specifically the bill:

- Requires registration with the department and a background check every two years;
- Requires a registrant to provide the legal land description and global positioning coordinates of the area where hemp will be cultivated;
- Requires the registrant to give the department prior written consent allowing physical inspections of premises where hemp is cultivated, handled, or processed;
- Expands participants in industrial hemp pilot projects;
- Provides for distribution and retail sale of hemp and hemp products;
- Provides that hemp seed and hemp seed dealers are subject to the provisions of the Florida Seed Law and that registrants shall only use certified seeds;
- Requires the department to adopt rules to administer the state hemp program in consultation with the Department of Health and the Department of Business and Professional Regulation;

- Directs the Commissioner of Agriculture, in consultation with the Governor and Attorney General, to submit a plan for regulating hemp to the United States Secretary of Agriculture;
- Creates an Industrial Hemp Advisory Board to provide advice and expertise to universities and the department;
- Revises the definition of “cannabis” for purposes of ch. 893, F.S., to exclude hemp and industrial hemp; and
- Directs the department to include information for administering the state hemp program in their legislative budget request for the 2020-2021 fiscal year.

The fiscal impact on state revenues and expenditures is indeterminate. However, the department estimates it will require additional resources of \$1.6 million to administer the state hemp program.

The bill takes effect upon becoming law.

II. Present Situation:

Industrial Hemp

Industrial hemp is a *Cannabis sativa* plant (cannabis) that has been cultivated for approximately 10,000 years as a fiber and grain crop. It is used for fiber, building materials, forages (animal feed), and pain relief as a topical oil.¹

Cannabis

Cannabis is a Schedule I controlled substance.² It is a felony of the third degree³ to sell, manufacture, deliver, or possess with intent to sell, manufacture, or deliver, cannabis in Florida.⁴

As a controlled substance in ch. 893, F.S., “cannabis” is defined to mean: all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include “marijuana,” as defined in s. 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986, F.S., [the Compassionate Medical Cannabis Act of 2014].⁵

Medical Marijuana

On November 4, 2016, Amendment 2 was approved by the electors and now is Article X, section 29, of the Florida Constitution. This section of the constitution became effective on January 3, 2017, and created several exemptions from criminal and civil liability for:

¹ See University of Florida, *UF/IFAS Industrial Hemp Pilot Project* at: <https://programs.ifas.ufl.edu/hemp/> (last visited March 21, 2019).

² Section 893.03(1)(c)7., F.S.

³ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

⁴ Section 893.13(1)(a)2., F.S.

⁵ Section 893.02(3), F.S.

- Qualifying patients medically using marijuana in compliance with the amendment;
- Physicians, solely for issuing physician certifications with reasonable care and in compliance with the amendment; and
- Medical marijuana treatment centers (MMTCs), their agents, and employees for actions or conduct under the amendment and in compliance with rules promulgated by the Florida Department of Health.

Subsequently, the Legislature passed SB 8-A in Special Session A of 2017.⁶ The bill revised the Compassionate Medical Cannabis Act of 2014⁷ in s. 381.986, F.S., to implement Article X, section 29 of the Florida Constitution.

The term medical marijuana includes two distinct forms of the plant genus *Cannabis*:

- Marijuana without any limitation or restriction on the percentage of THC;⁸ and
- “Low-THC cannabis” in which the percentage of THC is limited to 0.8 percent or less and has more than 10 percent of cannabidiol⁹ weight for weight.¹⁰

The Coalition for Medical Marijuana Research and Education located at the H. Lee Moffitt Cancer Center and Research Institute, Inc., may also conduct medical marijuana research and education.¹¹

A MMTC and a qualified patient or caregiver are specifically exempt from the criminal prohibition against the possession of cannabis.¹²

2014 Federal Farm Bill and State Industrial Hemp Pilot Programs

The Agricultural Improvement Act of 2014 (2014 Farm Bill) defined industrial hemp and allowed state departments of agriculture or universities to grow and produce industrial hemp as part of research or pilot programs. Specifically, the law allowed universities and state departments of agriculture to grow or cultivate industrial hemp if:

- The industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- The growing or cultivating of industrial hemp is allowed under the laws of the state in which such institution of higher education or state department of agriculture is located and such research occurs.¹³

The 2014 Farm Bill defines “industrial hemp” to mean:

⁶ Chapter 2017-232, Laws of Fla.

⁷ Chapter 2014-157, Laws of Fla.

⁸ THC, or tetrahydrocannabinol, is the main active ingredient in cannabis and is responsible for most of the psychological effects of cannabis.

⁹ Cannabidiol (CBD) is a chemical compound, known as a cannabinoid, found in cannabis. CBD does not have the same psychoactivity as THC. See Michael J Breus, *Despite What You May Think... CBD Is Not Weed* (Sept. 20, 2018), Psychology Today, available at: <https://www.psychologytoday.com/us/blog/sleep-newzzz/201809/despite-what-you-may-think-cbd-is-not-weed> (last visited March 21, 2019).

¹⁰ See ss. 381.986(1)(e) and (f), F.S.

¹¹ Section 1004.4351, F.S.

¹² See 381.986(14), F.S.

¹³ Agricultural Improvement Act of 2014, Pub. L. No. 113-79, s. 7606, 128 Stat. 912 (2014) (codified at 7 U.S.C. s. 5940).

...the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.¹⁴

Section 1004.4473, F.S., authorizes the department to oversee the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida, Florida Agricultural and Mechanical University, and any land grant university in the state that has a college of agriculture.¹⁵ The purpose of the pilot projects is to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector in this state. The department has adopted a rule addressing safety, compliance, and accountability and other concerns.¹⁶

Section 1004.4473, F.S., does not provide a specific exemption from the criminal prohibition against the possession of cannabis in s. 893.13(1)(a)2, F.S.

2018 Federal Farm Bill

In the 2018 Farm Bill, the U.S. Congress legalized industrial hemp as an agricultural product by removing hemp's classification as a controlled substance.¹⁷ The 2018 Farm Bill defines "hemp" to mean:

...the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.¹⁸

The 2018 Farm Bill allows a state department of agriculture or an Indian tribe to submit a plan to the United States Secretary of Agriculture and apply for primary regulatory authority over the production of hemp in their state or tribal territory. A state or tribal plan must include:

- A procedure for tracking land upon which hemp will be produced;
- Testing methods for determining THC concentration levels of hemp;
- Methods for effective disposal of noncompliant products;
- Enforcement procedures;
- Inspection procedures; and

¹⁴ *Id.*

¹⁵ See University of Florida, *About the UF/IFAS Industrial Hemp Project*, at: <https://programs.ifas.ufl.edu/hemp/about-the-project/> (last visited March 21, 2019).

¹⁶ Fla. Admin. Code R. 5B-57.013 (2018).

¹⁷ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 12619, 132 Stat. 409 (2018) (codified at 21 U.S.C. 802(16)).

¹⁸ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 10113, 132 Stat. 409 (2018) (codified at 7 U.S.C. s. 1639o).

- Certification procedures for the persons authorized to produce hemp producers, test hemp products, inspect hemp producers, and enforce the provisions of the state or tribal plan.¹⁹

Hemp Legislation in Other States

At least 38 states considered legislation related to industrial hemp in 2018. These bills ranged from clarifying existing laws to establishing new licensing requirements and programs. Alaska, Arizona, Kansas, Missouri, New Jersey, and Oklahoma enacted legislation in 2018 establishing hemp research and industrial hemp pilot programs.²⁰

III. Effect of Proposed Changes:

Section 1 creates s. 581.217, F.S., to establish a state hemp program within the department to promote the cultivation, handling, processing, and sale of hemp, hemp products, and hemp extract in the state, pursuant to the standards for a state-administered hemp program. Specifically, the program:

- Provides definitions for the terms “cannabidiol,” “cultivate,” “federally defined THC level for hemp,” “handle,” “hemp,” “hemp extract,” “hemp products,” and “process;”
- Requires registration with the department and a background check every two years;
- Requires a registrant to provide the legal land description and global positioning coordinates of the area where hemp will be cultivated;
- Requires the registrant to give the department prior written consent allowing physical inspections of premises where hemp is cultivated, handled, or processed;
- Authorizes existing industrial hemp projects approved by a university to register with the department and participate in the state hemp program;
- Provides for distribution and retail sale of hemp and hemp products;
- Provides that hemp seed and hemp seed dealers are subject to the provisions of the Florida Seed Law and that registrants shall only use certified seeds;
- Requires the department to adopt rules to administer the state hemp program in consultation with the Department of Health and the Department of Business and Professional Regulation;
- Directs the Commissioner of Agriculture, in consultation with the Governor and Attorney General, to submit a plan for regulating hemp to the United States Secretary of Agriculture; and
- Creates an Industrial Hemp Advisory Board to provide advice and expertise to universities and the department.

Section 2 amends s. 893.02, F.S., to exclude hemp and industrial hemp from the definition of “cannabis.”

¹⁹ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 10113, 132 Stat. 409 (2018) (codified at 7 U.S.C. s. 1639p).

²⁰ See <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx> (last visited March 21, 2019).

Section 3 amends s. 1004.4473, F.S., to expand the schools at which the department is required to authorize and oversee the development of industrial hemp pilot projects. It also authorizes universities to implement industrial hemp pilot projects pursuant to the state hemp program.

Section 4 directs the department to include information for administering the state hemp program in their legislative budget request for the 2020-2021 fiscal year.

Section 5 directs the Division of Law Revision to replace the phrase the effective date of this act wherever it occurs in this act with the date this act becomes a law.

Section 6 provides that this act shall take effect upon becoming a law.

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:

CS/CS/SB 1020 authorizes the department to adopt rules that include a schedule of nonrefundable fees.

B. Private Sector Impact:

Some Florida farmers may receive a beneficial economic opportunity provided by the planting, processing, and sale of hemp and hemp-based products.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on the department associated with rulemaking, the creation and submittal of the state hemp plan to the United States Secretary of Agriculture (Secretary), and for travel and per diem related to the newly created Industrial Hemp Advisory Board. The bill directs the department to include in their Fiscal Year 2020-2021 legislative budget request, a fee schedule and an outline of costs associated with administering the program. The department estimates the costs to administer the provisions in the bill to be \$1.6 million.²¹

The bill requires the department to adopt rules in consultation with the Department of Health and the Department of Business and Professional Regulation, and to submit the state hemp plan to the Secretary in consultation with the Governor and Attorney General. Therefore, it is unknown how long the rulemaking process will take to complete and what the fiscal impact of the bill will actually be.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 7088 by the Committee on Agriculture is linked to CS/CS/SB 1020. SB 7088 amends s. 581.217, F.S., as created by CS/CS/SB 1020, to authorize a fee for each application for initial registration and renewal registration for participation in the state hemp program created under CS/CS/SB 1020. The fee authorized by SB 7088 must be specified in a rule adopted by the department, and may not exceed \$500 per application. SB 7088 allows the department to waive payment of the fee by rule and requires fees collected to be deposited in the Plant Industry Trust Fund.²²

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 893.02 and 1004.4473.

This bill creates section 581.217 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on April 11, 2019:

The committee substitute:

- Revises the definition of “federally defined THC level for hemp” and “hemp extract;”
- Removes the requirement of the department to administer a certified hemp seed program;

²¹ DACS Agency Bill Analysis, *Senate Bill 7088 (linked to SB 1020)* on file with the Senate Committee on Appropriations.

²² Section 570.321, F.S., creates the Plant Industry Trust Fund to be administered by the department.

- Provides that hemp seed and hemp seed dealers are subject to the Florida Seed Law;
- Requires the department's rules to provide for the regulation of transportation of hemp and hemp products;
- Adds additional requirements for inclusion in the department's state hemp plan that are consistent with the 2018 Federal Farm Bill;
- Revises the membership of the Industrial Hemp Advisory Board;
- Revises the definition of "cannabis" for purposes of ch. 893, F.S., to exclude hemp and industrial hemp; and
- Requires the department to include information for administering the state hemp program in their legislative budget request for the 2020-2021 fiscal year.

CS by Agriculture on March 25, 2019:

The committee substitute:

- Provides legislative findings;
- Defines terms for use in the state hemp program;
- Provides requirements for program registration and for the distribution and retail sale of hemp and hemp products;
- Requires the department to administer a certified hemp seed program;
- Requires the department to adopt rules to administer the state hemp program in consultation with the Department of Health and the Department of Business and Professional Regulation;
- Directs the Commissioner of Agriculture, in consultation with the Governor and Attorney General, to submit a plan for regulating hemp to the United States Secretary of Agriculture;
- Creates an Industrial Hemp Advisory Board to provide advice and expertise to universities and the department;
- Expands the schools at which the department is required to authorize and oversee the development of industrial hemp pilot projects. It also authorizes universities to implement industrial hemp pilot projects pursuant to the state hemp program; and
- Directs the Division of Law Revision to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 581.217, Florida Statutes, is created to
read:

581.217 State hemp program.—

(1) CREATION AND PURPOSE.—The state hemp program is created
within the department to promote the cultivation, handling,
processing, and sale of hemp, hemp products, and hemp extract in



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the state.

(2) LEGISLATIVE FINDINGS.—The Legislature finds that:

(a) Hemp is an agricultural commodity.

(b) Hemp-derived cannabinoids, including, but not limited to, cannabidiol, are not controlled substances or adulterants.

(c) Products containing one or more hemp-derived cannabinoids, including, but not limited to, cannabidiol, intended for ingestion are foods and not controlled substances or adulterated products.

(d) The addition of hemp derivatives, including, but not limited to, hemp-derived cannabidiol, to cosmetics, personal care products, and products intended for human or animal consumption is not an adulteration of such products.

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

(a) "Cannabidiol" means the compound by the same name derived from the hemp variety of the *Cannabis sativa L.* plant.

(b) "Cultivate" means planting, watering, growing, and harvesting a hemp plant or a hemp crop. The term does not include the transport of a hemp plant or a hemp crop.

(c) "Federally defined THC level for hemp" means a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis, or the tetrahydrocannabinol concentration for hemp defined in 7 U.S.C. s. 5940, whichever is greater.

(d) "Handle" means possessing or storing hemp plants for any period of time on premises owned, operated, or controlled by a person or an entity registered to cultivate or process hemp, including the possession or storage of hemp plants in a vehicle for any period of time other than during the actual transport



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from the premises of a person registered to cultivate or process hemp or industrial hemp to the premises of another registered person. The term does not include the possession or storage of finished hemp products.

(e) "Hemp" means the plant *Cannabis sativa L.* and any part of that plant, including seeds, derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has the federally defined THC level for hemp. The term includes industrial hemp as defined in s. 1004.4473.

(f) "Hemp extract" means a no-THC or low-THC substance or compound that:

1. Is derived from or contains any part of the plant *Cannabis sativa L.* that meets the definition of industrial hemp under s. 1004.4473;

2. Contains a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis; and

3. Does not contain other controlled substances.

(g) "Hemp products" means all products with the federally defined THC level for hemp derived from or made by processing hemp plants or plant parts that are prepared in a form available for retail sale, including, but not limited to cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

(h) "Process" means the conversion of hemp into a marketable form.



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(4) REGISTRATION.—A person or an entity:

(a) Seeking to cultivate, handle, process, or sell hemp, hemp products, or hemp extract must register with the department and complete a background check every 2 years. The department may deny an application.

(b) May not cultivate, handle, process, or sell hemp, hemp products, or hemp extract in the state without being registered with the department.

(c) Seeking to cultivate hemp must provide to the department the legal land description and global positioning coordinates of the area where hemp will be cultivated.

(d) Seeking to cultivate, handle, process, or sell hemp must provide to the department prior written consent allowing representatives of the department, the state police, and other state and local law enforcement agencies to enter onto all premises where hemp is cultivated, handled, or processed for the purpose of conducting physical inspections and ensuring compliance with the requirements of this section and department rules.

(5) INDUSTRIAL HEMP PILOT PROJECTS.—Notwithstanding s. 1004.4473, an existing industrial hemp project approved by a university under s. 1004.4473 is eligible to cultivate, handle, and process hemp and may register with the department to participate in the state hemp program.

(6) DISTRIBUTION AND RETAIL SALE OF HEMP AND HEMP PRODUCTS.—

(a) The distribution and retail sale of hemp and hemp products may be conducted when the hemp or the hemp used in products are legally cultivated in another state or jurisdiction



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and meet the same or substantially the same requirements for cultivating, handling, and processing hemp and hemp products under this section.

(b) Hemp and hemp products may be legally transported across state lines and exported to foreign nations consistent with federal laws and the laws of respective foreign nations.

(7) HEMP SEED.—Hemp seed and hemp seed dealers are subject to chapter 578 and the rules adopted thereto. Registrants shall only use seeds certified by one of the following:

(a) A certifying agency as defined in s. 578.011(8).

(b) A university conducting an industrial hemp pilot project pursuant to s. 1004.4473.

(8) RULES.—Within 90 days after the effective date of this act, the department shall, in consultation with the Department of Health and the Department of Business and Professional Regulation, adopt rules to administer the state hemp program. The rules must ensure that the application process and registration requirements are reasonable and attainable for small farmers, small businesses, and private individuals. The rules must provide for:

(a) Sampling and testing measures to ensure that hemp, hemp products, and hemp extract cultivated, handled, and processed under this section do not exceed the federally defined THC level for hemp;

(b) Due process and an appeals process;

(c) Enforcement of this section and department rules;

(d) A civil penalty schedule for violations;

(e) A schedule of nonrefundable fees for administering the program;



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(f) Inclusion of the state hemp program in the Florida Agricultural Promotional Campaign and for promotion and labeling of hemp, hemp products, and hemp extract as "Fresh From Florida"; and

(g) The regulation of the transportation of hemp and hemp products in this state.

(9) DEPARTMENT PLAN.—

(a) Within 90 days after the effective date of this act, the Commissioner of Agriculture, in consultation with the Governor and Attorney General, shall submit to the United States Secretary of Agriculture the department plan for regulating hemp production. The plan must include:

1. A procedure for maintaining relevant information regarding the locations in the state where hemp is cultivated, handled, and processed for not less than 3 calendar years;

2. A procedure that uses post-decarboxylation or other similarly reliable methods for testing delta-9-tetrahydrocannabinol concentration levels of hemp cultivated, handled, and processed in this state;

3. A procedure for the effective disposal of hemp, hemp products, and hemp extract cultivated, handled, and processed in violation of this section and department rules;

4. A procedure for the enforcement of violations as outlined in 7 U.S.C. s. 1639o to s. 1639s;

5. A procedure for conducting annual inspections of at least a random sample of registrants to verify that hemp is not being produced in violation of this section;

6. A procedure for submitting the information described in 7 U.S.C. s. 1639q(d) (2) to the United States Secretary of



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Agriculture within 30 days after the date on which the
information is received; and

7. A certification that this state has the resources and
personnel to carry out the practices and procedures described in
this subsection.

(b) If the department plan for regulating hemp production
is not approved by the United States Secretary of Agriculture,
the Commissioner of Agriculture, in consultation with the
Governor and the Attorney General, shall submit an amended plan.

(10) INDUSTRIAL HEMP ADVISORY BOARD.—An Industrial Hemp
Advisory Board is created to provide advice and expertise as
needed by a university or the department with respect to plans,
policies, and procedures applicable to the administration of
their respective industrial hemp pilot programs.

(a) The Industrial Hemp Advisory Board shall be adjunct to
the department for administrative purposes.

(b) The Industrial Hemp Advisory Board shall be composed of
all of the following members:

1. Two members appointed by the commissioner.

2. Two members appointed by the Governor.

3. Two members appointed by the President of the Senate.

4. Two members appointed by the Speaker of the House of
Representatives.

5. The dean for research of the Institute of Food and
Agricultural Sciences of the University of Florida or his or her
designee.

6. The president of Florida Agricultural and Mechanical
University or his or her designee.

7. The executive director of the Department of Law



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Enforcement or his or her designee.

8. The president of the Florida Sheriffs Association or his or her designee.

9. The president of the Florida Police Chiefs Association or his or her designee.

10. The president of the Florida Farm Bureau Federation or his or her designee.

11. The president of the Florida Fruit and Vegetable Association or his or her designee.

(c) The board shall elect by a two-thirds vote of the members one member to serve as chair of the board.

(d) A majority of the members of the board shall constitute a quorum.

(e) The board shall meet at least once annually at the call of the chair.

(f) Board members shall receive no compensation but shall be reimbursed for any actual travel expense incurred while attending meetings of the board.

Section 2. Subsection (3) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(3) "Cannabis" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include "marijuana," as defined in s. 381.986, if manufactured,



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possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986; "hemp," as defined in s. 581.217(3); or "industrial hemp," as defined in s. 1004.4473(1).

Section 3. Paragraph (a) of subsection (2) of section 1004.4473, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

1004.4473 Industrial hemp pilot projects.—

(2)(a) The department shall authorize and oversee the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences at the University of Florida, Florida Agricultural and Mechanical University, ~~and~~ any land grant university in the state that has a college of agriculture, and any Florida College System institution or state university that has an established agriculture or pharmacy program. The department shall adopt rules as required under the Agricultural Act of 2014, 7 U.S.C. s. 5940, to implement this section, including rules for the certification and registration of sites used for growth or cultivation. The purpose of the pilot projects is to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector in this state.

(8) Notwithstanding this section, a university may choose to implement an industrial hemp pilot project pursuant to s. 581.217.

Section 4. The Department of Agriculture and Consumer Services shall include, at a minimum, all of the following information for administering the state hemp program as created in s. 581.217, Florida Statutes, in the department's legislative



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budget request for the 2020-2021 fiscal year:

(1) An estimate of the number of registrants for the first year.

(2) An outline of costs associated with operation of the program.

(3) A recommended fee schedule.

Section 5. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 6. This act shall take effect upon becoming a law.

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

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the state hemp program; creating s.
581.217, F.S.; creating the state hemp program within
the Department of Agriculture and Consumer Services;
providing the purpose of the program; providing
legislative findings; defining terms; providing
requirements for program registration and for the
distribution and retail sale of hemp and hemp
products; providing that hemp seed and hemp seed
dealers are subject to the Florida Seed Law; providing
hemp seed certification requirements; requiring the
department, in consultation with the Department of
Health and the Department of Business and Professional
Regulation, to adopt specified rules within a



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specified timeframe; directing the Commissioner of Agriculture, in consultation with the Governor and Attorney General, to submit a specified plan within a specified timeframe to the United States Secretary of Agriculture; creating an Industrial Hemp Advisory Board for a specified purpose; providing that the board is adjunct to the department for administrative purposes; providing the membership and meetings of the board; prohibiting the board from receiving compensation; amending s. 893.02, F.S.; revising the term "cannabis" to exclude hemp and industrial hemp for purposes of the Florida Comprehensive Drug Abuse Prevention and Control Act; amending s. 1004.4473, F.S.; revising the schools at which the department is required to authorize and oversee the development of industrial hemp pilot projects; authorizing universities to implement industrial hemp pilot projects pursuant to the state hemp program; requiring the Department of Agriculture and Consumer Services to submit certain program and fee information with its 2020-2021 fiscal year legislative budget request; providing a directive to the Division of Law Revision; providing an effective date.

By the Committee on Agriculture; and Senators Bradley,
Albritton, Hutson, and Bracy

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1 A bill to be entitled
2 An act relating to the state hemp program; creating s.
3 581.217, F.S.; creating the state hemp program within
4 the Department of Agriculture and Consumer Services;
5 providing the purpose of the program; providing
6 legislative findings; defining terms; providing
7 requirements for program registration and for the
8 distribution and retail sale of hemp and hemp
9 products; requiring the department to administer a
10 certified hemp seed program; providing the purpose and
11 requirements of the program; requiring the department,
12 in consultation with the Department of Health and the
13 Department of Business and Professional Regulation, to
14 adopt specified rules within a specified timeframe;
15 directing the Commissioner of Agriculture, in
16 consultation with the Governor and Attorney General,
17 to submit a specified plan within a specified
18 timeframe to the United States Secretary of
19 Agriculture; creating an Industrial Hemp Advisory
20 Board for a specified purpose; providing that the
21 board is adjunct to the department for administrative
22 purposes; providing the membership and meetings of the
23 board; prohibiting the board from receiving
24 compensation; amending s. 1004.4473, F.S.; revising
25 the schools at which the department is required to
26 authorize and oversee the development of industrial
27 hemp pilot projects; authorizing universities to
28 implement industrial hemp pilot projects pursuant to
29 the state hemp program; providing a directive to the

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30 Division of Law Revision; providing an effective date.
31
32 Be It Enacted by the Legislature of the State of Florida:
33
34 Section 1. Section 581.217, Florida Statutes, is created to
35 read:
36 581.217 State hemp program.—
37 (1) CREATION AND PURPOSE.—The state hemp program is created
38 within the department to promote the cultivation, handling,
39 processing, and sale of hemp, hemp products, and hemp extract in
40 the state.
41 (2) LEGISLATIVE FINDINGS.—The Legislature finds that:
42 (a) Hemp is an agricultural commodity.
43 (b) Hemp-derived cannabinoids, including, but not limited
44 to, cannabidiol, are not controlled substances or adulterants.
45 (c) Products containing one or more hemp-derived
46 cannabinoids, including, but not limited to, cannabidiol,
47 intended for ingestion are foods and not controlled substances
48 or adulterated products.
49 (d) The addition of hemp derivatives, including, but not
50 limited to, hemp-derived cannabidiol, to cosmetics, personal
51 care products, and products intended for human or animal
52 consumption is not an adulteration of such products.
53 (3) DEFINITIONS.—As used in this section, the term:
54 (a) "Cannabidiol" means the compound by the same name
55 derived from the hemp variety of the *Cannabis sativa L.* plant.
56 (b) "Cultivate" means planting, watering, growing, and
57 harvesting a hemp plant or a hemp crop. The term does not
58 include the transport of a hemp plant or a hemp crop.

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(c) "Federally defined THC level for hemp" means a total delta-9-tetrahydrocannabinol concentration, including immediate precursors, that does not exceed 0.3 percent on a dry-weight basis, or the tetrahydrocannabinol concentration for hemp defined in 7 U.S.C. s. 5940, whichever is greater.

(d) "Handle" means possessing or storing hemp plants for any period of time on premises owned, operated, or controlled by a person or an entity registered to cultivate or process hemp, including the possession or storage of hemp plants in a vehicle for any period of time other than during the actual transport from the premises of a person registered to cultivate or process hemp or industrial hemp to the premises of another registered person. The term does not include the possession or storage of finished hemp products.

(e) "Hemp" means the plant *Cannabis sativa L.* and any part of that plant, including seeds, derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has the federally defined THC level for hemp. The term includes industrial hemp as defined in s. 1004.4473.

(f) "Hemp extract" means a no-THC or low-THC substance or compound that:

1. Is derived from or contains any part of the plant *Cannabis sativa L.* that meets the definition of industrial hemp under s. 1004.4473;

2. Contains a total delta-9-tetrahydrocannabinol concentration, including immediate precursors, that does not exceed 0.3 percent on a dry-weight basis; and

3. Does not contain other controlled substances.

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(g) "Hemp products" means all products with the federally defined THC level for hemp derived from or made by processing hemp plants or plant parts that are prepared in a form available for retail sale, including, but not limited to cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

(h) "Process" means the conversion of hemp into a marketable form.

(4) REGISTRATION.—A person or entity:

(a) Seeking to cultivate, handle, process, or sell hemp, hemp products, or hemp extract must register with the department and complete a background check every 2 years. The department may deny an application.

(b) May not cultivate, handle, process, or sell hemp, hemp products, or hemp extract in the state without being registered with the department.

(c) Seeking to cultivate hemp must provide to the department the legal land description and global positioning coordinates of the area where hemp will be cultivated.

(d) Seeking to cultivate, handle, process, or sell hemp must provide to the department prior written consent allowing representatives of the department, the state police, and other state and local law enforcement agencies to enter onto all premises where hemp is cultivated, handled, or processed for the purpose of conducting physical inspections and ensuring compliance with the requirements of this section and department rules.

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(5) INDUSTRIAL HEMP PILOT PROJECTS.—Notwithstanding s. 1004.4473, an existing industrial hemp project approved by a university under s. 1004.4473 is eligible to cultivate, handle, and process hemp and may register with the department to participate in the state hemp program.

(6) DISTRIBUTION AND RETAIL SALE OF HEMP AND HEMP PRODUCTS.—

(a) The distribution and retail sale of hemp and hemp products may be conducted when the hemp or the hemp used in products are legally cultivated in another state or jurisdiction and meet the same or substantially the same requirements for cultivating, handling, and processing hemp and hemp products under this section.

(b) Hemp and hemp products may be legally transported across state lines and exported to foreign nations consistent with federal laws and the laws of respective foreign nations.

(7) HEMP SEED PROGRAM.—The department shall administer a certified hemp seed program that identifies seeds and cultivars that are suitable for hemp production. The seeds or cultivars must be certified as industrial hemp by one of the following:

(a) The department.

(b) A university conducting an industrial hemp pilot project pursuant to s. 1004.4473.

(c) A member of the Association of Official Seed Certifying Agencies.

(8) RULES.—Within 90 days after the effective date of this act, the department shall, in consultation with the Department of Health and the Department of Business and Professional Regulation, adopt rules to administer the state hemp program.

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The rules must ensure that the application process and registration requirements are reasonable and attainable for small farmers, small businesses, and private individuals. The rules must provide for:

(a) Sampling and testing measures to ensure that hemp, hemp products, and hemp extract cultivated, handled, and processed under this section do not exceed the federally defined THC level for hemp;

(b) Due process and an appeals process;

(c) Enforcement of this section and department rules;

(d) A civil penalty schedule for violations;

(e) A schedule of nonrefundable fees for administering the program; and

(f) Inclusion of the state hemp program in the Florida Agricultural Promotional Campaign and for promotion and labeling of hemp, hemp products, and hemp extract as "Fresh From Florida."

(9) DEPARTMENT PLAN.—

(a) Within 90 days after the effective date of this act, the Commissioner of Agriculture, in consultation with the Governor and Attorney General, shall submit to the United States Secretary of Agriculture the department plan for regulating hemp production. The plan must include:

1. A procedure for maintaining relevant information regarding the locations in the state where hemp is cultivated, handled, and processed for not less than 3 calendar years;

2. A procedure that uses post-decarboxylation or other similarly reliable methods for testing delta-9-tetrahydrocannabinol concentration levels of hemp cultivated,

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175 handled, and processed in the state;

176 3. A procedure for the effective disposal of hemp, hemp
 177 products, and hemp extract cultivated, handled, and processed in
 178 violation of this section and department rules; and

179 4. Guidance for compliance with enforcement procedures.

180 (b) If the department plan for regulating hemp production
 181 is not approved by the United States Secretary of Agriculture,
 182 the Commissioner of Agriculture, in consultation with the
 183 Governor and Attorney General, shall submit an amended plan.

184 (10) INDUSTRIAL HEMP ADVISORY BOARD.—An Industrial Hemp
 185 Advisory Board is created to provide advice and expertise as
 186 needed by a university or the department with respect to plans,
 187 policies, and procedures applicable to the administration of
 188 their respective industrial hemp pilot programs.

189 (a) The Industrial Hemp Advisory Board shall be adjunct to
 190 the department for administrative purposes.

191 (b) The Industrial Hemp Advisory Board shall be composed of
 192 all of the following members:

193 1. Two members appointed by the commissioner.

194 2. Two members appointed by the Governor.

195 3. Two members appointed by the President of the Senate.

196 4. Two members appointed by the Speaker of the House of
 197 Representatives.

198 5. The dean for extension of the Institute of Food and
 199 Agricultural Sciences of the University of Florida or his or her
 200 designee.

201 6. The executive director of the Department of Law
 202 Enforcement or his or her designee.

203 7. The president of the Florida Sheriffs Association or his

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204 or her designee.

205 8. The president of the Florida Police Chiefs Association
 206 or his or her designee.

207 9. The president of the Florida Farm Bureau Federation or
 208 his or her designee.

209 10. The president of the Florida Fruit and Vegetable
 210 Association or his or her designee.

211 (c) The board shall elect by a two-thirds vote of the
 212 members one member to serve as chair of the board.

213 (d) A majority of the members of the board shall constitute
 214 a quorum.

215 (e) The board shall meet at least once annually at the call
 216 of the chair.

217 (f) Board members shall receive no compensation but shall
 218 be reimbursed for any actual travel expense incurred while
 219 attending meetings of the board.

220 Section 2. Paragraph (a) of subsection (2) of section
 221 1004.4473, Florida Statutes, is amended, and subsection (8) is
 222 added to that section, to read:

223 1004.4473 Industrial hemp pilot projects.—

224 (2) (a) The department shall authorize and oversee the
 225 development of industrial hemp pilot projects for the Institute
 226 of Food and Agricultural Sciences at the University of Florida,
 227 Florida Agricultural and Mechanical University, ~~and~~ any land
 228 grant university in the state that has a college of agriculture,
 229 and any Florida College System institution or state university
 230 that has an established agriculture or pharmacy program. The
 231 department shall adopt rules as required under the Agricultural
 232 Act of 2014, 7 U.S.C. s. 5940, to implement this section,

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including rules for the certification and registration of sites used for growth or cultivation. The purpose of the pilot projects is to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector in this state.

(8) Notwithstanding this section, a university may choose to implement an industrial hemp pilot project pursuant to s. 581.217.

Section 3. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 4. This act shall take effect upon becoming a law.

Date: March 28, 2019

Agency Affected:	<u>Dept. of Agriculture and Consumer Services</u>	Telephone: <u>850-617-7000</u>
Agency Contact:	<u>Emily Buckley, Legislative Affairs Director</u>	Telephone: <u>850-617-7700</u>
Respondent:	<u>Emily Koon</u>	Telephone: <u>850-410-2289</u>

RE: SENATE BILL # 7088 –Fees/State Hemp Program – by Agriculture

I. SUMMARY

The proposed fee bill authorizes the Florida Department of Agriculture and Consumer Services (FDACS) to require and collect payment of application fees for initial and renewal registrations related to the state hemp program. The bill directs FDACS to establish fees in rule and provides that a fee does not exceed \$500. All fees are to be deposited in the Plant Industry Trust Fund.

This bill would take effect on the same date that SB1020 or similar legislation takes effect.

II. PRESENT SITUATION

Currently, the state does not have an established comprehensive hemp program framework. Without an established program, there are no authorizations or rules to collect fees outside of Medical Marijuana Treatment Centers (MMTC) regulation (Department of Health) and the edibles inspection program (FDACS).

III. EFFECT OF PROPOSED CHANGES

Senate Bill 7088 authorizes FDACS to set fees by rule and collect initial and renewal application and/or registration fees related to the state hemp program legislation proposed in Senate Bill 1020 and directs the deposit of those fees to the Plant Industry Trust Fund. Rulemaking will begin at the time that state legislation allows for the hemp program to exist.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The state hemp program is anticipated to have a significant positive impact on Florida's agricultural economy. The hemp narrative has been at the forefront of numerous legislative discussions and has only gained in viability as farmers and landowners seek alternative crop options in the wake of the decimation of citrus by HLB and of the most recent hurricanes, Irma and Michael.

In terms of fiscal impact to the state, FDACS has enlisted numerous resources, including hiring a Director of Cannabis, to provide guidance in this endeavor into a new industry. Fees will be set by rule and could contemplate numerous variables, including business type, acreage, etc., for which state baselines do not currently exist. FDACS initial fees should consider industry averages in neighboring states and would be influenced by successful implementation practices in other areas. Potentially, fees for growers and processors will be at tiered levels based on size of acreage grown and volume of processing, which has been successful in Colorado, Kentucky and North Carolina, to name a few.

A conservative estimate of 3,200 applicants (growers only) multiplied by \$500 average initial application fee would result in revenue totaling \$1.6M. An initial analysis of permitting and inspection needs to

handle anticipated year 1 workload estimated expenditures related to the hemp program totaled \$1.6M. There is an indeterminate number of processors that are not included in the calculation above.

As more Floridians realize the income potential in hemp acreage, estimated at \$100,000 per acre in some instances, participation will increase. There is a currently indeterminate impact on both revenue and expenditures related to future growth. FDACS understands the need for the fees to sustain the state hemp program and will continuously monitor data to appropriately set fees and manage costs as the industry develops and matures, potentially as much as triple digit growth of the industrial hemp industry in the next 2-3 years.

	(FY 19-20) Amount/ FTE	(FY 20-21) Amount/ FTE	(FY 21-22) Amount/ FTE
A. Revenues	1,600,000	Indeterminate	Indeterminate
1.Reccuring			
2.Non-Recurring			
B. Expenditures			
1.Recurring	1,600,000	Indeterminate	Indeterminate
2.Non-Recurring			

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

VII. LEGAL ISSUES

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)?

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

D. Other:

VIII. COMMENTS:

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

CS SB 1020
Bill Number (if applicable)

151590

Amendment Barcode (if applicable)

Topic STATE HEMP PLAN

Name JEAN-SEBASTIEN GROS

Job Title MANAGING DIRECTOR - MARINELAND AQUAPONICS

Address 181 School Rd
Street

Phone 954-684-0855

EAST PALATKA FL 32131
City State Zip

Email seb.marineland.aquaponics@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing MARINELAND AQUAPONICS

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

CS SB 1020

Bill Number (if applicable)

151590

Amendment Barcode (if applicable)

Topic HEMP

Name JERRY STARK

Job Title CEO CAG

Address 100 E College Ave

Street

City

TH

State

FL

Zip

32301

Phone 832 224 1660

Email jerry.stark@agm.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA HEMP INDUSTRIES ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

1020

Bill Number (if applicable)

151590

Amendment Barcode (if applicable)

Topic Hemp Program

Name Tim Stanfield

Job Title Attorney

Address 101 College Ave

Street

Phone 222 6891

Tallahassee FL 32301

City

State

Zip

Email StanfieldT@gflaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Green Point Research / HIA 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

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

4-11-19
Meeting Date

1020
Bill Number (if applicable)
151590 DE
Amendment Barcode (if applicable)

Topic Hemp

Name Emily Duda Buckley

Job Title Leg. Aff. Director

Address 400 S Monroe St
Street

Phone 8506177700

Tallahassee FL 32399
City State Zip

Email emily.buckley@freshfromflorida.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Dept Agriculture

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

1020

Bill Number (if applicable)

Topic Hemp Program

Amendment Barcode (if applicable)

Name Tim Stanfield

Job Title Attorney

Address 101 College Av

Phone 222 6891

Street

Tallahassee

FL

32301

City

State

Zip

Email stanfieldt@gflaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Green Point Research / AIA 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

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

4/11/19

Meeting Date

1020

Bill Number (if applicable)

Topic Hemp

Amendment Barcode (if applicable)

Name Jim Magill

Job Title Lobbyist

Address 101 N. Monroe St

Phone 681-0411

Street

TH

City

FL

State

32701

Zip

Email JAMES.MAGILL@BIRE.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing U.S. Hemp Roundtable

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/CS/SB 1080

INTRODUCER: Appropriations Committee; Education Committee; Criminal Justice Committee; and Senator Book

SUBJECT: Hazing

DATE: April 15, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Olenick</u>	<u>Sikes</u>	<u>ED</u>	<u>Fav/CS</u>
3.	<u>Forbes</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1080 amends and reorganizes the definition of hazing in section 1006.63, Florida Statutes, to include the perpetuation or furtherance of a tradition or ritual of any organization operating under the sanction of a postsecondary institution.

Currently, section 1006.63, Florida Statutes, protects persons who are members of or applicants to a student organization from hazing. The bill adds a person who is a former member of the organization as a person who is protected under section 1006.63, Florida Statutes.

Persons who solicit others to commit the crime of hazing or who plan any act of hazing may be prosecuted as if they actively participated in the hazing event under the provisions in the bill. If the hazing results in a permanent injury to the victim, the crime is a third degree felony.

Finally, the bill provides that a person who provides aid, before medical assistance, law enforcement, or campus security arrive on the scene or if an individual is the first to call 911 seeking medical attention for a hazing victim, and who otherwise cooperates with and assists first responders may not be prosecuted for the crime of hazing.

The bill is expected to have a positive insignificant prison bed impact, which means there may be an increase of 10 or fewer prison beds. See Section V. Fiscal Impact.

The bill is effective October 1, 2019.

II. Present Situation:

Hazing is defined in s. 1006.63(1), F.S., as any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student for purposes including, but not limited to, initiation or admission into or affiliation with, any organization operating under the sanction of a postsecondary institution.

The act of hazing includes, but is not limited to:

- Pressuring or coercing the student into violating state or federal law;
- Any brutality of a physical nature, such as:
 - Whipping,
 - Beating,
 - Branding,
 - Exposure to the elements,
 - Forced consumption of any food, liquor, drug, or other substance, or
 - Other forced physical activity that could adversely affect the physical health or safety of the student;
- Any activity that would subject the student to extreme mental stress, such as:
 - Sleep deprivation,
 - Forced exclusion from social contact,
 - Forced conduct that could result in extreme embarrassment, or
 - Forced activity that could adversely affect the mental health or dignity of the student.¹

The crime of hazing is currently either a third degree felony² or a first degree misdemeanor,³ depending upon the degree of injury inflicted upon the victim. The third degree felony offense occurs when a person intentionally or recklessly commits any act of hazing upon another person who is a member of or an applicant to any type of student organization, and the hazing results in serious bodily injury or death of the victim.⁴ Hazing is a first degree misdemeanor if the act, committed under the same circumstances as the felony, creates a substantial risk of physical injury or death of the victim rather than actually inflicting that injury or death.⁵

It is not a defense to the crime of hazing that:

- The consent of the victim had been obtained;
- The conduct or activity that resulted in the death or injury of a person was not part of an official organizational event or was not otherwise sanctioned or approved by the organization; or

¹ Section 1006.63(1), F.S. Note that hazing does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective.

² A third degree felony is punishable by up to 5 years in state prison and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

³ A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

⁴ Section 1006.63(2), F.S.

⁵ Section 1006.63(3), F.S.

- The conduct or activity that resulted in death or injury of the person was not done as a condition of membership to an organization.⁶

Public and nonpublic postsecondary educational institutions whose students receive state student financial assistance must adopt a written anti-hazing policy and, under such policy, must adopt rules prohibiting students or other persons associated with any student organization from engaging in hazing.⁷

During the Board of Governors (BOG) January 31, 2019, meeting, a system-wide regulation was proposed that would prohibit hazing. The proposed regulation requires:⁸

- Each university board of trustees to establish an anti-hazing policy as part of the university's student code of conduct or as a separate regulation.
- Each university policy to provide a program for the enforcement of university anti-hazing regulations and the adoption of appropriate penalties that may range from the imposition of fines to expulsion, depending upon the severity of the violation for both individuals and organizations.
- The university to provide a copy of the anti-hazing policy to students and for each organization to include the policy as part of the students organization's bylaws and each university to make training opportunities available to students and student organizations that are designed to reinforce the policy and increase awareness of the dangers of hazing.

Additionally, the proposed regulation:

- Defines "hazing" consistent with the definition in section s. 1006.63, F.S.
- Sets forth circumstances that do not constitute a defense to allegations of hazing.

III. Effect of Proposed Changes:

The bill amends the definition of hazing in s. 1006.63, F.S., to include:

- Initiation, admission, or affiliation into or with any organization operating under the sanction of a postsecondary institution; and
- The perpetration or furtherance of a tradition or ritual.

The bill creates a third degree felony hazing crime under circumstances where the victim sustains a permanent injury from the hazing.

Currently, s. 1006.63, F.S., protects persons who are members of or applicants to a student organization from hazing. The bill adds a person who is a former member of the organization as a person who is protected under s. 1006.63, F.S.

⁶ Section 1006.63(5), F.S.

⁷ Section 1006.63(7), F.S. For example, see Rule 6C6-3.018, F.A.C., Prohibition of Hazing -- Procedures and Penalties. See also Tallahassee Democrat, Byron Dobson, *Florida Board of Governors approve adding anti-hazing policy in its operating guidelines*, February 1, 2019, available at <https://www.tallahassee.com/story/news/2019/02/01/florida-board-governors-approve-adding-anti-hazing-policy-its-operating-guidelines/2734129002/> (last viewed March 6, 2019).

⁸ Board of Governors, *Notice of Proposed New Regulation* (2019), available at https://www.flbog.edu/documents_regulations/proposed/NoticeofNewRegulation%206.021%20Hazing%20Prohibited.pdf.

Additionally, the bill would allow the prosecution of a person for the crime of hazing if the person solicits others to commit hazing or is actively involved in the planning of any act of hazing.⁹ Therefore, the bill would provide for prosecution of persons who were known to have planned the hazing or recruited others to participate in hazing, but who could not otherwise be identified as having actively participated in the act of hazing itself.

The bill states that if a person establishes all of the following, he or she may not be prosecuted¹⁰ for the crime of hazing under s. 1006.63, F.S.:

- The person was present at an event where, as a result of hazing, another person appeared to be in need of immediate medical assistance;
- The person was the first to call 911 or campus security to report the need for immediate medical assistance;
- The person provided his or her name, the address where the immediate medical assistance was needed, and a description of the medical issue to the 911 operator or campus security during the call;
- The person who called 911 or campus security remained at the scene with the other person in need of immediate medical assistance until a provider of medical assistance or law enforcement or campus security arrived at the scene; and
- The person cooperated with the provider of medical assistance and law enforcement personnel at the scene.¹¹

The bill also establishes that a person may not be prosecuted for the crime of hazing if, before medical assistance, law enforcement, or campus security arrived on the scene of a hazing event, the person rendered aid to the hazing victim. “Aid” includes but is not limited to:

- Rendering cardiopulmonary resuscitation to the victim,
- Clearing an airway for the victim to breathe,
- Using a defibrillator to assist the victim, or
- Rendering any other assistance to the victim which the person intended in good faith to stabilize or improve the victim’s condition while waiting for medical assistance, law enforcement, or campus security to arrive.

The bill is effective October 1, 2019.

⁹ Presumably it would be an affirmative defense to the crime of soliciting an act of hazing that the defendant under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose, after soliciting another person to commit the offense, persuaded such other person not to do so or otherwise prevented commission of the offense. See s. 777.04(5), F.S., and Fl.Std.Crim.JuryInstr.5.2, Criminal Solicitation.

¹⁰ Although the bill provides that the person cannot be prosecuted, practically speaking, the case will have to be reviewed by the State Attorney’s Office with jurisdiction over the offense for a determination that the statutory criteria establishing entitlement to immunity are met.

¹¹ The Florida Statutes provide for immunity from prosecution in another area of the law where swift action on the part of a potential suspect could save a life. Section 893.21(1), F.S., part of the “911 Good Samaritan Act” (Ch. 2012-36, L.O.F.), states: A person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized ... for possession of a controlled substance if the evidence for possession of a controlled substance was obtained as a result of the person’s seeking medical assistance. See *Pope v. State*, 246 So.3d 1282 (Fla. 1st DCA 2018).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) considered the potential prison bed impact that may result from the bill at its meeting on February 27, 2019. The bill is expected to have a positive insignificant fiscal impact, which means there may be an increase of 10 or fewer prison beds.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹² The CJIC estimate is available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/HB727.pdf> (last viewed March 7, 2019).

VIII. Statutes Affected:

This bill substantially amends section 1006.63 of the Florida Statutes.

The bill reenacts section 1001.64 of the Florida Statutes.

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

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

CS/CS/CS by Appropriations on April 11, 2019:

The committee substitute reorganizes the definition of hazing to clarify that, in addition to the perpetration or furtherance of a tradition or ritual of any organization operating under the sanction of a postsecondary institution, the crime includes hazing relating to initiation into, admission into, or affiliation with any organization affiliated with any organization operating under the sanction of a postsecondary institution.

CS/CS by Education on March 26, 2019:

The Committee Substitute amends the bill by providing immunity from prosecution if an individual establishes that, before medical assistance, law enforcement, or campus security arrived on the scene of a hazing event, the person rendered aid to the hazing victim. “Aid” includes but is not limited to:

- Rendering cardiopulmonary resuscitation to the victim,
- Clearing an airway for the victim to breathe,
- Using a defibrillator to assist the victim, or
- Rendering any other assistance to the victim which the person intended in good faith to stabilize or improve the victim’s condition while waiting for medical assistance, law enforcement, or campus security to arrive.

CS by Criminal Justice on March 11, 2019:

The Committee Substitute amends the bill by:

- Including a *former member* of a student organization in those that are protected from hazing and eliminates any reference to a person who is *affiliated with* an organization.
- Eliminating any reference to *immunity from prosecution* in the bill to specify that a person *may not be prosecuted* for hazing if the person is the one who makes the first call to 911 for help and cooperates with first responders.
- Changing the effective date from July 1, 2019 to October 1, 2019.

B. Amendments:

None.



108426

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment

Delete lines 28 - 31
and insert:
purposes including, but not limited to: ~~initiation or
admission into or affiliation with~~
(a) Initiation into any organization operating under the
sanction of a postsecondary institution;
(b) Admission into any organization operating under the
sanction of a postsecondary institution;



108426

11 (c) Affiliation with any organization operating under the
12 sanction of a postsecondary institution; or

13 (d) The perpetration or furtherance of a tradition or
14 ritual of any organization operating under the sanction of a
15 postsecondary institution.

16
17 The term ~~"Hazing"~~

By the Committees on Education; and Criminal Justice; and
Senator Book

581-03505-19

20191080c2

A bill to be entitled

An act relating to hazing; amending s. 1006.63, F.S.; redefining the term "hazing"; expanding the crime of hazing, a third degree felony, to include when a person solicits others to commit or is actively involved in the planning of hazing; expanding the crime of hazing, a first degree misdemeanor, to include when a person solicits others to commit or is actively involved in the planning of hazing; providing that a person may not be prosecuted if certain conditions are met; providing immunity from prosecution to persons who meet specified requirements; defining the term "aid"; reenacting s. 1001.64(8)(e), F.S., relating to Florida College System institution boards of trustees and related powers and duties, to incorporate the amendment made to s. 1006.63, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 1006.63, Florida Statutes, is amended to read:

1006.63 Hazing prohibited.—

(1) As used in this section, the term "hazing" means any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student for purposes including, but not limited to, initiation or admission into or affiliation with, or the perpetuation or furtherance of

581-03505-19

20191080c2

a tradition or ritual of, any organization operating under the sanction of a postsecondary institution. The term "Hazing" includes, but is not limited to, pressuring or coercing the student into violating state or federal law; ~~any~~ brutality of a physical nature, such as whipping, beating, branding, exposure to the elements, forced consumption of any food, liquor, drug, or other substance, or other forced physical activity that could adversely affect the physical health or safety of the student; ~~or, and also includes~~ any activity that would subject the student to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct that could result in extreme embarrassment, or other forced activity that could adversely affect the mental health or dignity of the student. The term ~~Hazing~~ does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective.

(2) A person commits hazing, a third degree felony, punishable as provided in s. 775.082 or s. 775.083, when he or she intentionally or recklessly commits, solicits a person to commit, or is actively involved in the planning of any act of hazing as defined in subsection (1) upon another person who is a member or former member of or an applicant to any type of student organization and the hazing results in a permanent injury, serious bodily injury, or death of such other person.

(3) A person commits hazing, a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, when he or she intentionally or recklessly commits, solicits a person to commit, or is actively involved in the planning of any act of hazing as defined in subsection (1) upon another person who is a

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20191080c2

member or former member of or an applicant to any type of student organization and the hazing creates a substantial risk of physical injury or death to such other person.

(4) As a condition of any sentence imposed pursuant to subsection (2) or subsection (3), the court shall order the defendant to attend and complete a 4-hour hazing education course and may also impose a condition of drug or alcohol probation.

(5) It is not a defense to a charge of hazing that:

(a) The consent of the victim had been obtained;

(b) The conduct or activity that resulted in the death or injury of a person was not part of an official organizational event or was not otherwise sanctioned or approved by the organization; or

(c) The conduct or activity that resulted in death or injury of the person was not done as a condition of membership to an organization.

(6) This section shall not be construed to preclude prosecution for a more general offense resulting from the same criminal transaction or episode.

(7) Public and nonpublic postsecondary educational institutions whose students receive state student financial assistance must adopt a written antihazing policy and under such policy must adopt rules prohibiting students or other persons associated with any student organization from engaging in hazing.

(8) Public and nonpublic postsecondary educational institutions must provide a program for the enforcement of such rules and must adopt appropriate penalties for violations of

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such rules, to be administered by the person at the institution responsible for the sanctioning of such organizations.

(a) Such penalties at Florida College System institutions and state universities may include the imposition of fines; the withholding of diplomas or transcripts pending compliance with the rules or pending payment of fines; and the imposition of probation, suspension, or dismissal.

(b) In the case of an organization at a Florida College System institution or state university that authorizes hazing in blatant disregard of such rules, penalties may also include rescission of permission for that organization to operate on campus property or to otherwise operate under the sanction of the institution.

(c) All penalties imposed under the authority of this subsection shall be in addition to any penalty imposed for violation of any of the criminal laws of this state or for violation of any other rule of the institution to which the violator may be subject.

(9) Rules adopted pursuant hereto shall apply to acts conducted on or off campus whenever such acts are deemed to constitute hazing.

(10) Upon approval of the antihazing policy of a Florida College System institution or state university and of the rules and penalties adopted pursuant thereto, the institution shall provide a copy of such policy, rules, and penalties to each student enrolled in that institution and shall require the inclusion of such policy, rules, and penalties in the bylaws of every organization operating under the sanction of the institution.

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(11) A person may not be prosecuted under this section if he or she establishes all of the following:

(a) That he or she was present at an event where, as a result of hazing, a person appeared to be in need of immediate medical assistance.

(b) That he or she was the first person to call 911 or campus security to report the need for immediate medical assistance.

(c) That he or she provided his or her own name, the address where immediate medical assistance was needed, and a description of the medical issue to the 911 operator or campus security at the time of the call.

(d) That he or she remained at the scene with the person in need of immediate medical assistance until such medical assistance, law enforcement, or campus security arrived and that he or she cooperated with such personnel on the scene.

(12) Notwithstanding subsection (11), a person is immune from prosecution under this section if the person establishes that, before medical assistance, law enforcement, or campus security arrived on the scene of a hazing event, the person rendered aid to the hazing victim. For purposes of this subsection, "aid" includes, but is not be limited to, rendering cardiopulmonary resuscitation to the victim, clearing an airway for the victim to breathe, using a defibrillator to assist the victim, or rendering any other assistance to the victim which the person intended in good faith to stabilize or improve the victim's condition while waiting for medical assistance, law enforcement, or campus security to arrive.

Section 2. For the purpose of incorporating the amendment

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made by this act to section 1006.63, Florida Statutes, in a reference thereto, paragraph (e) of subsection (8) of section 1001.64, Florida Statutes, is reenacted to read:

1001.64 Florida College System institution boards of trustees; powers and duties.—

(8) Each board of trustees has authority for policies related to students, enrollment of students, student records, student activities, financial assistance, and other student services.

(e) Each board of trustees must adopt a written antihazing policy, provide a program for the enforcement of such rules, and adopt appropriate penalties for violations of such rules pursuant to the provisions of s. 1006.63.

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

THE FLORIDA SENATE

APPEARANCE RECORD

4.11.19

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

1080

Meeting Date

Bill Number (if applicable)

Topic Anti-Hazing

Amendment Barcode (if applicable)

Name Kathy Mears

Job Title Director, Gov't Relations

Address 2014 Westcott N

Phone 850 251 4466

Street

Tallahassee, FL 32306

City

State

Zip

Email kmears@fsu.edu

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FSU

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)

3/11/19

Meeting Date

1080

Bill Number (if applicable)

Topic Hazing

Amendment Barcode (if applicable)

Name Renee Fargason

Job Title Director, Public Policy + Advocacy

Address 325 W. Gaines St.

Phone 850-245-0464

Tallahassee FL 32308

City

State

Zip

Email reneefargason@flsos.edu

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 1300

INTRODUCER: Senator Benacquisto

SUBJECT: Florida ABLE Program

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hendon	Hendon	CF	Favorable
2. Gerbrandt	Kidd	AHS	Recommend: Favorable
3. Gerbrandt	Kynoch	AP	Favorable

I. Summary:

SB 1300 repeals section 11 of the 2018-2019 Implementing Bill. Section 10 of the Implementing Bill prohibits the Medicaid program, upon the death of a Medicaid recipient who has assets in an ABLE account, from filing a claim on the account to recover medical assistance. By repealing section 11, the changes in the implementing bill that prohibit a claim by Medicaid will remain in effect. Contributions to ABLE accounts are tax exempt and pay for a variety of expenses related to maintaining the health, independence and quality of life for people with disabilities.

The bill is expected to have an insignificant fiscal impact to the state and has an effective date of June 30, 2019.

II. Present Situation:

ABLE Act

Signed into law in December 2014, the Stephen Beck, Jr. Achieving a Better Life Experience (ABLE) Act authorized states to establish tax-advantaged savings programs for individuals with disabilities.¹ In 2015, Virginia became the first state to approve and pass ABLE legislation after passage of the federal ABLE Act. The act created Section 529A of the Internal Revenue Code. This is the federal legal framework that establishes the specific rules and requirements of an ABLE account. Such accounts are tax-advantaged savings accounts for eligible individuals with disabilities. Individuals with disabilities and their families depend on a wide variety of public benefits for income, health care, food and housing assistance. Many of these benefits require meeting a means or resource test that limits the eligibility of individuals who report more than \$2,000 in cash savings, retirement funds and other items of significant value.

¹ ABLEnow website, see <https://www.able-now.com/>, last visited March 28, 2019.

For the first time in public policy, the ABLE Act recognized the extra and significant costs of living with a disability. ABLE accounts allow eligible individuals the opportunity to save and fund a variety of qualified disability expenses without endangering eligibility for certain benefits such as Medicaid and Supplemental Security Income (SSI).

Florida's ABLE Program

Section 1009.986, F.S., established the ABLE program to encourage and assist the saving of private funds in tax-exempt accounts in order to pay for the qualified disability expenses² of eligible individuals with disabilities. The Legislature intended that the ABLE program be implemented in a manner that is consistent with the federal law authorizing the program and that maximizes program efficiency and effectiveness.

Medicaid

The Florida Medicaid program is a partnership between the federal and state governments. Each state operates its own Medicaid program under a state plan approved by the federal Centers for Medicare and Medicaid Services (CMS). The state plan outlines Medicaid eligibility standards, policies, and reimbursement methodologies. Florida Medicaid is administered by the Agency for Health Care Administration and financed with federal and state funds. Approximately 3.9 million Floridians are currently enrolled in Medicaid, and the program is expected to cost \$28.2 billion in 2019-2020.³

Eligibility for Medicaid is based on a number of factors, including age, household, or individual income, and assets. State eligibility payment guidelines are provided in s. 409.903, F.S., for mandatory payments for eligible persons and s. 409.904, F.S., for optional payments for eligible persons. Minimum coverage thresholds are established in federal law for certain population groups, such as children. Many of the persons with developmental disabilities that are assisted by the ABLE program are also served by the Medicaid program. State and federal law require states to file a lien or claim on the estate of persons served by Medicaid after their death to recover the costs of their medical care.⁴ In addition, s. 1009.986, F.S., allows the Medicaid program, upon the death of an ABLE account beneficiary, to make a claim on the account for the total amount of medical assistance provided under the Medicaid program.

2018-2019 General Appropriations Act and Implementing Bill

Specific Appropriation 70 of the Fiscal Year 2018-2019 General Appropriations Act⁵ provided \$2.2 million in general revenue to the ABLE program for student financial aid.

² Qualified disability expenses include, but are not limited to, education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses. (See s. 529A of the Internal Revenue).

³ Social Services Estimating Conference, Medicaid Caseloads and Expenditures, November 18, 2018 and December 10, 2018—Executive Summary <http://edr.state.fl.us/Content/conferences/medicaid/execsummary.pdf> (last visited March 13, 2019).

⁴ Section 409.9101, F.S.

⁵ Chapter 2018-10, Laws of Florida

Each year, the Legislature passes an Implementing Bill to make temporary changes in the Florida Statutes to implement the provisions of the General Appropriations Act. The Fiscal Year 2018-2019 Implementing Bill⁶ made needed changes in statute and provided for these changes to revert back to prior text on July 1, 2019.

Section 10 of the Implementing Bill amended s. 1009.986(7), F.S., prohibiting the Medicaid program, upon the death of a Medicaid recipient who has assets in an ABLE account, from filing a claim on the account to recover medical assistance provided by Medicaid. Section 11 restores the text so that this prohibition is in effect only during Fiscal Year 2018-2019.

III. Effect of Proposed Changes:

Section 1 of the bill repeals section 11 of the 2018-2019 Implementing Bill. Section 10 of the Implementing Bill prohibits the Medicaid program from filing a claim on a Medicaid client who receives assistance from the ABLE program. By repealing section 11, the changes in section 10 of the 2018-2019 Implementing Bill will remain in effect, which prohibits the Medicaid program from filing a claim on an ABLE account to recover medical assistance provided by Medicaid.

Section 2 provides an effective date of June 30, 2019.

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.

⁶ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

The state's Medicaid program will not be able to make a claim on the ABLE account of any Medicaid recipient who also receives assistance from the ABLE program. The fiscal impact to the state is unknown, but is not expected to be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 11 of ch. 2018-10, L.O.F.

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 Benacquisto

27-01627-19

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A bill to be entitled

An act relating to the Florida ABLE program; repealing
s. 11 of chapter 2018-10, Laws of Florida, relating to
the scheduled reversion of provisions related to the
distribution of funds in an ABLE account upon the
death of a designated beneficiary; providing an
effective date.

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

Section 1. Section 11 of chapter 2018-10, Laws of Florida,
is repealed.

Section 2. This act shall take effect June 30, 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Chair*
Innovation, Industry, and Technology, *Vice Chair*
Appropriations

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR LIZBETH BENACQUISTO

27th District

April 5, 2019

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

RE: SB 1300 – Florida ABLE Program

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to agenda SB 1300, relating to the Florida ABLE Program, for a public hearing at your earliest convenience.

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 black ink that reads "Lizbeth Benacquisto". The signature is written in a cursive style.

Lizbeth Benacquisto
Senate District 27

Cc: Cynthia Sauls Kynoch

REPLY TO:

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

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 1436 (612176)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Gibson

SUBJECT: Closing the Gap Grant Proposals

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Brown	HP	Favorable
2.	Gerbrandt	Kidd	AHS	Recommend: Fav/CS
3.	Gerbrandt	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1436 adds a priority focus area eligible for funding under the “Closing the Gap” grant program to include Alzheimer’s disease and dementia. The bill removes the requirement that up to 20 percent of any grants awarded under the program be set-aside for projects related to Front Porch Florida Communities. The bill also prohibits the Department of Health (DOH) from establishing a minimum or maximum award amount, requires the DOH to determine grant award amounts based on the merit of the application, and requires the DOH to award grants in various regions of the state.

The bill has no fiscal impact on state government.

The effective date of the bill is July 1, 2019.

II. Present Situation:

The Closing the Gap Program

In 2000, the Florida Legislature created the Reducing the Racial and Ethnic Health Disparities: “Closing the Gap” (CTG) grant program.¹ The program is administered through the Department of Health’s (DOH) Office of Minority Health and Health Equity. The purposes of the grant

¹ Chapter 2000-256, ss. 31-32, Laws of Fla. (2000).

program is to improve health outcomes of racial and ethnic populations and promote disease prevention activities in the following priority areas:

- Maternal and infant mortality;
- Cancer;
- HIV/AIDS;
- Cardiovascular disease;
- Diabetes;
- Adult and child immunization;
- Oral health care;
- Sickle cell disease; and,
- Lupus.²

Closing the gap grants are intended to stimulate the development of community and neighborhood-based projects that impact health outcomes of racial and ethnic populations and stimulate partnerships between state and local governments, faith-based organizations, private sector organizations, and other non-traditional partners.³ Priority is given to grant proposals that:

- Represent areas with the greatest documented ethnic and racial health status disparities;
- Exceeded the statutory local match requirement;⁴
- Demonstrate broad-based local community support from entities representing racial and ethnic populations;
- Demonstrate high levels of participation by the health care community in clinical preventive services and health promotion activities;
- Have been submitted by counties with high levels of residents living in poverty and with poor health status indicators;
- Demonstrate a coordinated community approach to addressing racial and ethnic health disparities within existing publicly financed health care programs;
- Incorporate intervention mechanisms that have a high probability of improving the targeted populations health status;
- Demonstrate a commitment to quality management in all aspects of project administration and implementation; and
- Incorporate policy approaches that will lead to long-term sustainability and improvement.⁵

Grant Proposals

Grant proposals are awarded for one year through a proposal process and may be renewed annually subject to the availability of funds and the grantee's achievement of quality standards, objectives, and outcomes. Grants can be awarded to a county or a group of adjoining counties if those counties submit a multi-county application.⁶ Grant funds may not be used to provide medical or clinical services.⁷

² Chapter 2018-157, Laws of Fla. Lupus was added to the list of priority areas during the 2018 Regular Legislative Session.

³ Section 381.7352, F.S.

⁴ Section 381.7356, F.S.

⁵ Section 381.7355(3), F.S.

⁶ Section 381.7356, F.S.

⁷ *Infra* note 15 at page 13.

The DOH released the *Request for Applications* with an application deadline date of February 16, 2018, for grants beginning July 1, 2018 and ending June 30, 2019.⁸ The next funding cycle will be in 2021-2022.⁹ Currently, the maximum award per applicant is \$200,000 and the grant application states that approximately \$3 million dollars would be available, subject to an appropriation.¹⁰

Matching Funds for Grants

Closing the Gap grants require the grantee to provide \$1 in local matching funds for every \$3 in state grant funds being requested. Counties that meet certain population demographics may provide the matching funds through in-kind contributions. The amount of a grant award is based on the county's or the neighborhood's population demographics.¹¹ Table 1 below illustrates how populations may meet the match requirement through different combinations of cash and in-kind contributions.

Table 1. Closing the Gap Matching Funds Contribution Combinations¹²	
Grantee Type	Matching Funds Requirements
County Populations greater than 50,000	One dollar for every \$3 grant payment 50 percent must be in cash 50 percent may be in-kind
County Population of 50,000 or less	Local matching may be provided entirely through in-kind contributions
Grantee is a Front Porch Community ¹³	No match requirement

On June 1, 2018, the DOH awarded grants under the Request for Applications process to the following vendors:

Vendors Awards Closing the Gap Contracts (2018-2019)			
BayCare Health System	Center for Change	Metropolitan Charities	Suwannee River AHEC
Big Bend Cares	Foundation for Sickle Cell Disease Research	Miami-Dade AHEC	Dept of Health – Duval County
Big Bend Rural Health	Gadsden County Healthy Start	Mother Care Network	Dept of Health – Franklin and Gulf
Brain Expansions	Healthy Mothers Healthy Babies	Prideline Youth Services	Dept of Health – Hardee County
Broward Urban League	Hebni Nutrition Consultants	Reclaiming the Land	Dept of Health – Seminole County
Caridad Center	Latino Salud	Sickle Cell Disease Foundation	Dept of Health – Highland County

⁸ Florida Department of Health, Office of Minority Health and Health Equity, *Reducing Racial and Ethnic Health Disparities Closing the Gap Grant Program (CTG) Request for Applications, RFA # 17-007, FY 2018-2019*, <http://www.floridahealth.gov/programs-and-services/minority-health/closing-the-gap.html>, (last visited March 28, 2019).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 381.7356, F.S.

¹² *Id.*

¹³ See *Infra* note 31.

Social Determinants of Health

Healthy People 2020 is an initiative of the United States Department of Health and Human Services that provides 10-year national objectives for improving the health of Americans. Its vision is a society in which all people live long, healthy lives.¹⁴ One of the missions of *Healthy People 2020* is increase public awareness of determinants of health, disease, and disability and the opportunities for progress. The project seeks to achieve health equity, eliminate disparities, and improve the health of all groups while also attaining high-quality, longer lives, free of preventable disease, disability, injury, and premature death.¹⁵ In Florida, the ethnic and racial disparity in some health categories is significant, as shown in Table 2 below.

Table 2. Minority Health Profiles – Select Indicators for 2017 ¹⁶				
Indicator (per 100,000, unless noted)	White	Black	Hispanic	Non-Hispanic
Fetal Deaths ¹⁷ (per 1,000 deliveries)	5.2	10.4	5.5	7.2
Infant Deaths ¹⁸ (per 1,000 births)	4.4	11.3	5.1	6.4
Maternal Deaths ¹⁹	13.3	24.9	10.5	19.3
Diabetes death rate	18.3	35.7	19.8	20.0
HIV Virus Disease	1.6	10.1	30.1	3.7
Coronary Heart Disease death rate	146.2	100	125.4	153.1
Stroke death rate	37.2	53.9	37.9	37.0
Alzheimer's	21.7	15.2	25.9	20.2

A statistical brief from the DOH in 2017 noted that the gap between the black mortality rate and the white mortality rate has decreased over time. In 1995, the age-adjusted mortality rate per 100,000 population was 1,224.9 for Black race and 811.6 for White race, and in 2015, these rates had come down to 851.9 for Black race and 735.0 for White race.²⁰

Dementia

Dementia is not a specific disease but is a catch-all term that is used to describe a group of symptoms associated with a decline in memory or other cognitive abilities that reduce a person's

¹⁴ United States Department of Health and Human Services, *Healthy People 2020 – Framework*, <https://www.healthypeople.gov/sites/default/files/HP2020Framework.pdf>, (last visited March 28, 2019).

¹⁵ *Id.*

¹⁶ Florida Department of Health, FLHealthCHARTS.com, *Resident Age Adjusted Death Rate (AADR) per 100,000 Population by Year by 50 Leading Rankable Causes of Death by Ethnicity* (chart generated on March 20, 2019).

¹⁷ Florida Department of Health, *Supra* note 21, *Fetal Death Ratio per 100,000 Births per year* (chart generated on March 20, 2019).

¹⁸ Florida Department of Health, *Supra* note 21, *Infant Death Ratio per 100,000 Births per year* (chart generated on March 20, 2019).

¹⁹ Florida Department of Health, *Supra* note 21, *Maternal Death Rate per 100,000 Births per year* (chart generated on March 20, 2019).

²⁰ Florida Department of Health, FLHealthCHARTS.com Statistical Brief, *Gap Between Black and White Death Rate Narrows*, <http://www.flhealthcharts.com/Charts/documents/StatisticalBriefs/GapNarrows.pdf>, (last visited March 28, 2019).

ability to perform everyday activities.²¹ Symptoms of dementia vary greatly, but at least two of these core mental functions must be significantly impaired for symptoms to be attributed to dementia:

- Memory;
- Communication and language;
- Ability to focus and pay attention;
- Reasoning and judgment; and
- Visual perception.²²

Alzheimer's disease also accounts for 60 to 80 percent of all dementia cases.²³

Alzheimer's Disease

Alzheimer's disease is the most common cause of dementia. The disease likely develops from many factors such as genetics, lifestyle, and the environment, with age being the greatest known risk factor. Most individuals who develop the disease will do so after the age of 65.²⁴ The disease is a progressive disorder that causes brain cells to degenerate and die.²⁵

Individuals with Alzheimer's may show symptoms such as:

- Repeating statements and questions numerous times over;
- Forgetting conversations, appointments, or events and not remembering them later;
- Misplacing possessions routinely, often putting them in illogical places;
- Getting lost in familiar places;
- Forgetting the names of family members; and
- Having trouble finding the right words to identify objects, express thoughts, or take part in conversations.²⁶

Individuals may also have changes in behavior due to changes in their brains and they may experience depression, apathy, and social withdrawal along with mood swings and delusions.²⁷

III. Effect of Proposed Changes:

The bill amends s. 381.7355, F.S., to expand the priority areas eligible for a Closing the Gap grant award to include Alzheimer's disease and dementia.

The bill amends s. 381.7354, F.S., to eliminate the requirement that up to 20 percent of any grants awarded under the program be set-side for projects related to Front Porch Florida

²¹ Alzheimer's Association, *What is Dementia*, <https://www.alz.org/alzheimers-dementia/what-is-dementia> (last visited March 28, 2019).

²² *Id.*

²³ *Id.*

²⁴ Alzheimer's Association, *Causes and Risk Factors*, <https://www.alz.org/alzheimers-dementia/what-is-alzheimers/causes-and-risk-factors> (last visited March 28, 2019).

²⁵ Mayo Clinic, *Alzheimer's Disease*, <https://www.mayoclinic.org/diseases-conditions/alzheimers-disease/symptoms-causes/syc-20350447> (last visited March 28, 2019).

²⁶ *Id.*

²⁷ *Id.*

Communities.²⁸ The bill also prohibits the Department of Health (DOH) from establishing a minimum or maximum award amount, requires the DOH to determine grant award amounts based on the merit of the application, and requires the DOH to award grants in various regions of the state.

The effective date of the bill is July 1, 2019.

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:

Public and private community groups, foundations, and community partnerships that advocate for issues relating to reducing disparities in the prevalence of Alzheimer's

²⁸ The Front Porch Florida Initiative began during Governor Jeb Bush's administration and was dedicated to revitalization efforts in some of the state's most distressed communities through the award of competitive grants to fund projects proposed by the community. Front Porch funding was used for economic development, beautification, revitalization, technical assistance, community training, and youth development. The initiative began in 1999 and received its last appropriation in the 2007 General Appropriations Act for the 2007-2008 fiscal year. During that span, the Legislature appropriated over \$28 million in funding. See: Florida Senate Committee on Community Affairs, *Department Of Community Affairs - Review Of The Front Porch Florida Initiative*, Interim Project 2008-110 (October 2007) available at http://archive.flsenate.gov/data/Publications/2008/Senate/reports/interim_reports/pdf/2008-110ca.pdf (last visited March 28, 2019)

disease and dementia among racial and ethnic populations will have a new potential opportunity to compete for grants

C. Government Sector Impact:

The annual appropriation of state funds to the Closing the Gap program is subject to an annual appropriation. Funding for the program is not mandated in PCS/SB 1436. The addition of a new priority does not impact the overall cost of the program.

County health departments and other local government entities will also have an opportunity to compete for funds under the program. During this current fiscal year, several local government entities received Closing the Gap grants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.7354 and 381.7355.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on April 4, 2019:

The committee substitute:

- Prohibits the DOH from establishing a minimum or maximum award amount;
- Requires the DOH to determine grant award amounts based on the merit of the application; and
- Requires the DOH to award grants in various regions of the state.

B. Amendments:

None.



612176

576-03879-19

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to Closing the Gap grant proposals;
amending s. 381.7354, F.S.; prohibiting the Department
of Health from establishing a minimum amount or a
maximum amount for Closing the Gap grants; requiring
that the amount of each award be based on the merit of
each application and that grants be awarded to
applicants in various regions of the state; removing
provisions; related to Front Porch Florida
Communities; amending s. 381.7355, F.S.; adding a
priority area that may be addressed in a Closing the
Gap grant proposal; providing an effective date.

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

Section 1. Section 381.7354, Florida Statutes, is amended
to read:

381.7354 Eligibility.—

(1) Any person, entity, or organization within a county may
apply for a Closing the Gap grant and may serve as the lead
agency to administer and coordinate project activities within
the county and develop community partnerships necessary to
implement the grant.

(2) Persons, entities, or organizations within adjoining
counties with populations of less than 100,000, based on the
annual estimates produced by the Population Program of the
University of Florida Bureau of Economic and Business Research,



612176

576-03879-19

may jointly submit a multicounty Closing the Gap grant proposal.
However, the proposal must clearly identify a single lead agency
with respect to program accountability and administration.

(3) The department may not establish a minimum amount or a
maximum amount for grants and shall determine the amount of each
award based on the merits of the application. The department
shall ensure that grants are awarded to applicants in various
regions of the state ~~In addition to the grants awarded under
subsections (1) and (2), up to 20 percent of the funding for the
Reducing Racial and Ethnic Health Disparities: Closing the Gap
grant program shall be dedicated to projects that address
improving racial and ethnic health status within specific Front
Porch Florida Communities.~~

(4) Nothing in ss. 381.7351-381.7356 shall prevent a
person, entity, or organization within a county or group of
counties from separately contracting for the provision of racial
and ethnic health promotion, health awareness, and disease
prevention services.

Section 2. Subsection (2) of section 381.7355, Florida
Statutes, is amended to read:

381.7355 Project requirements; review criteria.—

(2) A proposal must include each of the following elements:

(a) The purpose and objectives of the proposal, including
identification of the particular racial or ethnic disparity the
project will address. The proposal must address one or more of
the following priority areas:

1. Decreasing racial and ethnic disparities in maternal and
infant mortality rates.

2. Decreasing racial and ethnic disparities in morbidity



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and mortality rates relating to cancer.

3. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to HIV/AIDS.

4. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cardiovascular disease.

5. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to diabetes.

6. Increasing adult and child immunization rates in certain racial and ethnic populations.

7. Decreasing racial and ethnic disparities in oral health care.

8. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to sickle cell disease.

9. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to Lupus.

10. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to Alzheimer's disease and dementia.

~~11.10.~~ Improve neighborhood social determinants of health, such as transportation, safety, and food access, as outlined by the Centers for Disease Control and Prevention's "Tools for Putting Social Determinants of Health into Action."

(b) Identification and relevance of the target population.

(c) Methods for obtaining baseline health status data and assessment of community health needs.

(d) Mechanisms for mobilizing community resources and gaining local commitment.

(e) Development and implementation of health promotion and disease prevention interventions.



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(f) Mechanisms and strategies for evaluating the project's objectives, procedures, and outcomes.

(g) A proposed work plan, including a timeline for implementing the project.

(h) Likelihood that project activities will occur and continue in the absence of funding.

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

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 1436

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Gibson

SUBJECT: Closing the Gap Grant Proposals

DATE: April 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Brown	HP	Favorable
2.	Gerbrandt	Kidd	AHS	Recommend: Fav/CS
3.	Gerbrandt	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1436 adds a priority focus area eligible for funding under the “Closing the Gap” grant program to include Alzheimer’s disease and dementia. The bill removes the requirement that up to 20 percent of any grants awarded under the program be set-aside for projects related to Front Porch Florida Communities. The bill also prohibits the Department of Health (DOH) from establishing a minimum or maximum award amount, requires the DOH to determine grant award amounts based on the merit of the application, and requires the DOH to award grants in various regions of the state.

The bill has no fiscal impact on state government.

The effective date of the bill is July 1, 2019.

II. Present Situation:

The Closing the Gap Program

In 2000, the Florida Legislature created the Reducing the Racial and Ethnic Health Disparities: “Closing the Gap” (CTG) grant program.¹ The program is administered through the Department of Health’s (DOH) Office of Minority Health and Health Equity. The purposes of the grant

¹ Chapter 2000-256, ss. 31-32, Laws of Fla. (2000).

program is to improve health outcomes of racial and ethnic populations and promote disease prevention activities in the following priority areas:

- Maternal and infant mortality;
- Cancer;
- HIV/AIDS;
- Cardiovascular disease;
- Diabetes;
- Adult and child immunization;
- Oral health care;
- Sickle cell disease; and,
- Lupus.²

Closing the gap grants are intended to stimulate the development of community and neighborhood-based projects that impact health outcomes of racial and ethnic populations and stimulate partnerships between state and local governments, faith-based organizations, private sector organizations, and other non-traditional partners.³ Priority is given to grant proposals that:

- Represent areas with the greatest documented ethnic and racial health status disparities;
- Exceeded the statutory local match requirement;⁴
- Demonstrate broad-based local community support from entities representing racial and ethnic populations;
- Demonstrate high levels of participation by the health care community in clinical preventive services and health promotion activities;
- Have been submitted by counties with high levels of residents living in poverty and with poor health status indicators;
- Demonstrate a coordinated community approach to addressing racial and ethnic health disparities within existing publicly financed health care programs;
- Incorporate intervention mechanisms that have a high probability of improving the targeted populations health status;
- Demonstrate a commitment to quality management in all aspects of project administration and implementation; and
- Incorporate policy approaches that will lead to long-term sustainability and improvement.⁵

Grant Proposals

Grant proposals are awarded for one year through a proposal process and may be renewed annually subject to the availability of funds and the grantee's achievement of quality standards, objectives, and outcomes. Grants can be awarded to a county or a group of adjoining counties if those counties submit a multi-county application.⁶ Grant funds may not be used to provide medical or clinical services.⁷

² Chapter 2018-157, Laws of Fla. Lupus was added to the list of priority areas during the 2018 Regular Legislative Session.

³ Section 381.7352, F.S.

⁴ Section 381.7356, F.S.

⁵ Section 381.7355(3), F.S.

⁶ Section 381.7356, F.S.

⁷ *Infra* note 15 at page 13.

The DOH released the *Request for Applications* with an application deadline date of February 16, 2018, for grants beginning July 1, 2018 and ending June 30, 2019.⁸ The next funding cycle will be in 2021-2022.⁹ Currently, the maximum award per applicant is \$200,000 and the grant application states that approximately \$3 million dollars would be available, subject to an appropriation.¹⁰

Matching Funds for Grants

Closing the Gap grants require the grantee to provide \$1 in local matching funds for every \$3 in state grant funds being requested. Counties that meet certain population demographics may provide the matching funds through in-kind contributions. The amount of a grant award is based on the county's or the neighborhood's population demographics.¹¹ Table 1 below illustrates how populations may meet the match requirement through different combinations of cash and in-kind contributions.

Table 1. Closing the Gap Matching Funds Contribution Combinations¹²	
Grantee Type	Matching Funds Requirements
County Populations greater than 50,000	One dollar for every \$3 grant payment 50 percent must be in cash 50 percent may be in-kind
County Population of 50,000 or less	Local matching may be provided entirely through in-kind contributions
Grantee is a Front Porch Community ¹³	No match requirement

On June 1, 2018, the DOH awarded grants under the Request for Applications process to the following vendors:

Vendors Awards Closing the Gap Contracts (2018-2019)			
BayCare Health System	Center for Change	Metropolitan Charities	Suwannee River AHEC
Big Bend Cares	Foundation for Sickle Cell Disease Research	Miami-Dade AHEC	Dept of Health – Duval County
Big Bend Rural Health	Gadsden County Healthy Start	Mother Care Network	Dept of Health – Franklin and Gulf
Brain Expansions	Healthy Mothers Healthy Babies	Prideline Youth Services	Dept of Health – Hardee County
Broward Urban League	Hebni Nutrition Consultants	Reclaiming the Land	Dept of Health – Seminole County
Caridad Center	Latino Salud	Sickle Cell Disease Foundation	Dept of Health – Highland County

⁸ Florida Department of Health, Office of Minority Health and Health Equity, *Reducing Racial and Ethnic Health Disparities Closing the Gap Grant Program (CTG) Request for Applications, RFA # 17-007, FY 2018-2019*, <http://www.floridahealth.gov/programs-and-services/minority-health/closing-the-gap.html>, (last visited March 28, 2019).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 381.7356, F.S.

¹² *Id.*

¹³ See *Infra* note 31.

Social Determinants of Health

Healthy People 2020 is an initiative of the United States Department of Health and Human Services that provides 10-year national objectives for improving the health of Americans. Its vision is a society in which all people live long, healthy lives.¹⁴ One of the missions of *Healthy People 2020* is increase public awareness of determinants of health, disease, and disability and the opportunities for progress. The project seeks to achieve health equity, eliminate disparities, and improve the health of all groups while also attaining high-quality, longer lives, free of preventable disease, disability, injury, and premature death.¹⁵ In Florida, the ethnic and racial disparity in some health categories is significant, as shown in Table 2 below.

Table 2. Minority Health Profiles – Select Indicators for 2017¹⁶				
Indicator (per 100,000, unless noted)	White	Black	Hispanic	Non-Hispanic
Fetal Deaths ¹⁷ (per 1,000 deliveries)	5.2	10.4	5.5	7.2
Infant Deaths ¹⁸ (per 1,000 births)	4.4	11.3	5.1	6.4
Maternal Deaths ¹⁹	13.3	24.9	10.5	19.3
Diabetes death rate	18.3	35.7	19.8	20.0
HIV Virus Disease	1.6	10.1	30.1	3.7
Coronary Heart Disease death rate	146.2	100	125.4	153.1
Stroke death rate	37.2	53.9	37.9	37.0
Alzheimer's	21.7	15.2	25.9	20.2

A statistical brief from the DOH in 2017 noted that the gap between the black mortality rate and the white mortality rate has decreased over time. In 1995, the age-adjusted mortality rate per 100,000 population was 1,224.9 for Black race and 811.6 for White race, and in 2015, these rates had come down to 851.9 for Black race and 735.0 for White race.²⁰

Dementia

Dementia is not a specific disease but is a catch-all term that is used to describe a group of symptoms associated with a decline in memory or other cognitive abilities that reduce a person's

¹⁴ United States Department of Health and Human Services, *Healthy People 2020 – Framework*, <https://www.healthypeople.gov/sites/default/files/HP2020Framework.pdf>, (last visited March 28, 2019).

¹⁵ *Id.*

¹⁶ Florida Department of Health, FLHealthCHARTS.com, *Resident Age Adjusted Death Rate (AADR) per 100,000 Population by Year by 50 Leading Rankable Causes of Death by Ethnicity* (chart generated on March 20, 2019).

¹⁷ Florida Department of Health, *Supra* note 21, *Fetal Death Ratio per 100,000 Births per year* (chart generated on March 20, 2019).

¹⁸ Florida Department of Health, *Supra* note 21, *Infant Death Ratio per 100,000 Births per year* (chart generated on March 20, 2019).

¹⁹ Florida Department of Health, *Supra* note 21, *Maternal Death Rate per 100,000 Births per year* (chart generated on March 20, 2019).

²⁰ Florida Department of Health, FLHealthCHARTS.com Statistical Brief, *Gap Between Black and White Death Rate Narrows*, <http://www.flhealthcharts.com/Charts/documents/StatisticalBriefs/GapNarrows.pdf>, (last visited March 28, 2019).

ability to perform everyday activities.²¹ Symptoms of dementia vary greatly, but at least two of these core mental functions must be significantly impaired for symptoms to be attributed to dementia:

- Memory;
- Communication and language;
- Ability to focus and pay attention;
- Reasoning and judgment; and
- Visual perception.²²

Alzheimer's disease also accounts for 60 to 80 percent of all dementia cases.²³

Alzheimer's Disease

Alzheimer's disease is the most common cause of dementia. The disease likely develops from many factors such as genetics, lifestyle, and the environment, with age being the greatest known risk factor. Most individuals who develop the disease will do so after the age of 65.²⁴ The disease is a progressive disorder that causes brain cells to degenerate and die.²⁵

Individuals with Alzheimer's may show symptoms such as:

- Repeating statements and questions numerous times over;
- Forgetting conversations, appointments, or events and not remembering them later;
- Misplacing possessions routinely, often putting them in illogical places;
- Getting lost in familiar places;
- Forgetting the names of family members; and
- Having trouble finding the right words to identify objects, express thoughts, or take part in conversations.²⁶

Individuals may also have changes in behavior due to changes in their brains and they may experience depression, apathy, and social withdrawal along with mood swings and delusions.²⁷

III. Effect of Proposed Changes:

The bill amends s. 381.7355, F.S., to expand the priority areas eligible for a Closing the Gap grant award to include Alzheimer's disease and dementia.

The bill amends s. 381.7354, F.S., to eliminate the requirement that up to 20 percent of any grants awarded under the program be set-side for projects related to Front Porch Florida

²¹ Alzheimer's Association, *What is Dementia*, <https://www.alz.org/alzheimers-dementia/what-is-dementia> (last visited March 28, 2019).

²² *Id.*

²³ *Id.*

²⁴ Alzheimer's Association, *Causes and Risk Factors*, <https://www.alz.org/alzheimers-dementia/what-is-alzheimers/causes-and-risk-factors> (last visited March 28, 2019).

²⁵ Mayo Clinic, *Alzheimer's Disease*, <https://www.mayoclinic.org/diseases-conditions/alzheimers-disease/symptoms-causes/syc-20350447> (last visited March 28, 2019).

²⁶ *Id.*

²⁷ *Id.*

Communities.²⁸ The bill also prohibits the Department of Health (DOH) from establishing a minimum or maximum award amount, requires the DOH to determine grant award amounts based on the merit of the application, and requires the DOH to award grants in various regions of the state.

The effective date of the bill is July 1, 2019.

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:

Public and private community groups, foundations, and community partnerships that advocate for issues relating to reducing disparities in the prevalence of Alzheimer's

²⁸ The Front Porch Florida Initiative began during Governor Jeb Bush's administration and was dedicated to revitalization efforts in some of the state's most distressed communities through the award of competitive grants to fund projects proposed by the community. Front Porch funding was used for economic development, beautification, revitalization, technical assistance, community training, and youth development. The initiative began in 1999 and received its last appropriation in the 2007 General Appropriations Act for the 2007-2008 fiscal year. During that span, the Legislature appropriated over \$28 million in funding. See: Florida Senate Committee on Community Affairs, *Department Of Community Affairs - Review Of The Front Porch Florida Initiative*, Interim Project 2008-110 (October 2007) available at http://archive.flsenate.gov/data/Publications/2008/Senate/reports/interim_reports/pdf/2008-110ca.pdf (last visited March 28, 2019)

disease and dementia among racial and ethnic populations will have a new potential opportunity to compete for grants

C. Government Sector Impact:

The annual appropriation of state funds to the Closing the Gap program is subject to an annual appropriation. Funding for the program is not mandated in PCS/SB 1436. The addition of a new priority does not impact the overall cost of the program.

County health departments and other local government entities will also have an opportunity to compete for funds under the program. During this current fiscal year, several local government entities received Closing the Gap grants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.7354 and 381.7355.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on April 11, 2019:

The committee substitute:

- Prohibits the DOH from establishing a minimum or maximum award amount;
- Requires the DOH to determine grant award amounts based on the merit of the application; and
- Requires the DOH to award grants in various regions of the state.

B. Amendments:

None.

By Senator Gibson

6-01246A-19

20191436__

A bill to be entitled

An act relating to Closing the Gap grant proposals; amending s. 381.7354, F.S.; removing provisions related to Front Porch Florida Communities; amending s. 381.7355, F.S.; adding a priority area that may be addressed in a Closing the Gap grant proposal; providing an effective date.

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

Section 1. Section 381.7354, Florida Statutes, is amended to read:

381.7354 Eligibility.—

(1) Any person, entity, or organization within a county may apply for a Closing the Gap grant and may serve as the lead agency to administer and coordinate project activities within the county and develop community partnerships necessary to implement the grant.

(2) Persons, entities, or organizations within adjoining counties with populations of less than 100,000, based on the annual estimates produced by the Population Program of the University of Florida Bureau of Economic and Business Research, may jointly submit a multicounty Closing the Gap grant proposal. However, the proposal must clearly identify a single lead agency with respect to program accountability and administration.

~~(3) In addition to the grants awarded under subsections (1) and (2), up to 20 percent of the funding for the Reducing Racial and Ethnic Health Disparities: Closing the Gap grant program shall be dedicated to projects that address improving racial and~~

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~~ethnic health status within specific Front Porch Florida Communities.~~

~~(4)~~ Nothing in ss. 381.7351-381.7356 shall prevent a person, entity, or organization within a county or group of counties from separately contracting for the provision of racial and ethnic health promotion, health awareness, and disease prevention services.

Section 2. Subsection (2) of section 381.7355, Florida Statutes, is amended to read:

381.7355 Project requirements; review criteria.—

(2) A proposal must include each of the following elements:

(a) The purpose and objectives of the proposal, including identification of the particular racial or ethnic disparity the project will address. The proposal must address one or more of the following priority areas:

1. Decreasing racial and ethnic disparities in maternal and infant mortality rates.

2. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cancer.

3. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to HIV/AIDS.

4. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cardiovascular disease.

5. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to diabetes.

6. Increasing adult and child immunization rates in certain racial and ethnic populations.

7. Decreasing racial and ethnic disparities in oral health care.

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20191436__

59 8. Decreasing racial and ethnic disparities in morbidity
60 and mortality rates relating to sickle cell disease.

61 9. Decreasing racial and ethnic disparities in morbidity
62 and mortality rates relating to Lupus.

63 10. Decreasing racial and ethnic disparities in morbidity
64 and mortality rates relating to Alzheimer's disease and
65 dementia.

66 11.10. Improve neighborhood social determinants of health,
67 such as transportation, safety, and food access, as outlined by
68 the Centers for Disease Control and Prevention's "Tools for
69 Putting Social Determinants of Health into Action."

70 (b) Identification and relevance of the target population.

71 (c) Methods for obtaining baseline health status data and
72 assessment of community health needs.

73 (d) Mechanisms for mobilizing community resources and
74 gaining local commitment.

75 (e) Development and implementation of health promotion and
76 disease prevention interventions.

77 (f) Mechanisms and strategies for evaluating the project's
78 objectives, procedures, and outcomes.

79 (g) A proposed work plan, including a timeline for
80 implementing the project.

81 (h) Likelihood that project activities will occur and
82 continue in the absence of funding.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR AUDREY GIBSON

Minority Leader
6th District

April 4, 2019

Senator Rob Bradley, Chair
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Bradley

I respectfully request that SB 1436, relating to Closing the Gap grants addressing racial and ethnic disparities in morbidity and mortality rates to Alzheimer's disease and Dementia, be placed on the next committee agenda.

SB 1436, adds Alzheimer's disease and Dementia to Closing the Gap grant proposals. The Closing the Gap grant program provides funding to decrease ethnic disparities for a variety of diseases and illnesses that disproportionately affect people of color. The bill also removes limitations on grant awards and ensure awards are available for all regions of the state. The bill passed unanimously in the first and second committees of reference.

Thank you for your kind consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Audrey", is written over the typed name and title.
Audrey Gibson
State Senator
District 6

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

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
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 1500

INTRODUCER: Appropriations Committee; Environment and Natural Resources Committee; and
Senator Simmons

SUBJECT: Right of Entry

DATE: April 15, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.	Peacock	Yeatman	CA	Favorable
3.	Reagan	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1500 releases the right of entry to any interest in phosphate, minerals, and metals, or any interest in petroleum, reserved for a local government, water management district, or other agency of the state, for any parcel that is or has ever been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

The bill will have an indeterminate, negative fiscal impact on local governments, water management districts, and state agencies, as these entities will no longer be able to develop the oil and mineral rights on these properties. However, the bill will create an indeterminate, positive fiscal impact because those entities would no longer need to process requests to release rights of entry.

The bill takes effect July 1, 2019.

II. Present Situation:

Right of Entry under Section 270.11, F.S.

Right of Entry

In Florida, surface property rights can be severed from subsurface rights to the minerals and oil underneath the land.¹ Once these rights are severed they may be sold or conveyed separately by their respective owners.² Despite the separate ownership, the owner of the oil and mineral rights generally has an implied easement to enter onto the surface property to explore for and extract the oil and minerals found underneath, so long as there is not unreasonable injury to the surface property.³ This right to enter onto the surface property and develop the resources below is known as a “right of entry.”⁴

Board of Trustees of the Internal Improvement Trust Fund

In 1855, the Board of Trustees of the Internal Improvement Trust Fund was created as a state agency.⁵ The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) holds state lands in trust for the use and benefit of the people of the state.⁶ The Governor, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture constitute the trustees of the internal improvement trust fund.⁷ The Department of Environmental Protection (DEP) performs all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees.⁸ Serving as staff for the Board of Trustees, the DEP’s Division of State Lands carries out environmental management and stewardship activities for more than 12 million acres of public lands.⁹

Sale of Public Lands in Florida

Since 1911, in all contracts and deeds for the sale of land by the Board of Trustees, Florida law has reserved for the Board of Trustees ownership of three-fourths of all phosphate, minerals, and

¹ *Noblin v. Harbor Hills Dev., L.P.*, 896 So. 2d 781, 783 (Fla. 5th DCA 2005)(stating that a reservation or grant of oil and mineral rights reflects an intent on the part of the parties to sever the surface estate from the underlying mineral estate and create two estates); The Barnes Walker Educational Series, *Oil, Gas, and Mineral Rights in Florida: A Guide for Realtors*, 1-2 (Feb. 2015), available at <https://barneswalker.com/wp-content/uploads/2015/04/Oil-Gas-and-Mineral.pdf> (last visited Mar. 18, 2019).

² 58 C.J.S. Mines and Minerals § 207.

³ *Noblin*, 896 So. 2d at 783-785 (stating that a grant or reservation of oil and mineral rights implies an easement for ingress and egress to explore for and remove the oil and minerals found on or underneath the surface estate); see *P & N Inv. Corp. v. Fla. Ranchettes, Inc.*, 220 So. 2d 451, 453 (Fla. 1st DCA 1968)(stating that, “[w]hen the surface estate is severed from the mineral estate, the mineral estate is the dominant estate and, therefore, the owner of the mineral estate has the right of ingress and egress to explore for, locate, and remove the minerals, but he cannot so abuse the surface estate so as unreasonably to injure or destroy its value and is answerable to damages to the owners of the surface estate for any unreasonable injuries done”).

⁴ Section 704.05(1), F.S.

⁵ DEP, *History of State Lands*, <https://floridadep.gov/lands/lands-director/content/history-state-lands> (last visited Mar. 18, 2019).

⁶ Sections 253.01-253.03, F.S.

⁷ FLA. CONST. art. IV, s. 4(f).

⁸ Section 253.002, F.S.

⁹ DEP, *Division of State Lands*, <https://floridadep.gov/lands/> (last visited Mar. 18, 2019).

metals, and half of all petroleum, that is or may be under the land that was sold, with the privilege to mine and develop those resources.¹⁰ In 1986, the Legislature expanded this reservation of rights, so that “any local government, water management district, or other agency of the state” that sells land would also own such subsurface rights to the minerals and petroleum.¹¹ Also in 1986, the Legislature added a provision releasing any right of entry that the Board of Trustees and the State Board of Education have relating to the mineral and petroleum interests on parcels less than 20 acres and under the same ownership.¹² However, no such release of the right of entry was made for the mineral and petroleum rights reserved for the local governments, water management districts, and state agencies.

The Board of Trustees, the State Board of Education, a local government, a water management district, or any other state agency may, at its discretion, sell or release any of these reserved mineral or petroleum rights.¹³ Such sale or release requires the proper application of the owner, or petition of the purchaser, along with a statement of reasons justifying such sale or release.¹⁴ The law also requires that any state agency, except a water management district, that receives royalties for parcels shall remit any such moneys into the General Revenue Fund, unless otherwise provided by law.¹⁵ In the context of minerals and petroleum, the term royalties pertains to the minerals or petroleum that are produced or the profits derived by their sale.¹⁶

Issues for Property Owners

Rights of entry for mineral or petroleum rights can cause issues for the owners of the surface property, as it can constitute a defect in the title, the legal rights of ownership to the property.¹⁷ For a property to have marketable title, it must be free and clear of all estates, interests, claims, or charges.¹⁸ In real estate transactions, the purchaser of a property will commonly obtain title insurance. Title insurance is essentially an agreement protecting against defects in title to real property, usually issued to the buyer of a property by the title insurance company that conducted the title search.¹⁹

In general, when a party is pursuing title insurance for a property subject to a right of entry pursuant to a reservation under s. 270.11 F.S., there must either be a release of the right of entry or an exception for the reservation in the title policy.²⁰ The reservations can create special

¹⁰ Section 270.11, F.S.; *Trustees of Tufts Coll. v. Triple R. Ranch, Inc.*, 275 So. 2d 521, 532 (Fla. 1973)(taking notice that the reservation of rights existed in Chapter 6159, Acts of 1911); see ss. 253.03(3) and 253.62(1), F.S. Exceptions to the reservation requirement exist in the conveyance of certain lands or when lands inure to the Board of Trustees from other state agencies.

¹¹ Chapter 86-257, L.O.F. This law also granted local governments, water management districts, and agencies of the state the right to sell or release these reserved interests in any parcel of land; see s. 270.11(3), F.S.

¹² Section 270.11(2)(b), F.S.; see ch. 86-205, L.O.F.

¹³ Section 270.11(2)(a), (3), F.S.

¹⁴ *Id.*

¹⁵ Section 270.11(4), F.S.

¹⁶ John N. Redding, *Florida Real Property Complex Transactions, Chapter 7: Oil, Gas and Minerals*, 12 (2018).

¹⁷ The Barnes Walker Educational Series, *Oil, Gas, and Mineral Rights in Florida: A Guide for Realtors*, 2-3 (Feb. 2015), available at <https://barneswalker.com/wp-content/uploads/2015/04/Oil-Gas-and-Mineral.pdf> (last visited March 18, 2019).

¹⁸ Section 712.04, F.S.

¹⁹ Black’s Law Dictionary, Ninth Edition, *Title Insurance*, 875 (2009).

²⁰ Jana Armstrong, *Florida Real Property Title Examination and Insurance, Chapter 3: Searching For and Examining Title*, 27 (2016).

problems for title insurers, who will often request releases of the land being sold.²¹ Even if a property subject to a right of entry is not zoned for drilling or mining activities, title insurance companies will not rely upon this, because zoning can be changed by the governmental zoning authorities.²² In addition, if mortgage lenders see a right of entry as an exception in a title policy, this can be considered a title defect that may hinder a homebuyer's ability to obtain a loan.²³ To extinguish a right of entry for the statutory oil and mineral rights reserved by Florida's local governments, water management districts, and other state agencies, the purchaser of a property must request written release of the right of entry by the government entity for which it is reserved, or enter an order to quiet title in the circuit court with jurisdiction over the property.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 270.11, F.S., to release the right of entry to any interest in phosphate, minerals, and metals, or any interest in petroleum, reserved for a local government, water management district, or other agency of the state, for any parcel that is or has ever been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

The bill reorganizes subsections (2) and (3) of s. 270.11, F.S., so that subsection (2) authorizes government entities to sell or release any reserved interest and subsection (3) includes local governments, water management districts, and state agencies in provisions releases the right of entry.

Section 2 states that the act shall take effect on July 1, 2019.

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.

²¹ 19 Fla. Prac., Florida Real Estate § 5:12 (citing *Van Arsdale v. Dimil Land Co.*, 325 So. 2d 471 (Fla. 4th DCA 1975)).

²² The Barnes Walker Educational Series, *Oil, Gas, and Mineral Rights in Florida: A Guide for Realtors*, 2 (Feb. 2015), available at <https://barneswalker.com/wp-content/uploads/2015/04/Oil-Gas-and-Mineral.pdf> (last visited March 18, 2019).

²³ *Id.* at 2.

²⁴ Section 65.011, F.S. See also DEP, *FAQ: Use of State-Owned Land*, <https://floridadep.gov/lands/lands/content/faq-use-state-owned-land> (last visited March 20, 2019). An application need not be sent to the Division of State Lands for releasing a right of entry and exploration for oil and mineral reservations on parcels less than 20 acres, because the rights of entry for the lands held by the Board of Trustees have been released in statute.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Releasing the rights of entry as specified in the bill would presumably remove implied easements for mineral and petroleum rights for many properties in the state. In some circumstances, this could eliminate title defects and improve the ownership or value of the property on the surface, including improved success with processes such as real estate transactions, obtaining title insurance, and securing mortgage loans. Also, to the extent property owners incur costs by requesting releases from government entities or filing actions in court to obtain marketable title, releasing the rights of entry may avoid costs for private property owners. Therefore, this bill may have an indeterminate, positive impact on the private sector.

C. Government Sector Impact:

The bill releases the right of entry to any interest in phosphate, minerals, and metals, or any interest in petroleum, reserved for a local government, water management district, or other agency of the state, for any parcel that is or has ever been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

The bill will have an indeterminate, negative fiscal impact on the local governments, water management districts, and state agencies, as these entities will no longer be able to develop the oil and mineral rights on these properties. However, the bill will create an indeterminate, positive fiscal impact because those entities would no longer need to process requests to release rights of entry.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 270.11 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on April 11, 2019:

The committee substitute clarifies that a release of right of entry shall be made upon petition of the owner of the parcel of land rather than the purchaser of such interest.

CS by Environment and Natural Resources Committee on March 26, 2019:

The committee substitute:

- Amends the title to say that the act relates to “right of entry” instead of “mineral rights,” and that the act is releasing a right of entry instead of releasing mineral rights; and
- Renumbers the subsections in s. 270.11, F.S.

- B. **Amendments:**

None.



300132

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Between lines 36 and 37
insert:

Section 2. Notwithstanding the provisions of chapters 253 and 259, Florida Statutes, the Board of Trustees of the Internal Improvement Trust Fund shall release by quit claim deed not later than August 31, 2019, to the City of Daytona Beach, any and all rights of entry, reservations, reversionary interests, restrictions, and rights of revocation contained in Board of



300132

Trustees' Deed Numbers 17190, 17191, 19622, 19622-A, 20798,
20798-B, 23287, and 40152, including any and all oil, gas, and
mineral rights pertaining thereto and, held by the Board of
Trustees of the Internal Improvement Trust Fund, consisting of
97.22 acres, more or less, of filled and submerged lands,
located in Volusia County in Section 8, Township 15 South, Range
33 East, Section 38, Township 15 South, Range 33 East, and
Section 39, Township 15 South, Range 33 East.

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

And the title is amended as follows:

Between lines 5 and 6
insert:

requiring the Board of Trustees of the Internal
Improvement Trust Fund to release certain rights,
reservations, and interests to the City of Daytona
Beach by a specified date;



197108

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 19 - 24

and insert:

or release shall be made upon petition of the owner of the parcel of land with a statement of reasons justifying such sale or release.

(3) The right of entry ~~in respect~~ to any interest in phosphate, minerals, and metals or any interest in petroleum heretofore or hereafter reserved in favor of the Board of



197108

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

And the title is amended as follows:

 Delete line 3

and insert:

 F.S.; revising when a local government, a water management district, or an agency of the state is required to sell or release reserved interest in a parcel of land; releasing right of entry reserved by a local

By the Committee on Environment and Natural Resources; and
Senator Simmons

592-03514-19

20191500c1

A bill to be entitled

An act relating to right of entry; amending s. 270.11,
F.S.; releasing right of entry reserved by a local
government, water management district, or other agency
of the state for specified parcels of property;
providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) and subsection
(3) of section 270.11, Florida Statutes, are amended to read:

270.11 Contracts for sale of public lands to reserve
certain mineral rights; prohibition on exercise of right of
entry in certain cases.—

(2)

(b) A local government, a water management district, or an
agency of the state may, at its discretion, sell or release
reserved interest in any parcel of land, except that such sale
or release shall be made upon petition of the purchaser for such
interest and with a statement of reasons justifying such sale or
release.

(3) The right of entry in respect to any interest in
phosphate, minerals, and metals or any interest in petroleum
heretofore or hereafter reserved in favor of the Board of
Trustees of the Internal Improvement Trust Fund, or the State
Board of Education, a local government, a water management
district, or other agency of the state is hereby released for as
to any parcel of property that is, or ever has been, a
contiguous tract of less than 20 acres in the aggregate under

Page 1 of 2

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

592-03514-19

20191500c1

the same ownership.

~~(3) A local government, water management district, or
agency of the state may, at its discretion, sell or release
reserved interest in any parcel of land, except that such sale
or release shall be made upon petition of the purchaser for such
interest and with a statement of reasons justifying such sale or
release.~~

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 3, 2019

I respectfully request that **Senate Bill 1500**, relating to Right of Entry, be placed on the:

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

Thank you for consideration of this request.

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

Senator David Simmons
Florida Senate, District 9

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 7030

INTRODUCER: Appropriations Committee; Infrastructure and Security Committee; and Education Committee

SUBJECT: Implementation of Legislative Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission

DATE: April 15, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Bouck, Graf, Olenick	Sikes		ED Submitted as Committee Bill
1.	Proctor	Miller	IS	Fav/CS
2.	Underhill	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 7030 builds upon the school safety and security foundation established in SB 7026 (2018 Reg. Session) by addressing the school safety and security recommendations of the Marjory Stoneman Douglas High School Public Safety Commission (commission), and strengthening accountability and compliance oversight authority. Specifically, the bill:

- Improves school security measures by:
 - Establishing a workgroup to review campus hardening policies and recommend a prioritized list of strategies for implementation and related policy and funding enhancements;
 - Prioritizing the use of the school security risk assessment tool to be conducted in collaboration with appropriate public safety agencies;
 - Expanding the personnel who may serve as a school district's school safety specialist to include certain law enforcement officers employed by the sheriff's office;
 - Expanding school district options and eligibility for participation in the Coach Aaron Feis Guardian Program.
 - Expanding options for school guardian training by sheriffs, and requiring consultation with the Florida Department of Law Enforcement; and
 - Revising the content of student records related to student behavior and services and establishing timely transfer of student records.

- Enhances student safety by:
 - Requiring improved school safety incident reporting;
 - Promoting the FortifyFL mobile suspicious activity reporting tool;
 - Expediting services for students with mental or behavioral disorders;
 - Requiring active assailant response plans;
 - Establishing a standardizing behavioral threat assessment instrument for school districts and charter schools;
 - Establishing a workgroup to make recommendations regarding the development of a statewide threat assessment database.
 - Providing for the continuation of intervention services for students who transfer to a different school; and
 - Expanding the data sources included in the centralized integrated data repository.
- Provides school districts with greater flexibility to improve school safety by authorizing the transfer of additional categorical funds within the Florida Education Finance Program (FEFP) towards school safety expenditures, and expands authorized uses of the safe schools allocation.
- Expands the authorized uses of the mental health assistance allocation, provides school district flexibility for expenditures, and requires a program and expenditure plan for school districts and charter schools.
- Criminalizes the false personation of a school guardian.

The fiscal impact of the bill is estimated to be \$880,479. See Section V.

The bill takes effect upon becoming a law, unless otherwise specified.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

In 2018, the Legislature enacted the “Marjory Stoneman Douglas High School Public Safety Act (Act).”¹ The legislation included provisions to address school safety and security including, but not limited to, establishing the Marjory Stoneman Douglas High School Public Safety Commission (commission),² and codifying within the Florida Department of Education (DOE) the Office of Safe Schools (OSS).³

Marjory Stoneman Douglas High School Public Safety Commission

The commission is entrusted with investigating system failures in the Marjory Stoneman Douglas High School shooting and prior mass violence incidents, and developing recommendations for system improvements.⁴ The commission submitted its initial report to the

¹ Chapter 2018-3, L.O.F.

² Section 943.687, F.S.

³ Section 1001.212, F.S.

⁴ Section 943.687(3), F.S.

Governor and the Legislature on January 2, 2019.⁵ The commission is authorized to issue a report annually, by January 1, and is scheduled to sunset July 1, 2023.

The commission's initial report includes numerous school safety and security recommendations, which are addressed in the bill and explained in the Effects of Proposed Changes section as they relate to the components of the bill.

Office of Safe Schools

The OSS in the DOE serves as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning.⁶ The OSS requirements include:

- Establishing and updating as necessary a school security risk assessment tool⁷ for use by school districts and charter schools.
- Providing ongoing professional development opportunities to school district personnel.
- Providing a coordinated and interdisciplinary approach to providing technical assistance and guidance to school districts on safety and security and recommendations to address findings identified in the school security risk assessment.⁸
- Developing and implementing a School Safety Specialist Training Program for school safety specialists.⁹ The office must develop the training program based on national and state best practices on school safety and security and must include active shooter training.
- Reviewing and providing recommendations on the security risk assessments.

Safe-School Officers

Present Situation

Florida law requires each district school board and school district superintendent to partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district by implementing one or more safe-school officer options which best meet the needs of the school district.¹⁰ These options include:

- Establishing a school resource officer program, through a cooperative agreement with law enforcement agencies.
- Commissioning one or more school safety officers. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers.
- Participating in the Coach Aaron Feis Guardian Program if such program is established by the sheriff.

⁵ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited Feb. 22, 2019).

⁶ Section 1001.212, F.S. See also: Florida Department of Education, *Office of Safe Schools*, <http://www.fldoe.org/safe-schools/> (last visited Jan. 29, 2019).

⁷ The Florida Safe Schools Assessment Tool (FSSAT). Section 1006.1493, F.S.

⁸ Section 1006.07(6)(a)4., F.S., requires a school security risk assessment at each public school using the school security risk assessment tool (FSSAT) developed by the Office of Safe Schools.

⁹ Section 1006.07(6)(a), F.S., requires each district school superintendent to designate a school administrator as a school safety specialist for the district.

¹⁰ Section 1006.12, F.S.

Coach Aaron Feis Guardian Program

The Coach Aaron Feis Guardian Program (guardian program) was established in 2018¹¹ as an option for school districts to meet the safe-school officer requirements in law.¹² Each sheriff has the discretion to establish a guardian program to aid in the prevention or abatement of active assailant incidents on school premises. School employees, except individuals who exclusively perform classroom duties as classroom teachers as defined in law,¹³ may participate in the guardian program. The sheriff who chooses to establish a guardian program shall appoint as school guardians, without the power of arrest, school employees who volunteer and who comply with all of the following:

- Hold a valid license issued under s. 790.06, F.S. (license to carry a concealed firearm).
- Complete 132 total hours of comprehensive firearm safety and proficiency training conducted by Criminal Justice Standards and Training Commission-certified instructors, which must include:
 - Eighty hours of firearms instruction based on the Criminal Justice Standards and Training Commission's Law Enforcement Academy training model, which must include at least 10 percent but no more than 20 percent more rounds fired than associated with academy training. Program participants must achieve an 85 percent pass rate on the firearms training.
 - Sixteen hours of instruction in precision pistol.
 - Eight hours of discretionary shooting instruction using state-of-the-art simulator exercises.
 - Eight hours of instruction in active shooter or assailant scenarios.
 - Eight hours of instruction in defensive tactics.
 - Twelve hours of instruction in legal issues.
- Pass a psychological evaluation administered by a psychologist licensed under ch. 490, F.S., and designated by the Florida Department of Law Enforcement (FDLE) and submit the results of the evaluation to the sheriff's office. The FDLE may provide the sheriff's office with mental health and substance abuse data for compliance with this requirement.
- Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455, F.S., and the sheriff's office.
- Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.
- Successfully complete at least 12 hours of a certified nationally recognized diversity training program.¹⁴

A sheriff must issue a school guardian certificate to individuals who meet the requirements specified in law.¹⁵ The sheriff must maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian appointed by the sheriff.¹⁶

¹¹ Section 26, ch. 2018-3, L.O.F.

¹² Section 1006.12, F.S.

¹³ Section 1012.01(2)(a), F.S.

¹⁴ Section 30.15(1)(k), F.S.

¹⁵ Section 30.15(1)(k)2., F.S.

¹⁶ *Id.*

For the 2018-2019 school year, 25 sheriffs have established a guardian training program and 25 school districts are implementing the guardian program as an option to provide safe-school officers. As of January 2019, 688 guardians had been assigned to public schools in the participating districts.¹⁷

In ch. 2018-3, L.O.F., the legislature appropriated \$500,000 in recurring funds and \$67 million in nonrecurring funds to the DOE to allocate to sheriffs' offices that establish a guardian program. These funds were appropriated for screening-related and training-related costs and providing a one-time stipend of \$500 to school guardians who participate in the guardian program. As of January 2019, the department had received \$9.3 million in funding requests and \$2.6 million had been paid out to sheriff's offices for authorized expenses.¹⁸

Florida Department of Law Enforcement

The Florida Department of Law Enforcement (FDLE) was established to promote public safety and strengthen domestic security by providing services in partnership with local, state, and federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida's citizens and visitors.¹⁹ The FDLE is composed of five areas: Executive Direction and Business Support, Criminal Investigations and Forensic Science, Criminal Justice Information, Criminal Justice Professionalism, and Florida Capitol Police.²⁰

Effect of Proposed Changes

Based on recommendations from the commission regarding the guardian program,²¹ the bill amends s. 30.15, F.S., to require a sheriff to establish a guardian program if the local school board votes by majority to implement the program, or contract with another sheriff's office that has established a program, to provide training to school district or charter school employees. A sheriff who has established a guardian program may contract to provide training to a school district or charter school employee employed in a county whose sheriff has not established a guardian program. The sheriff conducting the training will be reimbursed for screening-related and training-related costs and for providing a one-time stipend of \$500 to each school guardian who participates in the school guardian program. The bill also removes the prohibition on an individual who exclusively performs classroom duties as a classroom teacher from participating in the guardian program.

The bill also amends s. 1006.12, F.S., to clarify three types of individuals who can fill the role of a school guardian. Upon completion of the statutorily-required training and screening and certification by a sheriff, the following individuals may serve as a school guardian:

- A school district or charter school employee who volunteers to serve as a guardian in addition to the employee's official job duties;

¹⁷ Florida Department of Education, *School Safety and Security Update*, Senate Education Committee, January 8, 2019.

¹⁸ *Id.*

¹⁹ Florida Department of Law Enforcement, *About FDLE*, <http://www.fdle.state.fl.us/About-Us/About-Us.aspx> (last visited Apr. 11, 2019).

²⁰ *Id.*

²¹ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 104 (last visited Feb. 22, 2019).

- A school district or charter school employee hired for the specific purpose of serving as a guardian; or
- A contract employee working at the school district or charter school through a contract with a private security agency. Contract employees may receive school guardian training through a participating sheriff's office contingent upon defined financial or service obligations by the private security agency enumerated in the contract between the school district or charter school governing board and private security agency.

The bill:

- Clarifies that the sheriff who conducts the guardian training is the sheriff who issues the school guardian certificate.
- Clarifies that the sheriffs' obligations associated with maintaining specified documentation applies to school guardians certified by the sheriffs rather than school guardians appointed by the sheriffs.
- Specifies that an individual may not serve as a school guardian unless he or she is appointed by the district school superintendent or charter school principal.

The bill also requires:

- The sheriff who establishes a guardian program to consult with the FDLE on programmatic guiding principles, practices, and resources.
- The FDLE to, upon request, consult with sheriffs to provide such input in order to assist in the development and implementation of the Coach Aaron Feis Guardian Program. Such input and guidance may include, but need not be limited to, standards, curriculum, instructional strategies, evaluation, certification, records retention, equipment, and other resource needs.

School Safety Specialist

Present Situation

Each district school superintendent must designate a school administrator as a school safety specialist for the district.²² The school safety specialist must meet the following qualifications:

- Earn a certificate of completion of the school safety specialist training provided by the OSS within 1 year after appointment;²³ and
- Earn, or designate one or more individuals to earn, certification as a youth mental health awareness and assistance trainer.²⁴

The school safety specialist has the following responsibilities:

- Supervise and oversee for all school safety and security personnel, policies, and procedures in the school district. The school safety specialist must:²⁵
 - Review policies and procedures for compliance with state law and rules.
 - Provide the necessary training and resources to students and school district staff in matters relating to youth mental health awareness and assistance; emergency procedures, including active shooter training; and school safety and security.

²² Section 1006.07(6)(a), F.S.

²³ *Id.*

²⁴ Section 1012.584(2), F.S.

²⁵ Section 1006.07(6)(a), F.S.

- Serve as the school district liaison with local public safety agencies²⁶ and national, state, and community agencies and organizations in matters of school safety and security.
- Conduct a school security risk assessment at each public school using the school security risk assessment tool developed by the OSS. Based on the assessment findings, the district's school safety specialist must provide recommendations to the district school board which identify strategies and activities that the district school board should implement in order to improve school safety and security.
- Coordinate with the appropriate public safety agencies that are designated as first responders to a school's campus to conduct a tour of such campus once every 3 years and provide recommendations related to school safety.²⁷
- Participate with specified entities in active shooter situation training at each school, conducted law enforcement agency or agencies that are designated as first responders to the school's campus.²⁸
- Ensure that all school personnel within his or her school district receive youth mental health awareness and assistance training.²⁹
- Approve construction items to ensure building security.³⁰

Effect of Proposed Changes

The bill expands the personnel who may serve as a school district's school safety specialist to include law enforcement officers employed by the sheriff's office located in the school district. Additionally, the bill specifies that:

- Any school safety specialist designated from the sheriff's office must be first authorized and approved by the sheriff employing the law enforcement officer.
- Any school safety specialist designated from the sheriff's office remains the employee of the sheriff's office for purposes of compensation, insurance, workers' compensation, and other benefits authorized by law for a law enforcement officer employed by the sheriff's office.
- The sheriff and the school superintendent may determine by agreement the reimbursement for such costs, or may share the costs, associated with employment of the law enforcement officer as a school safety specialist.

The expansion of the individuals who may serve as the school safety specialist for the school district may increase collaboration between the school districts and sheriffs to strengthen school safety and security.

²⁶ "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services. Section 365.171(3)(d), F.S.

²⁷ Section 1006.07(4)(b)1., F.S.

²⁸ *Id.*

²⁹ Section 1012.584(2), F.S.

³⁰ Section 1013.64, F.S. Cost per student station includes contract costs, legal and administrative costs, fees of architects and engineers, furniture and equipment, and site improvement costs. Cost per student station does not include the cost of purchasing or leasing the site for the construction or the cost of related offsite improvements. Cost per student station also does not include the cost for securing entries, checkpoint construction, lighting specifically designed for entry point security, security cameras, automatic locks and locking devices, electronic security systems, fencing designed to prevent intruder entry into a building, bullet-proof glass, or other capital construction items approved by the school safety specialist to ensure building security for new educational, auxiliary, or ancillary facilities; costs for these items must be below 2 percent per student station.

False Personation of Law Enforcement Officers and Other Specified Persons

Present Situation

Section 843.08, F.S., punishes false personation of any of the following law enforcement officers or other specified persons:

- A firefighter.
- Sheriff.
- Officer of the Florida Highway Patrol.
- Officer of the Fish and Wildlife Conservation Commission.
- Fire or arson investigator of the Department of Financial Services.
- Officer of the Department of Financial Services.
- Officer of the Department of Corrections.
- Correctional probation officer.
- Deputy Sheriff.
- State attorney or assistant state attorney.
- Statewide prosecutor or assistant statewide prosecutor.
- State attorney investigator.
- Coroner.
- Police officer.
- Lottery special agent or lottery investigator.
- Beverage enforcement agent.
- Watchman (a security officer licensed under ch. 493, F.S.).
- Any member of the Florida Commission on Offender Review and any administrative aide or supervisor employed by the commission.
- Any personnel or representative of the FDLE.
- A federal law enforcement officer as defined in s. 901.1505, F.S.

A person commits the offense of false personation if he or she falsely assumes or pretends to be any person specified in s. 843.08, F.S., such as a police officer, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any person specified in s. 843.08, F.S.

False personation in violation of s. 843.08, F.S., is generally a third degree felony.³¹ However, false personation is a second degree felony³² if committed during the course of the commission of a felony, unless the felony resulted in the death or personal injury of another human being, in which case false personation is a first degree felony.³³

³¹ A third degree felony is punishable by up to five years in prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S. A third degree felony violation of s. 843.08, F.S., is ranked in Level 2 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(b), F.S.

³² A second degree felony is punishable by up to 15 years in prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

³³ A first degree felony is generally punishable by up to 30 years in prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

Effect of Proposed Changes

The bill amends s. 843.08, F.S., which criminalizes the false personation of law enforcement officers and other specified persons, to criminalize the false personation of a school guardian as described in s. 30.15(1)(k), F.S.

Currently, s. 843.08, F.S., prohibits false personation of a watchman (a security officer licensed under ch. 493, F.S.). The bill replaces the term “watchman” with “security officer licensed under chapter 493” and removes a definition of “watchman.”

False personation of a school guardian is generally a third degree felony. However, false personation is a second degree felony if committed during the course of the commission of a felony, unless the felony resulted in the death or personal injury of another human being, in which case false personation is a first degree felony.

The bill also reenacts a part of the Criminal Punishment Code offense severity ranking chart (s. 921.0022(3)(b), F.S.) to incorporate the amendments made by the bill to s. 843.08, F.S.

Florida Safe Schools Assessment Tool***Present Situation***

Florida law requires the DOE, through the OSS, to contract with a security consulting firm that specializes in development of risk assessment software solutions with experience in conducting security assessments of public facilities to develop the Florida Safe Schools Assessment Tool (FSSAT).³⁴ The FSSAT must be used by school officials at each school district and public school site in the state in conducting security assessments and is intended to help school officials to identify threats, vulnerabilities and appropriate safety controls for the schools that they supervise. The FSSAT is required to address the following components:

- School emergency and crisis preparedness planning;
- Security, crime and violence prevention policies and procedures;
- Physical security measures;
- Professional development training needs;
- An examination of support service roles in school safety, security, and emergency planning;
- School security and school police staffing, operational practices, and related services;
- School-community collaboration on school safety; and
- Return on investment analysis of the recommended physical security controls.

Each school safety specialist³⁵ is required to conduct a school security risk assessment at each public school using the FSSAT.³⁶

³⁴ Section 1006.1493, F.S.

³⁵ *Supra* note 9.

³⁶ Section 1006.07(6)(a)4., F.S.

Effect of Proposed Changes

Based on recommendations from the commission regarding physical site security assessment,³⁷ the bill amends s. 1006.1493, F.S., to specify that the FSSAT must be the primary physical site security assessment tool used by school officials at each school district and public school site in the state. The OSS must provide annual training to each school district's schools safety specialist and other appropriate school district personnel on assessing physical site security and completing the FSSAT assessment.

The bill requires the school safety specialist to, in collaboration with the appropriate public safety agencies,³⁸ annually conduct a school security risk assessment at each public school using the FSSAT.

The bill also requires each district school superintendent, or his or her authorized designee, to approve each school specific FSSAT assessment. The district school superintendent must submit an FSSAT assessment to the department for each school site annually by October 1. Any superintendent who fails to comply with this submission requirement is subject to having his or her salary withheld as authorized in law.³⁹

The requirements of the bill may improve FSSAT reporting, provide a better evaluation of school security, and provide additional accountability for ensuring the safety of students throughout the state.

School Hardening/Harm Mitigation

Present Situation

The commission's report specifies that "physical site target hardening is an essential component" of accomplishing the goal of preventing another active assailant attack.⁴⁰ The commission recommended that school districts implement a tiered approach to campus hardening that begins with basic harm mitigation concepts that are of little or no cost and those that may be implemented quickly.⁴¹ After basic concepts have been implemented, districts should consider more advanced security measures, specifically the measures that focus on prevention, utilize technology, or require statutory changes.⁴² Additionally, the commission recommended that the

³⁷ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 297 (last visited Feb. 22, 2019).

³⁸ "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services. Section 365.171(3)(d), F.S.

³⁹ Section 1001.51(12)(b), F.S.

⁴⁰ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 83 (last visited Feb. 22, 2019).

⁴¹ *Id.* The initial report of the commission includes a tiered approach to enhancing campus site security under Appendix B of the report. *Id.* at 345-350. In 2018, the Legislature appropriated \$98,962,286 in nonrecurring funds to the Department of Education to implement a grant program that will provide awards to schools to fund, in whole or in part, the fixed capital outlay costs associated with improving the physical security of school buildings as identified by a security risk assessment completed before August 1, 2018, by a school district or charter school. Section 44, ch. 2018-3, L.O.F.; see also Florida Department of Education, *Educational Facilities Security Grant – Senate Bill 7026* (June 8, 2018), available at <http://www.fldoe.org/core/fileparse.php/18612/urlt/EdFacilitiesSecurityGrant-SenBill7026.pdf> (last visited Feb. 22, 2019).

⁴² Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 83 (last visited Feb. 22, 2019).

State of Florida engage subject matter experts through the OSS to establish guidelines and best practices for campus hardening.⁴³ The commission also recommended the following:⁴⁴

- The OSS conduct a complete review of existing target-hardening practices and recommendations that are highlighted in other state's school safety reports and by organizations such as the Partner Alliance for Safer Schools.⁴⁵
- Prior to August 2019, the OSS, after receiving input from subject matter experts and completing its target-hardening review, provide the school districts with a tiered list of best practices that will allow schools to develop a plan to enhance and phase-in security levels over time, as budgets and resources allow.
- The legislature consider creating a permanent body similar to the Connecticut School Safety Infrastructure Council to oversee physical site security of schools.

Effect of Proposed Changes

The bill specifies duties and responsibilities for the OSS and the Commissioner of Education (commissioner) regarding school hardening and harm mitigation strategies.

Office of Safe Schools

Based on the suggestions highlighted in the commission's initial report, the bill requires the OSS to convene a School Hardening and Harm Mitigation Workgroup (SHHMW) comprised of subject matter experts to review school campus hardening best practices. The bill requires the review to include, at a minimum:

- Target hardening practices implemented in other states;
- School safety guidelines developed by organizations such as the Partner Alliance for Safer Schools;
- Tiered approach to target campus hardening strategies identified in the initial report submitted by the commission; and
- The Florida Building Code for educational facilities construction⁴⁶ to determine whether the building code may need to be modified to strengthen school safety and security.

The bill requires the SHHMW to meet as necessary and submit its report to the executive director of the OSS by August 1, 2019. The report must include, at a minimum:

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ According to the Partner for Alliance for Safer Schools (PASS), the PASS school safety and security guidelines are the most comprehensive information available on best practices specifically for securing K-12 school facilities—for elementary schools, middle schools and high schools. The PASS school security checklist allows tracking school or district's security efforts in comparison to the best practices identified in the Guidelines. Partner for Alliance for Safer Schools, *PASS School Safety and Security Guidelines*, <https://passk12.org/guidelines-resources/pass-school-security-guidelines/> (last visited Jan. 28, 2019).

⁴⁶ The Department of Education is responsible for developing, reviewing, updating, revising, and recommending a mandatory portion of the Florida Building Code for educational facilities construction and capital improvement by district school boards and Florida College System institution boards. Section 1013.03(6), F.S.

- A prioritized list for implementing school campus hardening strategies and estimated costs and timeframes for school districts and charter schools to implement such strategies. The estimated costs must include regional and statewide projections of the implementation costs.
- Recommendations for policy and funding enhancements to strengthen school safety and security.

The bill requires the OSS to submit to the commissioner:

- The report submitted by the SHHMW; and
- Recommendations regarding procedures for the OSS to use to monitor and enforce compliance by the school districts and charter schools in the implementation of the SHHMW's recommended campus hardening and harm mitigation strategies.

A review of the existing school hardening and harm mitigation plans, policies, and guidelines, and related estimated costs and implementation timeframes by the SHHMW may assist the office with compiling a prioritized list of policy and funding enhancements to strengthen school safety and security.

Commissioner of Education

The bill requires the commissioner to review the SHHMW's report and recommendations submitted by the OSS regarding monitoring and enforcing compliance with the recommended campus hardening and harm mitigation strategies. The commissioner must provide by September 1, 2019, a summary of the SHHMW's recommendations related to campus hardening and harm mitigation strategies to the Governor, President of the Senate, and the Speaker of the House of Representatives. The summary must include, at a minimum:

- Policy and funding enhancements to strengthen school safety and security; and
- The estimated costs and timeframes for the implementation of the campus hardening and harm mitigation strategies recommended by the workgroup.

School Environmental and Safety Incident Reporting

Present Situation

The DOE has collected data on the most serious incidents of crime, violence, and disruptive behavior since 1995 through the School Environmental Safety Incident Reporting (SESIR) system.⁴⁷ The SESIR collects data related to incidents that occur on school grounds, school transportation, and off-campus, school-sponsored events during any 24-hour period, 365 days a year.⁴⁸ There are 26 incidents that must be reported in SESIR.⁴⁹ These incident types and definitions are based on the criminal code but are not a precise reflection due to the specific focus on youth in the K-12 school environment.⁵⁰

⁴⁷ FSU Center of Criminology and The Department of Education *The Florida School Environmental Safety and Incident Reporting (SESIR) system* (2006) available at <http://criminology.fsu.edu/wp-content/uploads/The-Florida-School-Environmental-Safety-Incident-Reporting-SESIR-System.pdf>, at 1 (last visited Feb. 22, 2019).

⁴⁸ *Id.*

⁴⁹ Florida Department of Education, *SESIR Codes and Definitions*, available at <http://www.fldoe.org/safe-schools/sesir-discipline-data/> (last visited Jan. 31, 2018).

⁵⁰ *Id.*

Florida law requires that each school district and the DOE implement an automated information system which is a part of, and compatible with, the statewide comprehensive management information system (information system).⁵¹ Each information system component is required to contain automated student, staff and financial data. Additionally, each school principal must make necessary provisions to ensure that all school reports are accurate and timely, including, but not limited to, school safety and discipline data.⁵² The information system standardizes the definitions of serious crimes and violent acts in schools, so that all schools within a district and statewide are using the same definitions to define criminal and/or violent incidents.

Effect of Proposed Changes

The bill amends s. 1006.07, F.S., to enhance oversight and enforcement as it relates to SESIR. Specifically, the bill:

- Codifies the SESIR system and provides penalties for non-compliance.
- Requires the OSS to provide technical assistance to school districts and charter school governing boards for SESIR. The OSS must collect data through SESIR on incidents that occur on school premises, on school transportation, and at off-campus, school-sponsored events.

The bill requires that the school safety specialist review of school district policies and procedures for compliance with state law and rules must also include the district's timely and accurate submission of the SESIR to the department.

These changes are consistent with the recommendations from the commission to provide DOE with SESIR oversight authority and authority to impose sanctions for non-compliance.⁵³ Providing such oversight authority to the OSS and penalties for noncompliance may increase reporting participation and accuracy.

Mobile Suspicious Activity Reporting Tool (FortifyFL)

Present Situation

In 2018, the FortifyFL application (application) was created and funded as part of the Marjory Stoneman Douglas High School Public Safety Act. The Florida Department of Law Enforcement (FDLE), in conjunction with the Department of Legal Affairs, was required to procure a mobile suspicious activity reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent or criminal activities, or the threat of these activities, to appropriate public safety agencies and officials.⁵⁴

The application is fully operational and, according to the DOE, has received 278 tips.⁵⁵ The application is free to all public and private schools in Florida. Districts who have similar tools

⁵¹ Section 1008.385(2), F.S. see also Rule 6A-1.0014, F.A.C.

⁵² See ss. 1001.54(3), 1001.54(3), and 006.09(6), F.S. Each school principal must ensure that standardized forms prescribed by State Board of Education rule are used to report data concerning school safety and discipline data.

⁵³ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 314 (last visited Feb. 22, 2019).

⁵⁴ Section 943.082(4)(a), F.S.

⁵⁵ Telephone Interview with staff, Florida Department of Education (Jan 28, 2019). 278 tips as of 1/29/19.

may continue to use them in addition to the application.⁵⁶ Even in cases where district-level tools exist, district and school-level administrators will receive tips from the application and will be expected to respond. Administrators are expected to register to receive tips through the application's administrative portal for the safety and well-being of students and staff. Any tips submitted via the application are sent to local school district and law enforcement officials, and the designated officials are contacted until one or more of them take action on the tip.⁵⁷

Effect of Proposed Changes

The bill amends s. 943.082, F.S., to require a district school board to promote the application on its website, campuses, newsletters, and install the application on all mobile devices and bookmark the website on all student-issued computer devices. Additionally, the bill requires charter schools to comply with the specified advertising requirements. These changes are consistent with the commission's recommendations.⁵⁸

The requirement that the application be promoted in these mediums may help to increase awareness and use of the application.

Centralized Data Repository

Present Situation

The OSS is required to coordinate with the FDLE to provide a centralized integrated data repository and data analytics resources to improve access to timely, complete, and accurate information integrating data from, at a minimum, but not limited to, the following data sources by December 1, 2018:⁵⁹

- Social media;
- Department of Children and Families;
- Department of Law Enforcement;
- Department of Juvenile Justice; and
- Local law enforcement.

Data that is exempt or confidential and exempt from public records requirements retains its exempt or confidential and exempt status when incorporated into the centralized integrated data repository.

Effect of Proposed Changes

The bill amends s. 1001.212, F.S., to modify the timeline and content of the centralized integrated data repository. Specifically, the bill:

- Changes the deadline to complete the data repository from December 1, 2018 to August 1, 2019.

⁵⁶ Florida Department of Education, *FortifyFL School Safety Awareness Program* (Oct. 26, 2018) available at <https://info.fldoe.org/docushare/dsweb/Get/Document-8397/dps-2018-157.pdf>, at 1-2 (last visited Feb. 22, 2019).

⁵⁷ *Id.*

⁵⁸ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 266 (last visited Feb. 22, 2019).

⁵⁹ Section 1001.212(6)-(9), F.S.

- Adds required data sources to include Internet posts, the mobile suspicious activity tool (FortifyFL), and the SESIR.
- Requires that access to data from the source agencies are in accordance with not only rules of each source agency, but also the Federal Bureau of Investigation Criminal Justice Information Services security policy, where applicable.

Active Assailant Plan

Present Situation

Florida law requires that district school boards in consultation with public safety agencies formulate and prescribe policies and procedures for actual emergencies including, but not limited to, fires, natural disasters, active shooter and hostage situations, and bomb threats.⁶⁰ Additionally, a district school board must establish model emergency management and preparedness procedures, including emergency notification procedures. The active shooter training for each school must engage the participation of the district school safety specialist, threat assessment team (TAT) members, faculty, staff and students and must be conducted by a law enforcement agency or agencies that are designated as first responders to the school's campus.

Effect of Proposed Changes

The bill amends sections 1002.33 and 1006.07, F.S. to require that each district school board and charter school governing board adopt an active assailant response plan by October 1, 2019, and annually thereafter, each district school superintendent and charter school principal must certify that all school personnel have received annual training on the procedures contained in the active assailant response plan for the applicable school district or charter school.

These changes may require district school boards or charter school governing boards to establish or revise their active assailant response plans, and may result in additional school personnel who are knowledgeable about such plans.

Multiagency Services for Students with Severe Emotional Disturbance

Present Situation

Florida law establishes a multiagency network to provide children with mental illness or emotional and behavioral problems and their families with access to the services and supports they need to succeed. The multiagency network includes district school boards to provide educational programs, and state departments and agencies administering children's mental health funds to provide mental health treatment and residential services.⁶¹ The multiagency network is required to improve the coordination of services to expand school-based mental health services, transition services, and integrated education and treatment programs for students with and at risk of emotional or behavioral disabilities.⁶²

⁶⁰ Section 1006.07(4)(a), F.S.

⁶¹ Section 1006.04(1)(a), F.S. The network was created in 1984 as the Multiagency Service Network for Students with Severe Emotional Disturbance (SEDNET).

⁶² Section 1006.04(1)(c), F.S.

Local child and adolescent mental health systems of care must include the local educational multiagency network to enhance collaboration between agencies and to facilitate the provision of services by the child and adolescent mental health treatment and support system and the school district.⁶³

Effect of Proposed Changes

The bill amends s. 1006.04, F.S., to establish service timeframes for children with or at risk of emotional or behavioral disabilities. Specifically, the bill requires the multiagency network to improve coordination of services to such children to provide the following:

- Children who are referred for evaluation or screening to determine eligibility for services receive the evaluation or screening within 45 days of the referral; and
- If eligible for services, students and their families must be provided a referral to appropriate services within 30 days after completion of the evaluation or screening.

Such changes are consistent with timelines recommended by the commission,⁶⁴ and may assist in the timely diagnosis of mental, emotional, or behavioral disorders and ensure students and families are provided timely information about available services and supports.

School-Based Behavioral Threat Assessments

Present Situation

The threat assessment process provides guidance to students, faculty, and staff regarding the recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self.⁶⁵

Each district school board is required to adopt policies to establish TATs at each school.⁶⁶ Such policies must be consistent with model policies developed by the OSS, and must include procedures for referrals to mental health services identified by the school district,⁶⁷ when appropriate. A school TAT is composed of members with expertise in counseling, instruction, school administration, and law enforcement to coordinate resources, assessment, and intervention for individuals whose behavior may pose a threat to the safety of school staff or students.⁶⁸

Florida law specifies procedures to be followed by the TAT upon a preliminary determination that a student poses a threat of violence or physical harm to himself or herself, or exhibits significantly disruptive behavior.⁶⁹

⁶³ Section 394.495(5), F.S.

⁶⁴ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 273 (last visited Feb. 22, 2019).

⁶⁵ Section 1006.07(7)(a), F.S.

⁶⁶ Section 1006.07(7), F.S.

⁶⁷ Section 1012.584(4), F.S., defines “mental health services” and requires notification to all school personnel who have received training on mental health services about available mental health services.

⁶⁸ Section 1006.07(7), F.S.

⁶⁹ Procedures include superintendent and parental notifications, inspection of criminal records, and immediate action for mental health and substances abuse crises. *Id.*

Each TAT must report quantitative data on its activities to the OSS in accordance with guidance from the OSS.⁷⁰

Currently, there is not a standard threat assessment process or automated threat assessment system in Florida. The current threat assessment process in Florida is school - or district - specific with little to no information sharing as a result of the threat assessment process.⁷¹

Virginia Student Threat Assessment Guidelines (VSTAG)

The VSTAG model is an approach to violence prevention that emphasizes early attention to conflict before it escalates into violent behavior.⁷² The model integrated recommendations from the FBI⁷³ and Secret Service⁷⁴ studies of school shootings with input from educators working in Virginia public schools.

The VSTAG model follows a five-step process, which includes an evaluation of a threat as transient⁷⁵ or substantive,⁷⁶ a response to a substantive threat, and implementation and monitoring of a safety plan, if necessary.

Effect of Proposed Changes

The bill implements recommendations from the commission regarding the development of a standardized, statewide behavioral threat assessment instrument and a statewide threat assessment database.⁷⁷ Specifically, the bill amends s. 1001.212, F.S., to require the OSS to:

- Develop, no later than August 1, 2019, a standardized, statewide behavioral threat assessment instrument (instrument) for use by all public schools, including charter schools. The instrument must include:
 - An evaluation of the causes and seriousness of the threat.
 - The response to a substantive threat, including law enforcement or mental health referrals.
 - Ongoing monitoring to assess implementation of safety strategies.

⁷⁰ Section 1006.07(7)(f), F.S.

⁷¹ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 281 (last visited Feb. 22, 2019).

⁷² Dewey G. Cornell University of Virginia June 18, 2018 *Overview of the Virginia Student Threat Guidelines (VSTAG)* <https://curry.virginia.edu/sites/default/files/images/YVP/VSTAG%20summary%206-18-18.pdf>, at 1 (last visited Feb. 22, 2019).

⁷³ Mary Ellen O'Toole, *The School Shooter: A Threat Assessment Perspective*, available at <https://files.eric.ed.gov/fulltext/ED446352.pdf> (last visited Feb. 22, 2019).

⁷⁴ United States Secret Service and the United States Department of Education (Robert A. Fein), *Threat Assessment in Schools, A Guide to Managing Threatening Situations and to Creating Safe School Climates* (2004), available at <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf> (last visited Feb. 22, 2019).

⁷⁵ A transient threat is a broad category including all threats that do not reflect a genuine intent to harm others. Most student threats are transient threats that reflect expressions of humor, anger, frustration, or fear. Transient threats can be provocative and disruptive, but from a threat assessment perspective, they do not reflect a real intent to harm others. Supra note 56, at 2.

⁷⁶ Substantive threats are characterized by qualities that reflect serious intent, such as planning and preparation, recruitment of accomplices, and acquisition of a weapon. Supra note 56, at 3.

⁷⁷ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 286-287 (last visited Feb. 22, 2019).

- Training for members of a TAT and school administrators regarding the use of the instrument.
- Evaluate, by August 1, 2020, each school district's and charter school governing board's behavioral threat assessment procedures, and:
 - Notify the district school superintendent or charter school governing board, as applicable, if that school district's behavioral threat assessment is not in compliance with the instrument.
 - Report any issues of ongoing noncompliance to the commissioner and the district school superintendent or charter school governing board, as applicable.

Each district school board, in its policies establishing a TAT, must include in its behavioral threat assessment procedures the instrument developed by the OSS. The establishment of a statewide instrument may assist in the development of policies that are more proactive and include greater oversight and accountability of district policies and procedures. In addition, school personnel may receive improved training on and knowledge of the threat assessment process and how to conduct effective behavioral threat assessments.

Additionally, the bill requires the OSS to:

- Establish a Statewide Threat Assessment Database Workgroup to complement the work of the DOE and the FDLE associated with the centralized integrated data repository and data analytics resources initiative and to make recommendations regarding the development of a statewide threat assessment database to provide access to information about any school threat assessment by authorized personnel statewide.
- The workgroup must provide a report to the OSS, no later than December 31, 2019, with recommendations regarding, but not limited to:
 - Required threat assessment data and authorized users.
 - Database design and functionality, to include data security.
 - Restrictions and authorities on information sharing, including the Family Educational Right and Privacy Act,⁷⁸ confidentiality of substance abuse and disorder patient records,⁷⁹ and the Health Insurance Portability and Accountability Act.⁸⁰
 - The cost to develop and maintain a statewide online database.
 - An implementation plan and timeline.

The workgroup recommendations may assist in determining the effective implementation of a statewide threat assessment database for providing vital student threat information to school districts and law enforcement. The bill requires that each school TAT must utilize the statewide threat assessment database when it becomes available.

In addition, the bill amends s. 1006.07, F.S., to modify requirements for threat assessment teams to:

⁷⁸ 20 U.S.C., s. 1232g.

⁷⁹ 42 C.F.R., Part 2.

⁸⁰ 42 U.S.C., s. 1320d-6, and 45 C.F.R. Part 164-E

- Revise the authority for the threat assessment team to obtain criminal history record information.⁸¹
- Specify that, upon the student's transfer to a different school, the threat assessment team must verify that any intervention services provided to the student remain in place until the threat assessment team of the receiving school independently determines the need for intervention services.

Transfer of Student Records

Present Situation

Each principal is required to maintain a permanent cumulative record for each student enrolled in a public K-12 school. Such record must be maintained in the form, and contain all data, prescribed by rule by the SBE. The cumulative record is confidential and exempt and is open to inspection only as provided in law.⁸² The procedure for transferring and maintaining records of students who transfer from school to school is prescribed by rules of the SBE.⁸³

Effect of Proposed Changes

The bill amends s. 1003.25, F.S., to revise the content of student records and establishes deadlines for timely transfer of student records by specifying that intradistrict transfer of records must occur within 1 school day and the interdistrict transfer of records must occur within two school days. The records must include:

- Verified reports of serious or recurrent behavior patterns, including threat assessment evaluations and intervention services.
- Psychological evaluations, including therapeutic treatment plans and therapy or progress notes created or maintained by school district or charter school staff, as appropriate.

Control of Students

Present Situation

Each school district must adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students.⁸⁴ The school district must also require each student at the time of initial registration for school in the school district to note previous school expulsions, arrests resulting in a charge, juvenile justice actions, and referrals to mental health services the student has had.⁸⁵

⁸¹ Section 985.04(1), F.S., specifies that confidential and exempt juvenile justice records may be disclosed only to authorized personnel, which includes school superintendents and their designees. Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel.

⁸² Chapter 1002, F.S.

⁸³ Section 1003.25, F.S. See also Rule 6A-1.0955, F.A.C.

⁸⁴ Section 1006.07(1)(a), F.S.

⁸⁵ Section 1006.07(1)(b), F.S.

Effect of Proposed Changes

The bill amends s. 1006.07, F.S., to modify the mental health services reporting requirement to clarify that only those referrals to mental health services that correspond to previous school expulsions, arrests resulting in a charge, and juvenile justice actions are required.

School District Funding***Present Situation***

State funding for school districts is provided primarily by legislative appropriations, the majority of which is distributed through the Florida Education Finance Program (FEFP).

Florida Education Finance Program

Florida law provides funds for the operation of schools by an allocation through the FEFP to each district. In addition to the basic amount for current operations for the FEFP, the Legislature may appropriate categorical funding for specified programs, activities or purposes.⁸⁶ Each district school board must include the amount of categorical funds as a part of the district annual financial report to the DOE, and the DOE must submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were spent.⁸⁷ A district school board may approve a budget amendment.

Safe Schools Allocation

Safe schools funds are to be used by school districts to help them comply with the sections of Florida law dedicated to student discipline and school safety, with priority given to establishing a school resource officer program pursuant to section 1006.12, F.S.⁸⁸

For the 2018-19 fiscal year, \$161,956,019 is appropriated for safe schools activities, with each school district receiving a guaranteed minimum of \$250,000.⁸⁹ The remaining appropriation has historically been allocated based on two-thirds being allocated to school districts based on the latest official FDLE Florida Crime Index and one-third being allocated based on each district's share of the state's total unweighted student enrollment.⁹⁰ However, in Ch. 2018-3, Laws of Fla., the appropriated funds⁹¹ were distributed to school districts based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment, and school districts are required to use these funds exclusively for hiring or contracting for school resource officers.

⁸⁶ Section 1011.62(6), F.S.

⁸⁷ *Id.*

⁸⁸ Section 1011.62(15), F.S.

⁸⁹ Ch. 2018-3, s. 42, L.O.F.

⁹⁰ Section 1011.62(15), F.S.

⁹¹ Specific Appropriation 92, ch. 2018-9, L.O.F., the 2018-2019 General Appropriations Act, appropriated \$64.5 million for the safe schools allocation. Section 42, ch. 2018-3, L.O.F., appropriated an additional \$97.5 million for the safe schools allocation.

Mental Health Allocation

The mental health assistance allocation was established in 2018⁹² to provide funding to assist school districts in establishing or expanding school-based mental health care. These funds must be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district must receive a minimum of \$100,000 with the remaining balance allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Eligible charter schools are entitled to a proportionate share of district funding. At least 90 percent of a district's allocation must be expended on the elements specified in law. The allocated funds may not supplant funds that are provided for this purpose from other operating funds and may not be used to increase salaries or provide bonuses. School districts are encouraged to maximize third party health insurance benefits and Medicaid claiming for services, where appropriate.⁹³

Before the distribution of the allocation:⁹⁴

- The school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval.
- A charter school must develop and submit a detailed plan outlining the local program and planned expenditures to its governing body for approval. After the plan is approved by the governing body, it must be provided to the charter school's sponsor.
- The required plans must be focused on delivering evidence-based mental health care treatment to children and include the following elements:
 - Provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high risk of such diagnoses.
 - Coordination of such services with a student's primary care provider and with other mental health providers involved in the student's care.
 - Direct employment of such service providers, or a contract-based collaborative effort or partnership with one or more local community mental health programs, agencies, or providers.

School districts must submit approved plans, including approved plans of each charter school in the district, to the commissioner by August 1 of each fiscal year.⁹⁵

Beginning September 30, 2019, and annually by September 30, each school district must submit to the Department of Education a report on its program outcomes and expenditures for the previous fiscal year that, at a minimum, must include the number of each of the following:⁹⁶

- Students who receive screenings or assessments.
- Students who are referred for services or assistance.
- Students who receive services or assistance.
- Direct employment service providers employed by each school district.

⁹² Section 29, ch. 2018-4, L.O.F. In 2018, \$69,237,286 was appropriated to fund the mental health assistance allocation.

⁹³ Section 1011.62(16), F.S.

⁹⁴ Section 1011.62(16)(a), F.S.

⁹⁵ Section 1011.62(16)(c), F.S.

⁹⁶ Section 1011.62(16)(d), F.S.

- Contract-based collaborative efforts or partnerships with community mental health programs, agencies, or providers.

Effect of Proposed Changes

FEFP and Safe Schools Allocation

The bill amends s. 1011.62, F.S. to expand the use of the safe schools allocation to also include:

- District school superintendent and school principal duties relating to student discipline and school safety.⁹⁷
- Authority of school bus drivers and district school boards relating to student discipline and student safety on school buses.⁹⁸
- Standards for use of reasonable force.⁹⁹
- Safe-school officers at each public school.¹⁰⁰ The bill specifies that priority be given to safe-school officers at each public school.

Based on recommendations from the commission regarding school safety funding,¹⁰¹ the bill also amends s. 1011.62, F.S., to provide school districts with greater spending flexibility between categorical funding within the FEFP. The bill authorizes the district school board, upon adoption of a resolution that these funds are urgently needed to maintain school board specified academic classroom instruction or improve school safety, to transfer funds from the guaranteed allocation, supplemental academic instruction allocation, Florida digital classroom allocation, and federally connected student supplement. This may provide school districts with additional funding resources to ensure the safety and security of students.

The bill also amends the safe schools allocation formula by requiring one-third (instead of two-thirds) be allocated to school districts based on the most recent official FDLE Florida Crime Index and two-thirds (instead of one-third) be allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Revising the formula in this manner more closely approximates the safe schools allocation for the 2018-2019 fiscal year resulting from the additional funds appropriated in Ch. 2018-3, Laws of Fla., which mitigates the likelihood of a school district receiving a disparate amount in future fiscal years.

Mental Health Allocation

The bill modifies the funding provision relating to the mental health assistance allocation. Specifically, the bill:

- Expands the use of the allocation to include child and school-age youth mental health awareness; training for educators and school staff in detecting and responding to mental health issues; and connecting families to appropriate services.

⁹⁷ Section 1006.07(8)-(9), F.S.

⁹⁸ Section 1006.07(10), F.S.

⁹⁹ Section 1006.07(11), F.S.

¹⁰⁰ Section 1006.07(12), F.S.

¹⁰¹ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 105 (last visited Feb. 22, 2019).

- Requires the school district to submit a program and expenditure plan for all district schools, including charter schools, unless the charter school elects to submit a plan independently. In such case, the charter school that submits a plan separate from the school district is eligible for its share of the district funding.
- Removes the requirement that 90 percent of the district allocation be used for specified mental health activities.
- Modifies the program and expenditure plan to require the plan to be focused on a multi-tiered system of supports to deliver specified services to students with issues related to mental health, substance abuse, or at high risk of such; which must be coordinated with a student's primary care or other appropriate providers. The bill requires that the plan include:
 - Direct employment of school-based mental health providers, and strategies to increase the time providers spend in direct services.
 - Contracts or agreements with nationally accredited local community health providers or providers of Community Action Team services to provide a behavioral health staff presence at district schools. Services may include mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification, and may be provided on or off the school campus, or by telehealth.
 - Policies and procedures to ensure that students referred for a mental health screening are assessed within 15 days of the referral, school-based mental health services are initiated within 15 days after the assessment, and community-based mental health services are initiated within 30 days of the referral.
 - Programs to assist students in dealing with anxiety, depression, bullying, trauma, and violence.
 - Strategies to reduce the likelihood of at-risk students developing specified disorders.
 - Strategies to improve early identification of social, emotional, or behavioral problems or substance abuse disorders, and to improve intervention services.
 - Information and data relating to employment of school-based providers, students who receive mental health interventions, and students referred to community-based mental health services, which replaces the currently required outcomes report.

In addition, in relation to mental health services, the bill requires the OSS to provide data to support the evaluation of mental health services by the Louis de la Parte Florida Mental Health Institute within the University of South Florida.¹⁰²

The bill takes effect upon becoming a law, unless otherwise specified.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county and municipality mandate provisions of Art. VII, s. 18 of the Florida Constitution may apply because the bill requires a county sheriff under certain circumstances to implement a school guardian program, requiring the expenditure of

¹⁰² The Louis de la Parte Florida Mental Health Institute was created in 2002 to strengthen mental health services throughout the state by providing technical assistance and support services to mental health agencies and mental health professionals. Section 1004.44, F.S.

funds. Article VII, s. 18(a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Article VII, s. 18(d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an “insignificant fiscal impact” are exempt from the mandate requirements, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.^{103,104,105} It is unknown at this time if the costs for county sheriffs to implement the bill will collectively exceed the insignificant fiscal impact threshold.

As for applicable specified constitutional exceptions, a general law may be binding on cities and counties if the Legislature determines that the law fulfills an important state interest (see section 13), and estimated funds are appropriated to cover the mandate. In 2018-2019, the Legislature set aside \$67.5 million for this program, and it is anticipated that approximately \$57 million in unspent funds from this year will be included in the 2019-2020 budget. These funds should be sufficient to cover the costs to county sheriffs of implementing the school guardian program.

If the Legislature does not authorize adequate funding, a two-thirds vote of the membership of each house may be required for the provisions in the bill to be binding upon the county sheriffs.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹⁰³ FLA. CONST. art. VII, s. 18(d).

¹⁰⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 13, 2019).

¹⁰⁵ Based on the Florida Demographic Estimating Conference’s February 6, 2019 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 13, 2019).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Education estimates that the additional requirements in the bill will cost \$880,479. The DOE would reclassify existing positions to accomplish the requirements of the bill, which include: compliance monitoring, additional training and technical assistance, review of policies and procedures, and hosting two new workgroups.¹⁰⁶

The Florida Department of Law Enforcement anticipates that the current five positions, which are assisting with the implementation of the FortifyFL application, should be able to handle the growth over the next four years. However, FDLE estimates that it may be dedicating over 25,161 man-hours per year supporting the Commission, which equates to 14 FTE positions.¹⁰⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 30.15, 843.08, 943.03, 943.082, 1001.10, 1001.11, 1001.212, 1002.33, 1006.07, 1006.12, 1006.1493, and 1011.62

This bill reenacts section 921.0022 of the Florida Statutes.

¹⁰⁶ Department of Education, Senate Bill 7030 Fiscal Analysis (Feb. 6, 2019) (on file with the Senate Appropriation Committee on Education).

¹⁰⁷ Florida Department of Law Enforcement, Senate Bill 7030 Fiscal Analysis (Feb. 6, 2019) (on file with the Senate Appropriation Committee on Education).

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

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

CS/CS by Appropriations on April 11, 2019:

The committee substitute:

- Modifies the requirement that a sheriff establish a guardian program when a district school board votes to implement a guardian program by authorizing a sheriff to contract with another sheriff that has established a guardian program to provide the training.
- Requires a sheriff who establishes a Guardian program to consult with the Florida Department of Law Enforcement (FDLE) on programmatic guiding principles, practices, and resources.
- Clarifies that a school guardian must be appointed by a superintendent or charter school principal, as applicable.
- Adds a requirement that the FDLE, upon request, consult with sheriffs to provide input regarding programmatic guiding principles, practices, and resources in order to assist in the development and implementation of the Coach Aaron Feis Guardian Program.
- Clarifies language regarding installation of the FortifyFL app and bookmark on district-issued devices.
- Modifies the data sources to be included in the centralized integrated data repository and requirements for confidentiality of information.
- Amends the School Environmental Safety Incident Reporting (SESIR) to:
 - Collect data on incidents that occur on school premises, on school transportation, and at off-campus, school-sponsored events.
 - Provide data to support the evaluation of mental health services at the Louis de la Parte Florida Mental Health Institute.
- Specifies that the Threat Assessment Database Workgroup complements the work of the Department of Education and FDLE associated with the centralized integrated data repository and data analytics resources initiative.
- Specifies timelines for the transfer of student records, which must include:
 - Verified reports of serious or recurrent behavior patterns, including threat assessment evaluations and intervention services, and
 - Psychological evaluations, including therapeutic treatment plans and therapy or progress notes created or maintained by school district or charter school staff.
- Specifies that only referrals to mental health services that correspond to an arrest, expulsion, or juvenile justice action be noted at the time of a student's initial registration.
- Modifies the requirements for the active assailant response plan and requires each school district superintendent or charter school principal to certify that all school personnel have been trained on the plan.
- Requires that upon a student's transfer to a different school, the threat assessment team must verify that any intervention services provided to the student remain in place until the threat assessment team of the receiving school independently determines the need for intervention services.

- Clarifies the use of the mental health assistance allocation, modifies reporting requirements, and incorporates recommendations made by the Marjory Stoneman Douglas High School Public Safety Commission regarding the timeframe for screenings and referrals.

CS by Infrastructure and Security on March 26, 2019:

- The CS criminalizes the false personation of a school guardian and replaces the term “watchman” with “security officer”.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (k) of subsection (1) of section
30.15, Florida Statutes, is amended to read:

30.15 Powers, duties, and obligations.—

(1) Sheriffs, in their respective counties, in person or by
deputy, shall:

(k) Establish, if the sheriff so chooses, a Coach Aaron



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11 Feis Guardian Program to aid in the prevention or abatement of
12 active assailant incidents on school premises. However, if a
13 local school board has voted by a majority to implement such a
14 program, the sheriff in that county shall establish a program,
15 or contract with another sheriff's office that has established a
16 program, to provide training to school district or charter
17 school employees. A sheriff who has established a guardian
18 program may contract to provide training to a school district or
19 charter school employee employed in a county whose sheriff has
20 not established a guardian program. The sheriff conducting the
21 training will be reimbursed for screening-related and training-
22 related costs and for providing a one-time stipend of \$500 to
23 each school guardian who participates in the school guardian
24 program. A school guardian may not ~~has no authority to act in~~
25 ~~any law enforcement capacity except to the extent necessary to~~
26 ~~prevent or abate an active assailant incident on a school~~
27 ~~premises. A Excluded from participating in the Coach Aaron Feis~~
28 ~~Guardian Program are individuals who exclusively perform~~
29 ~~classroom duties as classroom teachers as defined in s.~~
30 ~~1012.01(2)(a). This limitation does not apply to classroom~~
31 ~~teachers of a Junior Reserve Officers' Training Corps program, a~~
32 ~~current servicemember, as defined in s. 250.01, or a current or~~
33 ~~former law enforcement officer, as defined in s. 943.10(1), (6),~~
34 ~~or (8). The sheriff who establishes a chooses to establish the~~
35 program shall consult with the Department of Law Enforcement on
36 programmatic guiding principles, practices, and resources, and
37 shall certify appoint ~~as school guardians, without the power of~~
38 ~~arrest, school employees or contract employees, as specified in~~
39 s. 1006.12(3), who volunteer and who:



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40 1. Hold a valid license issued under s. 790.06.
41 2. Complete a 144-hour training program, consisting of 12
42 hours of a certified nationally recognized diversity training
43 and 132 total hours of comprehensive firearm safety and
44 proficiency training conducted by Criminal Justice Standards and
45 Training Commission-certified instructors, which must include:
46 a. Eighty hours of firearms instruction based on the
47 Criminal Justice Standards and Training Commission's Law
48 Enforcement Academy training model, which must include at least
49 10 percent but no more than 20 percent more rounds fired than
50 associated with academy training. Program participants must
51 achieve an 85 percent pass rate on the firearms training.
52 b. Sixteen hours of instruction in precision pistol.
53 c. Eight hours of discretionary shooting instruction using
54 state-of-the-art simulator exercises.
55 d. Eight hours of instruction in active shooter or
56 assailant scenarios.
57 e. Eight hours of instruction in defensive tactics.
58 f. Twelve hours of instruction in legal issues.
59 3. Pass a psychological evaluation administered by a
60 psychologist licensed under chapter 490 and designated by the
61 Department of Law Enforcement and submit the results of the
62 evaluation to the sheriff's office. The Department of Law
63 Enforcement is authorized to provide the sheriff's office with
64 mental health and substance abuse data for compliance with this
65 paragraph.
66 4. Submit to and pass an initial drug test and subsequent
67 random drug tests in accordance with the requirements of s.
68 112.0455 and the sheriff's office.



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5. Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.

~~6. Successfully complete at least 12 hours of a certified nationally recognized diversity training program.~~

The sheriff who conducts the guardian training shall issue a school guardian certificate to individuals who meet the requirements of this paragraph and subparagraph 2. ~~The sheriff~~ shall maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian certified ~~appointed~~ by the sheriff. An individual who is certified under this paragraph may serve as a school guardian under s. 1006.12(3) only if he or she is appointed by the applicable school district superintendent or charter school principal.

Section 2. Effective October 1, 2019, section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, a fire or arson investigator of the Department of Financial Services, an officer of the Department of Financial Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement



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agent, a school guardian as described in s. 30.15(1)(k), a
security officer licensed under chapter 493 ~~or watchman, or~~ any
member of the Florida Commission on Offender Review or ~~and~~ any
administrative aide or supervisor employed by the commission, ~~or~~
any personnel or representative of the Department of Law
Enforcement, or a federal law enforcement officer as defined in
s. 901.1505, and takes upon himself or herself to act as such,
or to require any other person to aid or assist him or her in a
matter pertaining to the duty of any such officer, commits a
felony of the third degree, punishable as provided in s.
775.082, s. 775.083, or s. 775.084. However, a person who
falsely personates any such officer during the course of the
commission of a felony commits a felony of the second degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
If the commission of the felony results in the death or personal
injury of another human being, the person commits a felony of
the first degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084. ~~The term "watchman" means a security~~
~~officer licensed under chapter 493.~~

Section 3. Subsection (16) is added to section 943.03,
Florida Statutes, to read:

943.03 Department of Law Enforcement.—

(16) Upon request, the department shall consult with
sheriffs to provide input regarding programmatic guiding
principles, practices, and resources in order to assist in the
development and implementation of the Coach Aaron Feis Guardian
Program established pursuant to s. 30.15. Such input and
guidance may include, but need not be limited to, standards,
curriculum, instructional strategies, evaluation, certification,



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records retention, equipment, and other resource needs.

Section 4. Subsection (4) of section 943.082, Florida Statutes, is amended to read:

943.082 School Safety Awareness Program.—

(4)(a) Law enforcement dispatch centers, school districts, schools, and other entities identified by the department must ~~shall~~ be made aware of the mobile suspicious activity reporting tool.

(b) The district school board shall promote the use of the mobile suspicious activity reporting tool by advertising it on the school district website, in newsletters, on school campuses, and in school publications, by installing it on all mobile devices issued to students, and by bookmarking the website on all computer devices issued to students.

Section 5. Subsection (9) is added to section 1001.10, Florida Statutes, to read:

1001.10 Commissioner of Education; general powers and duties.—

(9) The commissioner shall review the report of the School Hardening and Harm Mitigation Workgroup regarding hardening and harm mitigation strategies and recommendations submitted by the Office of Safe Schools, pursuant to s. 1001.212(11). By September 1, 2019, the commissioner shall submit a summary of such recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. At a minimum, the summary must include policy and funding enhancements and the estimated costs of and timeframes for implementation of the campus hardening and harm mitigation strategies recommended by the workgroup.



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Section 6. Subsection (9) is added to section 1001.11, Florida Statutes, to read:

1001.11 Commissioner of Education; other duties.—

(9) The commissioner shall oversee compliance with the safety and security requirements of the Marjory Stoneman Douglas High School Public Safety Act, chapter 2018-03, Laws of Florida, by school districts; district school superintendents; and public schools, including charter schools. The commissioner must facilitate compliance to the maximum extent provided under law, identify incidents of noncompliance, and impose or recommend to the State Board of Education, the Governor, or the Legislature enforcement and sanctioning actions pursuant to s. 1008.32 and other authority granted under law.

Section 7. Section 1001.212, Florida Statutes, is amended to read:

1001.212 Office of Safe Schools.—There is created in the Department of Education the Office of Safe Schools. The office is fully accountable to the Commissioner of Education. The office shall serve as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning. The office shall:

(1) Establish and update as necessary a school security risk assessment tool for use by school districts pursuant to s. 1006.07(6). The office shall make the security risk assessment tool available for use by charter schools. The office shall provide annual training to appropriate school district and charter school personnel on the proper assessment of physical



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185 site security and completion of the school security risk
186 assessment tool.

187 (2) Provide ongoing professional development opportunities
188 to school district personnel.

189 (3) Provide a coordinated and interdisciplinary approach to
190 providing technical assistance and guidance to school districts
191 on safety and security and recommendations to address findings
192 identified pursuant to s. 1006.07(6).

193 (4) Develop and implement a School Safety Specialist
194 Training Program for school safety specialists appointed
195 pursuant to s. 1006.07(6). The office shall develop the training
196 program which shall be based on national and state best
197 practices on school safety and security and must include active
198 shooter training. The office shall develop training modules in
199 traditional or online formats. A school safety specialist
200 certificate of completion shall be awarded to a school safety
201 specialist who satisfactorily completes the training required by
202 rules of the office.

203 (5) Review and provide recommendations on the security risk
204 assessments. The department may contract with security
205 personnel, consulting engineers, architects, or other safety and
206 security experts the department deems necessary for safety and
207 security consultant services.

208 (6) Coordinate with the Department of Law Enforcement to
209 provide a centralized integrated data repository and data
210 analytics resources to improve access to timely, complete, and
211 accurate information integrating data from, at a minimum, but
212 not limited to, the following data sources by August 1, 2019
213 ~~December 1, 2018~~:



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(a) Social media internet posts;
(b) Department of Children and Families;
(c) Department of Law Enforcement;
(d) Department of Juvenile Justice;
(e) Mobile suspicious activity reporting tool known as FortifyFL;
(f) School environmental safety incident reports collected under subsection (8); and
(g) ~~(e)~~ Local law enforcement.

Data that is exempt or confidential and exempt from public records requirements retains its exempt or confidential and exempt status when incorporated into the centralized integrated data repository. To maintain the confidentiality requirements attached to the information provided to the centralized integrated data repository by the various state and local agencies, data governance and security shall ensure compliance with all applicable state and federal data privacy requirements through the use of user authorization and role-based security, data anonymization and aggregation and auditing capabilities. To maintain the confidentiality requirements attached to the information provided to the centralized integrated data repository by the various state and local agencies, each source agency providing data to the repository shall be the sole custodian of the data for the purpose of any request for inspection or copies thereof under chapter 119. The department shall only allow access to data from the source agencies in accordance with rules adopted by the respective source agencies and the requirements of the Federal Bureau of Investigation



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Criminal Justice Information Services security policy, where applicable.

(7) Provide data to support the evaluation of mental health services pursuant to s. 1004.44.

(8) Provide technical assistance to school districts and charter school governing boards for school environmental safety incident reporting as required under s. 1006.07(9). The office shall collect data through school environmental safety incident reports on incidents that occur on school premises, on school transportation, and at off-campus, school-sponsored events. The office shall review and evaluate school district reports to ensure compliance with reporting requirements. Upon notification by the department that a superintendent has failed to comply with the requirements of s. 1006.07(9), the district school board shall withhold further payment of his or her salary as authorized under s. 1001.42(13)(b) and impose other appropriate sanctions that the commissioner or state board by law may impose.

~~(7) Data that is exempt or confidential and exempt from public records requirements retains its exempt or confidential and exempt status when incorporated into the centralized integrated data repository.~~

~~(8) To maintain the confidentiality requirements attached to the information provided to the centralized integrated data repository by the various state and local agencies, data governance and security shall ensure compliance with all applicable state and federal data privacy requirements through the use of user authorization and role-based security, data anonymization and aggregation and auditing capabilities.~~



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~~(9) To maintain the confidentiality requirements attached to the information provided to the centralized integrated data repository by the various state and local agencies, each source agency providing data for the repository shall be the sole custodian of the data for the purpose of any request for inspection or copies thereof under chapter 119. The department shall only allow access to data from the source agencies in accordance with rules adopted by the respective source agencies.~~

~~(9)~~ ~~(10)~~ Award grants to schools to improve the safety and security of school buildings based upon recommendations of the security risk assessment developed pursuant to subsection (1).

~~(10)~~ ~~(11)~~ Disseminate, in consultation with the Department of Law Enforcement, to participating schools awareness and education materials on the School Safety Awareness Program developed pursuant to s. 943.082.

(11) (a) Convene a School Hardening and Harm Mitigation Workgroup comprised of individuals with subject matter expertise on school campus hardening best practices. The workgroup shall meet as necessary to review school hardening and harm mitigation policies including, but not limited to, the target hardening practices implemented in other states; the school safety guidelines developed by organizations such as the Partner Alliance for Safer Schools; the tiered approach to target campus hardening strategies identified in the initial report submitted by the Marjory Stoneman Douglas High School Public Safety Commission pursuant to s. 943.687(9); and the Florida Building Code for educational facilities construction to determine whether the building code may need to be modified to strengthen school safety and security. Based on this review of school



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safety best practices, by August 1, 2019, the workgroup shall submit a report to the executive director of the office, which includes, at a minimum:

1. A prioritized list for the implementation of school campus hardening and harm mitigation strategies and the estimated costs of and timeframes for implementation of the strategies by school districts and charter schools. The estimated costs must include regional and statewide projections of the implementation costs.

2. Recommendations for policy and funding enhancements to strengthen school safety and security.

(b) Submit to the commissioner:

1. The workgroup's report pursuant to paragraph (a); and

2. Recommendations regarding procedures for the office to use to monitor and enforce compliance by the school districts and charter schools in the implementation of the workgroup's recommended campus hardening and harm mitigation strategies.

(12) By August 1, 2019, develop a standardized, statewide behavioral threat assessment instrument for use by all public schools, including charter schools, which addresses early identification, evaluation, early intervention, and student support.

(a) The standardized, statewide behavioral threat assessment instrument must include, but need not be limited to, components and forms that address:

1. An assessment of the threat, which includes an assessment of the student, family, and school and social dynamics.

2. An evaluation to determine if the threat is transient or



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substantive.

3. The response to a substantive threat, which includes the school response and the role of law enforcement agencies.

4. The response to a serious substantive threat, including mental health and law enforcement referrals.

5. Ongoing monitoring to assess implementation of safety strategies.

6. Training for members of threat assessment teams established under s. 1006.07(7) and school administrators regarding the use of the instrument.

(b) The office shall:

1. By August 1, 2020, evaluate each school district's and charter school governing board's behavioral threat assessment procedures for compliance with this subsection.

2. Notify the district school superintendent or charter school governing board, as applicable, if the behavioral threat assessment is not in compliance with this subsection.

3. Report any issues of ongoing noncompliance with this subsection to the commissioner and the district school superintendent or the charter school governing board, as applicable.

(13) Establish the Statewide Threat Assessment Database Workgroup, composed of members appointed by the department, to complement the work of the department and the Department of Law Enforcement associated with the centralized integrated data repository and data analytics resources initiative and make recommendations regarding the development of a statewide threat assessment database. The database must allow authorized public school personnel to enter information related to any threat



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assessment conducted at their respective schools using the instrument developed by the office pursuant to subsection (12), and must provide such information to authorized personnel in each school district and public school and to appropriate stakeholders. By December 31, 2019, the workgroup shall provide a report to the office with recommendations that include, but need not be limited to:

(a) Threat assessment data that should be required to be entered into the database.

(b) School district and public school personnel who should be allowed to input student records to the database and view such records.

(c) Database design and functionality, to include data security.

(d) Restrictions and authorities on information sharing, including:

1. Section 1002.22 and other applicable state laws.

2. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, 42 C.F.R. part 2; the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. s. 1320d6, 45 C.F.R. part 164, subpart E; and other applicable federal laws.

3. The appropriateness of interagency agreements that will allow law enforcement to view database records.

(e) The cost to develop and maintain a statewide online database.

(f) An implementation plan and timeline for the workgroup recommendations.

(14) Monitor compliance with requirements relating to



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school safety by school districts and public schools, including
charter schools. The office shall report incidents of
noncompliance to the commissioner pursuant to s. 1001.11(9) and
the state board pursuant to s. 1008.32 and other requirements of
law, as appropriate.

Section 8. Paragraph (b) of subsection (16) of section
1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(16) EXEMPTION FROM STATUTES.—

(b) Additionally, a charter school shall be in compliance
with the following statutes:

1. Section 286.011, relating to public meetings and
records, public inspection, and criminal and civil penalties.

2. Chapter 119, relating to public records.

3. Section 1003.03, relating to the maximum class size,
except that the calculation for compliance pursuant to s.
1003.03 shall be the average at the school level.

4. Section 1012.22(1)(c), relating to compensation and
salary schedules.

5. Section 1012.33(5), relating to workforce reductions.

6. Section 1012.335, relating to contracts with
instructional personnel hired on or after July 1, 2011.

7. Section 1012.34, relating to the substantive
requirements for performance evaluations for instructional
personnel and school administrators.

8. Section 1006.12, relating to safe-school officers.

9. Section 1006.07(7), relating to threat assessment teams.

10. Section 1006.07(9), relating to School Environmental
Safety Incident Reporting.



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11. Section 1006.1493, relating to the Florida Safe Schools Assessment Tool.

12. Section 1006.07(6)(c), relating to adopting an active assailant response plan.

13. Section 943.082(4)(b), relating to the mobile suspicious activity reporting tool.

14. Section 1012.584, relating to youth mental health awareness and assistance training.

Section 9. Subsection (2) of section 1003.25, Florida Statutes, is amended to read:

1003.25 Procedures for maintenance and transfer of student records.—

(2) The procedure for transferring and maintaining records of students who transfer from school to school shall be prescribed by rules of the State Board of Education. The intradistrict transfer of records shall occur within 1 school day and the interdistrict transfer of records shall occur within 2 school days. The records shall include:

(a) Verified reports of serious or recurrent behavior patterns, including threat assessment evaluations and intervention services.

(b) Psychological evaluations, including therapeutic treatment plans and therapy or progress notes created or maintained by school district or charter school staff, as appropriate.

Section 10. Paragraph (b) of subsection (1) and subsections (6) and (7) of section 1006.07, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

1006.07 District school board duties relating to student



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discipline and school safety.—The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) CONTROL OF STUDENTS.—

(b) Require each student at the time of initial registration for school in the school district to note previous school expulsions, arrests resulting in a charge, juvenile justice actions, and any corresponding referral ~~referrals~~ to mental health services by the school district ~~the student has had~~, and have the authority as the district school board of a receiving school district to honor the final order of expulsion or dismissal of a student by any in-state or out-of-state public district school board or private school, or lab school, for an act which would have been grounds for expulsion according to the receiving district school board's code of student conduct, in accordance with the following procedures:

1. A final order of expulsion shall be recorded in the records of the receiving school district.

2. The expelled student applying for admission to the receiving school district shall be advised of the final order of expulsion.

3. The district school superintendent of the receiving school district may recommend to the district school board that the final order of expulsion be waived and the student be admitted to the school district, or that the final order of expulsion be honored and the student not be admitted to the school district. If the student is admitted by the district



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school board, with or without the recommendation of the district school superintendent, the student may be placed in an appropriate educational program and referred to mental health services identified by the school district pursuant to s. 1012.584(4), when appropriate, at the direction of the district school board.

(6) SAFETY AND SECURITY BEST PRACTICES.—Each district school superintendent shall establish policies and procedures for the prevention of violence on school grounds, including the assessment of and intervention with individuals whose behavior poses a threat to the safety of the school community.

(a) Each district school superintendent shall designate a ~~school administrator as~~ a school safety specialist for the district. The school safety specialist must be a school administrator employed by the school district or a law enforcement officer employed by the sheriff's office located in the school district. Any school safety specialist designated from the sheriff's office must first be authorized and approved by the sheriff employing the law enforcement officer. Any school safety specialist designated from the sheriff's office remains the employee of the office for purposes of compensation, insurance, workers' compensation, and other benefits authorized by law for a law enforcement officer employed by the sheriff's office. The sheriff and the school superintendent may determine by agreement the reimbursement for such costs, or may share the costs, associated with employment of the law enforcement officer as a school safety specialist. The school safety specialist must earn a certificate of completion of the school safety specialist training provided by the Office of Safe Schools within 1 year



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after appointment and is responsible for the supervision and oversight for all school safety and security personnel, policies, and procedures in the school district. The school safety specialist shall:

1. Review school district policies and procedures for compliance with state law and rules, including the district's timely and accurate submission of school environmental safety incident reports to the department pursuant s. 1001.212(8).

2. Provide the necessary training and resources to students and school district staff in matters relating to youth mental health awareness and assistance; emergency procedures, including active shooter training; and school safety and security.

3. Serve as the school district liaison with local public safety agencies and national, state, and community agencies and organizations in matters of school safety and security.

4. In collaboration with the appropriate public safety agencies, as that term is defined in s. 365.171, annually conduct a school security risk assessment ~~in accordance with s. 1006.1493~~ at each public school using the Florida Safe Schools Assessment Tool ~~school security risk assessment tool~~ developed by the Office of Safe Schools pursuant to s. 1006.1493. Based on the assessment findings, the district's school safety specialist shall provide recommendations to the district school superintendent and the district school board which identify strategies and activities that the district school board should implement in order to address the findings and improve school safety and security. ~~Annually,~~ Each district school board must receive such findings and the school safety specialist's recommendations at a publicly noticed district school board



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meeting to provide the public an opportunity to hear the district school board members discuss and take action on the findings and recommendations. Each school safety specialist shall report such findings and school board action to the Office of Safe Schools within 30 days after the district school board meeting.

(b) Each school safety specialist shall coordinate with the appropriate public safety agencies, as defined in s. 365.171, that are designated as first responders to a school's campus to conduct a tour of such campus once every 3 years and provide recommendations related to school safety. The recommendations by the public safety agencies must be considered as part of the recommendations by the school safety specialist pursuant to paragraph (a).

(c) Each district school board and charter school governing board must adopt an active assailant response plan. By October 1, 2019, and annually thereafter, each district school superintendent and charter school principal shall certify that all school personnel have received annual training on the procedures contained in the active assailant response plan for the applicable school district or charter school.

(7) THREAT ASSESSMENT TEAMS.—Each district school board shall adopt policies for the establishment of threat assessment teams at each school whose duties include the coordination of resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Office of Safe Schools. Such policies must ~~shall~~ include procedures for referrals to mental health services identified by



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the school district pursuant to s. 1012.584(4), when appropriate, and procedures for behavioral threat assessments in compliance with the instrument developed pursuant to s. 1001.212(12).

(a) A threat assessment team shall include persons with expertise in counseling, instruction, school administration, and law enforcement. The threat assessment teams shall identify members of the school community to whom threatening behavior should be reported and provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self. Upon the availability of the behavioral threat assessment instrument developed pursuant to s. 1001.212(12), the threat assessment team shall use that instrument.

(b) Upon a preliminary determination that a student poses a threat of violence or physical harm to himself or herself or others, a threat assessment team shall immediately report its determination to the superintendent or his or her designee. The superintendent or his or her designee shall immediately attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school district personnel from acting immediately to address an imminent threat.

(c) Upon a preliminary determination by the threat assessment team that a student poses a threat of violence to himself or herself or others or exhibits significantly disruptive behavior or need for assistance, authorized members of the threat assessment team may obtain criminal history record information pursuant to s. 985.04(1), ~~as provided in s. 985.047.~~
A member of a threat assessment team may not disclose any



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criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

(d) Notwithstanding any other provision of law, all state and local agencies and programs that provide services to students experiencing or at risk of an emotional disturbance or a mental illness, including the school districts, school personnel, state and local law enforcement agencies, the Department of Juvenile Justice, the Department of Children and Families, the Department of Health, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Statewide Guardian Ad Litem Office, and any service or support provider contracting with such agencies, may share with each other records or information that are confidential or exempt from disclosure under chapter 119 if the records or information are reasonably necessary to ensure access to appropriate services for the student or to ensure the safety of the student or others. All such state and local agencies and programs shall communicate, collaborate, and coordinate efforts to serve such students.

(e) If an immediate mental health or substance abuse crisis is suspected, school personnel shall follow policies established by the threat assessment team to engage behavioral health crisis resources. Behavioral health crisis resources, including, but not limited to, mobile crisis teams and school resource officers trained in crisis intervention, shall provide emergency intervention and assessment, make recommendations, and refer the student for appropriate services. Onsite school personnel shall



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report all such situations and actions taken to the threat assessment team, which shall contact the other agencies involved with the student and any known service providers to share information and coordinate any necessary followup actions. Upon the student's transfer to a different school, the threat assessment team shall verify that any intervention services provided to the student remain in place until the threat assessment team of the receiving school independently determines the need for intervention services.

(f) Each threat assessment team established pursuant to this subsection shall report quantitative data on its activities to the Office of Safe Schools in accordance with guidance from the office and shall utilize the threat assessment database developed pursuant to s. 1001.212(13) upon the availability of the database.

(9) SCHOOL ENVIRONMENTAL SAFETY INCIDENT REPORTING.—Each district school board shall adopt policies to ensure the accurate and timely reporting of incidents related to school safety and discipline. The district school superintendent is responsible for school environmental safety incident reporting. A district school superintendent who fails to comply with this subsection is subject to the penalties specified in law, including, but not limited to, s. 1001.42(13) (b) or s. 1001.51(12) (b), as applicable. The State Board of Education shall adopt rules establishing the requirements for the school environmental safety incident report.

Section 11. Section 1006.12, Florida Statutes, is amended to read:

1006.12 Safe-school officers at each public school.—For the



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protection and safety of school personnel, property, students, and visitors, each district school board, ~~and~~ school district superintendent, and charter school governing board, as applicable, shall partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district by implementing any combination of the following options which best meets the needs of the school district:

(1) Establish school resource officer programs, through a cooperative agreement with law enforcement agencies.

(a) School resource officers shall undergo criminal background checks, drug testing, and a psychological evaluation and be certified law enforcement officers, as defined in s. 943.10(1), who are employed by a law enforcement agency as defined in s. 943.10(4). The powers and duties of a law enforcement officer shall continue throughout the employee's tenure as a school resource officer.

(b) School resource officers shall abide by district school board policies and shall consult with and coordinate activities through the school principal, but shall be responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a district school board and a law enforcement agency. Activities conducted by the school resource officer which are part of the regular instructional program of the school shall be under the direction of the school principal.

(c) Complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention. The training shall improve officers' knowledge and skills as first responders



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to incidents involving students with emotional disturbance or mental illness, including de-escalation skills to ensure student and officer safety.

(2) Commission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers.

(a) School safety officers shall undergo criminal background checks, drug testing, and a psychological evaluation and be law enforcement officers, as defined in s. 943.10(1), certified under the provisions of chapter 943 and employed by either a law enforcement agency or by the district school board. If the officer is employed by the district school board, the district school board is the employing agency for purposes of chapter 943, and must comply with the provisions of that chapter.

(b) A school safety officer has and shall exercise the power to make arrests for violations of law on district school board property and to arrest persons, whether on or off such property, who violate any law on such property under the same conditions that deputy sheriffs are authorized to make arrests. A school safety officer has the authority to carry weapons when performing his or her official duties.

(c) A district school board may enter into mutual aid agreements with one or more law enforcement agencies as provided in chapter 23. A school safety officer's salary may be paid jointly by the district school board and the law enforcement agency, as mutually agreed to.



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(3) At the school district's or the charter school governing board's discretion, participate in the Coach Aaron Feis Guardian Program ~~if such program is established pursuant to s. 30.15,~~ to meet the requirement of establishing a safe-school officer. The following individuals may serve as a school guardian upon satisfactory completion of the requirements under s. 30.15(1)(k) and certification by a sheriff:

(a) A school district employee or personnel, as defined under s. 1012.01, or a charter school employee, as provided under s. 1002.33(12)(a), who volunteers to serve as a school guardian in addition to his or her official job duties;

(b) An employee of a school district or a charter school who is hired for the specific purpose of serving as a school guardian; or

(c) A contract employee licensed under s. 493.6301 who works in the school district or for a charter school through a contract with a security agency as that term is defined in s. 493.6101(18). Contract employees may receive school guardian training through a participating sheriff's office contingent upon defined financial or service obligations by the security agency enumerated in the contract between the school district or the charter school governing board, as appropriate, and the security agency.

(4) Any information that would identify whether a particular individual has been appointed as a safe-school officer pursuant to this section held by a law enforcement agency, school district, or charter school is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act



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in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 12. Section 1006.1493, Florida Statutes, is amended to read:

1006.1493 Florida Safe Schools Assessment Tool.—

(1) The department, through the Office of Safe Schools pursuant s. 1001.212, shall contract with a security consulting firm that specializes in the development of risk assessment software solutions and has experience in conducting security assessments of public facilities to develop, update, and implement a risk assessment tool, which shall be known as the Florida Safe Schools Assessment Tool (FSSAT). The FSSAT must be the primary physical site security assessment tool as revised and required by the Office of Safe Schools which is used by school officials at each school district and public school site in the state in conducting security assessments ~~for use by school officials at each school district and public school site in the state.~~

(2) The FSSAT must help school officials identify threats, vulnerabilities, and appropriate safety controls for the schools that they supervise, pursuant to the security risk assessment requirements of s. 1006.07(6).

(a) At a minimum, the FSSAT must address all of the following components:

1. School emergency and crisis preparedness planning;
2. Security, crime, and violence prevention policies and procedures;
3. Physical security measures;



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- 765 4. Professional development training needs;
766 5. An examination of support service roles in school
767 safety, security, and emergency planning;
768 6. School security and school police staffing, operational
769 practices, and related services;
770 7. School and community collaboration on school safety; and
771 8. A return on investment analysis of the recommended
772 physical security controls.

773 (b) The department shall require by contract that the
774 security consulting firm:

775 1. Generate written automated reports on assessment
776 findings for review by the department and school and district
777 officials;

778 2. Provide training to the department and school officials
779 in the use of the FSSAT and other areas of importance identified
780 by the department; and

781 3. Advise in the development and implementation of
782 templates, formats, guidance, and other resources necessary to
783 facilitate the implementation of this section at state,
784 district, school, and local levels.

785 (3) The Office of Safe Schools must provide annual training
786 to each district's school safety specialist and other
787 appropriate school district personnel on the assessment of
788 physical site security and completing the FSSAT.

789 (4) By October 1 of each year, each district school
790 superintendent shall submit an FSSAT assessment to the
791 department for each school site. Each school-specific assessment
792 must be approved by the district superintendent or his or her
793 designee, who must be the district's school safety specialist or



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a deputy superintendent or assistant superintendent. Any superintendent who fails to comply with the requirements of this subsection is subject to penalties under s. 1001.51(12)(b) and other sanctions that may be applied by the commissioner or state board.

(5) By December 1 of each year, ~~By December 1, 2018, and annually by that date thereafter,~~ the department shall ~~must~~ report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of implementation across school districts and schools. The report must include a summary of the positive school safety measures in place at the time of the assessment and any recommendations for policy changes or funding needed to facilitate continued school safety planning, improvement, and response at the state, district, or school levels.

~~(6)(4)~~ In accordance with ss. 119.071(3)(a) and 281.301, data and information related to security risk assessments administered pursuant to this section and s. 1006.07(6) and the security information contained in the annual report required pursuant to subsection (5) ~~subsection (3)~~ are confidential and exempt from public records requirements.

Section 13. Subsection (15) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:



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(15) SAFE SCHOOLS ALLOCATION.—A safe schools allocation is created to provide funding to assist school districts in their compliance with ss. 1006.07-1006.12 ~~s. 1006.07~~, with priority given to safe-school officers ~~implementing the district's school resource officer program~~ pursuant to s. 1006.12. Each school district shall receive a minimum safe schools allocation in an amount provided in the General Appropriations Act. Of the remaining balance of the safe schools allocation, two-thirds shall be allocated to school districts based on the most recent official Florida Crime Index provided by the Department of Law Enforcement and one-third shall be allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Any additional funds appropriated to this allocation in the 2018-2019 fiscal year must ~~to the school resource officer program established pursuant to s. 1006.12~~ shall be used exclusively for employing or contracting for safe-school resource officers, established or assigned under s. 1006.12 ~~which shall be in addition to the number of officers employed or contracted for in the 2017-2018 fiscal year.~~ This subsection applies retroactively to July 1, 2018. The amendments to this subsection are intended to be clarifying and remedial in nature.

Section 14. Effective July 1, 2019, paragraph (b) of subsection (6) of section 1011.62, Florida Statutes, and subsection (15) of that section, as amended by this act, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the



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annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(6) CATEGORICAL FUNDS.—

(b) If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction or improve school safety, the school board may consider and approve an amendment to the school district operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. Funds for student transportation.

2. Funds for research-based reading instruction if the required additional hour of instruction beyond the normal school day for each day of the entire school year has been provided for the students in each low-performing elementary school in the district pursuant to paragraph (9)(a).

3. Funds for instructional materials if all instructional material purchases necessary to provide updated materials that are aligned with applicable state standards and course descriptions and that meet statutory requirements of content and learning have been completed for that fiscal year, but no sooner than March 1. Funds available after March 1 may be used to purchase hardware for student instruction.

4. Funds for the guaranteed allocation as provided in subparagraph (1)(e)2.

5. Funds for the supplemental academic instruction



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allocation as provided in paragraph (1)(f).

6. Funds for Florida digital classrooms allocation as provided in subsection (12).

7. Funds for the federally connected student supplement as provided in subsection (13).

8. Funds for class size reduction as provided in s. 1011.685.

(15) SAFE SCHOOLS ALLOCATION.—A safe schools allocation is created to provide funding to assist school districts in their compliance with s. 1006.07, with priority given to implementing the district's school resource officer program pursuant to s. 1006.12. Each school district shall receive a minimum safe schools allocation in an amount provided in the General Appropriations Act. Of the remaining balance of the safe schools allocation, one-third ~~two-thirds~~ shall be allocated to school districts based on the most recent official Florida Crime Index provided by the Department of Law Enforcement and two-thirds ~~one-third~~ shall be allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. ~~Any additional funds appropriated to this allocation in the 2018-2019 fiscal year must be used exclusively for employing or contracting for safe school officers, established or assigned under s. 1006.12. This subsection applies retroactively to July 1, 2018. The amendments to this subsection are intended to be clarifying and remedial in nature.~~

Section 15. For the purpose of incorporating the amendment made by this act to section 843.08, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section



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910 921.0022, Florida Statutes, is reenacted to read:
911 921.0022 Criminal Punishment Code; offense severity ranking
912 chart.—

913 (3) OFFENSE SEVERITY RANKING CHART

914 (b) LEVEL 2

915

Florida Statute	Felony Degree	Description
379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.

917

379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.

918

403.413 (6) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.

919

517.07 (2)	3rd	Failure to furnish a



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prospectus meeting
requirements.

920

590.28(1)

3rd

Intentional burning of
lands.

921

784.05(3)

3rd

Storing or leaving a
loaded firearm within
reach of minor who uses
it to inflict injury or
death.

922

787.04(1)

3rd

In violation of court
order, take, entice,
etc., minor beyond state
limits.

923

806.13(1)(b)3.

3rd

Criminal mischief;
damage \$1,000 or more to
public communication or
any other public
service.

924

810.061(2)

3rd

Impairing or impeding
telephone or power to a
dwelling; facilitating
or furthering burglary.

925

810.09(2)(e)

3rd

Trespassing on posted



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commercial horticulture
property.

926

812.014 (2) (c) 1.

3rd

Grand theft, 3rd degree;
\$300 or more but less
than \$5,000.

927

812.014 (2) (d)

3rd

Grand theft, 3rd degree;
\$100 or more but less
than \$300, taken from
unenclosed curtilage of
dwelling.

928

812.015 (7)

3rd

Possession, use, or
attempted use of an
antishoplifting or
inventory control device
countermeasure.

929

817.234 (1) (a) 2.

3rd

False statement in
support of insurance
claim.

930

817.481 (3) (a)

3rd

Obtain credit or
purchase with false,
expired, counterfeit,
etc., credit card, value
over \$300.

931



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932	817.52 (3)	3rd	Failure to redeliver hired vehicle.
933	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
934	817.60 (5)	3rd	Dealing in credit cards of another.
935	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
936	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
937	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
938	831.01	3rd	Forgery.
	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.



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939	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
940	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
941	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
942	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
943	832.05 (3) (a)	3rd	Cashing or depositing item with intent to defraud.
944	843.08	3rd	False personation.
945	893.13 (2) (a) 2.	3rd	Purchase of any s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9.,



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(2)(c)10., (3), or (4)
drugs other than
cannabis.

893.147(2) 3rd Manufacture or delivery
of drug paraphernalia.

Section 16. The Legislature finds that a proper and
legitimate state purpose is served when district school boards
are afforded options for the provision of safe-school officers
for the protection and safety of school personnel, property,
students, and visitors. School guardians must be available to
any district school board that chooses such an option.
Therefore, the Legislature determines and declares that this act
fulfills an important state interest.

Section 17. Except as otherwise expressly provided in this
act, this act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to implementation of legislative
recommendations of the Marjory Stoneman Douglas High
School Public Safety Commission; amending s. 30.15,
F.S.; requiring a sheriff to establish a school
guardian program or contract with another sheriff's



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office that has established a program under a certain condition; authorizing sheriffs that have established a guardian program to contract to provide training for a specified purpose; providing for reimbursement of the sheriff who conducts such training; removing the prohibition against classroom teachers serving as school guardians; conforming provisions to changes made by the act; revising certification requirements for school guardians; prohibiting individuals from serving as school guardians unless they are appointed by a superintendent or charter school principal, as applicable; amending s. 843.08, F.S.; adding school guardians to the list of officials the false personation of whom is prohibited and subject to criminal penalties; making technical changes; amending s. 943.03, F.S.; requiring the Department of Law Enforcement to consult with sheriffs who establish a guardian program on programmatic guiding principles, practices, and resources relating to the development and implementation of the program; amending s. 943.082, F.S.; requiring school districts to promote a mobile suspicious activity reporting tool through specified platforms and mediums; amending s. 1001.10, F.S.; requiring the Commissioner of Education to review recommendations from the School Hardening and Harm Mitigation Workgroup; requiring the commissioner to submit a summary to the Governor and the Legislature by a specified date; providing requirements for the summary; amending s. 1001.11,



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999 F.S.; revising the duties of the commissioner to
1000 include oversight of compliance with the safety and
1001 security requirements of the Marjory Stoneman Douglas
1002 High School Public Safety Act by specified persons and
1003 entities; amending s. 1001.212, F.S.; requiring the
1004 Office of Safe Schools to annually provide training
1005 for specified personnel; conforming provisions to
1006 changes made by the act; requiring the office to
1007 provide data to support the evaluation of mental
1008 health services; requiring the office to collect data
1009 through the school environmental safety incident
1010 reports; requiring the office to provide technical
1011 assistance for school safety incident reporting;
1012 requiring the office to review and evaluate school
1013 district reports for compliance; requiring a district
1014 school board to withhold a superintendent's salary in
1015 response to the superintendent's noncompliance;
1016 requiring the office to convene a School Hardening and
1017 Harm Mitigation Workgroup; providing for membership
1018 and duties of the workgroup; requiring the workgroup
1019 to submit a report and recommendations to the
1020 executive director of the office and the commissioner;
1021 providing requirements for the report; requiring the
1022 office to develop a behavioral threat assessment
1023 instrument; providing requirements for the instrument;
1024 requiring the office to establish the Statewide Threat
1025 Assessment Database Workgroup to make certain
1026 recommendations relating to a statewide threat
1027 assessment database; providing requirements for the



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1028 database; requiring the workgroup to report
1029 recommendations to the office by a specified date;
1030 providing requirements for such recommendations;
1031 requiring the office to monitor school district and
1032 public school, including charter schools, compliance
1033 with requirements relating to school safety; requiring
1034 the office to report incidents of noncompliance to the
1035 commissioner and the state board; amending s. 1002.33,
1036 F.S.; requiring charter schools to comply with
1037 specified provisions; amending s. 1003.25, F.S.;
1038 providing requirements for the transfer of certain
1039 student records; amending s. 1006.07, F.S.; requiring
1040 that a school safety specialist be a school
1041 administrator employed by the school district or a law
1042 enforcement officer employed by the sheriff's office
1043 located in the school district; providing requirements
1044 for a school safety specialist designated from a
1045 sheriff's office; providing that a school safety
1046 specialist designated from a sheriff's office remains
1047 an employee of such office for certain purposes;
1048 authorizing the sheriff and school superintendent to
1049 determine by agreement the reimbursement or sharing of
1050 costs associated with employment of the law
1051 enforcement officer as a school safety specialist;
1052 requiring district school boards to adopt an active
1053 assailant response plan; requiring each district
1054 school superintendent and charter school principal to
1055 certify by a specified date, and annually thereafter,
1056 that all school personnel have received annual



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1057 training under the plan; requiring that certain
1058 policies adopted by school districts include
1059 procedures for behavioral threat assessments;
1060 requiring threat assessment teams to utilize the
1061 behavioral threat assessment instrument and the threat
1062 assessment database developed by the office when they
1063 become available; requiring threat assessment teams to
1064 verify that, upon a student's transfer to a different
1065 school, any intervention services provided to the
1066 student remain in place until the team makes a certain
1067 determination; requiring district school boards to
1068 adopt policies for accurate and timely reporting of
1069 school environmental safety incidents; providing
1070 penalties for noncompliance with such policies;
1071 requiring the State Board of Education to adopt rules
1072 establishing requirements for school environmental
1073 safety incident reports; amending s. 1006.12, F.S.;
1074 requiring a charter school governing board to partner
1075 with law enforcement agencies to establish or assign a
1076 safe-school officer; expanding the categories of
1077 individuals who may serve as school guardians;
1078 amending s. 1006.1493, F.S.; requiring the Florida
1079 Safe Schools Assessment Tool (FSSAT) to be the primary
1080 site security assessment tool for school districts;
1081 requiring the office to provide FSSAT training;
1082 requiring the superintendent to annually submit FSSAT
1083 assessments to the department; providing requirements
1084 for the assessment; providing penalties for failure to
1085 comply with requirements; amending s. 1011.62, F.S.;



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1086 modifying the required use of funds in the safe
1087 schools allocation; providing for retroactive
1088 application; providing legislative intent; expanding,
1089 as of a specified date, the categorical fund that may
1090 be accessed to improve classroom instruction or
1091 improve school safety; deleting obsolete language;
1092 reenacting s. 921.0022(3)(b), F.S., relating to the
1093 offense severity ranking chart of the Criminal
1094 Punishment Code, to incorporate the amendment made to
1095 s. 843.08, F.S., in a reference thereto; providing a
1096 declaration of important state interest; providing
1097 effective dates.



970098

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/12/2019	.	
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	.	
	.	

The Committee on Appropriations (Thurston) recommended the following:

Senate Amendment to Amendment (313546) (with title amendment)

Delete lines 27 - 34
and insert:

premises. Excluded from participating in the Coach Aaron Feis Guardian Program are individuals who exclusively perform classroom duties as classroom teachers as defined in s. 1012.01(2)(a). This limitation does not apply to classroom teachers of a Junior Reserve Officers' Training Corps program, a



970098

current servicemember, as defined in s. 250.01, or a current or
former law enforcement officer, as defined in s. 943.10(1), (6),
or (8). A ~~The~~ sheriff who establishes a ~~chooses to establish the~~

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

And the title is amended as follows:

Delete lines 974 - 976

and insert:

the sheriff who conducts such training; conforming
provisions to changes



662486

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
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The Committee on Appropriations (Passidomo) recommended the following:

Senate Amendment to Amendment (313546) (with directory and title amendments)

Between lines 906 and 907
insert:

(16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health assistance allocation is created to provide funding to assist school districts in establishing or expanding school-based mental health care and mental health programs that increase awareness of mental health issues among children and school-age



662486

11 youth; train educators and other school staff in detecting and
12 responding to mental health issues; and connect children, youth,
13 and families who may experience behavioral health issues with
14 appropriate services. These funds shall be allocated annually in
15 the General Appropriations Act or other law to each eligible
16 school district. Each school district shall receive a minimum of
17 \$100,000, with the remaining balance allocated based on each
18 school district's proportionate share of the state's total
19 unweighted full-time equivalent student enrollment. ~~Eligible~~
20 Charter schools that submit a plan separate from the school
21 district are entitled to a proportionate share of district
22 funding. ~~At least 90 percent of a district's allocation must be~~
23 ~~expended on the elements specified in subparagraphs (b)1. and 2.~~
24 The allocated funds may not supplant funds that are provided for
25 this purpose from other operating funds and may not be used to
26 increase salaries or provide bonuses. School districts are
27 encouraged to maximize third-party ~~third-party~~ health insurance
28 benefits and Medicaid claiming for services, where appropriate.

29 (a) Before the distribution of the allocation:

30 1. The school district must develop and submit a detailed
31 plan outlining the local program and planned expenditures to the
32 district school board for approval. This plan must include all
33 district schools, including charter schools, unless a charter
34 school elects to submit a plan independently from the school
35 district pursuant to subparagraph 2.

36 2. A charter school may ~~must~~ develop and submit a detailed
37 plan outlining the local program and planned expenditures to its
38 governing body for approval. After the plan is approved by the
39 governing body, it must be provided to the charter school's



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sponsor.

(b) The plans required under paragraph (a) must be focused on a multi-tiered system of supports to deliver ~~delivering~~ evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care. At a minimum, the plans must ~~treatment to children and~~ include the following elements:

1. Direct employment of school-based mental health services providers to expand and enhance school-based student services and to reduce the ratio of students to staff in order to better align with nationally recommended ratio models. These providers include, but are not limited to, school counselors, school health staff, school psychologists, school social workers, and other licensed mental health professionals. The plan also must identify strategies to increase the amount of time that school-based student services personnel spend providing direct services to students, which may include the review and revision of district staffing resource allocations based on school or student mental health assistance needs ~~Provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high risk of such diagnoses.~~

2. Contracts or interagency agreements with one or more



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nationally accredited local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools. Services may include, but are not limited to, mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification. These behavioral health services may be provided on or off the school campus and may be supplemented by telehealth ~~Coordination of such services with a student's primary care provider and with other mental health providers involved in the student's care.~~

3. Policies and procedures, including contracts with service providers, which will ensure that students who are referred to a school-based or community-based mental health service provider for mental health screening for the identification of mental health concerns and ensure that the assessment of students at risk for mental health disorders occurs within 15 days of referral. School-based mental health services must be initiated within 15 days after identification and assessment, and support by community-based mental health service providers for students who are referred for community-based mental health services must be initiated within 30 days after the school or district makes a referral ~~Direct employment such service providers, or a contract-based collaborative effort or partnership with one or more local community mental health programs, agencies, or providers.~~

4. Programs to assist students in dealing with anxiety, depression, bullying, trauma, and violence.



662486

5. Strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health problems, suicidal tendencies, or substance use disorders.

6. Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders and to improve the provision of early intervention services.

7. Information and data on the following:

a. The number and types of school-based student services personnel employed from the funds provided through the allocation;

b. The number of students who received school-based mental health interventions during the prior school year; and

c. The number of students referred to community-based mental health care providers for services during the prior school year.

(c) School districts shall submit approved plans, including approved plans of each charter school in the district, to the commissioner by August 1 of each fiscal year.

~~(d) Beginning September 30, 2019, and annually by September 30 thereafter, each school district shall submit to the Department of Education a report on its program outcomes and expenditures for the previous fiscal year that, at a minimum, must include the number of each of the following:~~

~~1. Students who receive screenings or assessments.~~

~~2. Students who are referred for services or assistance.~~

~~3. Students who receive services or assistance.~~

~~4. Direct employment service providers employed by each school district.~~



662486

~~5. Contract-based collaborative efforts or partnerships
with community mental health programs, agencies, or providers.~~

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 845 - 848

and insert:

Section 14. Effective July 1, 2019, paragraph (b) of
subsection (6), subsection (15), as amended by this act, and
subsection (16) of section 1011.62, Florida Statutes, are
amended to read:

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

And the title is amended as follows:

Between lines 1091 and 1092

insert:

expanding the purpose of the mental health assistance
allocation; providing that charter schools that take a
specified action are entitled to a proportionate share
of certain funding; deleting a requirement that
restricted to certain elements how a specified
percentage of a district's mental health assistance
allocation could be expended; revising requirements
for a plan required to be developed by school
districts before distribution of such allocation;
requiring that the plans include charter schools,
except in certain circumstances; authorizing, rather
than requiring, charter schools to develop and submit
a specified plan; revising requirements for school



662486

156 districts' and charter schools' plans; deleting a
157 requirement for school districts to submit a specified
158 report to the department;



132990

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/12/2019	.	
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The Committee on Appropriations (Stewart) recommended the following:

Senate Amendment to Amendment (313546) (with title amendment)

Between lines 84 and 85
insert:

Section 2. Paragraph (a) of subsection (1) of section 790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.—

(1)(a) A licensed importer, licensed manufacturer, or licensed dealer may not sell or deliver from her or his



132990

inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until she or he has:

1. Obtained a completed form from the potential buyer or transferee, which form shall have been promulgated by the Department of Law Enforcement and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, date of birth, gender, race, questions about the buyer's criminal history and other information relating to the potential buyer's or transferee's eligibility to purchase a firearm, and social security number or other identification number of the ~~such~~ potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

a. In any case in which records reviewed pursuant to subsection (2) indicate that the potential buyer or transferee is prohibited from having in her or his care, custody, possession, or control any firearm under state or federal law and the potential transfer, sale, or purchase has received a nonapproval number, the Department of Law Enforcement shall send notification of such nonapproval to the federal or state correctional, law enforcement, prosecutorial, and other criminal justice agencies that have jurisdiction in the county where the attempted transfer or purchase was made.

b. The Department of Law Enforcement shall, for each county, identify appropriate federal or state correctional, law enforcement, prosecutorial, and other criminal justice agencies to receive the notification described in sub-subparagraph a.

c. The notification described in sub-subparagraph a. must



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include the identity of the potential buyer or transferee, the identity of the licensee who made the inquiry, the date and time when a nonapproval number was issued, the prohibiting criteria for the nonapproval, and the location where the attempted purchase or transfer occurred.

d. The Department of Law Enforcement shall make the notification described in sub-subparagraph a. within 1 week after receipt of the notice of the nonapproval, and may aggregate any notifications required pursuant to sub-subparagraph a. and issue them together within the required timeframe, except that a notification may be delayed for as long as necessary to avoid compromising an ongoing investigation.

e. The Department of Law Enforcement may make the notification required pursuant to sub-subparagraph a. in any form, including, but not limited to, by oral or written communication or by electronic means.

2. Collected a fee from the potential buyer for processing the criminal history check of the potential buyer. The fee shall be established by the Department of Law Enforcement and may not exceed \$8 per transaction. The Department of Law Enforcement may reduce, or suspend collection of, the fee to reflect payment received from the Federal Government applied to the cost of maintaining the criminal history check system established by this section as a means of facilitating or supplementing the National Instant Criminal Background Check System. The Department of Law Enforcement shall, by rule, establish procedures for the fees to be transmitted by the licensee to the Department of Law Enforcement. Such procedures must provide that fees may be paid or transmitted by electronic means, including,



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but not limited to, debit cards, credit cards, or electronic funds transfers. All such fees shall be deposited into the Department of Law Enforcement Operating Trust Fund, but shall be segregated from all other funds deposited into such trust fund and must be accounted for separately. Such segregated funds must not be used for any purpose other than the operation of the criminal history checks required by this section. The Department of Law Enforcement, each year before February 1, shall make a full accounting of all receipts and expenditures of such funds to the President of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house of the Legislature, and the chairs of the appropriations committees of each house of the Legislature. In the event that the cumulative amount of funds collected exceeds the cumulative amount of expenditures by more than \$2.5 million, excess funds may be used for the purpose of purchasing soft body armor for law enforcement officers.

3. Requested, by means of a toll-free telephone call or other electronic means, the Department of Law Enforcement to conduct a check of the information as reported and reflected in the Florida Crime Information Center and National Crime Information Center systems as of the date of the request.

4. Received a unique approval number for that inquiry from the Department of Law Enforcement, and recorded the date and such number on the consent form.

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

And the title is amended as follows:

Delete line 981



132990

and insert:

applicable; amending s. 790.065, F.S.; requiring the
Department of Law Enforcement to include on a standard
form certain questions concerning a potential firearm
buyer's criminal history or other information relating
to the person's eligibility to make the firearm
purchase; requiring the department to notify law
enforcement officials when a potential sale or
transfer receives a nonapproval number; amending s.
843.08, F.S.; adding school



544134

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/12/2019	.	
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The Committee on Appropriations (Braynon) recommended the following:

Senate Amendment to Amendment (313546) (with title amendment)

Between lines 706 and 707
insert:

(d) The school district shall notify the county sheriff and the Office of Safe Schools immediately after, but no later than 72 hours after:

1. A school guardian is dismissed for misconduct or otherwise disciplined.



544134

11 2. A school guardian discharges his or her firearm in the
12 exercise of the guardian's duties, other than for training
13 purposes.

14
15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete line 1076

18 and insert:

19 safe-school officer; requiring certain school
20 districts to notify the county sheriff and the Office
21 of Safe Schools after the occurrence of specified
22 events; expanding the categories of



721654

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/12/2019	.	
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The Committee on Appropriations (Braynon) recommended the following:

Senate Amendment to Amendment (313546) (with title amendment)

Between lines 392 and 393
insert:

(15) Annually publish a list detailing the total number of school guardians in the state, the total number of school guardians disciplined or relieved of their duties because of misconduct in the previous year, the total number of disciplinary incidents involving school guardians, and the



721654

number of incidents in which a school guardian discharged his or
her firearm outside of a training situation or in the exercise
of his or her duties as a school guardian.

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

And the title is amended as follows:

Delete line 1035

and insert:

commissioner and the state board; requiring the office
to annually publish a list containing specified
information relating to the school guardian program;
amending s. 1002.33,

By the Committees on Infrastructure and Security; and Education

596-03526-19

20197030c1

1 A bill to be entitled
 2 An act relating to school safety and security;
 3 amending s. 30.15, F.S.; requiring a sheriff to
 4 establish a school guardian program under a certain
 5 condition; removing the prohibition against classroom
 6 teachers serving as school guardians; prohibiting
 7 individuals from serving as school guardians unless
 8 they are appointed by a superintendent; amending s.
 9 843.08, F.S.; adding school guardians to the list of
 10 officials the false personation of whom is prohibited
 11 and subject to criminal penalties; making technical
 12 changes; amending s. 943.082, F.S.; requiring school
 13 districts to promote a mobile suspicious activity
 14 reporting tool through specified mediums; amending s.
 15 1001.10, F.S.; requiring the Commissioner of Education
 16 to review recommendations from the School Hardening
 17 and Harm Mitigation Workgroup; requiring the
 18 commissioner to submit a summary to the Governor and
 19 the Legislature by a specified date; providing
 20 requirements for the summary; amending s. 1001.11,
 21 F.S.; revising the duties of the commissioner to
 22 include oversight of compliance with the safety and
 23 security requirements of the Marjory Stoneman Douglas
 24 High School Public Safety Act by specified persons and
 25 entities; amending s. 1001.212, F.S.; requiring the
 26 Office of Safe Schools to annually provide training
 27 for specified personnel; requiring the office to
 28 convene a School Hardening and Harm Mitigation
 29 Workgroup; providing for membership and duties of the

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

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20197030c1

30 workgroup; requiring the workgroup to submit a report
 31 and recommendations to the commissioner; requiring the
 32 office to provide technical assistance for school
 33 safety incident reporting; requiring the office to
 34 review and evaluate school district reports for
 35 compliance; requiring a district school board to
 36 withhold a superintendent's salary in response to the
 37 superintendent's noncompliance; requiring the office
 38 to develop a behavioral threat assessment instrument;
 39 providing requirements for the instrument; requiring
 40 the office to establish the Statewide Threat
 41 Assessment Database Workgroup to make certain
 42 recommendations relating to a statewide threat
 43 assessment database; providing requirements for the
 44 database; requiring the workgroup to report
 45 recommendations to the office by a specified date;
 46 providing requirements for such recommendations;
 47 requiring the office to monitor school district and
 48 public school, including charter schools, compliance
 49 with requirements relating to school safety; requiring
 50 the office to review and approve district school board
 51 and charter school active assailant policies and
 52 report deficiencies; amending s. 1002.33, F.S.;
 53 requiring a charter school to comply with specified
 54 provisions; amending s. 1006.04, F.S.; establishing
 55 timeframes within which students with mental,
 56 emotional, or behavioral disorders must be referred
 57 for services; amending s. 1006.07, F.S.; requiring
 58 that a school safety specialist be a school

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

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20197030c1

59 administrator employed by the school district or a law
 60 enforcement officer employed by the sheriff's office
 61 located in the school district; providing requirements
 62 for a school safety specialist designated from a
 63 sheriff's office; providing that a school safety
 64 specialist designated from a sheriff's office remains
 65 an employee of such office for certain purposes;
 66 authorizing the sheriff and school superintendent to
 67 determine by agreement the reimbursement of or sharing
 68 of costs associated with employment of the law
 69 enforcement officer as a school safety specialist;
 70 requiring district school boards to adopt and submit
 71 to the office an active assailant response policy;
 72 requiring that the policy be recommended by the
 73 district superintendent; requiring that any school-
 74 specific modifications to the policy be approved by
 75 the district superintendents; requiring that certain
 76 policies adopted by school districts include
 77 procedures for behavioral threat assessments;
 78 requiring threat assessment teams to utilize the
 79 behavioral threat assessment instrument and the threat
 80 assessment database developed by the office when they
 81 become available; requiring district school boards to
 82 adopt policies for accurate and timely reporting of
 83 school environmental safety incidents; providing
 84 penalties for noncompliance with such policies;
 85 requiring the State Board of Education to adopt by
 86 rule requirements for school environmental safety
 87 incident reports; amending s. 1006.12, F.S.; requiring

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20197030c1

88 a charter school governing board to partner with law
 89 enforcement agencies to establish or assign a safe-
 90 school officer; expanding the categories of
 91 individuals who may serve as school guardians;
 92 amending s. 1006.1493, F.S.; requiring the Florida
 93 Safe Schools Assessment Tool (FSSAT) to be the primary
 94 site security assessment tool for school districts;
 95 requiring the office to provide FSSAT training;
 96 requiring the superintendent to certify FSSAT
 97 assessments within a certain timeframe; providing
 98 penalties for failure to comply with requirements;
 99 deleting obsolete language; amending s. 1011.62, F.S.;
 100 modifying the required use of funds in the safe
 101 schools allocation; providing for retroactive
 102 application; providing legislative intent; expanding,
 103 as of a specified date, the categorical fund that may
 104 be accessed to improve classroom instruction or
 105 improve school safety; deleting obsolete language;
 106 reenacting s. 921.0022(3)(b), F.S., relating to the
 107 offense severity ranking chart of the Criminal
 108 Punishment Code, to incorporate the amendment made to
 109 s. 843.08, F.S., in a reference thereto; providing a
 110 declaration of important state interest; providing an
 111 effective date.

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

114
 115 Section 1. Paragraph (k) of subsection (1) of section
 116 30.15, Florida Statutes, is amended to read

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117 30.15 Powers, duties, and obligations.—
 118 (l) Sheriffs, in their respective counties, in person or by
 119 deputy, shall:
 120 (k) Establish, if the sheriff so chooses, a Coach Aaron
 121 Feis Guardian Program to aid in the prevention or abatement of
 122 active assailant incidents on school premises. However, if a
 123 local school board has voted by a majority to implement such a
 124 program, the sheriff in that county shall establish a program. A
 125 school guardian may not ~~has no authority to~~ act in any law
 126 enforcement capacity except to the extent necessary to prevent
 127 or abate an active assailant incident on a school premises. A
 128 ~~Excluded from participating in the Coach Aaron Feis Guardian~~
 129 ~~Program are individuals who exclusively perform classroom duties~~
 130 ~~as classroom teachers as defined in s. 1012.01(2)(a). This~~
 131 ~~limitation does not apply to classroom teachers of a Junior~~
 132 ~~Reserve Officers' Training Corps program, a current~~
 133 ~~servicemember, as defined in s. 250.01, or a current or former~~
 134 ~~law enforcement officer, as defined in s. 943.10(1), (6), or~~
 135 ~~(8). The sheriff who establishes a chooses to establish the~~
 136 program shall certify ~~appoint~~ as school guardians, without the
 137 power of arrest, school employees or contract employees, as
 138 specified in s. 1006.12(3), who ~~volunteer and who:~~
 139 1. Hold a valid license issued under s. 790.06.
 140 2. Complete 132 total hours of comprehensive firearm safety
 141 and proficiency training conducted by Criminal Justice Standards
 142 and Training Commission-certified instructors, which must
 143 include:
 144 a. Eighty hours of firearms instruction based on the
 145 Criminal Justice Standards and Training Commission's Law

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146 Enforcement Academy training model, which must include at least
 147 10 percent but no more than 20 percent more rounds fired than
 148 associated with academy training. Program participants must
 149 achieve an 85 percent pass rate on the firearms training.
 150 b. Sixteen hours of instruction in precision pistol.
 151 c. Eight hours of discretionary shooting instruction using
 152 state-of-the-art simulator exercises.
 153 d. Eight hours of instruction in active shooter or
 154 assailant scenarios.
 155 e. Eight hours of instruction in defensive tactics.
 156 f. Twelve hours of instruction in legal issues.
 157 3. Pass a psychological evaluation administered by a
 158 psychologist licensed under chapter 490 and designated by the
 159 Department of Law Enforcement and submit the results of the
 160 evaluation to the sheriff's office. The Department of Law
 161 Enforcement is authorized to provide the sheriff's office with
 162 mental health and substance abuse data for compliance with this
 163 paragraph.
 164 4. Submit to and pass an initial drug test and subsequent
 165 random drug tests in accordance with the requirements of s.
 166 112.0455 and the sheriff's office.
 167 5. Successfully complete ongoing training, weapon
 168 inspection, and firearm qualification on at least an annual
 169 basis.
 170 6. Successfully complete at least 12 hours of a certified
 171 nationally recognized diversity training program.
 172 The sheriff shall issue a school guardian certificate to
 173 individuals who meet the requirements of this paragraph and
 174

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20197030c1

175 ~~subparagraph 2. The sheriff shall maintain documentation of~~
 176 ~~weapon and equipment inspections, as well as the training,~~
 177 ~~certification, inspection, and qualification records of each~~
 178 ~~school guardian certified appointed by the sheriff. At a~~
 179 ~~superintendent's discretion, any such certified school guardian~~
 180 ~~may be appointed to a school by its respective superintendent.~~
 181 ~~An individual may not serve as a school guardian in a school~~
 182 ~~unless he or she is appointed by the superintendent.~~

183 Section 2. Effective October 1, 2019, section 843.08,
 184 Florida Statutes, is amended to read:

185 843.08 False personation.—A person who falsely assumes or
 186 pretends to be a firefighter, a sheriff, a officer of the
 187 Florida Highway Patrol, a officer of the Fish and Wildlife
 188 Conservation Commission, a fire or arson investigator of the
 189 Department of Financial Services, a officer of the Department
 190 of Financial Services, a officer of the Department of
 191 Corrections, a correctional probation officer, a deputy sheriff,
 192 a state attorney or a assistant state attorney, a statewide
 193 prosecutor or a assistant statewide prosecutor, a state
 194 attorney investigator, a coroner, a police officer, a lottery
 195 special agent or lottery investigator, a beverage enforcement
 196 agent, a school guardian as described in s. 30.15(1)(k), a
 197 security officer licensed under chapter 493 ~~or watchman, or~~ any
 198 member of the Florida Commission on Offender Review ~~or~~ and any
 199 administrative aide or supervisor employed by the commission, ~~or~~
 200 any personnel or representative of the Department of Law
 201 Enforcement, or a federal law enforcement officer as defined in
 202 s. 901.1505, and takes upon himself or herself to act as such,
 203 or to require any other person to aid or assist him or her in a

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204 matter pertaining to the duty of any such officer, commits a
 205 felony of the third degree, punishable as provided in s.
 206 775.082, s. 775.083, or s. 775.084. However, a person who
 207 falsely personates any such officer during the course of the
 208 commission of a felony commits a felony of the second degree,
 209 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 210 If the commission of the felony results in the death or personal
 211 injury of another human being, the person commits a felony of
 212 the first degree, punishable as provided in s. 775.082, s.
 213 775.083, or s. 775.084. ~~The term "watchman" means a security~~
 214 ~~officer licensed under chapter 493.~~

215 Section 3. Subsection (4) of section 943.082, Florida
 216 Statutes, is amended to read:

217 943.082 School Safety Awareness Program.—

218 (4) (a) Law enforcement dispatch centers, school districts,
 219 schools, and other entities identified by the department must
 220 ~~shall~~ be made aware of the mobile suspicious activity reporting
 221 tool.

222 (b) The district school board shall promote the use of the
 223 mobile suspicious activity reporting tool by advertising it on
 224 the school district website, in newsletters, on school campuses,
 225 and in school publications and by installing it on all computer
 226 devices issued to students.

227 Section 4. Subsection (9) is added to section 1001.10,
 228 Florida Statutes, to read:

229 1001.10 Commissioner of Education; general powers and
 230 duties.—

231 (9) The commissioner shall review the report of the School
 232 Hardening and Harm Mitigation Workgroup regarding hardening and

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

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233 harm mitigation strategies and recommendations submitted by the
 234 Office of Safe Schools, pursuant to s. 1001.212(12). By
 235 September 1, 2019, the commissioner shall submit a summary of
 236 such recommendations to the Governor, the President of the
 237 Senate, and the Speaker of the House of Representatives. At a
 238 minimum, the summary must include policy and funding
 239 enhancements and the estimated costs of and timeframes for
 240 implementation of the campus hardening and harm mitigation
 241 strategies recommended by the workgroup.

242 Section 5. Subsection (9) of section 1001.11, Florida
 243 Statutes, is added to read:

244 1001.11 Commissioner of Education; other duties.—

245 (9) The commissioner shall oversee compliance with the
 246 safety and security requirements of the Marjory Stoneman Douglas
 247 High School Public Safety Act, chapter 2018-03, Laws of Florida,
 248 by school districts; district school superintendents; public
 249 schools, including charter schools; and regional and state
 250 entities. The commissioner must facilitate compliance to the
 251 maximum extent provided under law, identify incidents of
 252 noncompliance, and impose or recommend to the State Board of
 253 Education, the Governor, or the Legislature enforcement and
 254 sanctioning actions pursuant to s. 1008.32 and other authority
 255 granted under law.

256 Section 6. Subsection (1) is amended, and subsections (12)
 257 through (17) are added to section 1001.212, Florida Statutes, to
 258 read:

259 1001.212 Office of Safe Schools.—There is created in the
 260 Department of Education the Office of Safe Schools. The office
 261 is fully accountable to the Commissioner of Education. The

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262 office shall serve as a central repository for best practices,
 263 training standards, and compliance oversight in all matters
 264 regarding school safety and security, including prevention
 265 efforts, intervention efforts, and emergency preparedness
 266 planning. The office shall:

267 (1) Establish and update as necessary a school security
 268 risk assessment tool for use by school districts pursuant to s.
 269 1006.07(6). The office shall make the security risk assessment
 270 tool available for use by charter schools. The office shall
 271 provide annual training to appropriate school district and
 272 charter school personnel on the proper assessment of physical
 273 site security and completion of the school security risk
 274 assessment tool.

275 (12)(a) Convene a School Hardening and Harm Mitigation
 276 Workgroup comprised of individuals with subject matter expertise
 277 on school campus hardening best practices. The workgroup shall
 278 meet as necessary to review school hardening and harm mitigation
 279 policies including, but not limited to, the target hardening
 280 practices implemented in other states; the school safety
 281 guidelines developed by organizations such as the Partner
 282 Alliance for Safer Schools; the tiered approach to target campus
 283 hardening strategies identified in the initial report submitted
 284 by the Marjory Stoneman Douglas High School Public Safety
 285 Commission pursuant to s. 943.687(9); and the Florida Building
 286 Code for educational facilities construction to determine
 287 whether the building code may need to be modified to strengthen
 288 school safety and security. Based on this review of school
 289 safety best practices, by August 1, 2019, the workgroup shall
 290 submit a report to the executive director of the office, which

596-03526-19

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includes, at a minimum:

1. A prioritized list for the implementation of school campus hardening and harm mitigation strategies and the estimated costs of and timeframes for implementation of the strategies by school districts and charter schools. The estimated costs must include regional and statewide projections of the implementation costs.

2. Recommendations for policy and funding enhancements to strengthen school safety and security.

(b) Submit to the commissioner:

1. The workgroup's report pursuant to paragraph (a); and

2. Recommendations regarding procedures for the office to use to monitor and enforce compliance by the school districts and charter schools in the implementation of the workgroup's recommended campus hardening and harm mitigation strategies.

(13) Provide technical assistance to school districts and charter school governing boards for school environmental safety incident reporting as required under s. 1006.07(9). The office shall review and evaluate school district reports to ensure compliance with reporting requirements. Upon notification by the department that a superintendent has failed to comply with the requirements of s. 1006.07(9), the district school board shall withhold further payment of his or her salary as authorized under s. 1001.42(13)(b) and impose other appropriate sanctions that the commissioner or state board by law may impose.

(14) By August 1, 2019, develop a standardized, statewide behavioral threat assessment instrument for use by all public schools, including charter schools, which addresses early identification, evaluation, early intervention, and student

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support.

(a) The standardized, statewide behavioral threat assessment instrument must include, but need not be limited to, components and forms that address:

1. An assessment of the threat, which includes an assessment of the student, family, and school and social dynamics.

2. An evaluation to determine if the threat is transient or substantive.

3. The response to a substantive threat, which includes the school response and the role of law enforcement agencies.

4. The response to a serious substantive threat, including mental health and law enforcement referrals.

5. Ongoing monitoring to assess implementation of safety strategies.

6. Training for members of threat assessment teams established under s. 1006.07(7) and school administrators regarding the use of the instrument.

(b) The office shall:

1. By August 1, 2020, evaluate each school district's behavioral threat assessment procedures for compliance with this subsection.

2. Notify the district school superintendent if the school district behavioral threat assessment is not in compliance with this subsection.

3. Report any issues of ongoing noncompliance with this subsection to the district school superintendent, commissioner, and state board.

(15) Establish the Statewide Threat Assessment Database

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349 Workgroup, comprised of members appointed by the department, to
 350 make recommendations regarding the development of a statewide
 351 threat assessment database. The database must allow authorized
 352 public school personnel to enter information related to any
 353 threat assessment conducted at their respective schools using
 354 the instrument developed by the office pursuant to subsection
 355 (14), and must provide such information to authorized personnel
 356 in each school district and public school and to appropriate
 357 stakeholders. By December 31, 2019, the workgroup shall provide
 358 a report to the office with recommendations that include, but
 359 need not be limited to:
 360 (a) Threat assessment data that should be required to be
 361 entered into the database.
 362 (b) School district and public school personnel who should
 363 be allowed to input student records to the database and view
 364 such records.
 365 (c) Database design and functionality, to include data
 366 security.
 367 (d) Restrictions and authorities on information sharing,
 368 including:
 369 1. Section 1002.22 and other applicable state laws.
 370 2. The Family Educational Rights and Privacy Act (FERPA),
 371 20 U.S.C. s. 1232g, 42 C.F.R. part 2; the Health Insurance
 372 Portability and Accountability Act (HIPAA), 42 U.S.C. s. 1320d6,
 373 45 C.F.R. part 164, subpart E; and other applicable federal
 374 laws.
 375 3. The appropriateness of interagency agreements that will
 376 allow law enforcement to view database records.
 377 (e) The cost to develop and maintain a statewide online

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378 database.
 379 (f) An implementation plan and timeline for the workgroup
 380 recommendations.
 381 (16) Monitor compliance with requirements relating to
 382 school safety by school districts and public schools, including
 383 charter schools. The office shall report incidents of
 384 noncompliance to the commissioner pursuant to 1001.11(9) and the
 385 state board pursuant to s. 1008.32 and other requirements of
 386 law, as appropriate.
 387 (17) Review and approve each district school board's and
 388 charter school governing board's active assailant response
 389 policy submitted pursuant to ss. 1006.07(6)(c) and
 390 1002.33(16)(b). The office shall report any policy deficiencies
 391 or issues of noncompliance to the commissioner pursuant to
 392 1001.11(9) and the state board pursuant to s. 1008.32 and other
 393 requirements of law, as appropriate.
 394 Section 7. Paragraph (b) of subsection (16) of section
 395 1002.33, Florida Statutes, is amended, to read:
 396 1002.33 Charter schools.—
 397 (16) EXEMPTION FROM STATUTES.—
 398 (b) Additionally, a charter school shall be in compliance
 399 with the following statutes:
 400 1. Section 286.011, relating to public meetings and
 401 records, public inspection, and criminal and civil penalties.
 402 2. Chapter 119, relating to public records.
 403 3. Section 1003.03, relating to the maximum class size,
 404 except that the calculation for compliance pursuant to s.
 405 1003.03 shall be the average at the school level.
 406 4. Section 1012.22(1)(c), relating to compensation and

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salary schedules.

5. Section 1012.33(5), relating to workforce reductions.

6. Section 1012.335, relating to contracts with instructional personnel hired on or after July 1, 2011.

7. Section 1012.34, relating to the substantive requirements for performance evaluations for instructional personnel and school administrators.

8. Section 1006.12, relating to safe-school officers.

9. Section 1006.07(7), relating to threat assessment teams.

10. Section 1006.07(9), relating to School Environmental Safety Incident Reporting.

11. Section 1006.1493, relating to Florida Safe School Assessment Tool.

12. Section 1006.07(6)(c), relating to adopting an active assailant response policy.

13. Section 943.082(4)(b), relating to the mobile suspicious activity reporting tool.

14. Section 1012.584, relating to youth mental health awareness and assistance training.

Section 8. Paragraph (c) of subsection (1) of section 1006.04, Florida Statutes, is amended to read:

1006.04 Educational multiagency services for students with severe emotional disturbance.—

(1)

(c) The multiagency network shall:

1. Support and represent the needs of students in each school district in joint planning with fiscal agents of children's mental health funds, including the expansion of school-based mental health services, transition services, and

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integrated education and treatment programs.

2. Improve coordination of services for children with or at risk of emotional or behavioral disabilities and their families:

a. By assisting multi-agency collaborative initiatives to identify critical issues and barriers of mutual concern and develop local response systems that increase home and school connections and family engagement.

b. To provide that children who are referred for an evaluation or screening to determine eligibility for services receive the appropriate evaluation or screening within 45 days after the referral. Students who are eligible for services, and their families, must be provided a referral for the appropriate services within 30 days after completion of the evaluation or screening.

3. Increase parent and youth involvement and development with local systems of care.

4. Facilitate student and family access to effective services and programs for students with and at risk of emotional or behavioral disabilities that include necessary educational, residential, and mental health treatment services, enabling these students to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living.

Section 9. Subsection (6) and subsection (7) of section 1006.07, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

1006.07 District school board duties relating to student discipline and school safety.—The district school board shall provide for the proper accounting for all students, for the

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attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(6) SAFETY AND SECURITY BEST PRACTICES.—Each district school superintendent shall establish policies and procedures for the prevention of violence on school grounds, including the assessment of and intervention with individuals whose behavior poses a threat to the safety of the school community.

(a) Each district school superintendent shall designate a ~~school administrator as~~ a school safety specialist for the district. The school safety specialist must be a school administrator employed by the school district or a law enforcement officer employed by the sheriff's office located in the school district. Any school safety specialist designated from the sheriff's office must first be authorized and approved by the sheriff employing the law enforcement officer. Any school safety specialist designated from the sheriff's office remains the employee of the office for purposes of compensation, insurance, workers' compensation, and other benefits authorized by law for a law enforcement officer employed by the sheriff's office. The sheriff and the school superintendent may determine by agreement the reimbursement for such costs, or may share the costs, associated with employment of the law enforcement officer as a school safety specialist. The school safety specialist must earn a certificate of completion of the school safety specialist training provided by the Office of Safe Schools within 1 year after appointment and is responsible for the supervision and oversight for all school safety and security personnel, policies, and procedures in the school district. The school

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safety specialist shall:

1. Review policies and procedures for compliance with state law and rules.

2. Provide the necessary training and resources to students and school district staff in matters relating to youth mental health awareness and assistance; emergency procedures, including active shooter training; and school safety and security.

3. Serve as the school district liaison with local public safety agencies and national, state, and community agencies and organizations in matters of school safety and security.

4. Conduct a school security risk assessment in accordance with s. 1006.1493 at each public school using the school security risk assessment tool developed by the Office of Safe Schools. Based on the assessment findings, the district's school safety specialist shall provide recommendations to the district school board which identify strategies and activities that the district school board should implement in order to improve school safety and security. Annually, each district school board must receive such findings and the school safety specialist's recommendations at a publicly noticed district school board meeting to provide the public an opportunity to hear the district school board members discuss and take action on the findings and recommendations. Each school safety specialist shall report such findings and school board action to the Office of Safe Schools within 30 days after the district school board meeting.

(b) Each school safety specialist shall coordinate with the appropriate public safety agencies, as defined in s. 365.171, that are designated as first responders to a school's campus to

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conduct a tour of such campus once every 3 years and provide recommendations related to school safety. The recommendations by the public safety agencies must be considered as part of the recommendations by the school safety specialist pursuant to paragraph (a).

(c) Each district school board must adopt a well-developed, written, distributed, and trained upon active assailant response policy, which must be recommended by the district superintendent. The superintendent must approve any school-specific modifications to the district policy. Each district school board's active assailant response policy, including school-specific modifications, must be submitted to the Office of Safe Schools for approval pursuant to s. 1001.212(17) by August 1, 2019.

(7) THREAT ASSESSMENT TEAMS.—Each district school board shall adopt policies for the establishment of threat assessment teams at each school whose duties include the coordination of resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Office of Safe Schools. Such policies ~~must~~ shall include procedures for referrals to mental health services identified by the school district pursuant to s. 1012.584(4), when appropriate, and procedures for behavioral threat assessments in compliance with the instrument developed pursuant to s. 1001.212(14).

(a) A threat assessment team shall include persons with expertise in counseling, instruction, school administration, and law enforcement. The threat assessment teams shall identify

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members of the school community to whom threatening behavior should be reported and provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self. Upon the availability of the behavioral threat assessment instrument developed pursuant to s. 1001.212(14), the threat assessment team shall use that instrument.

(b) Upon a preliminary determination that a student poses a threat of violence or physical harm to himself or herself or others, a threat assessment team shall immediately report its determination to the superintendent or his or her designee. The superintendent or his or her designee shall immediately attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school district personnel from acting immediately to address an imminent threat.

(c) Upon a preliminary determination by the threat assessment team that a student poses a threat of violence to himself or herself or others or exhibits significantly disruptive behavior or need for assistance, the threat assessment team may obtain criminal history record information, as provided in s. 985.047. A member of a threat assessment team may not disclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

(d) Notwithstanding any other provision of law, all state and local agencies and programs that provide services to students experiencing or at risk of an emotional disturbance or a mental illness, including the school districts, school

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personnel, state and local law enforcement agencies, the Department of Juvenile Justice, the Department of Children and Families, the Department of Health, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Statewide Guardian Ad Litem Office, and any service or support provider contracting with such agencies, may share with each other records or information that are confidential or exempt from disclosure under chapter 119 if the records or information are reasonably necessary to ensure access to appropriate services for the student or to ensure the safety of the student or others. All such state and local agencies and programs shall communicate, collaborate, and coordinate efforts to serve such students.

(e) If an immediate mental health or substance abuse crisis is suspected, school personnel shall follow policies established by the threat assessment team to engage behavioral health crisis resources. Behavioral health crisis resources, including, but not limited to, mobile crisis teams and school resource officers trained in crisis intervention, shall provide emergency intervention and assessment, make recommendations, and refer the student for appropriate services. Onsite school personnel shall report all such situations and actions taken to the threat assessment team, which shall contact the other agencies involved with the student and any known service providers to share information and coordinate any necessary followup actions.

(f) Each threat assessment team established pursuant to this subsection shall report quantitative data on its activities to the Office of Safe Schools in accordance with guidance from the office and shall utilize the threat assessment database

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developed pursuant to s. 1001.212(15) upon the availability of the database.

(9) SCHOOL ENVIRONMENTAL SAFETY INCIDENT REPORTING.—Each district school board shall adopt policies to ensure the accurate and timely reporting of incidents related to school safety and discipline. The district school superintendent is responsible for school environmental safety incident reporting. A district school superintendent who fails to comply with this subsection is subject to the penalties specified in law, including, but not limited to, s. 1001.42(13)(b) or s. 1001.51(12)(b), as applicable. The State Board of Education shall adopt rules establishing the requirements for the school environmental safety incident report.

Section 10. Section 1006.12, Florida Statutes, is amended to read:

1006.12 Safe-school officers at each public school.—For the protection and safety of school personnel, property, students, and visitors, each district school board, ~~and~~ school district superintendent, and charter school governing board, as applicable, shall partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district by implementing any combination of the following options which best meets the needs of the school district:

(1) Establish school resource officer programs, through a cooperative agreement with law enforcement agencies.

(a) School resource officers shall undergo criminal background checks, drug testing, and a psychological evaluation and be certified law enforcement officers, as defined in s.

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943.10(1), who are employed by a law enforcement agency as defined in s. 943.10(4). The powers and duties of a law enforcement officer shall continue throughout the employee's tenure as a school resource officer.

(b) School resource officers shall abide by district school board policies and shall consult with and coordinate activities through the school principal, but shall be responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a district school board and a law enforcement agency. Activities conducted by the school resource officer which are part of the regular instructional program of the school shall be under the direction of the school principal.

(c) Complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention. The training shall improve officers' knowledge and skills as first responders to incidents involving students with emotional disturbance or mental illness, including de-escalation skills to ensure student and officer safety.

(2) Commission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers.

(a) School safety officers shall undergo criminal background checks, drug testing, and a psychological evaluation and be law enforcement officers, as defined in s. 943.10(1), certified under the provisions of chapter 943 and employed by either a law enforcement agency or by the district school board.

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If the officer is employed by the district school board, the district school board is the employing agency for purposes of chapter 943, and must comply with the provisions of that chapter.

(b) A school safety officer has and shall exercise the power to make arrests for violations of law on district school board property and to arrest persons, whether on or off such property, who violate any law on such property under the same conditions that deputy sheriffs are authorized to make arrests. A school safety officer has the authority to carry weapons when performing his or her official duties.

(c) A district school board may enter into mutual aid agreements with one or more law enforcement agencies as provided in chapter 23. A school safety officer's salary may be paid jointly by the district school board and the law enforcement agency, as mutually agreed to.

(3) At the school district's, or charter school governing board's, discretion, participate in the Coach Aaron Feis Guardian Program ~~if such program is established pursuant to s. 30.15,~~ to meet the requirement of establishing a safe-school officer. The following individuals may serve as a school guardian upon satisfactory completion of the requirements under s. 30.15(1)(k) and certification by a sheriff:

(a) A school district employee or personnel, as defined under s. 1012.01, or a charter school employee, as provided under s. 1002.33(12)(a), who volunteers to serve as a school guardian in addition to his or her official job duties;

(b) An employee of a school district or a charter school who is hired for the specific purpose of serving as a school

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guardian; or

(c) A contract employee licensed under s. 493.6301 who works in the school district or for a charter school through a contract with a security agency as that term is defined in s. 493.6101(18). Contract employees may receive school guardian training through a participating sheriff's office contingent upon defined financial or service obligations by the security agency enumerated in the contract between the school district or the charter school governing board, as appropriate, and the security agency.

(4) Any information that would identify whether a particular individual has been appointed as a safe-school officer pursuant to this section held by a law enforcement agency, school district, or charter school is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 11. Section 1006.1493, Florida Statutes, is amended to read:

1006.1493 Florida Safe Schools Assessment Tool.—

(1) The department, through the Office of Safe Schools pursuant s. 1001.212, shall contract with a security consulting firm that specializes in the development of risk assessment software solutions and has experience in conducting security assessments of public facilities to develop, update, and implement a risk assessment tool, which shall be known as the Florida Safe Schools Assessment Tool (FSSAT). The FSSAT must be

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the primary physical site security assessment tool as revised and required by the Office of Safe Schools that is used by school officials at each school district and public school site in the state in conducting security assessments ~~for use by school officials at each school district and public school site in the state.~~

(2) The FSSAT must help school officials identify threats, vulnerabilities, and appropriate safety controls for the schools that they supervise, pursuant to the security risk assessment requirements of s. 1006.07(6).

(a) At a minimum, the FSSAT must address all of the following components:

1. School emergency and crisis preparedness planning;
2. Security, crime, and violence prevention policies and procedures;
3. Physical security measures;
4. Professional development training needs;
5. An examination of support service roles in school safety, security, and emergency planning;
6. School security and school police staffing, operational practices, and related services;
7. School and community collaboration on school safety; and
8. A return on investment analysis of the recommended physical security controls.

(b) The department shall require by contract that the security consulting firm:

1. Generate written automated reports on assessment findings for review by the department and school and district officials;

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2. Provide training to the department and school officials in the use of the FSSAT and other areas of importance identified by the department; and

3. Advise in the development and implementation of templates, formats, guidance, and other resources necessary to facilitate the implementation of this section at state, district, school, and local levels.

(3) The Office of Safe Schools must provide annual training to each district's school safety specialist and other appropriate school district personnel on the assessment of physical site security and completing the FSSAT.

(4) Each district school superintendent, by August 1 of each year, shall submit an FSSAT assessment to the department for each school site. Each school-specific assessment must be approved by the district superintendent or his or her designee, who must be the district's school safety specialist or a deputy superintendent or assistant superintendent. Any superintendent who fails to comply with the requirements of this subsection is subject to penalties under s. 1001.51(12)(b) and other sanctions that may be applied by the commissioner or state board.

(5) By December 1 of each year, ~~By December 1, 2018, and annually by that date thereafter,~~ the department shall must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of implementation across school districts and schools. The report must include a summary of the positive school safety measures in place at the time of the assessment and any recommendations for policy changes or funding needed to facilitate continued school safety planning, improvement, and response at the state,

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district, or school levels.

~~(6)-(4)~~ In accordance with ss. 119.071(3)(a) and 281.301, data and information related to security risk assessments administered pursuant to this section and s. 1006.07(6) and the security information contained in the annual report required pursuant to subsection (3) are confidential and exempt from public records requirements.

Section 12. Subsection (15) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(15) SAFE SCHOOLS ALLOCATION.—A safe schools allocation is created to provide funding to assist school districts in their compliance with s. 1006.07, with priority given to implementing the district's school resource officer program pursuant to s. 1006.12. Each school district shall receive a minimum safe schools allocation in an amount provided in the General Appropriations Act. Of the remaining balance of the safe schools allocation, two-thirds shall be allocated to school districts based on the most recent official Florida Crime Index provided by the Department of Law Enforcement and one-third shall be allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Any additional funds appropriated to this allocation in the 2018-2019 fiscal year must ~~to the school resource officer~~

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813 ~~program established pursuant to s. 1006.12 shall be used~~
 814 ~~exclusively for employing or contracting for safe-school~~
 815 ~~resource officers, established or assigned under s. 1006.12~~
 816 ~~which shall be in addition to the number of officers employed or~~
 817 ~~contracted for in the 2017-2018 fiscal year. This subsection~~
 818 ~~applies retroactively to July 1, 2018. The amendments to this~~
 819 ~~subsection are intended to be clarifying and remedial in nature.~~

820 Section 13. Effective July 1, 2019, paragraph (b) of
 821 subsection (6) of section 1011.62, Florida Statutes, and
 822 subsection (15) of that section, as amended by this act, are
 823 amended to read:

824 1011.62 Funds for operation of schools.—If the annual
 825 allocation from the Florida Education Finance Program to each
 826 district for operation of schools is not determined in the
 827 annual appropriations act or the substantive bill implementing
 828 the annual appropriations act, it shall be determined as
 829 follows:

830 (6) CATEGORICAL FUNDS.—

831 (b) If a district school board finds and declares in a
 832 resolution adopted at a regular meeting of the school board that
 833 the funds received for any of the following categorical
 834 appropriations are urgently needed to maintain school board
 835 specified academic classroom instruction or improve school
 836 safety, the school board may consider and approve an amendment
 837 to the school district operating budget transferring the
 838 identified amount of the categorical funds to the appropriate
 839 account for expenditure:

840 1. Funds for student transportation.

841 2. Funds for research-based reading instruction if the

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842 required additional hour of instruction beyond the normal school
 843 day for each day of the entire school year has been provided for
 844 the students in each low-performing elementary school in the
 845 district pursuant to paragraph (9) (a).

846 3. Funds for instructional materials if all instructional
 847 material purchases necessary to provide updated materials that
 848 are aligned with applicable state standards and course
 849 descriptions and that meet statutory requirements of content and
 850 learning have been completed for that fiscal year, but no sooner
 851 than March 1. Funds available after March 1 may be used to
 852 purchase hardware for student instruction.

853 4. Funds for the guaranteed allocation as provided in
 854 subparagraph (1) (e) 2.

855 5. Funds for the supplemental academic instruction
 856 allocation as provided in paragraph (1) (f).

857 6. Funds for Florida digital classrooms allocation as
 858 provided in subsection (12).

859 7. Funds for the federally connected student supplement as
 860 provided in subsection (13).

861 8. Funds for class size reduction as provided in s.
 862 1011.685.

863 (15) SAFE SCHOOLS ALLOCATION.—A safe schools allocation is
 864 created to provide funding to assist school districts in their
 865 compliance with s. 1006.07, with priority given to implementing
 866 the district's school resource officer program pursuant to s.
 867 1006.12. Each school district shall receive a minimum safe
 868 schools allocation in an amount provided in the General
 869 Appropriations Act. Of the remaining balance of the safe schools
 870 allocation, one-third ~~two-thirds~~ shall be allocated to school

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871 districts based on the most recent official Florida Crime Index
 872 provided by the Department of Law Enforcement and two-thirds
 873 ~~one-third~~ shall be allocated based on each school district's
 874 proportionate share of the state's total unweighted full-time
 875 equivalent student enrollment. ~~Any additional funds appropriated~~
 876 ~~to this allocation in the 2018-2019 fiscal year must be used~~
 877 ~~exclusively for employing or contracting for safe school~~
 878 ~~officers, established or assigned under s. 1006.12. This~~
 879 ~~subsection applies retroactively to July 1, 2018. The amendments~~
 880 ~~to this subsection are intended to be clarifying and remedial in~~
 881 ~~nature.~~

882 Section 14. For the purpose of incorporating the amendment
 883 made by this act to section 843.08, Florida Statutes, in a
 884 reference thereto, paragraph (b) of subsection (3) of section
 885 921.0022, Florida Statutes, is reenacted to read:

886 921.0022 Criminal Punishment Code; offense severity ranking
 887 chart.—

888 (3) OFFENSE SEVERITY RANKING CHART

889 (b) LEVEL 2

890

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.

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

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379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state

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

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			limits.
898	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
899	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
900	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
901	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
902	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
903	812.015(7)	3rd	Possession, use, or attempted use of an

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			antishoplifting or inventory control device countermeasure.
904	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
905	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
906	817.52(3)	3rd	Failure to redeliver hired vehicle.
907	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
908	817.60(5)	3rd	Dealing in credit cards of another.
909	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
910			

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	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
911			
	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
912			
	831.01	3rd	Forgery.
913			
	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
914			
	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
915			
	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
916			
	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
917			
	831.11	3rd	Bringing into the state forged bank bills,

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

	596-03526-19		20197030c1
			checks, drafts, or notes.
918			
	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
919			
	843.08	3rd	False personation.
920			
	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis.
921			
	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
922			
923			Section 15. <u>The Legislature finds that a proper and</u>
924			<u>legitimate state purpose is served when district school boards</u>
925			<u>are afforded options for the provision of safe-school officers</u>
926			<u>for the protection and safety of school personnel, property,</u>
927			<u>students, and visitors. School guardians must be available to</u>
928			<u>any district school board that chooses such an option.</u>
929			<u>Therefore, the Legislature determines and declares that this act</u>
930			<u>fulfills an important state interest.</u>

Page 36 of 37

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

596-03526-19

20197030c1

931 Section 16. Except as otherwise expressly provided in this
932 act, this act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 11

Meeting Date

SB 7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic School Safety

Name Brenda Fischer

Job Title Educator

Address 2812 N 46 Ave

Street

Awc

City

State

33021

Zip

Phone _____

Email Bfischer34@
hotmail.com

Speaking: ☐ For ☐ Against ☐ Information

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
APPEARANCE RECORD

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

4-11-2019
Meeting Date

SB 7030
Bill Number (if applicable)
970098
Amendment Barcode (if applicable)

Topic School Safety

Name Jeremy Hayden

Job Title Truck Driver

Address 13248 NE 1st Street Road

Street

Silver Springs
City

Florida
State

34480
Zip

Phone 352-355-9330

Email JeremyScottHayden@GMAIL.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing myself

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

04/11/19

Meeting Date

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

SB 7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic SCHOOL SAFETY

Name MATTHEW KELLY

Job Title _____

Address 2105 NE 55th St.

Street

OCALA

City

FL

State

34479

Zip

Phone _____

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic guardian program

Name Kyle Savage

Job Title 5th grade teacher

Address _____ Phone _____

Street

Cape Canaveral

FL

32920

Email _____

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19

Meeting Date

7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic restore Guardian prohibition for teachers

Name Stephanie Kunkel

Job Title Legislative/Political specialist

Address 213 S. Adams St.

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-320-4008

Email Stephanie.Kunkel@floridaoec.org

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19

Meeting Date

SB-7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic SCHOOL SAFETY

Name RICHARD POULLETTE

Job Title _____

Address 2841 OAK DR.

Street

Phone 562-312-4111

W. PALM BEACH

City

FL.

State

33406

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-11-19

Meeting Date

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

SB 7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic School Safety

Name Kammeron Brown

Job Title

Address 1008 Redbud Ave

Street

Tallahassee

City

FL

State

32303

Zip

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19

Meeting Date

7030

Bill Number (if applicable)

920098

Amendment Barcode (if applicable)

Topic School Safety

Name Amy Datz

Job Title Retired Scientist

Address _____

Street

Tallahassee FL

City

State

Zip

Phone _____

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/11/2019
Meeting Date

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

SB 7030 C1
Bill Number (if applicable)

970098
Amendment Barcode (if applicable)

Topic School Safety and Security

Name Khanh-Lien ("Con Lynn") Banko

Job Title Resolutions Chair

Address 1747 Orlando Central Parkway
Street

Orlando
City

FL
State

32899
Zip

Phone (407) 855-7604

Email resolutions@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic Amendment to SB 7030

Name Ginger Blomeley

Job Title

Address 30561 Scott Street

Street

San Antonio, FL 33576

City

State

Zip

Phone

Email ginger@theblomeleys.com

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

#970098

Amendment Barcode (if applicable)

Topic School Safety

Name Linda Lewis

Job Title

Address 2846 S.W. 4th Court

Street

H. Lauderdale FL

City

State

33312

Zip

Phone 954-609-6159

Email

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic _____

Name Juliet Brown

Job Title _____

Address 307 NW 3rd

Street

Hallandale

City

FL

State

33001

Zip

Phone 754-246 7602

Email 7542467602.jb@gmail

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

7030

Bill Number (if applicable)

970698

Amendment Barcode (if applicable)

Topic

School Safety

Name

Aron Zions

Job Title

Teacher

Address

5617 Macallan Dr.

Street

Tampa, FL 33625

City

State

Zip

Phone

813.748.2811

Email

aronzions@gmail.com

Speaking:

☐

For

☐

Against

☐

Information

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.

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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)

April 11, 2019

Meeting Date

SB 7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic School Safety

Name Nancy Sabrina Gates-McCarthy

Job Title Educator

Address 19051 Bayette Rd

Street

Lithia, FL

City

33547

State

Zip

Phone 813-679-0021

Email sabrina.gates@cteched.com

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4-11-19

Meeting Date

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

SB 7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic

School Safety and Security

Name

Adam Campbell

Job Title

Address

3738 Kenyon Road

Street

Phone

561-452-7748

Lake Worth

City

FL

State

33461

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

my 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

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

April 11, 2019
Meeting Date

7030
Bill Number (if applicable)

Topic School Safety and Security

970098
Amendment Barcode (if applicable)

Name Barbara Alber

Job Title Educator

Address 123 Puffin Court
Street

Phone _____

Royal Palm Beach Florida 33411
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4-11-19

Meeting Date

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

7030

Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic School Safety and Security

Name Ellen Baker

Job Title High School Spec. Ed. Teacher

Address _____

Street

Palm Beach Gardens FL 33418

City

State

Zip

Phone _____

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

~~SB 7030~~
Bill Number (if applicable)

970098

Amendment Barcode (if applicable)

Topic Amendment to SB 7030

Name Jeneane Maddaloni

Job Title Teacher

Address 15911 Stable Run Drive

Street

Spring Hill FL 34610

City

State

Zip

Phone 813 9975364

Email maddaloniscience@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

7030
Bill Number (if applicable)

Topic mental health in schools

→ 662486
Amendment Barcode (if applicable)

Name Melanie Brown Woofter

Job Title President

Address 316 E Park Ave

Phone 224-6048

Tallahassee FL 32301
City State Zip

Email melanie@fcmh

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Council for Behavioral Healthcare

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/19

Meeting Date

7030

Bill Number (if applicable)

662486

Amendment Barcode (if applicable)

Topic Schools - Mental Health

Name Alisa LaBolt (ah LEEsa)

Job Title Lobbyist

Address PO Box 1344

Street

TLH

City

FL

State

32302

Zip

Phone 850-443-1319

Email alisa@go to psail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing National Alliance on Mental Illness - Palm Beach

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2019
Meeting Date

SB 7030 C1
Bill Number (if applicable)

662486
Amendment Barcode (if applicable)

Topic School Safety and Security

Name Khánh-Lien ("Con Lynn") Brinko

Job Title Resolutions Chair

Address 1747 Orlando Central Parkway
Street
Orlando FL 32809
City State Zip

Phone (407) 855-7604

Email resolutionisefloridapta.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

Topic armed classroom teachers

Amendment Barcode (if applicable)

Name Kyle Savage

Job Title 5th grade teacher

Address _____

Phone _____

Street

Cape Canaveral

FL

32920

Email _____

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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
APPEARANCE RECORD

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

4-11-19
Meeting Date

7030
Bill Number (if applicable)

Topic School Safety and Security

Amendment Barcode (if applicable)

Name Ellen Baker

Job Title High School Spec. Ed Teacher

Address _____

Phone _____

Palm Beach Gardens, FL
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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
APPEARANCE RECORD

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

4/11/18
Meeting Date

7030
Bill Number (if applicable)

Topic Arming teachers

Amendment Barcode (if applicable)

Name Michael Anderson

Job Title _____

Address 8433 South Sheld
Street

Phone 409961727

DOX FL 32256
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing ALL endolegmc

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

04/11/19

Meeting Date

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

SB7030

Bill Number (if applicable)

Topic SCHOOL SAFETY

Amendment Barcode (if applicable)

Name MATTHEW KELLY

Job Title _____

Address 2105 NE 55th St.

Phone _____

Street

OCALA

FL

34479

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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
APPEARANCE RECORD

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

4-11-19

Meeting Date

SB-7030

Bill Number (if applicable)

Topic SCHOOL SAFETY

Amendment Barcode (if applicable)

Name RICK POULLETTE

Job Title _____

Address 2841 OAK DR.

Phone 561-312-4111

Street

W.P.B.

City

FL

State

33406

Zip

Email RICKPOULLETTE@AOL.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/19

Meeting Date

7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Jared Ochs (Oaks)

Job Title Director of Legislative Affairs

Address 325 W. Gaines Street
Street

Phone

Email

City

State

Zip

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

Representing Florida Department of Education

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Molly Wade

Job Title Citizen

Address 4115 Deer Lane Dr

Phone 850 408-5250

Street

Tall

City

FL

State

32312

Zip

Email molly.wade@hotmail

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

Topic

School Safety

Amendment Barcode (if applicable)

Name

Jan Keshen

Job Title

Retired Teacher

Address

5114 China Berry

Phone

850-567-4457

Street

Tallahassee

FL

32311

City

State

Zip

Email

jkorlean@aol.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

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

Representing

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Liza Buckley

Job Title Teacher

Address 911 Blackwood Ave

Phone 850-523-0181

Street

Tallahassee, FL 32303

City

State

Zip

Email lizambua@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 11, 2019

Meeting Date

SB 7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Douglas Hahn

Job Title Citizen

Address 2076 W. Forest Dr
Street

Phone (436) 233-1772

Tallahassee, Florida 32303-5113
City State Zip

Email doughahn63301@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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
APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

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

Representing

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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S-001 (10/14/14)

APPEARANCE RECORD

4/11/19
Meeting Date

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

SB 1030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Leslie Palmer

Job Title Volunteer

Address 2023 Duneagle Ln

Phone 850 251 0111

Street

Tall

FL

32317

City

State

Zip

Email lpalmerboxold@qmc.cuh

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

Representing Moms Demand

Appearing at request of Chair: ☐ Yes ☐ NoLobbyist 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

Topic SCHOOL SAFETY

Amendment Barcode (if applicable)

Name LEE ANN KILBY

Job Title _____

Address 1434 CRESTVIEW AVE

Phone 850 545 5898

Street

TALLAHASSEE

City

FL

State

32303

Zip

Email leeannkilby@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 1030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Justin Peacock

Job Title _____

Address 26569 County Rd 68N

Street

Phone _____

Robertsdale

City

AL

State

36567

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/19

Meeting Date

SB7030

Bill Number (if applicable)

Topic School Safety amendment #970098

Amendment Barcode (if applicable)

Name Justin Peacock

Job Title

Address 20569 County Rd 68N

Street

Phone

Robertsdale

AL

36567

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4-11-19

Meeting Date

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

7030

Bill Number (if applicable)

Topic School safety ~~safety~~

Amendment Barcode (if applicable)

Name Kameron Brown

Job Title

Address 1008 Redbud Ave

Street

Phone

Tallahassee

City

FL

State

32303

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

7030

Bill Number (if applicable)

Topic School Security

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title _____

Address 104 S. Monroe St

Phone 850-425-1344

Tallahassee FL 32301
City State Zip

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida State Conference of NAACP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

7030

Bill Number (if applicable)

Topic Mental Health in Schools

Amendment Barcode (if applicable)

Name Melanie Brown-Woofter

Job Title President

Address 316 E Park Ave

Phone 224-6048

Street

Tall. FL 32301

City

State

Zip

Email melanie@fccmh.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Council for Behavioral Health

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19

Meeting Date

8B7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Retired Environmental Scientist

Address _____

Phone _____

Street

Tallahassee

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-2019

Meeting Date

SB 7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Jeremy Hayden

Job Title Truck Driver

Address 13248 NE 1st Street Road

Phone 352-355-4330

Street

Silver Springs Florida 34480

City

State

Zip

Email Jeremy.Scott.Hayden@GMAIL.CO

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

7030
Bill Number (if applicable)

Topic Arming classroom teachers

Amendment Barcode (if applicable)

Name Beth Babcock

Job Title Retired Teacher

Address 5635 Jacksons Gap Rd.

Phone _____

Street

Tallahassee

FL

32317

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2019

Meeting Date

SB 7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

Street

Tallahassee

FL

32302

City

State

Zip

Email scott.mccoy@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

SB 7030
Bill Number (if applicable)
970098
Amendment Barcode (if applicable)

Topic School Safety

Name Noah Holliman

Job Title _____

Address 2704 Willow Lane
Street

Phone 954-288-1436

Lauderdale Lakes FL 33311
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

8B 7030

Bill Number (if applicable)

Topic

School Safety

Amendment Barcode (if applicable)

Name

Noah Halliman

Job Title

Address

2704 Willow Lane

Street

Phone

954-288-1436

Lauderdale Lakes

City

FL

State

33311

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

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
APPEARANCE RECORD

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

4/11/2019
Meeting Date

SB 703D
Bill Number (if applicable)

970098
Amendment Barcode (if applicable)

Topic School Safety

Name Caclyn Cummings-Tucker

Job Title _____

Address 1613 NW 14th Street
Street

Phone 954-534-6033

Ft. Lauderdale FL 33311
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2019

Meeting Date

SB 7030

Bill Number (if applicable)

Topic

School Safety

Amendment Barcode (if applicable)

Name

Caralyn Cummings-Tucker

Job Title

Address

1613 NW 14th Street

Phone

954-534-6033

Street

Ft. Lauderdale

FL

33311

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

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

Representing

Myself

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Linda Lewis

Job Title _____

Address 2846 S.W. 4th Court

Street

Phone 954-609-6159

Ft. Lauderdale FL 33312

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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
APPEARANCE RECORD

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

4/11/19

Meeting Date

SB 7030

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Juliet Brown

Job Title _____

Address 307 NW 3rd

Street

Hallandale

City

FL

State

33009

Zip

Phone 754 - 246 - 7602

Email 754 246 7602.jb@gmail

Speaking: ☐ For ☐ Against ☐ Information

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
APPEARANCE RECORD

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

4/11/19

Meeting Date

7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Aron Zions

Job Title Teacher

Address 5617 Macallan Dr.

Phone 813.748.2811

~~Street~~

Tampa, FL 33625

City

State

Zip

Email aronzions@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

April 11, 2019

Meeting Date

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

SB 7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Nancy Sabrina Gates-McCarthy

Job Title Educator

Address 19051 Boyette Rd

Phone 813-679-0021

Street

Lithia, FL 33547

City

State

Zip

Email Sabrina.gates@ctechd.com

Speaking: ☐ For ☐ Against ☐ Information

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)

APPEARANCE RECORD

4-11-19

Meeting Date

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

SB 7030

Bill Number (if applicable)

Topic

School Safety and Security

Amendment Barcode (if applicable)

Name

Adam Campbell

Job Title

Address

3738 Kenyon Road

Street

Lake Worth

City

FL

State

33461

Zip

Phone

561-452-7748

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

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

Representing

my 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

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

4/11/19

Meeting Date

7030

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Cindy Bess

Job Title _____

Address 926 E. Johnson Ave

Phone 850 291-2366

Street

City

Venice, FL

State

Zip

33514

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name MaryAnn Taylor

Job Title Self my grandchildren

Address 5838 Marsh Landing Dr

Phone _____

Street

Winter Haven

FL

33881

City

State

Zip

Email LYNX0857@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

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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)

April 11
Meeting Date

SB 7030
Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Brenda Fischer

Job Title Educator

Address 2812 N 46 Ave
Street

Phone _____

Awd 33021
City State Zip

Email b.fischer34@

hotmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19

Meeting Date

SB 7030

Bill Number (if applicable)

Topic

School Safety

Amendment Barcode (if applicable)

Name

Jerome Bess

Job Title

SEIR

Address

926 E Johnson Ave

Phone

(850) 501-2903

Street

Pensacola Fla

State

32514

Zip

Email

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

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

Representing

SEIR

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

Bill Number (if applicable)

Topic School Safety and Security

7030
Amendment Barcode (if applicable)

Name Robert D. Doane

Job Title Self Retired

Address 1724 Birchchwater Tr.

Phone 407 739-1106

Street
City Orlando State Fla Zip 32825

Email blab' bbd@orange.net
- Com

Speaking: ☐ For ☐ Against ☐ Information

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

2830
Bill Number (if applicable)

Topic Thurston Amendment

Amendment Barcode (if applicable)

Name Robert Doane

Job Title Retired

Address 1724 Brandwater Tr.
Street

Phone 407 739 1104

Orlando FL 32825
City State Zip

Email rd@doane.com

Speaking: ☐ For ☐ Against ☐ Information

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4/11/19

Meeting Date

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

SB7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Nicolette Springer

Job Title Legislative Analyst

Address _____

Phone 407484 3656

Street

Orlando

FL

32832

City

State

Zip

Email nicolette@LWVFL.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing League of 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4/11/2019

Meeting Date

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

SB 7030

Bill Number (if applicable)

Topic School Safety and Security

Amendment Barcode (if applicable)

Name Khanh-Lien ("Con hien") Banko

Job Title Resolutions Chair

Address 1747 Orlando Central Parkway

Phone 407-855-7604

Street

Orlando

City

FL

State

32809

Zip

Email resolutionsefloridapta.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida PTA

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2019
Meeting Date

SB 7030C1
Bill Number (if applicable)

132990
Amendment Barcode (if applicable)

Topic School Safety and Security

Name Khank-Lien ("Con Lynn") Banko

Job Title Resolutions Chair

Address 1747 Orlando Central Parkway

Street

Orlando

City

FL

State

32809

Zip

Phone (407) 855-7604

Email resolutions@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4/10/19

Meeting Date

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

7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name LINDA EDSON

Job Title Retired Teacher

Address 1841 Myrick Rd
Street

Phone 850-510-2729

Tallahassee
City

FL
State

32303
Zip

Email edsonl@nettally.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida Retired Educators 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

7030
Bill Number (if applicable)

Topic 7030 -

Amendment Barcode (if applicable)

Name Gray Valimant

Job Title Volunteer Chapter Leader

Address 1183 Woodlawn Way Phone _____
Street

Gulf Breeze 32563 Email _____
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Moms Demand Action

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19

Meeting Date

7030

Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Shawn Frost

Job Title Director of Advocacy / Past President

Address 981 E. Eau Gallie Blvd #E13102

Street

Phone 850 706-0128

Melbourne

City

FL

State

32937

Zip

Email info@FCSBM.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Coalition of School Board Members

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)

April 11, 2019
Meeting Date

7030
Bill Number (if applicable)

Topic School Safety and Security

Amendment Barcode (if applicable)

Name Barbara Alber

Job Title Educator

Address 123 Puffin Court
Street

Phone _____

Royal Palm Beach Florida 33411
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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 7040

INTRODUCER: Appropriations Committee; Governmental Oversight and Accountability Committee; and Ethics and Elections Committee

SUBJECT: Financial Disclosure

DATE: April 15, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Mitchell	Roberts		EE Submitted as Committee Bill
1.	Hackett	McVane	GO	Fav/CS
2.	Shettle	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 7040 revises the administration of the submission of information relating to the disclosures of financial interests and statements of financial interests.

The bill requires the Commission on Ethics (Commission) to procure and test an electronic filing system by January 1, 2022. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard internet-browsing software;
- Issue a verification or receipt that the Commission has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete the disclosure or statement and certify that he or she prepared it in accordance with s. 112.3144, F.S., or s. 112.3145, F.S., and that the information on the disclosure or statement is true and correct.

The bill requires electronic submission of CE Form 6 beginning January 1, 2022, and CE Form 1 beginning January 1, 2023. The Commission must provide notice and other communications to filers by email message. All disclosures (CE Form 1 and CE Form 6) must be for the calendar

year rather than for either the calendar year or the taxable year. Beginning with required electronic submission of CE Form 1, filers must use the dollar value threshold method of reporting (rather than the comparative or percentage threshold).

The bill has an estimated fiscal impact of \$2.2 to \$5 million over three to four fiscal years, due to system upgrades to accommodate for electronic filings. The fiscal impact of this bill can be absorbed within existing resources.

II. Present Situation:

Financial Disclosure

Florida ethics laws provide for two tiers of financial disclosure:

- Full and public disclosure of financial interests (CE Form 6); and
- Statement of financial interests (CE Form 1).¹

The financial disclosure filing process is overseen by the Commission on Ethics (Commission) with the assistance of local qualifying officers and supervisors of elections.

Full and Public Disclosure of Financial Interests (CE Form 6)

Currently, all elected constitutional officers, candidates for such offices, and statewide elected officers are required by Art. II, s. 8 of the State Constitution, to file a full and public disclosure of their financial interests (CE Form 6) annually. The annual full and public disclosure is also required of other public officers, candidates, and employees as determined by law.² Officers subject to either the constitutional or statutory requirement to file the CE Form 6 include:

- The Governor;
- Lieutenant Governor;
- Cabinet members;
- Legislators;
- County commissioners;
- State attorneys;
- Public defenders;
- Clerks of circuit courts;
- Sheriffs;
- Tax collectors;
- Property appraisers;
- Supervisors of elections;
- Elected superintendents of schools;
- District school board members;
- Jacksonville City Council members (including mayor);
- The Duval County superintendent of schools;

¹ FLA. CONST., art. II, s. 8(a), s. 112.3144, F.S., and s. 112.3145, F.S.

² For example, statutory law provides that members of expressway, transportation, bridge, or toll authorities are required to comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution. Section 348.0003(4)(c), F.S.

- Florida Housing Finance Corporation board members;
- Florida Prepaid College board members; and
- Each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 343 or 348, F.S., or any other general law.

The CE Form 6 requires the filer to disclose his or her net worth, each separate source of income in excess of \$1,000, and each asset and liability in excess of \$1,000.³ To show income, the filer may provide a copy of his or her most recent federal income tax return.⁴ These values are to be calculated as of December 31 of the preceding year.⁵ The CE Form 6 must be sworn⁶ and is due July 1. A grace period is provided until September 1 of each year.

A candidate for an office subject to the CE Form 6 filing requirement must file a CE Form 6 with his or her qualifying papers. If the candidate is an incumbent qualifying to run for the same office or holds another office subject to the CE Form 6 filing requirement, the qualifying officer must forward an electronic copy of the CE Form 6 to the Commission by July 1.⁷

General law also requires an individual subject to the CE Form 6 filing requirement to file a final disclosure statement within 60 days after leaving his or her public position.⁸ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office, unless the person takes another public position for which a CE Form 6 is required within the 60-day period, or if the person is otherwise required to file a CE Form 6.⁹ For calendar year 2018, there were 1,398 individuals required to file CE Form 6.¹⁰

Statement of Financial Interests (CE Form 1)

Persons seeking nomination or election to a state or local elective office, state officers, local officers, and specified state employees are required to file an annual statement of financial interests (CE Form 1).¹¹ CE Form 1 requires less detail than the CE Form 6. Examples of state officers required to file the CE Form 1 include:

- Appointed members of boards, commissions, authorities, or councils that have statewide jurisdiction – excluding advisory bodies;
- Members of the State University System Board of Governors;
- The State University System Chancellor and Vice Chancellor;
- Members of a state university board of trustees;
- The Deputy Chief Judge of Compensation Claims and any compensation claims judge; and

³ FLA. CONST., art. II, s. 8(i)1.

⁴ *Id.*

⁵ Fla. Admin. Code R. 34-8.004 (2019)

⁶ FLA. CONST., art. II, s. 8(i)1.

⁷ Section 112.3144(2), F.S.

⁸ Section 112.3144(7), F.S.

⁹ *Id.*

¹⁰ See Florida Commission on Ethics “Annual Report to the Florida Legislature for Calendar Year 2018.” A copy of the report may be obtained from the Florida Commission on Ethics.

¹¹ Section 112.3145(2)(a) and (b), F.S.

- Members of the judicial nominating commission for any district court of appeal or any judicial circuit.¹²

State officers subject to the CE Form 1 filing requirement file with the Commission.¹³

Examples of state employees required to file the CE Form 1 include:

- The public counsel;
- Assistant state attorneys;
- Assistant public defenders;
- Criminal conflict and civil regional counsels (including assistant counsels);
- Each appointed agency secretary (including an assistant or deputy secretary);
- An executive director of a state department (including an assistant or deputy secretary);
- An agency division director, assistant division director, deputy director, bureau chief, and assistant bureau chief;
- A general counsel of a state agency (including deputy general counsels);
- Administrative law judges and hearing officers; and
- A business manager or purchasing agent with authority to make any purchase over \$20,000.¹⁴

State employees subject to the CE Form 1 filing requirement file with the Commission.¹⁵

Examples of local officers required to file the CE Form 1 include:

- Elected political subdivision officers;
- Appointed members of political subdivision boards, councils, commissions, authorities, or other bodies of political subdivisions; and
- A community college or junior college district board of trustees.¹⁶

Local officers subject to the CE Form 1 filing requirement file with their local supervisor of elections.¹⁷

Examples of local employees required to file the CE Form 1 include, but are not limited to:

- A county or city manager;
- The chief administrative employee of a county, municipality, or other political subdivision;
- A chief county or municipal building code inspector;
- A chief of police;
- A fire chief;
- A municipal clerk;
- A community college president; and
- A purchasing agent with authority to make any purchase over \$20,000.¹⁸

Local officers subject to the CE Form 1 filing requirement file with their local supervisor of elections.¹⁹

¹² Section 112.3145(1)(c), F.S.

¹³ Section 112.3145(2)(c), F.S.

¹⁴ Section 112.3145(1)(b), F.S.

¹⁵ Section 112.3145(2)(c), F.S.

¹⁶ Section 112.3145(1)(a), F.S.

¹⁷ Section 112.3145(2)(c), F.S.

¹⁸ Section 112.3145(1)(a), F.S.

¹⁹ Section 112.3145(2)(c), F.S.

Those who are required to file a statement of financial interests pursuant to s. 112.3145, F.S. are required to disclose primary sources of income (other than from his or her public position), secondary sources of income (in certain circumstances), real property (other than a residence or vacation home in Florida), intangible personal property, liabilities, and interests in specified businesses.²⁰ The law permits a filer to report the required interests based upon one of two thresholds. First, the filer may calculate whether an interest is required to be reported based upon whether that interest exceeds a specified percentage of his or her net worth. This is referred to as the “comparative (percentage) threshold.” Alternatively, the filer may determine whether an interest is reported if the interest exceeds a specified dollar value. This is referred to as the “dollar value threshold.” Because the law permits a filer to choose which threshold he or she is going to use, the CE Form 1 promulgated by the Commission requires a filer to identify the threshold used by checking a box. The statute does not expressly require this designation on the CE Form 1. The CE Form 1 is due July 1. A grace period is provided until September 1 of each year.

A candidate for an office subject to the CE Form 1 filing requirement must file a CE Form 1 with his or her qualifying papers.²¹ If the candidate qualifies prior to the annual CE Form 1 filing deadline, the CE Form 1 that is filed with the candidate’s qualifying papers will satisfy the annual disclosure requirement.²² If the candidate qualifies after the annual CE Form 1 filing deadline, the candidate must file a copy of the CE Form 1 with the qualifying officer.²³

General law also requires an individual subject to the CE Form 1 filing requirement to file a final disclosure statement within 60 days after leaving his or her public position.²⁴ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office or employment, unless the person takes another public position for which a CE Form 1 or CE Form 6 is required within the 60-day period, or if the person is otherwise required to file a CE Form 1 or CE Form 6.²⁵ For calendar year 2018, there were 36,787 individuals required to file CE Form 1.²⁶ Of these, 13,975 were state level CE Form 1 filers, while 22,812 individuals were local level CE Form 1 filers.²⁷

Commission Forms and Depositories of Forms

The Commission has promulgated forms by which a filer may amend his or her full public disclosure of financial interests (CE Form 6X) or statement of financial interests (CE Form 1X). The Commission has also promulgated disclosure forms required of a public officer or employee upon leaving office or public employment. Those forms are the final full and public disclosure of financial interests (CE Form 6F) and the final statement of financial interests (CE Form 1F). There is no specific form by which to amend a final full and public disclosure of financial interests or a final statement of financial interests.

²⁰ Section 112.3145(3), F.S.

²¹ Section 112.3145(2)(a), F.S.

²² *Id.*

²³ *Id.*

²⁴ Section 112.3145(2)(b), F.S.

²⁵ *Id.*

²⁶ See Florida Commission on Ethics ‘Annual Report to the Florida Legislature for Calendar Year 2018.’ A copy of the report may be obtained from the Florida Commission on Ethics.

²⁷ *Id.*

The Commission serves as the depository for financial disclosure filings of state officers or employees. Those who serve at a local level file their financial disclosure with the local supervisor of elections. The Commission and supervisors of elections are statutorily required to assist each other in identifying those subject to the financial disclosure requirement, providing notice to those individuals, and tracking receipt of financial disclosures. In the event that an individual fails to timely file his or her financial disclosure, the Commission imposes an automatic fine of \$25 per day for failure to timely file. The automatic fine is capped at \$1,500. Neither the Commission nor supervisors of elections are required to examine the financial disclosure filings.

If a filer is uncertain about whether he or she is required to disclose information, the filer may contact the Commission for guidance. Usually, the Commission's staff can answer simple questions by telephone or letter. In some circumstances, staff may not be able to provide such informal guidance. The Commission's staff will usually provide the filer the "safe harbor" advice to disclose the information or advise the filer to seek a formal opinion from the Commission at its next available meeting. Upon receipt of the guidance, the filer must include the information on their original form or, if necessary, file an amendment form. A member of the public can file a complaint with the Commission alleging that the person failed to disclose information that they were legally obligated to disclose. That complaint follows the same procedure as any complaint alleging a violation of one of the standards of conduct in the Code of Ethics. In the event that the Commission finds the filer in violation, he or she is subject to the penalties in s. 112.317, F.S.

Electronic Financial Disclosure

In 2013, the Legislature created s. 112.31445, F.S., to require the Commission to scan all CE Form 6 filings and to make them available in an online searchable database beginning with the 2012 filing year. The act also required the Commission to prepare, by December 1, 2015, a proposal for submission to the President of the Senate and the Speaker of the House of Representatives for the creation of an online financial disclosure filings system. The system would be similar to the system used by candidates, political committees, and others pursuant to the campaign financing requirements of ch. 106, F.S. At a minimum, the proposal was required to:

- Mandate an online filing system for CE Form 6 filers;
- Provide a secure method that prevents unauthorized access to electronic filing system functions;
- Permit the filer, or his or her CPA, to file via the internet portal;
- Permit a CPA to prepare and electronically sign a financial disclosure form to indicate that it was completed in compliance with the applicable financial disclosure law and the instructions on the financial disclosure form;
- Require that the filings in the database be accessible to the public;
- Describe any necessary statutory or rule authority changes;
- Provide for an alternative filing method in case the filing system is inoperable;
- Provide for a receipt to be obtained verifying that the officer has filed his or her form; and
- Address the feasibility of subjecting those who file the less detailed statement of financial interests to the electronic financial disclosure filing requirement.

Following the statutory guidelines, the Commission submitted its report in 2015, including a proposal to legislative leaders for a mandatory electronic filing system.²⁸

III. Effect of Proposed Changes:

Electronic Financial Disclosure Filing System

Section 1 requires the Commission on Ethics (Commission) to procure and test a mandatory electronic filing system by January 1, 2022. Filers who file the full and public disclosure of financial interests (CE Form 6), final full and public disclosure of financial interests (CE Form 6F), or any amendments thereto, must file electronically beginning January 1, 2022. Those who file the statement of financial interests (CE Form 1), final statement of financial interests (CE Form 1F), and any amendments thereto, must file electronically beginning January 1, 2023.

The electronic filing system must, at a minimum:

- Provide access through the Internet for the completion and submission of CE Form 6, CE Form 1, and other required forms;
- Establish a procedure to make filings available in a searchable format that is accessible by an individual using standard web-browsing software;
- Issue a verification or receipt that the Commission has received the filing of the financial disclosure form;
- Provide a secure method that prevents unauthorized access to electronic filing system functions or data; and
- Provide a method for an attorney or certified public accountant to complete the disclosure or statement, to certify that he or she prepared the form in accordance with provisions of law and the instructions for completing the disclosure or statement and that, upon his or her reasonable knowledge and belief, the form is true and correct. The filer must sign the form and submit it.

The bill requires the Commission to provide each filer a secure log-in to the electronic filing system. If the electronic filing system to be inoperable or a state of emergency is declared, the bill requires the Commission Chair to extend the filing deadlines for those affected.

To assist the electronic financial disclosure filing process, the bill requires each unit of government to assign an electronic mail account to its officers, members, or employees who must file a form with the Commission. The bill requires each filer to provide the electronic mail account address to the Commission, so that it can be used to notify filers of filing requirements, deadlines, and any applicable fines for non-compliance with the filing requirement.

Revision to the Disclosure Period

Section 2 revises the definition of the term ‘disclosure period’ to limit it to a calendar year rather than a taxable year. This change is effective January 1, 2020.

²⁸ A copy of the proposal is on file with the Senate Committee on Ethics and Elections.

Revisions to FORM 6 Filing Process

Section 3 amends s. 112.3144, F.S., to require, beginning January 1, 2022, CE Form 6, CE Form 6F, any amendments thereto, and any other form required by s. 112.3144, F.S., to be filed electronically with the Commission. However, these individuals will continue to file with their qualifying officer. Form 6 filers will be required to electronically sign their disclosure, under penalty of perjury, declaring that the information stated in the disclosure is true.

The Commission is required to provide notice to filers that any information entered electronically will be publicly released. A filer may not include in a filing to the Commission a federal income tax return, or a copy thereof; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number. The Commission shall not be held liable for the release of social security numbers or bank account, debit, charge, or credit card numbers included in a filing to the Commission if the filer has not requested redaction of the information. The Commission must redact a filer's social security number; bank account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law upon written notification from the filer of its inadvertent inclusion. The notice from the filer must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

To facilitate the electronic financial disclosure filing process for CE Form 6, and to reduce the reliance on mailing forms and notices, the bill requires the Commission to collect filer email addresses. Each unit of government with officers subject to the CE Form 6 filing requirement must assist the Commission in these efforts. By January 1, 2022, the Commission is required to remind filers of the filing deadline and send delinquency notices by email. Upon the request of the filer, the Commission must provide verification to the filer that the Commission has received the submitted disclosure. Also beginning January 1, 2022, a written declaration, as provided by verification of documents requirements,²⁹ accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

Revisions to FORM 1 Filing Process

Section 4 amends s. 112.3145, F.S., to require, beginning January 1, 2023, CE Form 1, CE Form 1F, any amendments thereto, quarterly client disclosures (CE Form 2), and any other form required by s. 112.3145, F.S., to be filed electronically with the Commission. This electronic filing requirement is applicable to candidates running for an office who are also subject to the CE Form 1 filing requirement. However, these individuals will still file with their qualifying officer. CE Form 1 filers will be required to electronically sign their disclosure, under penalty of perjury, declaring that the information stated in the disclosure is true.

The section reduces the number of individuals subject to the CE Form 1 filing requirement by removing compensation claims judges, including the Deputy Chief Judge, who are required to file a CE Form 6. By recommendation of the Commission, the CE Form 1 filing requirement is no longer applicable to assistant bureau chiefs. Finally, the section increases the purchasing

²⁹ Section 92.525(2), F.S.

power threshold that subjects a state employee who is a business manager or purchasing agent to the CE Form 1 filing requirement. Pursuant to the bill, the threshold is increased to \$35,000 (Category Two) from \$20,000 (Category One).

Section 4 also discontinues, beginning January 1, 2023, a filer's option to report using a comparative threshold based on a percentage value. The filer will be required to report using dollar value thresholds.

To facilitate the electronic financial disclosure filing process for CE Form 1, and to reduce the reliance on mailing forms and notices, the bill requires the Commission to collect filer email addresses. The bill requires each unit of government with officers subject to the CE Form 1 filing requirement to assist the Commission in these efforts. By January 1, 2023, the Commission is required to remind filers of the filing deadline and send delinquency notices by email. Upon the request of the filer, the Commission must provide verification to the filer that the Commission has received the submitted disclosure. Also beginning January 1, 2023, a written declaration, as provided by verification of documents requirements,³⁰ accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

Revisions to Confidentiality

Sections 3 and 4 include provisions that prohibit a filer from providing, in any filing or submission, any of the following information:

- Federal income tax returns;
- Social security numbers;
- Bank, mortgage, or brokerage account numbers;
- Debit, charge, or credit card numbers;
- Personal identification numbers;
- Taxpayer identification numbers; or

If social security numbers or bank account, debit, charge, or credit card numbers are submitted by a filer, the bill provides that the Commission shall not be held liable for its release. This language is intended to supersede the provisions of s. 119.071(5)(a)5., F.S., that requires all agencies, including the Commission, to treat social security numbers (and other information) confidential and exempt from public inspection and copying. Under the bill, the Commission must redact a filer's social security number; bank account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law only upon written request from the filer of its inadvertent inclusion. The notice from the filer must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

Other provisions

Section 5 amends s. 112.31455, F.S., to update cross-references to conform to changes made in the bill.

³⁰ Section 92.525(2), F.S.

Section 6 provides that, except for Section 2, which becomes effective January 1, 2020, 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, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

The bill creates an electronic filing system for financial disclosures and requires the Commission to provide filers a secure log-in to the system. Use of the system by filers contemplates draft input of information and data to the forms an unlimited number of times before the submission of a final form. The integrity of the system may fail if passwords used to access the system or information and data in draft form were subject to availability as public records. The bill contemplates that this information should be exempt from public records requirements and these exemptions are the subject of a travelling companion bill, SB 7042. Under SB 7042, the information and data contained therein are exempt from public records disclosure requirements until the filer officially submits the information on the electronic filing system.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Legislative Information Technology Services has estimated the cost for the mandatory electronic financial disclosure filing system to be \$2.2 million to \$5 million over three to four fiscal years, depending on the adjustments needed to the current Financial Disclosure Management System. The fiscal impact of this bill can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 112.31446 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 112.312, 112.3144, and 112.3145.

This bill makes technical amendments to section 112.31455 of the Florida Statutes.

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

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

CS/CS by Appropriations on April 11, 2019:

The committee substitute makes technical changes in a number of places to make the bill identical to its companion, CS/HB 7021.

CS by Governmental Oversight and Accountability on March 26, 2019:

The CS makes the following changes:

- Allows the commission chair to extend filing deadlines in case of system inoperability or emergency (rather than the Governor deem the system inoperable)
- Provides that the commission is not liable for release of any information not requested with regards to Form 1 and Form 6.
- Provides notice to filers that information entered into the electronic system is open to public inspection and copying.
- Clarifies that local candidates with no annual filing requirement are not to file with the Commission on Ethics.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
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	.	
	.	

The Committee on Appropriations (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 112.31446, Florida Statutes, is created
to read:

112.31446 Electronic filing system for financial
disclosure.—

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

(a) "Disclosure of financial interests" or "disclosure"



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11 includes a full and public disclosure of financial interests and
12 a final full and public disclosure of financial interests, and
13 any amendments thereto.

14 (b) "Electronic filing system" means an Internet-based
15 system for receiving, reporting, and publishing disclosures of
16 financial interests, statements of financial interests, or any
17 other form that is required under s. 112.3144 or s. 112.3145.

18 (c) "Statement of financial interests" or "statement"
19 includes a statement of financial interests and a final
20 statement of financial interests, and any amendments thereto.

21 (2) By January 1, 2022, the commission shall procure and
22 test an electronic filing system. At a minimum, the electronic
23 filing system must:

24 (a) Provide access through the Internet for the completion
25 and submission of disclosures of financial interests, statements
26 of financial interests, or any other form that is required under
27 s. 112.3144 or s. 112.3145.

28 (b) Make filings available in a searchable format that is
29 accessible by an individual using standard Internet-browsing
30 software.

31 (c) Issue a verification or receipt that the commission has
32 received the submitted disclosure or statement.

33 (d) Provide security that prevents unauthorized access to
34 the electronic filing system's functions or data.

35 (e) Provide a method for an attorney or a certified public
36 accountant licensed in this state to complete the disclosure or
37 statement and certify that he or she prepared the disclosure or
38 statement in accordance with s. 112.3144 or s. 112.3145 and the
39 instructions for completing the disclosure or statement, and



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that, upon his or her reasonable knowledge and belief, the information on the disclosure or statement is true and correct.

(3) Each unit of government shall provide an e-mail address to any of its officers, members, or employees who must file a disclosure of financial interests or a statement of financial interests, and provide such e-mail addresses to the commission by February 1 of each year. A person required to file a disclosure of financial interests or statement of financial interests must inform the commission immediately of any change in his or her e-mail address.

(4) The commission shall provide each person required to file a disclosure of financial interests or statement of financial interests a secure log-in to the electronic filing system. Such person is responsible for protecting his or her secure log-in credentials from disclosure and is responsible for all filings submitted to the commission with such credentials, unless the person has notified the commission that his or her credentials have been compromised.

(5) If the electronic filing system is inoperable and prevents timely submission of disclosures of financial interests or statements of financial interests, as determined by the commission chair, or if the Governor has declared a state of emergency and a person required to submit a disclosure or statement resides in an area included in the state of emergency and is prevented from submitting the disclosure or statement electronically, the commission chair must extend the filing deadline for submission by such persons of disclosures or statements by either the same period of time for which the system was deemed inoperable or by 90 days for persons who



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reside in an area included in a state of emergency, whichever is applicable.

Section 2. Effective January 1, 2020, subsection (10) of section 112.312, Florida Statutes, is amended to read:

112.312 Definitions.—As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

(10) "Disclosure period" means the calendar taxable year, if disclosure is required for the entire year, or the portion of a calendar year ending with the last day of the period for which disclosure is required ~~for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.~~

Section 3. Section 112.3144, Florida Statutes, is amended to read:

112.3144 Full and public disclosure of financial interests.—

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year, or any other person required by law to file a disclosure under this section, shall file that disclosure with the Florida Commission on Ethics. Additionally, ~~beginning January 1, 2015,~~ an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.



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(2) Beginning January 1, 2022, all disclosures filed with the commission must be filed electronically through an electronic filing system created and maintained by the commission as provided in s. 112.31446.

(3) A person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year shall not be required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. Until the electronic filing system required by subsection (2) is implemented, if an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the full and public disclosure of financial interests satisfies the annual disclosure requirement of this section. A candidate who does not qualify until after the annual full and public disclosure of financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

(4) Beginning January 1, 2022, an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement may submit either a copy of the full and public disclosure of financial interests filed with the



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commission, or a verification or receipt of the filing, with the
officer before whom he or she qualifies. A candidate not subject
to an annual filing requirement does not file with the
commission, but may complete and print a full and public
disclosure of financial interests to file with the officer
before whom he or she qualifies.

(5)~~(3)~~ For purposes of full and public disclosure under s.
8(a), Art. II of the State Constitution, the following items, if
not held for investment purposes and if valued at over \$1,000 in
the aggregate, may be reported in a lump sum and identified as
"household goods and personal effects":

- (a) Jewelry;
- (b) Collections of stamps, guns, and numismatic properties;
- (c) Art objects;
- (d) Household equipment and furnishings;
- (e) Clothing;
- (f) Other household items; and
- (g) Vehicles for personal use.

(6)~~(a)~~~~(4)~~~~(a)~~ With respect to reporting,~~on forms prescribed~~
~~under this section,~~ assets valued in excess of \$1,000 which the
reporting individual holds jointly with another person, the
amount reported shall be based on the reporting individual's
legal percentage of ownership in the property. However, assets
that are held jointly, with right of survivorship, must be
reported at 100 percent of the value of the asset. For purposes
of this subsection, a reporting individual is deemed to own a
percentage of a partnership which is equal to the reporting
individual's interest in the capital or equity of the
partnership.



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(b)1. With respect to reporting liabilities valued in excess of \$1,000 ~~on forms prescribed under this section~~ for which the reporting individual is jointly and severally liable, the amount reported shall be based on the reporting individual's percentage of liability rather than the total amount of the liability. However, liability for a debt that is secured by property owned by the reporting individual but that is held jointly, with right of survivorship, must be reported at 100 percent of the total amount owed.

2. A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in subparagraph 1.

(c) Each separate source and amount of income which exceeds \$1,000 must be identified. Beginning January 1, 2022, a federal income tax return may not be used for purposes of reporting income, and the commission may not accept a federal income tax return or a copy thereof.

(7)(a) Beginning January 1, 2022, a filer may not include in a filing to the commission a federal income tax return, or a copy thereof; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number. If a filer includes such information in his or her filing, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of social security numbers or bank account, debit, charge, or credit card



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185 numbers included in a filing to the commission if the filer has
186 not requested redaction of the information.

187 (b) The commission shall redact a filer's social security
188 number; bank account number; debit, charge, or credit card
189 number; or any other personal or account information that is
190 legally protected from disclosure under state or federal law
191 upon written notification from the filer of its inadvertent
192 inclusion. Such notice must specify the information
193 inadvertently included and the specific section or sections of
194 the disclosure in which it was included.

195 (c) The commission must conspicuously post a notice, in
196 substantially the following form, in the instructions for the
197 electronic filing system specifying that:

198 1. Any filer submitting information through the electronic
199 filing system may not include a federal income tax return, or a
200 copy thereof; a social security number; a bank, mortgage, or
201 brokerage account number; a debit, charge, or credit card
202 number; a personal identification number; or a taxpayer
203 identification number in any filing unless required by law.

204 2. Information submitted through the electronic filing
205 system may be open to public inspection and copying.

206 3. Any filer has a right to request the commission to
207 redact from his or her filing any social security number; bank
208 account number; or debit, charge, or credit card number
209 contained in the filing. Such request must be made in writing
210 and delivered to the commission. The request must specify the
211 information to be redacted and the specific section or sections
212 of the disclosure in which it was included.

213 (8)(5) Forms or fields of information for compliance with



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the full and public disclosure requirements of s. 8, Art. II of the State Constitution shall be prescribed ~~created~~ by the commission ~~on Ethics~~. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the commission shall prepare a current list of the names, e-mail addresses, and physical addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. ~~In compiling the list, the commission shall be assisted by~~ Each unit of government shall assist the commission in compiling the list by ~~in providing to the commission not later than February 1 of each year at the request of the commission~~ the name, e-mail address, physical address, and name of the office held by such person ~~each public official~~ within the respective unit of government as of December 31 of the preceding year.

(b) Not later than June 1 ~~30 days before July 1~~ of each year, the commission shall distribute ~~mail~~ a copy of the form prescribed for compliance with full and public disclosure and a notice of the filing deadline to each person on the ~~mailing~~ list. Beginning January 1, 2022, no paper forms will be provided. The notice required under this paragraph and instructions for electronic submission must be delivered by e-mail.

(c) Not later than August 1 ~~30 days after July 1~~ of each year, the commission shall determine which persons on the ~~mailing~~ list have failed to file full and public disclosure and shall send delinquency notices ~~by certified mail~~ to such



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persons. Each notice must ~~shall~~ state that a grace period is in effect until September 1 of the current year. Beginning January 1, 2022, the notice required under this paragraph must be delivered by e-mail and must be redelivered on a weekly basis so long as a person remains delinquent.

(d) Disclosures ~~Statements~~ must be received by the commission ~~filed~~ not later than 5 p.m. of the due date. However, any disclosure ~~statement~~ that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner. Beginning January 1, 2022, upon request of the filer, the commission must provide verification to the filer that the commission has received the filed disclosure.

(e) Beginning January 1, 2022, a written declaration, as provided for under s. 92.525(2), accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

(f) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's ~~mailing~~ list, and to whom notice has been sent, but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however, this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s.



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112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the ~~mailing~~ list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:

1. The amount of the fine due is based upon the earliest of the following:

- a. When a statement is actually received by the office.
- b. When the statement is postmarked.
- c. When the certificate of mailing is dated.
- d. When the receipt from an established courier company is dated.

2. Upon receipt of the disclosure statement or upon accrual of the maximum penalty, whichever occurs first, the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. Such fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys shall be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be in writing and received by the commission ~~made~~ within 30 days after the notice of payment due is transmitted. In such a case, the



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reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission. For purposes of this subparagraph, the term "unusual circumstances" does not include the failure to monitor an e-mail account or failure to receive notice if the person has not notified the commission of a change in his or her e-mail address.

(g) ~~(f)~~ Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's ~~mailing~~ list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(h) ~~(g)~~ The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (10) ~~(7)~~.

(i) ~~(h)~~ Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final



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order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(9)~~(6)~~ If a person holding public office or public employment fails or refuses to file a full and public disclosure of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a full and public disclosure of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment. The commission shall forward its recommendations as provided in s. 112.324.

(10)~~(7)~~ Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment,



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unless within the 60-day period the person takes another public position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection.

(11) (a) ~~(8) (a)~~ The commission shall treat an amendment to a ~~amended~~ full and public disclosure of financial interests which is filed before September 1 of the year in which the disclosure is due as part of the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the ~~amended~~ full and public disclosure of financial interests correcting any errors. If the filer does not file an amendment to the ~~amended~~ full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final full and public disclosure of financial interests, the commission shall treat an amendment to a new final full and public disclosure of financial interests as part of the original filing if filed within 60 days after the original filing, regardless of whether a complaint has been filed. If, more than 60 days after a final full and public



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disclosure of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint, other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the a new final full and public disclosure of financial interests correcting any errors. If the filer does not file an amendment to the a new final full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(12) (a) - (9) - (a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or



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her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual required to file is not a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(13) ~~(10)~~ The commission shall adopt rules and forms specifying how a person who is required to file full and public disclosure of financial interests may amend his or her disclosure statement to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

(14) The provisions of this section constitute a revision to the schedule included in s. 8(i), Art. II of the State



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Constitution.

Section 4. Section 112.3145, Florida Statutes, is amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires, the term:

(a) "Local officer" means:

1. Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. Any appointed member of any of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision of the state:

a. The governing body of the political subdivision, if appointed;

b. A community college or junior college district board of trustees;

c. A board having the power to enforce local code provisions;

d. A planning or zoning board, board of adjustment, board of appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and such other groups who only have the power to make recommendations to planning or zoning boards;

e. A pension board or retirement board having the power to



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invest pension or retirement funds or the power to make a binding determination of one's entitlement to or amount of a pension or other retirement benefit; or

f. Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.

3. Any person holding one or more of the following positions: mayor; county or city manager; chief administrative employee of a county, municipality, or other political subdivision; county or municipal attorney; finance director of a county, municipality, or other political subdivision; chief county or municipal building code inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator, with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; district school superintendent; community college president; district medical examiner; or purchasing agent having the authority to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY TWO ~~ONE~~, on behalf of any political subdivision of the state or any entity thereof.

(b) "Specified state employee" means:

1. Public counsel created by chapter 350, an assistant state attorney, an assistant public defender, a criminal conflict and civil regional counsel, an assistant criminal conflict and civil regional counsel, a full-time state employee who serves as counsel or assistant counsel to any state agency,



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~~the Deputy Chief Judge of Compensation Claims, a judge of compensation claims,~~ an administrative law judge, or a hearing officer.

2. Any person employed in the office of the Governor or in the office of any member of the Cabinet if that person is exempt from the Career Service System, except persons employed in clerical, secretarial, or similar positions.

3. The State Surgeon General or each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, or council; unless otherwise provided, the division director, assistant division director, deputy director, and bureau chief, ~~and assistant bureau chief~~ of any state department or division; or any person having the power normally conferred upon such persons, by whatever title.

4. The superintendent or institute director of a state mental health institute established for training and research in the mental health field or the warden or director of any major state institution or facility established for corrections, training, treatment, or rehabilitation.

5. Business managers, purchasing agents having the power to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY TWO ~~ONE~~, finance and accounting directors, personnel officers, or grants coordinators for any state agency.

6. Any person, other than a legislative assistant exempted by the presiding officer of the house by which the legislative assistant is employed, who is employed in the legislative branch



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of government, except persons employed in maintenance, clerical, secretarial, or similar positions.

7. Each employee of the Commission on Ethics.

(c) "State officer" means:

1. Any elected public officer, excluding those elected to the United States Senate and House of Representatives, not covered elsewhere in this part and any person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. An appointed member of each board, commission, authority, or council having statewide jurisdiction, excluding a member of an advisory body.

3. A member of the Board of Governors of the State University System or a state university board of trustees, the Chancellor and Vice Chancellors of the State University System, and the president of a state university.

4. A member of the judicial nominating commission for any district court of appeal or any judicial circuit.

(2)(a) A person seeking nomination or election to a state or local elective office shall file a statement of financial interests together with, and at the same time he or she files, qualifying papers. When a candidate has qualified for office prior to the deadline to file an annual statement of financial interests, the statement of financial interests that is filed with the candidate's qualifying papers shall be deemed to satisfy the annual disclosure requirement of this section. The qualifying officer must record that the statement of financial interests was timely filed. However, if a candidate does not qualify until after the annual statement of financial interests



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has been filed, the candidate may file a copy of his or her statement with the qualifying officer.

(b) Each state or local officer and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state employee shall file a final statement of financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s. 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(c) Beginning January 1, 2023, an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement may submit either a copy of the statement of financial interests filed with the commission, or a verification or receipt of the filing, with the officer before whom he or she qualifies. A candidate not subject to an annual filing requirement does not file with the commission, but may



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complete and print a statement of financial interests to file
with the officer before whom he or she qualifies.

(d) State officers and specified state employees shall file
their statements of financial interests with the commission ~~on~~
~~Ethics~~. Local officers shall file their statements of financial
interests with the supervisor of elections of the county in
which they permanently reside. Local officers who do not
permanently reside in any county in the state shall file their
statements of financial interests with the supervisor of
elections of the county in which their agency maintains its
headquarters. Persons seeking to qualify as candidates for local
public office shall file their statements of financial interests
with the officer before whom they qualify.

(e) Beginning January 1, 2023, all statements filed with
the commission must be filed electronically through an
electronic filing system created and maintained by the
commission as provided in s. 112.31446.

(3) The statement of financial interests for state
officers, specified state employees, local officers, and persons
seeking to qualify as candidates for state or local office shall
be filed even if the reporting person holds no financial
interests requiring disclosure in a particular category, in
which case that section of the statement shall be marked "not
applicable." Otherwise, the statement of financial interests
must ~~shall~~ include the information under paragraph (a) or
paragraph (b). The reporting person shall indicate on the
statement whether he or she is using the reporting method under
paragraph (a) or paragraph (b). However, beginning January 1,
2023, only the reporting method specified under paragraph (b)



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may be used. The reporting methods are as follows, ~~at the~~
~~filer's option, either:~~

(a)1. All sources of income in excess of 5 percent of the gross income received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received an amount which was in excess of 10 percent of his or her gross income during the disclosure period and which exceeds \$1,500. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residences and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of 10 percent of such person's total assets. For the purposes of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every individual liability that equals more than the reporting person's net worth; or

(b)1. All sources of gross income in excess of \$2,500



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received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received gross income exceeding \$5,000 during the disclosure period. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residence and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of \$10,000. For the purpose of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every liability in excess of \$10,000.

~~A person filing a statement of financial interests shall indicate on the statement whether he or she is using the method specified in paragraph (a) or paragraph (b).~~

(4) (a) Beginning January 1, 2023, a filer may not include in a filing to the commission a federal income tax return, or a



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copy thereof; a social security number; a bank, mortgage, or
brokerage account number; a debit, charge, or credit card
number; a personal identification number; or a taxpayer
identification number. If a filer includes such information in
his or her filing, the information may be made available as part
of the official records of the commission available for public
inspection and copying unless redaction is requested by the
filer. The commission is not liable for the release of social
security numbers or bank account, debit, charge, or credit card
numbers included in a filing to the commission if the filer has
not requested redaction of the information.

(b) The commission shall redact a filer's social security
number; bank account number; debit, charge, or credit card
number; or any other personal or account information that is
legally protected from disclosure under state or federal law
upon written notification from the filer of its inadvertent
inclusion. Such notice must specify the information
inadvertently included and the specific section or sections of
the statement in which it was included.

(c) The commission must conspicuously post a notice, in
substantially the following form, in the instructions for the
electronic filing system specifying that:

1. Any filer submitting information through the electronic
filing system may not include a federal income tax return, or a
copy thereof; a social security number; a bank, mortgage, or
brokerage account number; a debit, charge, or credit card
number; a personal identification number; or a taxpayer
identification number in any filing unless required by law.

2. Information submitted through the electronic filing



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system may be open to public inspection and copying.

3. Any filer has a right to request the commission to redact from his or her filing any social security number; bank account number; or debit, charge, or credit card number contained in the filing. Such request must be made in writing and delivered to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

(5) ~~Beginning January 1, 2015,~~ An officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her statement of financial interests that he or she has completed the required training.

(6) ~~(5)~~ Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as state-level agencies or agencies below state level. Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident. Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than the last day of each calendar quarter, for the previous calendar quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by



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any partner or associate of the professional firm of which he or she is a member and of which he or she has actual knowledge. For the purposes of this subsection, the term "representation before any agency" does not include appearances before any court or the Deputy Chief Judge of Compensation Claims or judges of compensation claims or representations on behalf of one's agency in one's official capacity. Such term does not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

(7)~~(6)~~ Each elected constitutional officer and each candidate for such office, any other public officer required pursuant to s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests, and each state officer, local officer, specified state employee, and candidate for elective public office who is or was during the disclosure period an officer, director, partner, proprietor, or agent, other than a resident agent solely for service of process, of, or owns or owned during the disclosure period a material interest in, any business entity which is granted a privilege to operate in this state shall disclose such facts as a part of the disclosure form filed pursuant to s. 8, Art. II of the State Constitution or this section, as applicable. The statement shall give the name, address, and principal business



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activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest.

(8)~~(7)~~ Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a)1. Not later than May 1 of each year, the commission shall prepare a current list of the names, e-mail addresses, and physical addresses of, and the offices or positions held by, every state officer, local officer, and specified employee. ~~In compiling the list, the commission shall be assisted by~~ Each unit of government shall assist the commission in compiling the list by ~~in providing to the commission not later than February 1 of each year, at the request of the commission,~~ the name, e-mail address, physical address, and name of agency of, and the office or position held by, each state officer, local officer, or specified state employee within the respective unit of government as of December 31 of the preceding year.

2. Not later than May 15 of each year, the commission shall provide each supervisor of elections with a current ~~mailing~~ list of all local officers required to file with such supervisor of elections.

(b) Not later than June 1 ~~30 days before July 1~~ of each year, the commission and each supervisor of elections, as appropriate, shall distribute ~~mail~~ a copy of the form prescribed



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for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines to each person required to file a statement of financial interests. Beginning January 1, 2023, no paper forms will be provided. The notice required under this paragraph and instructions for electronic submission must be delivered by e-mail.

(c) Not later than August 1 ~~30 days after July 1~~ of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of financial interests in their respective offices have failed to do so and shall send delinquency notices ~~by certified mail, return receipt requested,~~ to these persons. Each notice must ~~shall~~ state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500; for notices distributed ~~sent~~ by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317. Beginning January 1, 2023, the notice required under this paragraph must be delivered by e-mail and must be redelivered on a weekly basis so long as a person remains delinquent.



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(d) No later than November 15 of each year, the supervisor of elections in each county shall certify to the commission a list of the names and addresses of, and the offices or positions held by, all persons who have failed to timely file the required statements of financial interests. The certification must include the earliest of the dates described in subparagraph (g)1. ~~(f)1.~~ The certification shall be on a form prescribed by the commission and shall indicate whether the supervisor of elections has provided the disclosure forms and notice as required by this subsection to all persons named on the delinquency list.

(e) Statements must be received by the commission ~~filed~~ not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner. Beginning January 1, 2023, upon request of the filer, the commission must provide verification to the filer that the commission has received the filed statement.

(f) Beginning January 1, 2023, the statement must be accompanied by a declaration as provided in s. 92.525(2) and an electronic acknowledgment thereof.

(g) Any person who is required to file a statement of financial interests and whose name is on the commission's ~~mailing~~ list, and to whom notice has been sent, but who fails to timely file is assessed a fine of \$25 per day for each day late



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up to a maximum of \$1,500; however, this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and procedures by which each person whose name is on the mailing list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:

1. The amount of the fine due is based upon the earliest of the following:

- a. When a statement is actually received by the office.
- b. When the statement is postmarked.
- c. When the certificate of mailing is dated.
- d. When the receipt from an established courier company is dated.

2. For a specified state employee or a state officer, upon receipt of the disclosure statement by the commission or upon accrual of the maximum penalty, whichever occurs first, and for a local officer upon receipt by the commission of the certification from the local officer's supervisor of elections pursuant to paragraph (d), the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. The fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys are to be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based



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upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be in writing and received by the commission ~~made~~ within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission. For purposes of this subparagraph, the term "unusual circumstances" does not include the failure to monitor an e-mail account or failure to receive notice if the person has not notified the commission of a change in his or her e-mail address.

(h) ~~(g)~~ Any state officer, local officer, or specified employee whose name is not on the ~~mailing~~ list of persons required to file an annual statement of financial interests is not subject to the penalties provided in s. 112.317 or the fine provided in this section for failure to timely file a statement of financial interests in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(i) ~~(h)~~ The notification requirements and fines of this subsection do not apply to candidates or to the first or final filing required of any state officer, specified employee, or local officer as provided in paragraph (2)(b).

(j) ~~(i)~~ Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60



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days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such a fine to a collection agent as provided in s. 17.20.

(9) (a) ~~(8) (a)~~ The appointing official or body shall notify each newly appointed local officer, state officer, or specified state employee, not later than the date of appointment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The agency head of each employing agency shall notify each newly employed local officer or specified state employee, not later than the day of employment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The appointing official or body or employing agency head may designate a person to be responsible for the notification requirements of this paragraph.

(b) The agency head of the agency of each local officer, state officer, or specified state employee who is required to file a statement of financial interests for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this paragraph.

(c) If a person holding public office or public employment fails or refuses to file an annual statement of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the



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commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a statement of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment. The commission shall forward its recommendation as provided in s. 112.324.

(10)-(9) A public officer who has filed a disclosure for any calendar or fiscal year shall not be required to file a second disclosure for the same year or any part thereof, notwithstanding any requirement of this act, except that any public officer who qualifies as a candidate for public office shall file a copy of the disclosure with the officer before whom he or she qualifies as a candidate at the time of qualification.

(11) (a)-(10)-(a) The commission shall treat an amendment to an ~~amended~~ annual statement of financial interests which is filed before September 1 of the year in which the statement is due as part of the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the ~~amended~~ statement of financial interests correcting any errors. If the filer does not file an amendment to the ~~amended~~ statement of financial interests within 30 days after the commission sends notice of



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the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final statement of financial interests, the commission shall treat an amendment to a new final statement of financial interests as part of the original filing, if filed within 60 days of the original filing regardless of whether a complaint has been filed. If, more than 60 days after a final statement of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the a-new final statement of financial interests correcting any errors. If the filer does not file an amendment to the a-new final statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(12) (a) - (11) (a) An individual required to file a statement



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~~disclosure~~ pursuant to this section may have the statement
~~disclosure~~ prepared by an attorney in good standing with The
Florida Bar or by a certified public accountant licensed under
chapter 473. After preparing a statement ~~disclosure~~ form, the
attorney or certified public accountant must sign the form
indicating that he or she prepared the form in accordance with
this section and the instructions for completing and filing the
disclosure forms and that, upon his or her reasonable knowledge
and belief, the disclosure is true and correct. If a complaint
is filed alleging a failure to disclose information required by
this section, the commission shall determine whether the
information was disclosed to the attorney or certified public
accountant. The failure of the attorney or certified public
accountant to accurately transcribe information provided by the
individual who is required to file the statement ~~disclosure~~ does
not constitute a violation of this section.

(b) An elected officer or candidate who chooses to use an
attorney or a certified public accountant to prepare his or her
statement ~~disclosure~~ may pay for the services of the attorney or
certified public accountant from funds in an office account
created pursuant to s. 106.141 or, during a year that the
individual qualifies for election to public office, the
candidate's campaign depository pursuant to s. 106.021.

(13) ~~(12)~~ The commission shall adopt rules and forms
specifying how a state officer, local officer, or specified
state employee may amend his or her statement of financial
interests to report information that was not included on the
form as originally filed. If the amendment is the subject of a
complaint filed under this part, the commission and the proper



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disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

Section 5. Section 112.31455, Florida Statutes, is amended to read:

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(8) or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~ to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.



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(2) If the commission determines that the individual who is the subject of an unpaid fine accrued pursuant to s. 112.3144(8) or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~ is no longer a public officer or public employee or if the commission is unable to determine whether the individual is a current public officer or public employee, the commission may, 6 months after the order becomes final, seek garnishment of any wages to satisfy the amount of the fine, or any unpaid portion thereof, pursuant to chapter 77. Upon recording the order imposing the fine with the clerk of the circuit court, the order shall be deemed a judgment for purposes of garnishment pursuant to chapter 77.

(3) The commission may refer unpaid fines to the appropriate collection agency, as directed by the Chief Financial Officer, to utilize any collection methods provided by law. Except as expressly limited by this section, any other collection methods authorized by law are allowed.

(4) Action may be taken to collect any unpaid fine imposed by ss. 112.3144 and 112.3145 within 20 years after the date the final order is rendered.

Section 6. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to financial disclosure; creating s.



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1084 112.31446, F.S.; providing definitions; requiring the
1085 Commission on Ethics to procure and test an electronic
1086 filing system by a certain date; providing
1087 requirements for such system; providing duties of the
1088 units of government, the commission, and persons
1089 required to file a specified form; amending s.
1090 112.312, F.S.; revising the definition of "disclosure
1091 period"; amending ss. 112.3144 and 112.3145, F.S.;
1092 requiring certain forms to be filed electronically
1093 beginning on a specified date; prescribing the manner
1094 of filing for purposes of candidate qualifying;
1095 prohibiting a filer from including certain information
1096 on a disclosure or statement; providing that the
1097 commission is not liable for the release of certain
1098 information under certain circumstances; requiring the
1099 commission to redact certain information under certain
1100 circumstances; requiring certain information be
1101 delivered electronically; requiring the commission to
1102 provide certain verification to a filer upon request;
1103 requiring a declaration be submitted with a disclosure
1104 or statement; specifying that certain actions do not
1105 constitute an unusual circumstance; revising a
1106 schedule to the State Constitution; amending s.
1107 112.31455, F.S.; conforming cross-references to
1108 changes made by the act; providing effective dates.

By the Committees on Governmental Oversight and Accountability;
and Ethics and Elections

585-03507-19

20197040c1

1 A bill to be entitled
2 An act relating to financial disclosure; creating s.
3 112.31446, F.S.; providing definitions; requiring the
4 Commission on Ethics to procure and test an electronic
5 filing system by a certain date; providing minimum
6 requirements for such system; providing duties for
7 units of government, the commission, and persons
8 required to file specified financial disclosure forms;
9 authorizing the extension of the financial disclosure
10 filing deadline under certain circumstances; amending
11 s. 112.312, F.S.; revising the definition of the term
12 "disclosure period"; amending s. 112.3144, F.S.;
13 requiring the electronic filing of full and public
14 disclosures of financial interests beginning on a
15 specified date; providing procedures for the filing of
16 a full and public disclosure for purposes of candidate
17 qualifying; revising requirements with respect to
18 reporting income; prohibiting the commission from
19 requesting, accepting, or retaining certain
20 information; prohibiting a filer from including
21 certain information in a full and public disclosure;
22 providing for the redaction of protected information
23 if certain conditions are met; prescribing the form of
24 a notice for the commission to post in the
25 instructions for the electronic filing system;
26 modifying requirements regarding preparation of the
27 list of reporting persons; requiring electronic
28 delivery for certain notices; requiring the commission
29 to provide certain verification to a filer upon

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

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30 request; requiring a declaration be submitted with a
31 disclosure; specifying that certain actions do not
32 constitute an unusual circumstance when appealing or
33 disputing a fine; revising a schedule to the State
34 Constitution; amending s. 112.3145, F.S.; revising the
35 definition of the term "specified state employee";
36 providing procedures for the filing of a statement of
37 financial interests for purposes of candidate
38 qualifying; requiring the electronic filing of
39 statements of financial interests beginning on a
40 specified date; modifying the options for reporting
41 thresholds on a statement of financial interests;
42 prohibiting the commission from requesting, accepting,
43 or retaining certain information; prohibiting a filer
44 from including certain information in a statement of
45 financial interests; providing for the redaction of
46 protected information if certain conditions are met;
47 prescribing the form of a notice for the commission to
48 post in the instructions for the electronic filing
49 system; modifying requirements regarding preparation
50 of the list of reporting persons; requiring electronic
51 delivery for certain notices; requiring the commission
52 to provide certain verification to a filer upon
53 request; requiring a declaration be submitted with a
54 statement; specifying that certain actions do not
55 constitute an unusual circumstance when appealing or
56 disputing a fine; amending s. 112.31455, F.S.;
57 conforming cross-references to changes made by the
58 act; providing effective dates.

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

Section 1. Section 112.31446, Florida Statutes, is created to read:

112.31446 Electronic filing system for financial disclosure.—

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

(a) "Disclosure of financial interests" or "disclosure" includes a full and public disclosure of financial interests and a final full and public disclosure of financial interests, and any amendments thereto.

(b) "Electronic filing system" means an Internet-based system for receiving, reporting, and publishing disclosures of financial interests, statements of financial interests, or any other form that is required under s. 112.3144 or s. 112.3145.

(c) "Statement of financial interests" or "statement" includes a statement of financial interests and a final statement of financial interests, and any amendments thereto.

(2) By January 1, 2022, the commission shall procure and test an electronic filing system. At a minimum, the electronic filing system must:

(a) Provide access through the Internet for the completion and submission of disclosures of financial interests, statements of financial interests, or any other form that is required under s. 112.3144 or s. 112.3145.

(b) Make filings available in searchable format that is accessible by an individual using standard Internet-browsing software.

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(c) Issue a verification or receipt that the commission has received the submitted disclosure or statement.

(d) Provide security that prevents unauthorized access to the electronic filing system's functions or data.

(e) Provide a method for an attorney or a certified public accountant licensed in this state to complete the disclosure or statement and certify that he or she prepared the disclosure or statement in accordance with s. 112.3144 or s. 112.3145 and the instructions for completing the disclosure or statement, and that, upon his or her reasonable knowledge and belief, the information on the disclosure or statement is true and correct.

(3) Each unit of government shall provide an e-mail address to any of its officers, members, or employees who must file a disclosure of financial interests or a statement of financial interests, and provide such e-mail addresses to the commission by February 1 of each year. A person required to file a disclosure of financial interests or statement of financial interests must inform the commission immediately of any change in his or her e-mail address.

(4) The commission shall provide each person required to file a disclosure of financial interests or statement of financial interests a secure log-in to the electronic filing system. Such person is responsible for protecting his or her secure log-in credentials from disclosure and is responsible for all filings submitted to the commission with such credentials, unless the person has notified the commission that his or her credentials have been compromised.

(5) If the electronic filing system is inoperable and prevents timely submission of disclosures of financial interests

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or statements of financial interests, as determined by the commission chair, or if the Governor has declared a state of emergency and a person required to submit a disclosure resides in an area included in the state of emergency and is prevented from submitting the disclosure electronically, the commission chair must extend the filing deadline for submission by such persons of disclosures or statements by either the same period of time for which the system was deemed inoperable or by 90 days for persons who reside in an area included in a state of emergency, whichever is applicable.

Section 2. Effective January 1, 2020, subsection (10) of section 112.312, Florida Statutes, is amended to read:

112.312 Definitions.—As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

(10) "Disclosure period" means the calendar taxable year, if disclosure is required for the entire year, or the portion of a calendar year ending with the last day of the period for which disclosure is required for the person or business entity, ~~whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.~~

Section 3. Section 112.3144, Florida Statutes, is amended to read:

112.3144 Full and public disclosure of financial interests.—

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his

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or her financial interests for any calendar or fiscal year, or any other person required by law to file a disclosure under this section, shall file that disclosure with the Florida Commission on Ethics. Additionally, ~~beginning January 1, 2015~~, an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.

(2) Beginning January 1, 2022, a full and public disclosure of financial interests and a final full and public disclosure of financial interests, and amendments thereto, or any other form required by this section, must be filed electronically with the Commission through an electronic filing system created and maintained by the commission as provided in s. 112.31446.

(3) A person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year shall not be required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. Until the electronic filing system required by subsection (2) is implemented, if an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the

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full and public disclosure of financial interests satisfies the annual disclosure requirement of this section. A candidate who does not qualify until after the annual full and public disclosure of financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

(4) Beginning January 1, 2022, an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement may submit either a copy of the disclosure filed with the Commission, or a verification or receipt of the filing or submission, with the officer before whom they qualify. A candidate not subject to an annual filing requirement does not file with the commission, but may complete and print a full and public disclosure of financial interests to file with the officer before whom he or she qualifies.

(5)~~(3)~~ For purposes of full and public disclosure under s. 8(a), Art. II of the State Constitution, the following items, if not held for investment purposes and if valued at over \$1,000 in the aggregate, may be reported in a lump sum and identified as "household goods and personal effects":

- (a) Jewelry;
- (b) Collections of stamps, guns, and numismatic properties;
- (c) Art objects;
- (d) Household equipment and furnishings;
- (e) Clothing;
- (f) Other household items; and
- (g) Vehicles for personal use.

(6) (a) (4) (a) With respect to reporting, on forms prescribed under this section, assets valued in excess of \$1,000 which the

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reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property. However, assets that are held jointly, with right of survivorship, must be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own a percentage of a partnership which is equal to the reporting individual's interest in the capital or equity of the partnership.

(b)1. With respect to reporting, on forms prescribed under this section, liabilities valued in excess of \$1,000 ~~on forms prescribed under this section~~ for which the reporting individual is jointly and severally liable, the amount reported shall be based on the reporting individual's percentage of liability rather than the total amount of the liability. However, liability for a debt that is secured by property owned by the reporting individual but that is held jointly, with right of survivorship, must be reported at 100 percent of the total amount owed.

2. A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in subparagraph 1.

(c) With respect to reporting income, on forms prescribed under this section, each separate source and amount of income which exceeds \$1,000 must be identified. A federal income tax return may not be used for purposes of reporting income, and the commission may not accept a federal income tax return or a copy thereof.

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(7) (a) The commission may not request, in any filing or submission, a federal income tax return, or a copy thereof; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; a taxpayer identification number; or any other personal or account information that is legally protected from disclosure under state or federal law.

(b) Beginning January 1, 2022, a public officer, a candidate, or any other person may not include in a filing or submission to the commission any of the information specified in paragraph (a). If a public officer, a candidate, or other person includes such information in his or her filing or submission, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of social security numbers or bank account, debit, charge, or credit card numbers that are included on a filing or submission to the commission if the holder has not requested redaction of the information.

(c) The commission shall redact a filer's social security number; bank, mortgage, or brokerage account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law upon written notification from the filer of its inadvertent inclusion. Such notice must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

(d) The commission must conspicuously post a notice, in substantially the following form, in the instructions for the

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electronic filing system specifying that:

1. Any person submitting information through the electronic filing system may not include a social security number or a bank account, debit, charge, or credit card number in any filing or submission unless required by law.

2. All information submitted through the electronic filing system may be open to public inspection and copying.

3. Any filer has a right to request the commission to remove from his or her filing or submission any social security number or bank, mortgage, or brokerage account number contained in the submission. Such request must be made in writing and delivered by mail or electronic transmission or in person to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

(8)(5) Forms or fields of information for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution shall be prescribed ~~created~~ by the commission ~~on Ethics~~. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the commission shall prepare a current list of the names, e-mail addresses, and physical addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. ~~It is~~ compiling the list, the commission shall be assisted by Each unit of government shall assist the commission in compiling the list by ~~it~~ providing to the commission not later than February 1

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291 ~~of each year at the request of the commission~~ the name, e-mail
 292 address, physical address, and name of the office held by such
 293 ~~person each public official~~ within the respective unit of
 294 government as of December 31 of the preceding year.

295 (b) Not later than June 1 ~~30 days before July 1~~ of each
 296 year, the commission shall distribute ~~mail~~ a copy of the form
 297 prescribed for compliance with full and public disclosure and a
 298 notice of the filing deadline to each person on the ~~mailing~~
 299 list. Beginning January 1, 2022, the notice required under this
 300 paragraph must be delivered by e-mail or other electronic means.

301 (c) Not later than August 1 ~~30 days after July 1~~ of each
 302 year, the commission shall determine which persons on the
 303 ~~mailing~~ list have failed to file full and public disclosure and
 304 shall send delinquency notices ~~by certified mail~~ to such
 305 persons. Each notice must ~~shall~~ state that a grace period is in
 306 effect until September 1 of the current year. Beginning January
 307 1, 2022, the notice required under this paragraph must be
 308 delivered by e-mail or other electronic means and must be
 309 redelivered on a weekly basis so long as a person remains
 310 delinquent.

311 (d) ~~Disclosures Statements~~ must be received by the
 312 commission ~~filed~~ not later than 5 p.m. of the due date. However,
 313 any ~~disclosure statement~~ that is postmarked by the United States
 314 Postal Service by midnight of the due date is deemed to have
 315 been filed in a timely manner, and a certificate of mailing
 316 obtained from and dated by the United States Postal Service at
 317 the time of the mailing, or a receipt from an established
 318 courier company which bears a date on or before the due date,
 319 constitutes proof of mailing in a timely manner. Beginning

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320 January 1, 2022, upon request of the filer, the commission must
 321 provide verification to the filer that the commission has
 322 received the submitted disclosure.

323 (e) Beginning January 1, 2022, a written declaration, as
 324 provided for under s. 92.525(2), accompanied by an electronic
 325 signature satisfies the requirement that the disclosure be
 326 sworn.

327 (f) Any person who is required to file full and public
 328 disclosure of financial interests and whose name is on the
 329 commission's ~~mailing~~ list, and to whom notice has been sent, but
 330 who fails to timely file is assessed a fine of \$25 per day for
 331 each day late up to a maximum of \$1,500; however this \$1,500
 332 limitation on automatic fines does not limit the civil penalty
 333 that may be imposed if the statement is filed more than 60 days
 334 after the deadline and a complaint is filed, as provided in s.
 335 112.324. The commission must provide by rule the grounds for
 336 waiving the fine and the procedures by which each person whose
 337 name is on the ~~mailing~~ list and who is determined to have not
 338 filed in a timely manner will be notified of assessed fines and
 339 may appeal. The rule must provide for and make specific the
 340 following:

- 341 1. The amount of the fine due is based upon the earliest of
- 342 the following:
 - 343 a. When a statement is actually received by the office.
 - 344 b. When the statement is postmarked.
 - 345 c. When the certificate of mailing is dated.
 - 346 d. When the receipt from an established courier company is
 - 347 dated.
- 348 2. Upon receipt of the disclosure statement or upon accrual

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of the maximum penalty, whichever occurs first, the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. Such fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys shall be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be in writing and received by the commission made within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission. For purposes of this subparagraph, the term "unusual circumstances" does not include the failure to monitor an e-mail account or failure to receive notice if the person has not notified the commission of a change in his or her e-mail address.

(g)-(f) Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's ~~mailing~~ list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any

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year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(h)-(g) The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (10) ~~(7)~~.

(i)-(h) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(9)-(6) If a person holding public office or public employment fails or refuses to file a full and public disclosure of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and

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conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a full and public disclosure of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment. The commission shall forward its recommendations as provided in s. 112.324.

(10)~~(7)~~ Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection.

(11) (a)~~(8) (a)~~ The commission shall treat an amendment to a ~~amended~~ full and public disclosure of financial interests which is filed before September 1 of the year in which the disclosure is due as part of the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an

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immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the amended full and public disclosure of financial interests correcting any errors. If the filer does not file an amendment to the amended full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final full and public disclosure of financial interests, the commission shall treat an amendment to a new final full and public disclosure of financial interests as part of the original filing if filed within 60 days after the original filing, regardless of whether a complaint has been filed. If, more than 60 days after a final full and public disclosure of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint, other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the a new final full and public disclosure of financial interests correcting any errors. If the filer does not file an amendment to the a new final full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

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(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(12) (a) (9) (a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual required to file is not a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's

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campaign depository pursuant to s. 106.021.

(13) (10) The commission shall adopt rules and forms specifying how a person who is required to file full and public disclosure of financial interests may amend his or her disclosure statement to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

(14) The provisions of this section constitute a revision to the schedule included in s. 8(i), Art. II of the State Constitution.

Section 4. Section 112.3145, Florida Statutes, is amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires, the term:

(a) "Local officer" means:

1. Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. Any appointed member of any of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special

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523 district, or other political subdivision of the state:

524 a. The governing body of the political subdivision, if

525 appointed;

526 b. A community college or junior college district board of

527 trustees;

528 c. A board having the power to enforce local code

529 provisions;

530 d. A planning or zoning board, board of adjustment, board

531 of appeals, community redevelopment agency board, or other board

532 having the power to recommend, create, or modify land planning

533 or zoning within the political subdivision, except for citizen

534 advisory committees, technical coordinating committees, and such

535 other groups who only have the power to make recommendations to

536 planning or zoning boards;

537 e. A pension board or retirement board having the power to

538 invest pension or retirement funds or the power to make a

539 binding determination of one's entitlement to or amount of a

540 pension or other retirement benefit; or

541 f. Any other appointed member of a local government board

542 who is required to file a statement of financial interests by

543 the appointing authority or the enabling legislation, ordinance,

544 or resolution creating the board.

545 3. Any person holding one or more of the following

546 positions: mayor; county or city manager; chief administrative

547 employee of a county, municipality, or other political

548 subdivision; county or municipal attorney; finance director of a

549 county, municipality, or other political subdivision; chief

550 county or municipal building code inspector; county or municipal

551 water resources coordinator; county or municipal pollution

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552 control director; county or municipal environmental control

553 director; county or municipal administrator, with power to grant

554 or deny a land development permit; chief of police; fire chief;

555 municipal clerk; district school superintendent; community

556 college president; district medical examiner; or purchasing

557 agent having the authority to make any purchase exceeding the

558 threshold amount provided for in s. 287.017 for CATEGORY TWO

559 ~~ONE~~, on behalf of any political subdivision of the state or any

560 entity thereof.

561 (b) "Specified state employee" means:

562 1. Public counsel created by chapter 350, an assistant

563 state attorney, an assistant public defender, a criminal

564 conflict and civil regional counsel, an assistant criminal

565 conflict and civil regional counsel, a full-time state employee

566 who serves as counsel or assistant counsel to any state agency,

567 ~~the Deputy Chief Judge of Compensation Claims, a judge of~~

568 ~~compensation claims~~, an administrative law judge, or a hearing

569 officer.

570 2. Any person employed in the office of the Governor or in

571 the office of any member of the Cabinet if that person is exempt

572 from the Career Service System, except persons employed in

573 clerical, secretarial, or similar positions.

574 3. The State Surgeon General or each appointed secretary,

575 assistant secretary, deputy secretary, executive director,

576 assistant executive director, or deputy executive director of

577 each state department, commission, board, or council; unless

578 otherwise provided, the division director, assistant division

579 director, deputy director, and bureau chief, ~~and assistant~~

580 ~~bureau chief~~ of any state department or division; or any person

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581 having the power normally conferred upon such persons, by
582 whatever title.

583 4. The superintendent or institute director of a state
584 mental health institute established for training and research in
585 the mental health field or the warden or director of any major
586 state institution or facility established for corrections,
587 training, treatment, or rehabilitation.

588 5. Business managers, purchasing agents having the power to
589 make any purchase exceeding the threshold amount provided for in
590 s. 287.017 for CATEGORY TWO ~~ONE~~, finance and accounting
591 directors, personnel officers, or grants coordinators for any
592 state agency.

593 6. Any person, other than a legislative assistant exempted
594 by the presiding officer of the house by which the legislative
595 assistant is employed, who is employed in the legislative branch
596 of government, except persons employed in maintenance, clerical,
597 secretarial, or similar positions.

598 7. Each employee of the Commission on Ethics.

599 (c) "State officer" means:

600 1. Any elected public officer, excluding those elected to
601 the United States Senate and House of Representatives, not
602 covered elsewhere in this part and any person who is appointed
603 to fill a vacancy for an unexpired term in such an elective
604 office.

605 2. An appointed member of each board, commission,
606 authority, or council having statewide jurisdiction, excluding a
607 member of an advisory body.

608 3. A member of the Board of Governors of the State
609 University System or a state university board of trustees, the

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610 Chancellor and Vice Chancellors of the State University System,
611 and the president of a state university.

612 4. A member of the judicial nominating commission for any
613 district court of appeal or any judicial circuit.

614 (2) (a) A person seeking nomination or election to a state
615 or local elective office shall file a statement of financial
616 interests together with, and at the same time he or she files,
617 qualifying papers. When a candidate has qualified for office
618 prior to the deadline to file an annual statement of financial
619 interests, the statement of financial interests that is filed
620 with the candidate's qualifying papers shall be deemed to
621 satisfy the annual disclosure requirement of this section. The
622 qualifying officer must record that the statement of financial
623 interests was timely filed. However, if a candidate does not
624 qualify until after the annual statement of financial interests
625 has been filed, the candidate may file a copy of his or her
626 statement with the qualifying officer.

627 (b) Each state or local officer and each specified state
628 employee shall file a statement of financial interests no later
629 than July 1 of each year. Each state officer, local officer, and
630 specified state employee shall file a final statement of
631 financial interests within 60 days after leaving his or her
632 public position for the period between January 1 of the year in
633 which the person leaves and the last day of office or
634 employment, unless within the 60-day period the person takes
635 another public position requiring financial disclosure under
636 this section or s. 8, Art. II of the State Constitution or
637 otherwise is required to file full and public disclosure or a
638 statement of financial interests for the final disclosure

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period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(c) Beginning January 1, 2023, an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement may submit either a copy of the disclosure filed with the commission, or a verification or receipt of the filing or submission, with the officer before whom they qualify. A candidate not subject to an annual filing requirement does not file with the commission, but may complete and print a statement of financial interests to file with the officer before whom he or she qualifies.

(d) State officers and specified state employees shall file their statements of financial interests with the commission ~~on Ethics~~. Local officers shall file their statements of financial interests with the supervisor of elections of the county in which they permanently reside. Local officers who do not permanently reside in any county in the state shall file their statements of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters. Persons seeking to qualify as candidates for local public office shall file their statements of financial interests with the officer before whom they qualify.

(e) Beginning January 1, 2023, a statement of financial

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interests and a final statement of financial interests, and amendments thereto, or any other form required by this section to be filed with the commission, must be filed electronically through an electronic filing system created and maintained by the commission as provided in s. 112.31446.

(3) The statement of financial interests for state officers, specified state employees, local officers, and persons seeking to qualify as candidates for state or local office shall be filed even if the reporting person holds no financial interests requiring disclosure in a particular category, in which case that section of the statement shall be marked "not applicable." Otherwise, the statement of financial interests must ~~shall~~ include the information under paragraph (a) or paragraph (b). The reporting person shall indicate on the statement whether he or she is using the reporting method under paragraph (a) or paragraph (b). However, beginning January 1, 2023, only the reporting method specified under paragraph (b) may be used. ~~at the filer's option, either:~~

(a) 1. All sources of income in excess of 5 percent of the gross income received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received an amount which was in excess of 10 percent of his

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or her gross income during the disclosure period and which exceeds \$1,500. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residences and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of 10 percent of such person's total assets. For the purposes of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every individual liability that equals more than the reporting person's net worth; or

(b)1. All sources of gross income in excess of \$2,500 received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received gross income exceeding \$5,000 during the disclosure period. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure

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period of the person reporting;

3. The location or description of real property in this state, except for residence and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of \$10,000. For the purpose of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every liability in excess of \$10,000.

~~A person filing a statement of financial interests shall indicate on the statement whether he or she is using the method specified in paragraph (a) or paragraph (b).~~

(4)(a) The commission may not request, in any filing or submission, a federal income tax return, or a copy thereof; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; a taxpayer identification number; or any other personal or account information that is legally protected from disclosure under state or federal law.

(b) Beginning January 1, 2022, a public officer, a candidate, or any other person may not include in a filing or submission to the commission any of the information specified in paragraph (a). If a public officer, a candidate, or other person includes such information, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of

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social security numbers, or bank account, debit, charge, or credit card numbers, included on a filing or submission to the commission if the holder has not requested redaction of the information.

(c) The commission shall redact a filer's social security number; bank, mortgage, or brokerage account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law upon written notification from the filer of its inadvertent inclusion. Such notice must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

(d) The commission must conspicuously post a notice, in substantially the following form, in the instructions for the electronic filing system specifying that:

1. Any person submitting information through the electronic filing system may not include a social security number or a bank account, debit, charge, or credit card number in any filing or submission unless required by law.

2. All information submitted through the electronic filing system may be open to public inspection and copying.

3. Any person has a right to request the commission to remove from a filing or submission any social security number or bank, mortgage, or brokerage account number contained in the submission. Such request must be made in writing and delivered by mail or electronic transmission or in person to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

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~~(5) Beginning January 1, 2015,~~ An officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her statement of financial interests that he or she has completed the required training.

~~(6)(5)~~ Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as state-level agencies or agencies below state level. Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident. Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than the last day of each calendar quarter, for the previous calendar quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by any partner or associate of the professional firm of which he or she is a member and of which he or she has actual knowledge. For the purposes of this subsection, the term "representation before any agency" does not include appearances before any court or the Deputy Chief Judge of Compensation Claims or judges of compensation claims or representations on behalf of one's agency in one's official capacity. Such term does not include the preparation and filing of forms and applications merely for the

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purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

~~(7)(6)~~ Each elected constitutional officer and each candidate for such office, any other public officer required pursuant to s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests, and each state officer, local officer, specified state employee, and candidate for elective public office who is or was during the disclosure period an officer, director, partner, proprietor, or agent, other than a resident agent solely for service of process, of, or owns or owned during the disclosure period a material interest in, any business entity which is granted a privilege to operate in this state shall disclose such facts as a part of the disclosure form filed pursuant to s. 8, Art. II of the State Constitution or this section, as applicable. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest.

~~(8)(7)~~ Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure

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deadlines and delinquencies and distribute forms in the following manner:

(a) 1. Not later than May 1 of each year, the commission shall prepare a current list of the names, e-mail addresses, and physical addresses of, and the offices or positions held by, every state officer, local officer, and specified employee. ~~In compiling the list, the commission shall be assisted by~~ Each unit of government shall assist the commission in compiling the list by ~~in~~ providing to the commission not later than February 1 of each year, ~~at the request of the commission,~~ the name, e-mail address, physical address, and name of agency of, and the office or position held by, each state officer, local officer, or specified state employee within the respective unit of government as of December 31 of the preceding year.

2. Not later than May 15 of each year, the commission shall provide each supervisor of elections with a current ~~mailing~~ list of all local officers required to file with such supervisor of elections.

(b) Not later than June 1 ~~30 days before July 1~~ of each year, the commission and each supervisor of elections, as appropriate, shall distribute mail a copy of the form prescribed for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines to each person required to file a statement of financial interests. Beginning January 1, 2023, the notice required under this paragraph must be delivered by e-mail or other electronic means.

(c) Not later than August 1 ~~30 days after July 1~~ of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of

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871 financial interests in their respective offices have failed to
 872 do so and shall send delinquency notices ~~by certified mail,~~
 873 ~~return receipt requested,~~ to these persons. Each notice must
 874 ~~shall~~ state that a grace period is in effect until September 1
 875 of the current year; that no investigative or disciplinary
 876 action based upon the delinquency will be taken by the agency
 877 head or commission if the statement is filed by September 1 of
 878 the current year; that, if the statement is not filed by
 879 September 1 of the current year, a fine of \$25 for each day late
 880 will be imposed, up to a maximum penalty of \$1,500; for notices
 881 distributed sent by a supervisor of elections, that he or she is
 882 required by law to notify the commission of the delinquency; and
 883 that, if upon the filing of a sworn complaint the commission
 884 finds that the person has failed to timely file the statement
 885 within 60 days after September 1 of the current year, such
 886 person will also be subject to the penalties provided in s.
 887 112.317. Beginning January 1, 2023, the notice required under
 888 this paragraph must be delivered by e-mail or other electronic
 889 means and must be redelivered on a weekly basis so long as a
 890 person remains delinquent.

891 (d) No later than November 15 of each year, the supervisor
 892 of elections in each county shall certify to the commission a
 893 list of the names and addresses of, and the offices or positions
 894 held by, all persons who have failed to timely file the required
 895 statements of financial interests. The certification must
 896 include the earliest of the dates described in subparagraph
 897 (g)1. (f)1. The certification shall be on a form prescribed by
 898 the commission and shall indicate whether the supervisor of
 899 elections has provided the disclosure forms and notice as

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900 required by this subsection to all persons named on the
 901 delinquency list.

902 (e) Statements must be received by the commission filed not
 903 later than 5 p.m. of the due date. However, any statement that
 904 is postmarked by the United States Postal Service by midnight of
 905 the due date is deemed to have been filed in a timely manner,
 906 and a certificate of mailing obtained from and dated by the
 907 United States Postal Service at the time of the mailing, or a
 908 receipt from an established courier company which bears a date
 909 on or before the due date, constitutes proof of mailing in a
 910 timely manner. Beginning January 1, 2023, upon request of the
 911 filer, the commission must provide verification to the filer
 912 that the commission has received the submitted statement.

913 (f) Beginning January 1, 2023, the statement must be
 914 accompanied by a declaration as provided in s. 92.525(2) and an
 915 electronic acknowledgement thereof.

916 (g) Any person who is required to file a statement of
 917 financial interests and whose name is on the commission's
 918 ~~mailing~~ list, and to whom notice has been sent, but who fails to
 919 timely file is assessed a fine of \$25 per day for each day late
 920 up to a maximum of \$1,500; however, this \$1,500 limitation on
 921 automatic fines does not limit the civil penalty that may be
 922 imposed if the statement is filed more than 60 days after the
 923 deadline and a complaint is filed, as provided in s. 112.324.
 924 The commission must provide by rule the grounds for waiving the
 925 fine and procedures by which each person whose name is on the
 926 ~~mailing~~ list and who is determined to have not filed in a timely
 927 manner will be notified of assessed fines and may appeal. The
 928 rule must provide for and make specific the following:

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929 1. The amount of the fine due is based upon the earliest of
 930 the following:

- 931 a. When a statement is actually received by the office.
- 932 b. When the statement is postmarked.
- 933 c. When the certificate of mailing is dated.
- 934 d. When the receipt from an established courier company is
 935 dated.

936 2. For a specified state employee or a state officer, upon
 937 receipt of the disclosure statement by the commission or upon
 938 accrual of the maximum penalty, whichever occurs first, and for
 939 a local officer upon receipt by the commission of the
 940 certification from the local officer's supervisor of elections
 941 pursuant to paragraph (d), the commission shall determine the
 942 amount of the fine which is due and shall notify the delinquent
 943 person. The notice must include an explanation of the appeal
 944 procedure under subparagraph 3. The fine must be paid within 30
 945 days after the notice of payment due is transmitted, unless
 946 appeal is made to the commission pursuant to subparagraph 3. The
 947 moneys are to be deposited into the General Revenue Fund.

948 3. Any reporting person may appeal or dispute a fine, based
 949 upon unusual circumstances surrounding the failure to file on
 950 the designated due date, and may request and is entitled to a
 951 hearing before the commission, which may waive the fine in whole
 952 or in part for good cause shown. Any such request must be in
 953 writing and received by the commission ~~made~~ within 30 days after
 954 the notice of payment due is transmitted. In such a case, the
 955 reporting person must, within the 30-day period, notify the
 956 person designated to review the timeliness of reports in writing
 957 of his or her intention to bring the matter before the

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958 commission. For purposes of this subparagraph, the term "unusual
 959 circumstances" does not include the failure to monitor an e-mail
 960 account or failure to receive notice if the person has not
 961 notified the commission of a change in his or her e-mail
 962 address.

963 ~~(h)(g)~~ Any state officer, local officer, or specified
 964 employee whose name is not on the ~~mailing~~ list of persons
 965 required to file an annual statement of financial interests is
 966 not subject to the penalties provided in s. 112.317 or the fine
 967 provided in this section for failure to timely file a statement
 968 of financial interests in any year in which the omission
 969 occurred, but nevertheless is required to file the disclosure
 970 statement.

971 ~~(i)(h)~~ The notification requirements and fines of this
 972 subsection do not apply to candidates or to the first or final
 973 filing required of any state officer, specified employee, or
 974 local officer as provided in paragraph (2)(b).

975 ~~(j)(i)~~ Notwithstanding any provision of chapter 120, any
 976 fine imposed under this subsection which is not waived by final
 977 order of the commission and which remains unpaid more than 60
 978 days after the notice of payment due or more than 60 days after
 979 the commission renders a final order on the appeal must be
 980 submitted to the Department of Financial Services as a claim,
 981 debt, or other obligation owed to the state, and the department
 982 shall assign the collection of such a fine to a collection agent
 983 as provided in s. 17.20.

984 ~~(9)(a)(8)(a)~~ The appointing official or body shall notify
 985 each newly appointed local officer, state officer, or specified
 986 state employee, not later than the date of appointment, of the

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officer's or employee's duty to comply with the disclosure requirements of this section. The agency head of each employing agency shall notify each newly employed local officer or specified state employee, not later than the day of employment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The appointing official or body or employing agency head may designate a person to be responsible for the notification requirements of this paragraph.

(b) The agency head of the agency of each local officer, state officer, or specified state employee who is required to file a statement of financial interests for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this paragraph.

(c) If a person holding public office or public employment fails or refuses to file an annual statement of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a statement of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment. The commission shall forward its

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recommendation as provided in s. 112.324.

~~(10)(9)~~ A public officer who has filed a disclosure for any calendar or fiscal year shall not be required to file a second disclosure for the same year or any part thereof, notwithstanding any requirement of this act, except that any public officer who qualifies as a candidate for public office shall file a copy of the disclosure with the officer before whom he or she qualifies as a candidate at the time of qualification.

(11) (a) ~~(10) (a)~~ The commission shall treat an amendment to an ~~amended~~ annual statement of financial interests which is filed before September 1 of the year in which the statement is due as part of the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the ~~amended~~ statement of financial interests correcting any errors. If the filer does not file an amendment to the ~~amended~~ statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final statement of financial interests, the commission shall treat an amendment to a new final statement of financial interests as part of the original filing, if filed within 60 days of the original filing regardless of whether a complaint has been filed. If, more than 60 days after a final statement of financial interests is filed, a complaint is filed alleging a complete omission of any

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information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the a-new final statement of financial interests correcting any errors. If the filer does not file an amendment to the a-new final statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(12) (a) (11) (a) An individual required to file a statement disclosure pursuant to this section may have the statement disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a statement disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint

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is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual who is required to file the statement disclosure does not constitute a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her statement disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(13) (12) The commission shall adopt rules and forms specifying how a state officer, local officer, or specified state employee may amend his or her statement of financial interests to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

Section 5. Section 112.31455, Florida Statutes, is amended to read:

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.-

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1103 (1) Before referring any unpaid fine accrued pursuant to s.
 1104 112.3144(8) or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~
 1105 to the Department of Financial Services, the commission shall
 1106 attempt to determine whether the individual owing such a fine is
 1107 a current public officer or current public employee. If so, the
 1108 commission may notify the Chief Financial Officer or the
 1109 governing body of the appropriate county, municipality, or
 1110 special district of the total amount of any fine owed to the
 1111 commission by such individual.

1112 (a) After receipt and verification of the notice from the
 1113 commission, the Chief Financial Officer or the governing body of
 1114 the county, municipality, or special district shall begin
 1115 withholding the lesser of 10 percent or the maximum amount
 1116 allowed under federal law from any salary-related payment. The
 1117 withheld payments shall be remitted to the commission until the
 1118 fine is satisfied.

1119 (b) The Chief Financial Officer or the governing body of
 1120 the county, municipality, or special district may retain an
 1121 amount of each withheld payment, as provided in s. 77.0305, to
 1122 cover the administrative costs incurred under this section.

1123 (2) If the commission determines that the individual who is
 1124 the subject of an unpaid fine accrued pursuant to s. 112.3144(8)
 1125 or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~ is no longer
 1126 a public officer or public employee or if the commission is
 1127 unable to determine whether the individual is a current public
 1128 officer or public employee, the commission may, 6 months after
 1129 the order becomes final, seek garnishment of any wages to
 1130 satisfy the amount of the fine, or any unpaid portion thereof,
 1131 pursuant to chapter 77. Upon recording the order imposing the

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1132 fine with the clerk of the circuit court, the order shall be
 1133 deemed a judgment for purposes of garnishment pursuant to
 1134 chapter 77.

1135 (3) The commission may refer unpaid fines to the
 1136 appropriate collection agency, as directed by the Chief
 1137 Financial Officer, to utilize any collection methods provided by
 1138 law. Except as expressly limited by this section, any other
 1139 collection methods authorized by law are allowed.

1140 (4) Action may be taken to collect any unpaid fine imposed
 1141 by ss. 112.3144 and 112.3145 within 20 years after the date the
 1142 final order is rendered.

1143 Section 6. Except as otherwise expressly provided in this
 1144 act, this act shall take effect upon becoming a law.

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THE FLORIDA SENATE

COMMITTEES:

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

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

March 26, 2019

The Honorable Chairman Rob Bradley
414 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Bradley,

I would like to request that CS/SB 7040 Financial Disclosure and CS/SB 7042 Public Records Exemption/Financial Disclosure be heard in the next Appropriation Committee meeting.

CS/SB 7040 requires the Commission on Ethics to procure and test an electronic financial filing system by January 1, 2022. The system must be accessible and searchable by the public. It provides that the Commission is not liable for the release of any information not requested with regards to either a Form 1 or Form 6. The system must also provide a secure method that prevents unauthorized access to electronic filing system functions or data.

CS/SB 7042 exempts from public copying and inspection secure login credentials held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in CS/SB 7040. The bill also provides that the exemptions are subject to the OGSRA (Sunset Review) and stand repealed on October 2, 2024 unless reviewed and saved from repeal through reenactment by the legislature.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Cynthia Sauls-Kynoch, Staff Director

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

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

7040

Bill Number (if applicable)

185834

Amendment Barcode (if applicable)

Topic Financial Disclosure

Name Virindia Doss

Job Title Executive Director

Address 325 John Knox Rd

Street

Galla Fl 32303

City

State

Zip

Phone (850) 488-7864

Email Doss.Virindia@leg.state.fl.us

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida Commission on Ethics

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 7042

INTRODUCER: Governmental Oversight and Accountability Committee; and Ethics and Elections Committee

SUBJECT: Public Records/Commission on Ethics

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
		Roberts		EE Submitted as Committee Bill
1.	Hackett	McVaney	GO	Fav/CS
2.	Shettle	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7042 exempts from public inspection and copying secure login credentials held by the Commission on Ethics (Commission) for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion. The bill also exempts from public inspection and copying any information entered in the electronic filing system for purposes of financial disclosure until a disclosure of financial interests or statement of financial interests is submitted by the filer to the Commission, or in the case of a candidate, filed with a qualifying officer.

The bill provides that the exemptions are subject to the Open Government Sunset Review Act (OGSRA), and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

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

The bill has no fiscal impact on state funds.

The bill's effective date is contingent upon, and concurrent with, passage of SB 7040 or similar legislation. SB 7040, if enacted, will take effect upon becoming a law.

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

II. Present Situation:

Public Records Law

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

In addition to the Florida Constitution, Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, Florida Statutes (F.S.), constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

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

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

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

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

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

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

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

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

⁹ FLA. CONST., art. I, s. 24(c)

¹⁰ *Id.*

broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption that does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹⁴

Historically, secure login credentials have been treated as confidential and exempt under the security system exemptions contained in ss. 281.301 and 119.071(3), F.S.

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSRA) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁵ The OGSRA provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶

The OGSRA provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁷ An exemption serves an identifiable purpose if it meets one of the following purposes and the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁸
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁹ or
- It protects trade or business secrets.²⁰

¹¹ *Id.*

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). See also *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004).

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

¹⁴ *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSRA does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(b)1., F.S.

¹⁹ Section 119.15(6)(b)2., F.S.

²⁰ Section 119.15(6)(b)3., F.S.

The OGSRA also requires specified questions to be considered during the review process.²¹ In examining an exemption, the OGSRA asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²² If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²³

SB 7040 (2019)

SB 7040 requires the Commission to procure and test an electronic filing system by a date certain. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Upload submitted information to the Commission;
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard Internet-browsing software;
- Issue a verification or receipt that the Commission has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete and file the disclosure or statement and certify that he or she prepared it in accordance with:
 - s. 112.3144, F.S. or s. 112.3145; and
 - the instructions for completing and filing the disclosure or statement; and that
- The information on the disclosure or statement is true and correct.

The bill establishes dates certain after which all submissions of CE Form 6 and, later, all submissions of CE Form 1 must be made to the Commission and accomplished electronically. Submission of paper forms will be discontinued. The Commission will provide notice and other communications to filers by email message. All disclosures must be for the calendar year, not the taxable year. Candidates will continue to submit required disclosures to his or her qualifying officer, but local officers will no longer submit financial statements to supervisors of elections. Beginning with required electronic submission of CE Form 1, filers must use the dollar threshold method of reporting. The percent in excess of income or value method will no longer be in use.

²¹ Section 119.15(6)(a), F.S. The specified questions are:

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

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

The information requested in CE Forms 1 and 6 include name, mailing address, name of office or position held or sought, sources of income, real property, liabilities, business interests, and gifts received. None of the information requested is otherwise confidential or exempt.

III. Effect of Proposed Changes:

This bill exempts from public copying and inspection requirements those secure login credentials held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion. The bill also exempts from public copying and inspection requirements any information entered in the electronic filing system for purposes of financial disclosure until a disclosure of financial interests or statement of financial interests is submitted by the filer to the Commission, or in the case of a candidate, filed with a qualifying officer.

The bill provides that the exemptions are subject to the OGSRA, and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution. It states that the public's need for access to information included in disclosures or statements of financial interests filed by reporting individuals should be balanced with the filer's interest in safeguarding personally sensitive information and that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system would be hindered.

The bill's effective date is contingent upon, and concurrent with, passage of SB 7040 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. SB 7040, if enacted, will take effect upon becoming a law.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public records or public meetings

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

Public Necessity Statement

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

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the stated purpose of the law. This bill exempts secure login credentials held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in SB 7040, this bill's companion, and draft information input into the electronic system before a filer's submission is finalized. Based on the legislative findings in the statement of public necessity, the public records exemption in this bill appears to be no broader than necessary to accomplish its stated purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 112.31446 of the Florida Statutes, created in SB 7040 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on March 26, 2019:

The CS corrects the reference to the public records requirements from s. 119.071(1), F.S. to s. 119.07(1), F.S.

The CS changes the term “passwords” to “secure login credentials” to align with the language of SB 7040.

- B. **Amendments:**

None.

By the Committees on Governmental Oversight and Accountability;
and Ethics and Elections

585-03508-19

20197042c1

A bill to be entitled

An act relating to public records; amending s. 112.31446, F.S.; providing exemptions from public records requirements for secure login credentials held by the Commission on Ethics and certain information entered into the electronic filing system for financial disclosure forms; specifying conditions under which such information is no longer exempt; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (6) is added to section 112.31446, Florida Statutes, as created by SB 7040, 2019 Regular Session, to read:

112.31446 Electronic filing system for financial disclosure.—

(6) (a) All secure login credentials held by the commission for the purpose of allowing access to the electronic filing system are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Information entered in the electronic filing system for purposes of financial disclosure is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Information entered in the electronic filing system is no longer exempt once the disclosure of financial interests or statement of financial interests is submitted to the commission or, in the case of a

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candidate, filed with a qualifying officer, whichever occurs first.

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

Section 2. The Legislature finds that it is a public necessity that all secure login credentials held by the Commission on Ethics for the purpose of allowing access to the electronic filing system for financial disclosures, and information entered into the system, be exempt from public records requirements. The Legislature finds that the public's need for access to information included in the full and public disclosures of financial interests or statements of financial interests filed by reporting individuals be balanced with the filer's interest in safeguarding personally sensitive information. The Legislature further finds that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system, which otherwise is designed to increase the ease of filing for reporting individuals and to improve the public's access to financial disclosure information, would be hindered. For these reasons, the Legislature finds that it is a public necessity to exempt such information from public records requirements.

Section 3. This act shall take effect on the same date that SB 7040 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension

Page 2 of 3

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59 thereof and becomes a law.

THE FLORIDA SENATE

COMMITTEES:

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

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

March 26, 2019

The Honorable Chairman Rob Bradley
414 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Bradley,

I would like to request that CS/SB 7040 Financial Disclosure and CS/SB 7042 Public Records Exemption/Financial Disclosure be heard in the next Appropriation Committee meeting.

CS/SB 7040 requires the Commission on Ethics to procure and test an electronic financial filing system by January 1, 2022. The system must be accessible and searchable by the public. It provides that the Commission is not liable for the release of any information not requested with regards to either a Form 1 or Form 6. The system must also provide a secure method that prevents unauthorized access to electronic filing system functions or data.

CS/SB 7042 exempts from public copying and inspection secure login credentials held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in CS/SB 7040. The bill also provides that the exemptions are subject to the OGSRA (Sunset Review) and stand repealed on October 2, 2024 unless reviewed and saved from repeal through reenactment by the legislature.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Cynthia Sauls-Kynoch, Staff Director

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

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

The Florida Senate
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/SB 7068 (901688)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); and Infrastructure and Security Committee

SUBJECT: Transportation

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Miller		IS Submitted as Committee Bill
1.	McAuliffe	Hrdlicka	ATD	Recommend: Fav/CS
2.	McAuliffe	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7068 creates the Multi-use Corridors of Regional Economic Significance Program within the Florida Department of Transportation (FDOT). The program is designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure. The specific purpose of the program is 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 bill sets out the intended benefits of the program and identifies three corridors comprising the program. Projects will be subject to requirements relating to economic and environmental feasibility and specified environmental and other evaluation requirements. Decisions on matters such as corridor configuration, project alignment, and interchange locations must be determined in accordance with the FDOT's rules, policies, and procedures.

During project development, the FDOT must 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. The task force must issue a written report by June 30, 2020. To the maximum extent feasible, construction of the projects must begin no later than December 31, 2022, and be open to traffic no later than December 31, 2030.

The bill authorizes funding for projects in the corridors. Part of this funding includes increased revenues derived from redirecting to the State Transportation Trust Fund, on a phased-in schedule, portions of motor vehicle license taxes currently deposited into the General Revenue Fund. The bill also specifies how and when the increased revenues are to be distributed and allocated.

Projects undertaken in the corridors must be tolled facilities, are approved turnpike projects that are part of the turnpike system, and are considered as Strategic Intermodal System facilities.

In addition, from the redirected motor vehicle license tax proceeds, the bill authorizes additional funding for the Small County Road Assistance Program, the Small County Outreach Program, and the Transportation Disadvantaged Trust Fund. The bill also creates and provides funding for a construction workforce development program within the FDOT. Building on the FDOT's current workforce development services, the program is intended to serve as a tool for addressing the existing construction labor shortage by training individuals in skills necessary to deliver projects in the FDOT five-year work program, including multi-use corridor projects, on time and within budget.

The bill takes effect July 1, 2019.

The bill will have offsetting fiscal impacts to both the General Revenue Fund and the State Transportation Trust Fund. The fiscal impact of a number of provisions in the bill is indeterminate, as project details and finance plans for new projects have not been developed. See Section V.

II. Present Situation:

The focus of much of Florida's past infrastructure funding has primarily been on the state's urban areas, in order to improve safety, relieve congestion, create mobility, and promote commerce and tourism. This funding structure has improved access and created economic growth for our urban areas along the state's coasts and in central Florida, but large portions of rural Florida have not always received the same focus.

Rural portions of the state compare less favorably to more urban regions in other ways. Research offers many indicators of difficulties faced particularly by the state's rural communities. For example:

- Factors such as relatively low population, labor workforce availability, access to education and healthcare, high unemployment rates, and low wages in rural areas are prevalent throughout available research.
- Rural counties in particular are losing population, commerce and trade, opportunities for employment, and ultimately the local tax base,¹ thereby restricting a rural county's ability to provide for necessities such as roads, but also clean water, sewer, and energy-distribution infrastructure.

¹ Florida Chamber of Commerce, *The Future of Florida's Rural Communities*, November 13, 2017, available at <https://www.flchamber.com/the-future-of-floridas-rural-communities-2/> (last visited March 13, 2019).

- Agriculture is often dominant in rural areas, and the loss of supporting businesses due to the last economic recession leaves some rural counties searching for other types of opportunities for business, employment, and economic growth.²
- With respect to accessing a broad range of services such as transportation, education, employment, and health care, some 700,000 individuals, largely in rural areas of the state, do not have available local Internet access. A 2016 study determined that 16 Florida counties are underserved by fixed broadband access. Another 13 counties, with relatively low populations and per capita income, range from 41 to 99 percent of individuals without broadband access.³
- Broadband access is also critical to businesses. “Corporate site selectors expect broadband. It is not a perk or special benefit.”⁴ Communities without broadband access have difficulty attracting new capital investment.

Past infrastructure funding from a transportation perspective has generally been of the “traditional” type, for example construction of roads, bridges, seaports, and airports tends to address traditional matters such as hurricane evacuation, congestion mitigation, and statewide economic development

Current law sets out a variety of programs for construction of Florida’s highway system. However, no program currently authorizes highway construction that, in addition to the provision of traditional transportation infrastructure, is specifically aimed at providing highway corridors containing uses not necessarily associated with the movement of people and goods.

The Florida Department of Transportation (FDOT) is generally charged with assuming “responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state, and [assuring] the compatibility of all components, including multimodal facilities.”⁵ Funds in the State Transportation Trust Fund (STTF)⁶ support the projects contained in the FDOT’s work program, developed pursuant to s. 339.135, F.S. Current law identifies specific funding from moneys in the STTF for certain transportation systems and projects, as well as specific funding programs aimed at transportation projects in rural communities.

The Florida Strategic Intermodal System

The Strategic Intermodal System (the SIS) is composed of transportation facilities and services of statewide and interregional significance. The FDOT describes the SIS as representing “an

² See U.S. News and World Report, *Rural Hendry County Mixes Economic Woes, Hope for New Jobs*, October 13, 2018, available at <https://www.usnews.com/news/best-states/florida/articles/2018-10-13/rural-hendry-county-mixes-economic-woes-hope-for-new-jobs> (last visited March 13, 2019).

³ *Expanding Residential Access to the Internet Infrastructure & Locally Customized Distance Learning in Schools to Advance Educational Attainment, Economic Development, Health Care & County Growth*, Moore, Dr. Ed H., Independent Colleges & Universities of Florida. (On file in the Senate Infrastructure and Security Committee.)

⁴ Site Selection Magazine (September 2011), *The Important of Broadband to Economic Development*, McQuade, M., available at <https://siteselection.com/issues/2011/sep/sas-optical-infrastructure.cfm> (last visited March 13, 2019).

⁵ FDOT, *About FDOT*, available at <https://www.fdot.gov/agencyresources/aboutfdot.shtml> (last visited March 13, 2019).

⁶ Established in s. 206.46, F.S.

effort to link Florida's transportation policies and investments to the state's economic development strategy.”⁷

The SIS consists of:

- Highway corridors established under s. 339.65, F.S. (discussed below);
- The National Highway System;
- Airport, seaport, and spaceport facilities;
- Rail lines and rail facilities;
- Selected intermodal facilities; passenger and freight terminals; and appropriate components of the State Highway System, county road system, city street system, inland waterways, and local public transit systems that serve as connectors between the above components; and
- Other corridors that serve a statewide or interregional purpose.⁸

The SIS and emerging SIS⁹ include multiple types of facilities intended to establish an interconnected transportation system:¹⁰

- Hubs – ports and terminals that move goods or people between Florida regions or between Florida and other markets in the United States and the rest of the world;
- Corridors – highways, rail lines, inter-county urban fixed guideway transit, and waterways that connect major markets within Florida or between Florida and other states or nations;
- Connectors – highways, rail lines, or waterways that connect hubs and corridors;
- Military Access Facilities – strategic highway network and strategic railway network facilities serving the main entrances of US Department of Defense military installations; and,
- Intermodal Logistic Centers (ILC) – facilities that serve as points of intermodal transfer of freight separate from a seaport where transport, distribution, or similar activities occur in support of or be supported by conveyance or shipping through one or more seaports.¹¹

Section 339.61, F.S., requires the FDOT to allocate from the STTF a minimum of \$60 million annually for projects in the SIS. Section 339.135, F.S., requires the allocation of at least 50 percent of any new discretionary highway capacity funds¹² to the SIS. The SIS also statutorily receives a portion of documentary stamp tax proceeds distributed to the STTF;¹³ a portion of

⁷ FDOT, *Work Program Instructions FY 19/20 – 23/24*, September 12, 2018, at p. 326, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/workprogram/development/pdfinstructions/workprograminstructions.pdf?sfvrsn=c585db0d_23 (last visited March 13, 2019). Section 339.61, F.S.

⁸ Section 339.62, F.S.

⁹ SIS and emerging SIS hubs and corridors were initially designated based on criteria and thresholds established by a steering committee in 2002 and adopted by the Legislature in 2003. Section 339.63, F.S., authorizes the FDOT secretary to periodically add facilities to, or delete facilities from, the SIS or emerging SIS based on adopted criteria. These additions and deletions reflect new data showing that particular hubs or corridors meet the adopted criteria and thresholds.

¹⁰ Section 339.63, F.S.

¹¹ Section 339.63(5), F.S., authorizes designation of a planned ILC as part of the SIS upon the request of the facility if it meets certain criteria and thresholds.

¹² “New discretionary highway capacity funds” means any funds available to the FDOT above the prior year funding level for capacity improvements, which the FDOT has the discretion to allocate to highway projects. Section 339.135(4)(a)2., F.S.

¹³ Section 201.15(4)(a)3., F.S.

motor vehicle tag and title fees generated by initial applications for registration;¹⁴ and the remaining proceeds of “Mobility 2000” funding.¹⁵

The FDOT’s established policy is to allocate 75 percent of all transportation capacity funds to the SIS, with the exception of funds allocated for the transit program and certain surface transportation program funds.¹⁶

Section 339.65, F.S., requires the FDOT to plan and develop SIS highway corridors, to include limited and controlled access facilities allowing for high-speed and high-volume traffic movements. The corridors include facilities from the following State Highway System components that meet the adopted SIS criteria:

- Interstate highways,
- The Florida Turnpike System,
- Interregional and intercity limited access facilities,
- Existing interregional and intercity arterial highways previously upgraded or upgraded in the future to limited or controlled access facility standards, and
- New limited access facilities necessary to complete a balanced statewide system.

For purposes of developing these SIS corridors, s. 339.65(6), F.S., requires the FDOT to allocate annually a minimum of \$450 million, adjusted annually by the Consumer Price Index.

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.¹⁷ The FTE is a single budget entity that develops its own budget, submitted to the Legislature along with the FDOT’s.¹⁸ For the 2018-2019 fiscal year, the FTE’s total budget was \$2,070,019,701.¹⁹

The turnpike system currently includes the mainline from Miami to Central Florida, as well as the Homestead Extension, Sawgrass Expressway, Seminole Expressway, Beachline Expressway, Southern Connector Extension, Veterans Expressway, Suncoast Parkway, Polk Parkway, Western Beltway, and the I-4 Connector.²⁰ 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 such 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.²¹

¹⁴ Section 320.072, F.S.

¹⁵ Section 339.1371(2), F.S.

¹⁶ *Supra* note 7 at p. 327.

¹⁷ Section 338.2216(1)(a), F.S.

¹⁸ Section 338.2216(3)(a), F.S.

¹⁹ Chapter 2018-9, L.O.F., at p. 281.

²⁰ For a map of the system, see Florida’s Turnpike, under the *About* heading, available at <http://www.floridasturnpike.com/about.html> (last visited March 13, 2019).

²¹ Section 338.223(1)(a), F.S.

“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, excluding feeder roads²² and turnpike improvements, 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.²³

The required statement of environmental feasibility is a statement by the Department of Environmental Protection of the project’s significant environmental impacts.²⁴

If a proposed project is economically feasible, consistent to the maximum extent feasible with the applicable local comprehensive plans, and a favorable statement of environmental feasibility is completed, the FDOT is directed to construct, maintain, and operate the project.²⁵

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.²⁶ 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 approved turnpike projects.²⁷ As of June 30, 2018, the FTE had \$2.6 billion of outstanding bonds related to financing the construction of expansion projects and system improvements.²⁸ The FTE’s Five-Year Capital Plan includes issuance of \$1.5 billion of additional bonds.²⁹

The principal and interest on such bonds is payable solely from revenues pledged for their payment.³⁰ 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.

²² A “feeder road” is defined as any road no more than five miles in length, connecting to the turnpike system which the FDOT determines is necessary to create or facilitate access to a turnpike project. Section 338.221(3), F.S.

²³ Section 338.223(1)(a) and s. 338.221(8)(a), F.S.

²⁴ 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.

²⁵ *Supra* note 16.

²⁶ Section 338.2275(1)(a), F.S.

²⁷ *Id.*

²⁸ Florida’s Turnpike System, *2018 Comprehensive Annual Financial Report, Fiscal Years Ended June 30, 2018 and 2017*, at p. 16, available at http://www.floridasturnpike.com/documents/reports/Comprehensive%20Annual%20Financial%20Report/CAFR_2018.pdf (last visited March 13, 2019).

²⁹ *Id.* at p. 3.

³⁰ The FTE’s current debt service coverage ratio is 3.3. (The term describes a measure of ability to generate enough income in operations to cover the expense of a debt.) The FTE’s 3.3 debt service coverage ratio exceeds the 1.2 minimum debt service coverage required by existing bond covenants. *Id.* at p. 16. Section 338.227, F.S.

The FDOT may use in the most efficient combination turnpike revenues,³¹ 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 projects,³² and may use federal and state funds to pay the cost of the operation, maintenance, and capital costs of turnpike projects.³³

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 rights thereto 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.³⁴
- The FDOT Financing Corporation: The Legislature created the non-profit corporation for the purpose of financing or refinancing transportation projects on behalf of the FDOT. A board of directors consisting 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 governs the corporation. The FDOT may enter into service contracts with the corporation in connection with projects approved in the FDOT's work program. Each service contract may have a term of up to 35 years. The corporation may issue and incur notes, bonds, certificates of indebtedness, and other obligations or evidences of indebtedness to finance or refinance projects in the FDOT's work program, and the FDOT makes payments on the indebtedness under the service contract. 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.³⁵
- Public-private transportation facilities: The FDOT is authorized to receive or solicit proposals and, with legislative approval as evidenced by approval of the project 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 ten-year Strategic Intermodal Plan developed for the SIS that are programmed in the adopted five-year work program or that increase transportation capacity and are greater than \$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.³⁶

³¹ Net cash to the FTE from operating activities in 2018 amounted to approximately \$682 million. *Id.* at p. 19.

³² Section 338.2275(2), F.S.

³³ Section 338.223(4), F.S.

³⁴ Section 215.605, F.S.

³⁵ Section 339.0809, F.S.

³⁶ Section 334.30, F.S.

Transportation Programs Benefiting Rural Areas

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, 1995.³⁷ 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. Those counties include Baker, Bradford, Calhoun, Columbia, DeSoto, Dixie, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Nassau, Okeechobee, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington.³⁸

At a minimum, a small county is eligible only if the county has enacted the maximum rate of the local option fuel tax authorized by s. 336.025(1)(a), F.S.³⁹ All counties levy the maximum tax rate of 6 cents.⁴⁰ Therefore, the counties listed above are all eligible to compete for funding under the SCRAP.

In determining a county's eligibility, the FDOT is authorized to consider the extent to which the county has attempted to keep county roads in satisfactory condition and the extent to which the county has offered a match of local funds with SCRAP funds.

The primary consideration for prioritization of road projects under the SCRAP is the physical condition of the road as measured by the FDOT. Secondary criteria which the FDOT must consider include:

- Whether a road is used as an evacuation route;
- Whether a road has high levels of agricultural travel;
- Whether a road is considered a major arterial route;
- Whether a road is considered a feeder road;
- Whether a road is located in a fiscally constrained county; and
- Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by the FDOT.⁴¹

³⁷ Section 339.2816, F.S. Capacity improvements on county roads are not eligible for SCRAP funding, except where the department determines that widening of existing lanes as part of a resurfacing or reconstruction project is necessary to address safety concerns. *Supra* note 6 at p. 298.

³⁸ Office of Economic and Demographic Research, *Population and Demographic Data – Florida Products, Population April 1, 2018*, available at http://edr.state.fl.us/Content/population-demographics/data/MediumProjections_2017.pdf (last visited March 13, 2019).

³⁹ That section authorizes local governments to levy a tax of one to six cents on every net gallon of motor and diesel fuel sold in a county and taxed under ch. 206, F.S.

⁴⁰ Office of Economic and Demographic Research, *Local Option Fuel Tax Levies on Motor Fuel in Florida's Counties, Local Fiscal Year Ending September 30, 2019*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> under the heading "Local Option Fuel Taxes," *Realized and Unrealized Revenues by County: LFY 2005-2019* (last visited March 13, 2019).

⁴¹ Section 339.2816(4)(c), F.S.

The statute authorizes use of up to \$25 million annually from the STTF to fund the program.⁴² Available funds are allocated among the FDOT districts based on the number of eligible counties.

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.⁴³ Eligible counties include those with a population of 170,000 or less as determined by the most recent official estimate of the Office of Economic and Demographic Research. Currently, counties qualified to compete for SCOP funding based on population include the same counties now eligible to compete for SCRAP funding listed above, plus Citrus, Indian River, Martin, and Monroe Counties.⁴⁴

In determining eligibility, the FDOT may consider the county's attempt to keep county roads in satisfactory condition, which under the SCOP may be evidenced by an established pavement management plan; and the primary consideration for prioritization of road projects under the SCOP is the physical condition of the road as measured by the FDOT. Like the SCRAP, funds are allocated among the FDOT districts based on the number of eligible counties. Similarly to the SCRAP, secondary criteria which the FDOT may consider include:

- Whether a road is used as an evacuation route,
- Whether a road has high levels of agricultural travel,
- Whether a road is considered a major arterial route,
- Whether a road is considered a feeder road,
- Information as evidenced to the FDOT through an established pavement management plan, and
- Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by the FDOT.⁴⁵

The FDOT is required to fund 75 percent of the cost of projects on county roads selected for funding under the program⁴⁶ and the county must provide 25 percent of such costs. Rural counties qualifying under the Rural Economic Development Initiative⁴⁷ may apply for a waiver or reduction of the required 25 local match.⁴⁸

Section 339.0801(4), F.S., allocates \$10 million annually for projects in the SCOP. The SCOP also statutorily receives a portion of documentary stamp tax proceeds distributed to the STTF;⁴⁹ a

⁴² Section 339.2816(3), F.S.

⁴³ Section 339.2818(1), F.S.

⁴⁴ *Supra* note 38.

⁴⁵ Section 339.2818(4), F.S.

⁴⁶ Section 339.2818(4)(a), F.S.

⁴⁷ 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.

⁴⁸ *Supra* note 7 at p. 290.

⁴⁹ Section 2015.15(4)(a)2., F.S.

portion of revenues derived from the elimination of certain general revenue service charges;⁵⁰ and a portion of motor vehicle tag and title fees generated by initial applications for registration.⁵¹ Additionally, a designated municipality within a rural area of opportunity⁵² or a rural area of opportunity community⁵³ may compete for any specific appropriation made in addition to funds annually appropriated for the SCOP.⁵⁴

Transportation Services for the Transportation Disadvantaged

The Transportation Disadvantaged (TD) Program coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens.⁵⁵ The program assists the transportation disadvantaged, which includes a person who, because of physical or mental disability, income status, or age is unable to transport himself or herself or to purchase transportation and is dependent on others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities.⁵⁶ While not specifically aimed at rural communities, individuals residing in such areas do benefit from the TD program.

The Commission for the Transportation Disadvantaged (Commission) as an independent entity within the FDOT. The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged.⁵⁷ The goal of such coordination is to assure the cost-effective provision of transportation by qualified community transportation coordinators⁵⁸ or transportation operators.⁵⁹ Individual rides may be provided, or

⁵⁰ Section 215.211(4), F.S.

⁵¹ Section 320.072, F.S.

⁵² A “rural area of opportunity” is defined in s. 288.0656(2)(d), F.S., and designated by the Governor. For a list of rural areas of opportunity, see the Department of Economic Opportunity’s map, available at <http://www.floridajobs.org/docs/default-source/community-planning-development-and-services/rural-community-programs/redi/raomap1.pdf?sfvrsn=2> (last visited March 13, 2019).

⁵³ Section 288.9656(2)(e), F.S., defines “rural community” as:

- A county with a population of 75,000 or fewer,
- A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,00 or fewer,
- A municipality within a county described above, and
- An incorporated rural city with a population of 25,000 or fewer and an employment based on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more specified economic distress factors verified by the Department of Economic Opportunity.

⁵⁴ Section 339.2818(7), F.S. See the FDOT’s Work Program Instructions, *supra* note 7 at p. 291. For the 2018-2019 fiscal year, the General Appropriations Act appropriated \$72,800,454 for the SCOP, \$15 million of which was appropriated for transportation projects within a rural area of economic opportunity. See ch. 2018-9, L.O.F., specific appropriation 1892.

⁵⁵ Part I, ch. 427, F.S.

⁵⁶ The program also assists children who are handicapped or high-risk or at-risk as defined in s. 411.202, F.S. Section 427.011(1), F.S.

⁵⁷ Section 427.013, F.S.

⁵⁸ A “community transportation coordinator” (CTC) is a transportation entity recommended by a metropolitan planning organization (MPO), or by the appropriate designated official planning agency in an area outside of an MPO, to ensure that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area. Section 427.011(5), F.S. The role of a CTC may be filled by a local transit agency, by a contracted provider, by a regional nonprofit organization serving multiple counties, or by the local board of county commissioners. See the commission website for a listing of CTCs by county, available at <https://ctd.fdot.gov/ctcsbycounty.htm> (last visited March 13, 2019).

⁵⁹ A “transportation operator” is one or more public, private for-profit, or private nonprofit entities engaged by the CTC to provide service to transportation disadvantaged persons pursuant to a coordinated system service plan. Section 427.011(6), F.S.

individuals may use what is essentially a shared-ride service which, depending on location, may be provided using a fixed route transit or a paratransit (door-to-door) service.

Funds from the coordinated system⁶⁰ are used by many transportation disadvantaged individuals to subsidize the purchase of bus passes through various local transit authority programs. Of the 11.8 million trips in 2018, approximately 53 percent were funded in this fashion. According to the commission, bus passes are the most cost-effective transportation method for people who are able to ride a bus and are in close proximity to a fixed route.⁶¹ However, the remaining 47 percent of trips were provided by paratransit services, the most expensive means of transportation for people served by the coordinated system, at an average cost of \$24.14 per trip.⁶² The commission advises that paratransit services⁶³ are the predominant service in Florida's rural areas.⁶⁴ In these rural areas, an individual's particular disadvantage in the transportation arena may be compounded by relatively sparse population (often resulting in an absence of fixed-route bus or taxi services) and longer distances to and from a doctor's office, a grocery store, or a job.

Section 427.0159, F.S., establishes the Transportation Disadvantaged Trust Fund (TDTF). Funds deposited into the TDTF must be used to fund the administrative expenses and carry out the responsibilities of the commission. The commission is authorized to use funds in the trust fund to subsidize a portion of a transportation disadvantaged person's non-sponsored (for example, not paid for by Medicaid) transportation costs.

The primary statutory revenue source for the TDTF is a fee of \$1.50 for each initial and renewal registration of private autos and light trucks, which must be used as provided in the TD Program.⁶⁵ The trust fund also statutorily receives:

- A \$5 portion of the \$15 fee for a temporary disabled parking permit, which must be used for matching grants to counties to improve transportation of persons who have disabilities;⁶⁶
- Voluntary contributions, which must be used as provided in the TD Program;⁶⁷
- An annual \$10 million from the proceeds of fees for original and duplicate certificates of title transferred from the STTF, which must be used as provided in the TD Program; and⁶⁸
- Additional amounts from the STTF, reflected in the chart below.

⁶⁰ The commission reports that in Fiscal Year 2017-2018, local government was the largest contributor of revenues to the coordinated system, providing revenues reaching \$118 million. *See Florida Commission for the Transportation Disadvantaged, 2018 Annual Performance Report*, January 1, 2019, at p. 7. (On file in the Senate Committee on Infrastructure and Security.)

⁶¹ *Id.* at p. 8.

⁶² *Id.*

⁶³ These are services between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and the service provider. Paratransit service may be provided by taxis, limousines, "dial-a-ride," buses, and other demand responsive operations characterized by their nonscheduled, non-fixed route. Section 427.011(9), F.S.

⁶⁴ *Id.* Fixed-route and paratransit are not the only available service.

⁶⁵ Section 320.03(9), F.S.

⁶⁶ Section 320.0848(4)(c)2., F.S.

⁶⁷ Section 320.02(15), F.S., requires the application form for motor vehicle registration to include language permitting a voluntary contribution of \$1 per applicant, which must be deposited into the Transportation Disadvantaged Trust Fund and used as provided in the TD Program.

⁶⁸ Section 339.0801(3), F.S.

For the 2019-2020 fiscal year, the Commission reports the following projections for funds to be deposited in the TDTF from state sources identified above:⁶⁹

Fiscal Year 2019-2020 Revenue Streams	
Source	Projection
Registration fees	\$22,311,506
Parking permits	\$361,213
Voluntary contributions	\$7,683
Original and duplicate certificates of title	\$10,000,000
STTF (Dedicated district revenue)	\$3,000,000
STTF (Public Transit Office)	\$3,000,000
STTF (Rural Capital Equipment)	\$1,400,000
STTF (15% of FDOT Public Transit Block Grant)	\$15,210,763
Interest	\$500,000
TOTAL	\$55,791,165

Workforce Development

The Department of Economic Opportunity (DEO) estimates that the highway, street, and bridge construction industry statewide will grow 8.75 percent over the next eight years. Industry and occupational projections for the highway, street, and bridge construction industry comparing 2018 and 2026 predict high potential gaps in the supply of available trained individuals in the following occupations:

- Carpenters.
- First-line supervisors of construction trades and extraction workers.
- First-line supervisors of transportation and material-moving machine and vehicle operators.
- Mobile heavy equipment mechanics, except engines.
- Operating engineers and other construction equipment operators.
- Plumbers, pipefitters, and steamfitters.
- Structural iron and steel workers.
- Surveyors.⁷⁰

Less severe but still moderate potential gaps in the supply of available trained individuals are estimated to occur for crane and tower operators and for electricians.⁷¹

The FDOT currently engages in workforce development services. As an example, the FDOT's District 7 is currently conducting a pilot program in coordination with community partners to identify and connect qualified workers for projects such as the Gateway Expressway in Pinellas County, and to identify and recruit entry level workers in the Tampa Bay area, including on-the-job training. Candidates were recently selected for the 30 openings in the program, which

⁶⁹ See the Commission's email to committee staff dated February 6, 2019. (On file in the Senate Infrastructure and Security Committee.)

⁷⁰ Email from Matt Spritz, DEO Legislative Affairs Director, to Senate Infrastructure and Security Staff dated February 22, 2019. (On file in the Senate Infrastructure and Security Committee.)

⁷¹ *Id.*

includes a week-long career training course.⁷² Candidates with heavy construction experience were eligible for direct hire by the contractor performing construction on the Gateway Expressway and were not required to complete the course.⁷³

Expansion of a more robust workforce development program within the FDOT, focused on training and recruiting workers to support construction of multiuse infrastructure and facilities accommodating emerging technologies, could facilitate creation of a better-trained workforce throughout the state, and particularly within communities in which the FDOT constructs projects.

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:

Multi-use Corridors of Regional Economic Significance (M-CORES) Program (Section 1)

Section 1 of the bill creates s. 338.2278, F.S., establishing the M-CORES Program within the FDOT. The stated purpose of the program is to revitalize rural communities, encourage job creation, and provide regional connectivity, while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources. The objective of the program is to advance construction of regional corridors that are intended to accommodate multiple modes of transportation and multiple types of infrastructure.

The intended benefits of the program include addressing such issues as:

- Hurricane evacuation;
- Congestion mitigation;
- Trade and logistics;
- Broadband, water, and sewer connectivity;
- Energy distribution;
- Autonomous, connected, shared, and electric vehicle technology;
- Other transportation modes, such as shared-use non-motorized trails, freight and passenger rail, and public transit;
- Mobility as a service; and
- Availability of a trained workforce skilled in traditional and emerging technologies.
- Protection or enhancement of wildlife corridors or environmentally sensitive areas.

The bill identifies the following three corridors comprising the M-CORES Program:

- Southwest-Central Florida Connector (Collier County to Polk County);
- Suncoast Connector (Citrus County to Jefferson County); and

⁷² Pinellas County Urban League, *Gateway Expressway Workforce Pilot Program*, available at <https://www.pcul.org/news/gateway-expressway-construction> (last visited March 13, 2019).

⁷³ See *Gateway Expressway Career Course Process for Community Partners*, available at <https://drive.google.com/file/d/1ih3gGwjUSckGR49hZQZSvETaMRn3G1cy/view> (last visited March 13, 2019).

- Northern Turnpike Connector (northern terminus of the Florida Turnpike northwest to the Suncoast Parkway).

The bill requires projects undertaken in the identified corridors to be tolled facilities, deems such projects as approved turnpike projects that are part of the turnpike system, and considers project facilities as SIS facilities. To the maximum extent feasible, the bill requires corridor project construction to begin no later than December 31, 2022, with the corridors open to traffic no later than December 31, 2030.

The bill requires the FDOT, during the project development phase, to identify opportunities to accommodate or collocate near the M-CORES multiple types of infrastructure that address the issues identified above. The FDOT must also convene a task force, appointed by the FDOT secretary by August 1, 2019, for each corridor composed of representatives of:

- The Department of Environmental Protection;
- The Department of Economic Opportunity;
- The Department of Education;
- The Department of Health;
- The Fish and Wildlife Conservation Commission;
- The Department of Agriculture and Consumer Services;
- The local water management district or districts;
- A local government official from each local government within a proposed corridor;
- Metropolitan planning organizations;
- Regional planning councils; and
- Other appropriate conservation or community not-for-profit organizations as determined by the FDOT.

Each corridor task force will coordinate with the FDOT on pertinent aspects of corridor analysis and evaluate the need and the economic and environmental, hurricane evacuation, and land use impacts of the corridors. The task force for each corridor may consider innovative concepts to combine right-of-way acquisition with the acquisition of lands or easements to facilitate mitigation of environmental, wildlife habitat, and water quality protection. In designing the corridors, the FDOT must adhere to the recommendations of the task to the maximum extent feasible.

Specifically, the task force for the Southwest-Central Florida Connector must address the impacts of project construction on panther and other critical wildlife habitats and evaluate wildlife crossing design features to protect such wildlife. The task force must also evaluate the need for acquisition of land for state conservation or as mitigation for construction.

The task force for the Suncoast Connector and for the Northern Turnpike Connector must evaluate designs and acquisition of land to mitigate construction impacts on water quality, agricultural land use, and wildlife habitats.

Each task force must hold public meetings in each local government jurisdiction in which a corridor project is being considered. Task forces are required to report their evaluations in a final report submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2020. Construction in a corridor may not be funded until the final report

is submitted and until 30 percent of the design phase is complete (except for project phases under construction or for which alignment has been determined).

Corridor projects are subject to the FDOT's responsibilities for environmental review applicable under the National Environmental Policy Act.⁷⁴ If such review is not required, the FDOT must otherwise perform a project evaluation that considers the following:

- Project purpose and need.
- An alternatives analysis.
- Existing conditions of the project area and potential impacts or enhancements the project may have on social, economic, cultural, natural, and connectivity issues and resources.
- Anticipated permits identified during the project development and environmental study.
- Opportunities for stakeholders and regulatory agency coordination.
- Public and agency comments and coordination.

At a minimum, the bill requires that project decisions on matters such as corridor configuration, project alignment, and interchange locations must be determined in accordance with applicable FDOT rules, policies, and procedures.

Projects in the M-CORES are generally subject to the same review and development requirements and related processes as are currently applicable to the FDOT's projects, regardless of whether federal funds are used.

Subject to the economic and environmental feasibility statement requirements for proposed turnpike projects,⁷⁵ the bill authorizes 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. 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.

⁷⁴ The National Environmental Policy Act (NEPA) was enacted in 1969 "in response to public concern about the deteriorating quality of the "human" environment and the inadequate consideration of environmental impacts of major federal projects. The human environment encompasses the following areas: physical (geology, soils, air, water), biological (plants, animals), social (communities, economics), and cultural (archaeological and historic resources). The intent of NEPA is to ensure safe, healthful, productive, and esthetically and culturally pleasing surroundings. NEPA helps federal agencies incorporate these values into their programs by requiring them to give equal consideration to environmental factors, in addition to financial and technical factors, in their planning and decision-making processes. NEPA establishes a national policy for the protection and maintenance of the environment by providing a process which all federal agencies must follow." See Federal Emergency Management Agency, *National Environmental Policy Act*, Description and Intent, available at <https://www.fema.gov/office-environmental-planning-and-historic-preservation/national-environmental-policy-act> (last visited March 13, 2019). Responsibilities relating to the required reviews under NEPA are delegated to the FDOT under federal law. See s. 334.044(34), F.S.

⁷⁵ Section 338.223, F.S.

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 projects in the M-CORES Program, as provided in the State Bond Act.

Projects constructed in the corridors will be tolled facilities and part of the turnpike system. 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. Upon legislative approval of the projects in the tentative work program, issuance of turnpike revenue bonds will be authorized to pay all or any part of the legislatively approved turnpike projects, subject to the restriction limiting the amount of bonds that may be outstanding for approved turnpike projects to \$10 billion. The principal and interest on any turnpike revenue bonds issued for these projects will be payable solely from revenues pledged for their repayment.

Increased Revenues to the STTF – Motor Vehicle License Taxes (Sections 1 and 3)

Present Situation

Section 320.08, F.S., imposes annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, and mobile homes. For certain vehicles, a portion of the tax is currently deposited into the General Revenue Fund. The table below shows the tax imposed for the specified vehicle type and the portions of the tax that are currently deposited into the General Revenue Fund.

Sources of Increased Revenues from Motor Vehicle License Taxes		
General Revenue Deposits		
Vehicle Type	Tax	GR Deposit
Ancient or antique motorcycle	\$7.50	\$2.50
Heavy trucks and truck tractors	\$60.75 to \$1,080 according to vehicle weight	\$15.75 to \$343
Semitrailers	\$13.50 annual or \$68 permanent	\$3.50 or \$18
Wreckers	\$41 to \$1,322 depending on use	\$11 to \$343
Hearse or ambulance	\$40.50	\$10.50
Motor vehicles for-hire	\$17 plus \$1.50 per cwt ⁷⁶	\$5
Trailers for private use	\$6.75 or \$3.50 depending on weight	\$1.75 or \$.25
Trailers for hire	\$3.50 or \$13.50, depending on weight, plus \$1.50 per cwt	\$1.50 or \$4
Travel trailer or fifth-wheel 35' max	\$27	\$7
Camping trailer	\$13.50	\$3.50
Motor home or private motor coach	\$27 to \$47.25 depending on weight	\$7 or \$12.25
Dealer & manufacturer license plates	\$17	\$4.50
Exempt of official license plate	\$4	\$1

⁷⁶ "Cwt" means the weight per hundred pounds, or major fraction thereof, of a motor vehicle. Section 320.20(8), F.S.

Locally operated motor vehicles for hire	\$17 plus \$2 per cwt	\$5
Transporter license plate	\$101.25	\$26.25

Section 320.20, F.S., governs the current distribution of revenue derived from the registration of motor vehicles. All remaining funds are deposited into the STTF after state constitutionally required distributions to: education (the district Capital Outlay and Debt Service School Trust Fund); the STTF for priority completion of the interstate highway system and general transportation purposes; and the Florida Seaport Transportation and Economic Development Program and seaport intermodal access projects of statewide significance.⁷⁷

Effect of Proposed Changes

Section 3 of the bill amends s. 320.08, F.S., removing the distribution to the General Revenue Fund of the specified portions of revenue derived from registration of the identified vehicles, resulting in increased deposits into the STTF. Deposits into the General Revenue Fund would decrease and end altogether, based upon a phased-in schedule of distribution in Section 1 of the bill. The increased revenues to the STTF and decreased revenues to the General Revenue Fund, are reflected in the table below:⁷⁸

Phased-In Schedule of Distribution Revenues from Motor Vehicle License Taxes		
Fiscal Year	STTF	GR Fund
2019-2020	\$45 million	\$83.9 million
2020-2021	\$90 million	\$40.8 million
2021-2022 and thereafter	\$132.5 million	\$0

The bill requires allocation of the amounts retained in the STTF for use in the M-CORES Program, the SCRAP, the SCOP, the Transportation Disadvantaged Program, and for the newly-created workforce development program within FDOT (discussed below), as reflected in the table below:

Allocation of Amounts Retained in the State Transportation Trust Fund					
Fiscal Year	M-CORES	SCRAP	SCOP	TDTF	Workforce Development
2019-2020	\$12.5 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2020-2021	\$57.5 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2021-2022	Remainder of funds: estimated \$101.7 million	\$10 million	\$10 million	\$10 million	\$2.5 million

⁷⁷ Section 320.20(5)(a), F.S.

⁷⁸ These amounts are estimates only. See Section V.

2022-2023 and thereafter	Remainder of funds: estimated \$105.9 million	\$10 million	\$10 million	\$10 million	\$0

The allocated funds are in addition to any other statutory funding allocations provided by law.

The bill also requires that in each fiscal year in which funding provided for the SCRAP, the SCOP, the TD Trust Fund, or the workforce development program is not committed by the end of each fiscal year, the FDOT must use such uncommitted funds for M-CORES Program projects. The bill also authorizes amendment of the FDOT's adopted work program to implement this provision.⁷⁹

The funds allocated for the SCRAP and SCOP are to be used with preference for projects in counties impacted by hurricanes. The FDOT is further authorized, in its discretion for hurricane impacted counties, to waive consideration of local matching funds under the SCRAP and may waive the match requirement under the SCOP for projects funded by the program allocations in the bill.

The funds allocated to the TD Trust Fund 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. Transportation services are those that increase access to job training, employment, health care, and other life-sustaining services; that enhance regional connectivity and cross-county mobility; or reduce difficulty in connecting to transportation hubs and from hubs to final destinations.

Additional Revenues to the M-CORES Program (Sections 4 and 5)

Present Situation

In addition to the funding sources for the turnpike system discussed above, s. 339.0801(2), F.S., requires that \$35 million be transferred from the STTF 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.⁸⁰

Effect of Proposed Changes

Section 5 of the bill amends s. 339.0801(2), F.S., continuing the current \$35 million in annual funding to the FTE for three fiscal years, 2019-2020, 2020-2021, and 2021-2022. Beginning in Fiscal Year 2022-2023, the bill annually transfers the same amount to the FTE, but requires it to be used in accordance with M-CORES Program requirements and with *preference* for feeder roads, structures, interchanges, and appurtenances to create or facilitate access to the existing turnpike system.

Section 4 of the bill creates s. 339.1373, F.S., to direct the FDOT to:

- Allocate sufficient funds to implement the M-CORES Program;

⁷⁹ See s. 339.175(7), F.S., for a description of the process for amending of the FDOT's adopted work program.

⁸⁰ These transfers began in the 2013-2014 fiscal year and are to be made annually for up to 30 years.

- Develop a plan to expend the revenues as specified in s. 338.2278, F.S. (Section 1);
- Amend the current tentative work program for the time period 2019-2020 through 2023-2024 prior to adoption to include projects funded in the M-CORES Program; and
- Submit a budget amendment pursuant to s. 339.135(7), F.S., requesting budget authority needed to implement the M-CORES Program.

This section of the bill also requires the FDOT to use the increased revenues to the STTF derived from the re-direction of distributions of revenue from motor vehicle registrations to fund the M-CORES, SCRAP, SCOP, Transportation Disadvantaged, and workforce development programs as specified in Section 1.

FDOT Workforce Development (Section 2)

Present Situation

As discussed above in the Present Situation, research reveals that ongoing and projected highway, street, and bridge construction workforce shortage in this state may be alleviated by creation of a statewide workforce development program within the FDOT that builds on its existing workforce services.

Effect of Proposed Changes

Section 2 of the bill amends s. 334.044, F.S., to authorize the FDOT to provide a road and bridge construction workforce development program for construction of projects designated in the FDOT's work program.⁸¹ Section 1 of the bill allocates \$2.5 million to the STTF to fund the program in Fiscal Years 2019-2020, 2020-2021, and 2021-2022. The program is not repealed when the dedicated funding ceases, but remains authorized in statute and may be administered by the FDOT to the extent that future funding resources are available.

The stated intent of the program is to provide direct economic benefits to communities in which the FDOT is constructing infrastructure projects and to promote employment opportunities, including within areas of low income and high unemployment. The program serves as a tool to address the construction labor shortage by recruiting and building a pipeline of skilled workers for multiuse infrastructure projects.

The FDOT is directed to merge any of its existing workforce services into the program to create a robust program. The FDOT is authorized to administer workforce development contracts with consultants and non-profit entities, such as local community partners, state colleges, and technical institutions. These entities, as specified in a contract with the FDOT, are deemed to have the primary purposes of providing:

- Workforce recruitment;
- Training curriculum for the FDOT's road and bridge construction and corridor projects; and
- Providing support services to remove barriers to work.

The FDOT must develop performance and outcome metrics to ensure accountability and measure the benefits and cost-effectiveness of the program. By June 30, 2020, and annually thereafter, the

⁸¹ The bill directs the FDOT to consult with affected stakeholders.

FDOT must provide a report to the Governor, President of the Senate, and Speaker of the House of Representatives detailing the results of its findings and providing recommendations relating to future program refinements.

Mitigation of the existing highway construction labor shortage may occur as a result of the FDOT implementing a more robust workforce development program, providing increased employment opportunities, and reducing costs for businesses and for the state and local governments.

Effective Date

The bill is effective on July 1, 2019.

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:**

The bill will redirect the collections of motor vehicle license taxes under s. 320.08, F.S., from the General Revenue Fund to the STTF. The General Revenue Fund will be reduced by the amounts currently deposited into that fund from the motor vehicle license taxes and the STTF would be increased by corresponding amounts. The change in distributions are estimated as follows:⁸²

⁸² Office of Economic and Demographic Research, *Highway Safety Fees: SB 7068*, March 15, 2019, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/page170-173.pdf (last visited March 20, 2019).

Phased-In Schedule of Distribution Revenues from Motor Vehicle License Taxes		
Fiscal Year	STTF	GR Fund
2019-2020	\$45 million	\$83.9 million
2020-2021	\$90 million	\$40.1 million
2020-2021 and thereafter	\$132.5 million	\$0

Beginning with the 2021-2022 fiscal year, the General Revenue Fund will no longer receive any portion of the motor vehicle license taxes. Thereafter, all of the proceeds from such taxes, after constitutionally required distributions, will be redirected to the STTF under existing s. 320.20(5)(a), F.S.

The bill allocates the proceeds of the taxes redirected into the STTF to the M-CORES Program, the SCRAP, the SCOP, the Transportation Disadvantaged Program, and the FDOT workforce development program. The bill specifies the uses as follows, based upon estimated impacts:

Allocation of Amounts Retained in the State Transportation Trust Fund					
Fiscal Year	M-CORES	SCRAP	SCOP	TDTF	Workforce Development
2019-2020	\$12.5 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2020-2021	\$57.5 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2021-2022 and thereafter	Remainder of funds – estimated \$101.7 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2022-2023 and thereafter ⁸³	Remainder of funds – estimated \$105.9 million	\$10 million	\$10 million	\$10 million	\$0

B. Private Sector Impact:

The traveling public, including individuals residing in rural areas, may benefit from increased transportation options resulting from construction of projects in the identified corridors, as well as other traditional transportation functions such as improved hurricane evacuation, congestion mitigation, and energy distribution; and from opportunities for other transportation modes, such as passenger rail and shared-use trails. Preparation for emerging technologies such as autonomous, connected, shared, and electric vehicle technology, including the option to obtain transportation mobility services on-demand and online, may also benefit users of the new facilities as more such vehicles are deployed in the state. Transportation disadvantaged persons may benefit from increased

⁸³ *Id.*

opportunities for mobility services provided under the Transportation Disadvantaged Program.

Businesses may benefit from improved trade and logistics options, such as freight rail and potential connections to facilities such as intermodal logistic centers, as well as improved possibilities for business site selection due to availability of broadband access in the corridors. Construction businesses may experience improved employee recruitment as a result of the workforce development program. To the extent that the bill enables businesses to grow, this could increase economic activity in both urban and rural areas of the state.

Individuals residing in rural areas may benefit from improvement to local roads as a result of increased funding to the SCRAP and the SCOP, particularly those impacted by hurricanes. Increased access to facilities that include services such as broadband access may provide improved opportunities for education, skills training, and host of other services available online. Such individuals may also benefit from improved water and sewer connectivity. Individuals statewide, as well as those residing in communities affected by such projects, may benefit from opportunities for workforce training. All of these benefits may generally enhance the quality of life for individuals residing in rural areas.

C. Government Sector Impact:

Project development for M-CORES is yet to occur and decisions related to necessary financing mechanisms for the projects are yet to be formulated. The bill requires the creation of task forces to evaluate the corridor projects prior to any construction occurring. Any impact to the FDOT to implement this requirement, hold the required public meetings, and issue the final reports can be absorbed within existing resources.

The bill authorizes 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. As such, the fiscal impact is indeterminate but will be subject to appropriation when the M-CORES projects are included in the work program.

General improvement in operation and efficiency of the state's transportation system is expected to occur, particularly with respect to matters such as hurricane evacuation, congestion mitigation, and intermodal transportation options. Transportation infrastructure broadened to include other essential services such as broadband, water, and sewer connectivity may generally improve quality of life in the state and attract new, or facilitate growth of, business opportunities. An available pool of individuals trained with the skills necessary to construct facilities, both traditionally and in light of the broader view of infrastructure, may reduce project costs by facilitating completion of construction projects.

The fiscal impact to local revenues and expenditures is indeterminate. However, increased funding to the SCRAP and the SCOP is expected to assist smaller local

governments with improvements to local roads, particularly in those counties impacted by hurricanes. Local governments affected by projects in the corridors may benefit from improved transportation and related functions, including funding for facilities that improve connectivity with other highways and modes of transportation, and also from improved ability to provide essential services, such as water and sewer connectivity.

Local governments may also experience improved ability to attract business investment in their respective communities, facilitated by the presence of services critical to such businesses, such as broadband access and opportunities for increased trade. Increased business and employment opportunities may facilitate economic development, resulting in growth of local tax bases.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08, 334.044, and 339.0801.

This bill creates 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.)

Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 19, 2019:

The committee substitute:

- Specifies that protecting the environment and natural resources is an additional consideration of the M-CORES program.
- Specifies additional intended benefits that the M-CORES program could address:
 - Public transit as an example of other transportation modes.
 - Protection or enhancement of wildlife corridors or environmentally sensitive areas.
- Removes the requirement of the FDOT to consult the state agencies and stakeholders when developing the corridors and requires a task force for each corridor.
- Revises the distribution of funds to the M-CORES program beginning in Fiscal Year 2021-2022 and each year thereafter to be the remainder of funds after all other allocations are made.
- Requires allocations made to the TD Trust Fund be used to award competitive grants to community transportation coordinators and transportation network companies.

- Corrects technical deficiencies and other scrivener's errors.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment

Delete line 220
and insert:
Representatives by October 1, 2020.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to transportation; creating s.
338.2278, F.S.; creating the Multi-use Corridors of
Regional Economic Significance Program within the
Department of Transportation; providing the purpose of
the program; specifying the corridors included in the
program; specifying that projects undertaken in the
corridors are tolled facilities and certain approved
turnpike projects, and are considered as Strategic
Intermodal System facilities; requiring the department
to identify certain opportunities to accommodate or
colocate multiple types of infrastructure-addressing
issues during the project development phase; requiring
the department to utilize an inclusive, consensus-
building mechanism for each proposed multi-use
corridor identified during the project development
phase; requiring the department to convene a corridor
task force composed of certain representatives for
each multi-use corridor; requiring the secretary of
the department to appoint the members of the
respective corridor task forces by a specified date;
providing requirements for the corridor tasks forces;
requiring the department to adhere to certain
recommendations of the task force created for each
corridor; authorizing the task force for each corridor
to consider and recommend certain innovative concepts;



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authorizing the department, in consultation with the
Department of Environmental Protection, to incorporate
certain features into each corridor during the project
development phase; requiring each corridor task force
to submit a certain report to the Governor and the
Legislature by a specified date; providing specified
requirements that must be met before project
construction in any identified corridor is eligible
for funding; providing exceptions to such
requirements; authorizing sources of funding for the
projects; authorizing the department to accept certain
donations of land for the projects; requiring that
certain toll revenues from the turnpike system be used
to repay advances received from the State
Transportation Trust Fund; providing requirements for
the department relating to certain delegated
responsibilities; requiring the department to perform
a specified project evaluation on certain projects;
requiring that certain decisions on projects be
determined in accordance with applicable department
rules, policies, and procedures; authorizing the
Division of Bond Finance, on behalf of the department,
to issue certain bonds to finance projects in the
program, as provided in the State Bond Act; providing
specified dates for the construction of the projects
and opening of the corridors; providing for specified
transfers from the State Transportation Trust Fund to
the General Revenue Fund; providing for specified
allocations of such transfers; providing requirements



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56 for use of funds allocated to the Transportation
57 Disadvantaged Trust Fund; providing that allocated
58 funds are in addition to any other statutory funding
59 allocations; requiring that specified uncommitted
60 funds be used by the department to fund program
61 projects; authorizing the adopted work program to be
62 amended to transfer funds between appropriations
63 categories or to increase an appropriation category
64 for a certain purpose; authorizing the department to
65 waive consideration of certain matching funds relating
66 to specified programs for hurricane-impacted counties
67 with respect to certain project awards; amending s.
68 334.044, F.S.; requiring that the department, in
69 consultation with affected stakeholders, provide a
70 road and bridge construction workforce development
71 program for construction of projects designated in the
72 department's work program; providing intent for the
73 workforce development program; providing requirements
74 for the department and the program; authorizing the
75 department to administer certain workforce development
76 contracts with consultants and nonprofit entities;
77 providing primary purposes for such entities;
78 requiring the department to prepare and provide a
79 certain report to the Governor and the Legislature by
80 a specified date; amending s. 320.08, F.S.; deleting a
81 requirement that specified fees from annual license
82 taxes be deposited into the General Revenue Fund;
83 creating s. 339.1373, F.S.; requiring that the
84 department allocate sufficient funds to implement the



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85 Multi-use Corridors of Regional Economic Significance
86 Program, develop a plan to expend revenues, and, prior
87 to its adoption, amend the current tentative work
88 program for specified fiscal years to include program
89 projects; requiring the department to submit a certain
90 budget amendment; requiring that specified increases
91 in revenue to the State Transportation Trust Fund be
92 used by the department to fund the Multi-use Corridors
93 of Regional Economic Significance Program; amending s.
94 339.0801, F.S.; limiting to specified fiscal years a
95 previously authorized transfer of funds to Florida's
96 Turnpike Enterprise; requiring that, beginning with a
97 specified fiscal year, such transfer be allocated for
98 a certain purpose with certain specified preferences;
99 providing an effective date.

100
101 Be It Enacted by the Legislature of the State of Florida:

102
103 Section 1. Section 338.2278, Florida Statutes, is created
104 to read:

105 338.2278 Multi-use Corridors of Regional Economic
106 Significance Program.-

107 (1) There is created within the department the Multi-use
108 Corridors of Regional Economic Significance Program. The purpose
109 of the program is to revitalize rural communities, encourage job
110 creation, and provide regional connectivity while leveraging
111 technology, enhancing quality of life and public safety, and
112 protecting the environment and natural resources. The objective
113 of the program is to advance the construction of regional



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corridors that are intended to accommodate multiple modes of transportation and multiple types of infrastructure. The intended benefits of the program include, but are not limited to, addressing issues such as:

(a) Hurricane evacuation.

(b) Congestion mitigation.

(c) Trade and logistics.

(d) Broadband, water, and sewer connectivity.

(e) Energy distribution.

(f) Autonomous, connected, shared, and electric vehicle technology.

(g) Other transportation modes, such as shared-use nonmotorized trails, freight and passenger rail, and public transit.

(h) Mobility as a service.

(i) Availability of a trained workforce skilled in traditional and emerging technologies.

(j) Protection or enhancement of wildlife corridors or environmentally sensitive areas.

(2) The program is composed of all of the following corridors:

(a) Southwest-Central Florida Connector, extending from Collier County to Polk County.

(b) Suncoast Connector, extending from Citrus County to Jefferson County.

(c) Northern Turnpike Connector, extending from the northern terminus of the Florida Turnpike northwest to the Suncoast Parkway.

(3) (a) Projects undertaken in the corridors identified in



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subsection (2) are tolled facilities and approved turnpike projects that are part of the turnpike system, and are considered as Strategic Intermodal System facilities.

(b) During the project development phase, the department shall identify opportunities to accommodate or colocate multiple types of infrastructure-addressing issues, such as those identified in subsection (1), within or adjacent to the corridors.

(c) 1. During the project development phase, the department shall utilize an inclusive, consensus-building mechanism for each proposed multi-use corridor identified in subsection (2). For each multi-use corridor identified in subsection (2), the department shall convene a corridor task force composed of appropriate representatives of:

a. The Department of Environmental Protection;

b. The Department of Economic Opportunity;

c. The Department of Education;

d. The Department of Health;

e. The Fish and Wildlife Conservation Commission;

f. The Department of Agriculture and Consumer Services;

g. The local water management district or districts;

h. A local government official from each local government within a proposed corridor;

i. Metropolitan planning organizations;

j. Regional planning councils; and

k. Other appropriate conservation or community not-for-profit organizations as determined by the department.

2. The secretary of the department shall appoint the members of the respective corridor task forces by August 1,



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2019.

3. Each corridor task force shall coordinate with the department on pertinent aspects of corridor analysis, including accommodation or colocation of multiple types of infrastructure, addressing issues such as those identified in subsection (1), within or adjacent to the corridor.

4. Each corridor task force shall evaluate the need for, and the economic and environmental impacts of, hurricane evacuation impacts of, and land use impacts of, the related corridor as identified in subsection (2).

5. Each corridor task force shall hold a public meeting in accordance with chapter 286 in each local government jurisdiction in which a project within an identified corridor is being considered.

6. To the maximum extent feasible, the department shall adhere to the recommendations of the task force created for each corridor in the design of the multiple modes of transportation and multiple types of infrastructure associated with the corridor. The task force for each corridor may consider and recommend 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. The department, in consultation with the Department of Environmental Protection, may incorporate those features into each corridor during the project development phase.

7. The Southwest-Central Florida Connector corridor task force shall:

a. Address the impacts of the construction of a project



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within the corridor on panther and other critical wildlife habitat and evaluate in its final report the need for acquisition of lands for state conservation or as mitigation for project construction; and

b. Evaluate wildlife crossing design features to protect panther and other critical wildlife habitat corridor connections.

8. The Suncoast Connector corridor task force and the Northern Turnpike Connector corridor task force shall evaluate design features and the need for acquisition of state conservation lands that mitigate the impact of project construction within the respective corridors on:

a. The water quality and quantity of springs, rivers, and aquifer recharge areas;

b. Agricultural land uses; and

c. Wildlife habitat.

9. Each corridor task force shall issue its evaluations in a final report that must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2020.

(4)(a) Project construction in any corridor identified in subsection (2) is not eligible for funding until submission of the final report of the corridor task force for that corridor required in subsection (3) and completion of 30 percent of the design phase of any project within a corridor identified in subsection (2), except for project phases that are under construction or for which project alignment has been determined.

(b) Subject to the economic and environmental feasibility statement requirements of s. 338.223, projects may be funded



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through turnpike revenue bonds or right-of-way 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. 337.25. 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 Fund.

(c)1. Projects undertaken under this section are subject to the department's delegated responsibilities 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. 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:

- a. Project purpose and need;
- b. An alternatives analysis;
- c. Existing conditions of the project area and potential impacts or enhancements the project may have on social, economic, cultural, natural, and connectivity issues and resources;



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d. Anticipated permits identified during the project development and environmental study;

e. Opportunities for stakeholder and regulatory agency coordination; and

f. Public and agency comments and coordination.

2. At a minimum, for projects constructed under this section, decisions on matters such as corridor configuration, project alignment, and interchange locations must be determined in accordance with applicable department rules, policies, and procedures.

(5) 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 and bridge construction bonds, turnpike revenue bonds, and Florida Department of Transportation Financing Corporation bonds to finance program projects, as provided in the State Bond Act.

(6) To the maximum extent feasible, construction of the projects shall begin no later than December 31, 2022, with the corridors open to traffic no later than December 31, 2030.

(7) Funds that result from increased revenues to the State Transportation Trust Fund derived from the amendments to s. 320.08 made by this act and deposited into the fund pursuant to s. 320.20(5)(a) must be used as follows:

(a) For the 2019-2020 fiscal year, \$45 million shall be retained in the State Transportation Trust Fund, and the remaining funds shall be transferred to the General Revenue Fund.

(b) For the 2020-2021 fiscal year, \$90 million shall be retained in the State Transportation Trust Fund, and the



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288 remaining funds shall be transferred to the General Revenue
289 Fund.

290 (c) For the 2021-2022 fiscal year and each fiscal year
291 thereafter, all of the funds shall be retained in the State
292 Transportation Trust Fund.

293 (8) The amounts identified in subsection (7) by fiscal year
294 shall be allocated as follows:

295 (a) For the 2019-2020 fiscal year, to the:

296 1. Multi-use Corridors of Regional Economic Significance
297 Program, \$12.5 million, to be used as specified in this section;

298 2. Small County Road Assistance Program, \$10 million, to be
299 used as specified in s. 339.2816, with preference to projects in
300 counties impacted by hurricanes;

301 3. Small County Outreach Program, \$10 million, to be used
302 as specified in s. 339.2818, with preference to projects in
303 counties impacted by hurricanes;

304 4. Transportation Disadvantaged Trust Fund, \$10 million, to
305 be used as specified in s. 427.0159; and

306 5. Workforce development program, \$2.5 million, to be used
307 as specified in s. 334.044(35).

308 (b) For the 2020-2021 fiscal year, to the:

309 1. Multi-use Corridors of Regional Economic Significance
310 Program, \$57.5 million, to be used as specified in this section;

311 2. Small County Road Assistance Program, \$10 million, to be
312 used as specified in s. 339.2816, with preference to projects in
313 counties impacted by hurricanes;

314 3. Small County Outreach Program, \$10 million, to be used
315 as specified in s. 339.2818, with preference to projects in
316 counties impacted by hurricanes;



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317 4. Transportation Disadvantaged Trust Fund, \$10 million, to
318 be used as specified in s. 427.0159; and

319 5. Workforce development program, \$2.5 million, to be used
320 as specified in s. 334.044(35).

321 (c) For the 2021-2022 fiscal year, to the:

322 1. Small County Road Assistance Program, \$10 million, to be
323 used as specified in s. 339.2816, with preference to projects in
324 counties impacted by hurricanes;

325 2. Small County Outreach Program, \$10 million, to be used
326 as specified in s. 339.2818, with preference to projects in
327 counties impacted by hurricanes;

328 3. Transportation Disadvantaged Trust Fund, \$10 million, to
329 be used as specified in s. 427.0159;

330 4. Workforce development program, \$2.5 million, to be used
331 as specified in s. 334.044(35); and

332 5. The remaining funds under this paragraph shall be used
333 for the Multi-use Corridors of Regional Economic Significance
334 Program, as specified in this section.

335 (d) For the 2022-2023 fiscal year and each fiscal year
336 thereafter, to the:

337 1. Small County Road Assistance Program, \$10 million, to be
338 used as specified in s. 339.2816, with preference to projects in
339 counties impacted by hurricanes;

340 2. Small County Outreach Program, \$10 million, to be used
341 as specified in s. 339.2818, with preference to projects in
342 counties impacted by hurricanes;

343 3. Transportation Disadvantaged Trust Fund, \$10 million, to
344 be used as specified in s. 427.0159; and

345 4. The remaining funds under this paragraph shall be used



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for the Multi-use Corridors of Regional Economic Significance Program, as specified in this section.

(e) Funds allocated to the Transportation Disadvantaged Trust Fund in this subsection shall be used to award competitive grants to community transportation coordinators and transportation network companies for the purposes of providing cost-effective, door-to-door, on-demand, and scheduled transportation services that:

1. Increase a transportation disadvantaged person's access to and departure from job training, employment, health care, and other life-sustaining services;

2. Enhance regional connectivity and cross-county mobility;
or

3. Reduce the difficulty in connecting transportation disadvantaged persons to a transportation hub and from the hub to their final destination.

(f) The funds allocated as provided in this subsection shall be in addition to any other statutory funding allocations provided by law.

(g) In each fiscal year in which funding provided under this subsection for the Small County Road Assistance Program, the Small County Outreach Program, the Transportation Disadvantaged Trust Fund, or the workforce development program is not committed by the end of each fiscal year, such uncommitted funds shall be used by the department to fund Multi-use Corridors of Regional Economic Significance Program projects. As provided in s. 339.135(7), the adopted work program may be amended to transfer funds between appropriations categories or to increase an appropriation category to implement



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this paragraph.

(9) The department, in its discretion and for hurricane-impacted counties, may waive consideration of local matching funds under s. 339.2816, relating to the Small County Road Assistance Program, and may waive the match requirement of s. 339.2818, relating to the Small County Outreach Program, with respect to project awards funded by the allocations to those programs provided in this section.

Section 2. Subsection (35) is added to section 334.044, Florida Statutes, 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



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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:

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 multi-use 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. Subsections (1), (4) through (9), and (12) through (15) of section 320.08, Florida Statutes, are amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(4), tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to



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and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES AND MOPEDS.—

(a) Any motorcycle: \$10 flat.

(b) Any moped: \$5 flat.

(c) Upon registration of a motorcycle, motor-driven cycle, or moped, in addition to the license taxes specified in this subsection, a nonrefundable motorcycle safety education fee in the amount of \$2.50 shall be paid. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund to fund a motorcycle driver improvement program implemented pursuant to s. 322.025, the Florida Motorcycle Safety Education Program established in s. 322.0255, or the general operations of the department.

(d) An ancient or antique motorcycle: \$7.50 flat, ~~of which \$2.50 shall be deposited into the General Revenue Fund.~~

(4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS VEHICLE WEIGHT.—

(a) Gross vehicle weight of 5,001 pounds or more, but less than 6,000 pounds: \$60.75 flat, ~~of which \$15.75 shall be deposited into the General Revenue Fund.~~

(b) Gross vehicle weight of 6,000 pounds or more, but less than 8,000 pounds: \$87.75 flat, ~~of which \$22.75 shall be deposited into the General Revenue Fund.~~

(c) Gross vehicle weight of 8,000 pounds or more, but less than 10,000 pounds: \$103 flat, ~~of which \$27 shall be deposited into the General Revenue Fund.~~

(d) Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: \$118 flat, ~~of which \$31 shall be deposited~~



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462 ~~into the General Revenue Fund.~~

463 (e) Gross vehicle weight of 15,000 pounds or more, but less
464 than 20,000 pounds: \$177 flat, ~~of which \$46 shall be deposited~~
465 ~~into the General Revenue Fund.~~

466 (f) Gross vehicle weight of 20,000 pounds or more, but less
467 than 26,001 pounds: \$251 flat, ~~of which \$65 shall be deposited~~
468 ~~into the General Revenue Fund.~~

469 (g) Gross vehicle weight of 26,001 pounds or more, but less
470 than 35,000: \$324 flat, ~~of which \$84 shall be deposited into the~~
471 ~~General Revenue Fund.~~

472 (h) Gross vehicle weight of 35,000 pounds or more, but less
473 than 44,000 pounds: \$405 flat, ~~of which \$105 shall be deposited~~
474 ~~into the General Revenue Fund.~~

475 (i) Gross vehicle weight of 44,000 pounds or more, but less
476 than 55,000 pounds: \$773 flat, ~~of which \$201 shall be deposited~~
477 ~~into the General Revenue Fund.~~

478 (j) Gross vehicle weight of 55,000 pounds or more, but less
479 than 62,000 pounds: \$916 flat, ~~of which \$238 shall be deposited~~
480 ~~into the General Revenue Fund.~~

481 (k) Gross vehicle weight of 62,000 pounds or more, but less
482 than 72,000 pounds: \$1,080 flat, ~~of which \$280 shall be~~
483 ~~deposited into the General Revenue Fund.~~

484 (l) Gross vehicle weight of 72,000 pounds or more: \$1,322
485 flat, ~~of which \$343 shall be deposited into the General Revenue~~
486 ~~Fund.~~

487 (m) Notwithstanding the declared gross vehicle weight, a
488 truck tractor used within the state or within a 150-mile radius
489 of its home address is eligible for a license plate for a fee of
490 \$324 flat if:



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491 1. The truck tractor is used exclusively for hauling
492 forestry products; or

493 2. The truck tractor is used primarily for the hauling of
494 forestry products, and is also used for the hauling of
495 associated forestry harvesting equipment used by the owner of
496 the truck tractor.

497

498 ~~Of the fee imposed by this paragraph, \$84 shall be deposited~~
499 ~~into the General Revenue Fund.~~

500 (n) A truck tractor or heavy truck, not operated as a for-
501 hire vehicle and which is engaged exclusively in transporting
502 raw, unprocessed, and nonmanufactured agricultural or
503 horticultural products within the state or within a 150-mile
504 radius of its home address is eligible for a restricted license
505 plate for a fee of:

506 1. If such vehicle's declared gross vehicle weight is less
507 than 44,000 pounds, \$87.75 flat, ~~of which \$22.75 shall be~~
508 ~~deposited into the General Revenue Fund.~~

509 2. If such vehicle's declared gross vehicle weight is
510 44,000 pounds or more and such vehicle only transports from the
511 point of production to the point of primary manufacture; to the
512 point of assembling the same; or to a shipping point of a rail,
513 water, or motor transportation company, \$324 flat, ~~of which \$84~~
514 ~~shall be deposited into the General Revenue Fund.~~

515

516 Such not-for-hire truck tractors and heavy trucks used
517 exclusively in transporting raw, unprocessed, and
518 nonmanufactured agricultural or horticultural products may be
519 incidentally used to haul farm implements and fertilizers



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delivered direct to the growers. The department may require any documentation deemed necessary to determine eligibility before issuance of this license plate. For the purpose of this paragraph, "not-for-hire" means the owner of the motor vehicle must also be the owner of the raw, unprocessed, and nonmanufactured agricultural or horticultural product, or the user of the farm implements and fertilizer being delivered.

(5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

(a)1. A semitrailer drawn by a GVW truck tractor by means of a fifth-wheel arrangement: \$13.50 flat per registration year or any part thereof, ~~of which \$3.50 shall be deposited into the General Revenue Fund.~~

2. A semitrailer drawn by a GVW truck tractor by means of a fifth-wheel arrangement: \$68 flat per permanent registration, ~~of which \$18 shall be deposited into the General Revenue Fund.~~

(b) A motor vehicle equipped with machinery and designed for the exclusive purpose of well drilling, excavation, construction, spraying, or similar activity, and which is not designed or used to transport loads other than the machinery described above over public roads: \$44 flat, ~~of which \$11.50 shall be deposited into the General Revenue Fund.~~

(c) A school bus used exclusively to transport pupils to and from school or school or church activities or functions within their own county: \$41 flat, ~~of which \$11 shall be deposited into the General Revenue Fund.~~

(d) A wrecker, as defined in s. 320.01, which is used to tow a vessel as defined in s. 327.02, a disabled, abandoned, stolen-recovered, or impounded motor vehicle as defined in s.



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320.01, or a replacement motor vehicle as defined in s. 320.01: \$41 flat, ~~of which \$11 shall be deposited into the General Revenue Fund.~~

(e) A wrecker that is used to tow any nondisabled motor vehicle, a vessel, or any other cargo unless used as defined in paragraph (d), as follows:

1. Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: \$118 flat, ~~of which \$31 shall be deposited into the General Revenue Fund.~~

2. Gross vehicle weight of 15,000 pounds or more, but less than 20,000 pounds: \$177 flat, ~~of which \$46 shall be deposited into the General Revenue Fund.~~

3. Gross vehicle weight of 20,000 pounds or more, but less than 26,000 pounds: \$251 flat, ~~of which \$65 shall be deposited into the General Revenue Fund.~~

4. Gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds: \$324 flat, ~~of which \$84 shall be deposited into the General Revenue Fund.~~

5. Gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds: \$405 flat, ~~of which \$105 shall be deposited into the General Revenue Fund.~~

6. Gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds: \$772 flat, ~~of which \$200 shall be deposited into the General Revenue Fund.~~

7. Gross vehicle weight of 55,000 pounds or more, but less than 62,000 pounds: \$915 flat, ~~of which \$237 shall be deposited into the General Revenue Fund.~~

8. Gross vehicle weight of 62,000 pounds or more, but less than 72,000 pounds: \$1,080 flat, ~~of which \$280 shall be~~



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578 ~~deposited into the General Revenue Fund.~~
579 9. Gross vehicle weight of 72,000 pounds or more: \$1,322
580 flat, of which \$343 shall be deposited into the General Revenue
581 Fund.
582 (f) A hearse or ambulance: \$40.50 flat, of which \$10.50
583 shall be deposited into the General Revenue Fund.
584 (6) MOTOR VEHICLES FOR HIRE.—
585 (a) Under nine passengers: \$17 flat, of which \$4.50 shall
586 be deposited into the General Revenue Fund, plus \$1.50 per cwt,
587 of which 50 cents shall be deposited into the General Revenue
588 Fund.
589 (b) Nine passengers and over: \$17 flat, of which \$4.50
590 shall be deposited into the General Revenue Fund, plus \$2 per
591 cwt, of which 50 cents shall be deposited into the General
592 Revenue Fund.
593 (7) TRAILERS FOR PRIVATE USE.—
594 (a) Any trailer weighing 500 pounds or less: \$6.75 flat per
595 year or any part thereof, of which \$1.75 shall be deposited into
596 the General Revenue Fund.
597 (b) Net weight over 500 pounds: \$3.50 flat, of which \$1
598 shall be deposited into the General Revenue Fund, plus \$1 per
599 cwt, of which 25 cents shall be deposited into the General
600 Revenue Fund.
601 (8) TRAILERS FOR HIRE.—
602 (a) Net weight under 2,000 pounds: \$3.50 flat, of which \$1
603 shall be deposited into the General Revenue Fund, plus \$1.50 per
604 cwt, of which 50 cents shall be deposited into the General
605 Revenue Fund.
606 (b) Net weight 2,000 pounds or more: \$13.50 flat, of which



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607 ~~\$3.50 shall be deposited into the General Revenue Fund,~~ plus
608 \$1.50 per cwt, of which 50 cents shall be deposited into the
609 General Revenue Fund.
610 (9) RECREATIONAL VEHICLE-TYPE UNITS.—
611 (a) A travel trailer or fifth-wheel trailer, as defined by
612 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27
613 flat, of which \$7 shall be deposited into the General Revenue
614 Fund.
615 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:
616 \$13.50 flat, of which \$3.50 shall be deposited into the General
617 Revenue Fund.
618 (c) A motor home, as defined by s. 320.01(1)(b)4.:
619 1. Net weight of less than 4,500 pounds: \$27 flat, of which
620 \$7 shall be deposited into the General Revenue Fund.
621 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
622 which \$12.25 shall be deposited into the General Revenue Fund.
623 (d) A truck camper as defined by s. 320.01(1)(b)3.:
624 1. Net weight of less than 4,500 pounds: \$27 flat, of which
625 \$7 shall be deposited into the General Revenue Fund.
626 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
627 which \$12.25 shall be deposited into the General Revenue Fund.
628 (e) A private motor coach as defined by s. 320.01(1)(b)5.:
629 1. Net weight of less than 4,500 pounds: \$27 flat, of which
630 \$7 shall be deposited into the General Revenue Fund.
631 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
632 which \$12.25 shall be deposited into the General Revenue Fund.
633 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
634 motor vehicle dealer, independent motor vehicle dealer, marine
635 boat trailer dealer, or mobile home dealer and manufacturer



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636 license plate: \$17 flat, ~~of which \$4.50 shall be deposited into~~
637 ~~the General Revenue Fund.~~

638 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
639 official license plate: \$4 flat, ~~of which \$1 shall be deposited~~
640 ~~into the General Revenue Fund,~~ except that the registration or
641 renewal of a registration of a marine boat trailer exempt under
642 s. 320.102 is not subject to any license tax.

643 (14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor
644 vehicle for hire operated wholly within a city or within 25
645 miles thereof: \$17 flat, ~~of which \$4.50 shall be deposited into~~
646 ~~the General Revenue Fund,~~ plus \$2 per cwt, ~~of which 50 cents~~
647 ~~shall be deposited into the General Revenue Fund.~~

648 (15) TRANSPORTER.—Any transporter license plate issued to a
649 transporter pursuant to s. 320.133: \$101.25 flat, ~~of which~~
650 ~~\$26.25 shall be deposited into the General Revenue Fund.~~

651 Section 4. Section 339.1373, Florida Statutes, is created
652 to read:

653 339.1373 Multi-use Corridors of Regional Economic
654 Significance Program; funding.—

655 (1) The department shall allocate sufficient funds to
656 implement the Multi-use Corridors of Regional Economic
657 Significance Program, develop a plan to expend the revenues as
658 specified in s. 338.2278, and, prior to its adoption, amend the
659 current tentative work program for the 2019-2020 through 2023-
660 2024 fiscal years to include program projects. In addition,
661 prior to adoption of the work program, the department shall
662 submit a budget amendment pursuant to s. 339.135(7), requesting
663 budget authority necessary to implement the program as specified
664 in s. 338.2278.



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665 (2) Notwithstanding any other provision of law, the
666 increase in revenue to the State Transportation Trust Fund
667 derived from the amendments to s. 320.08 made by this act and
668 deposited into the fund pursuant to s. 320.20(5)(a) shall be
669 used by the department to fund the programs as specified in s.
670 338.2278.

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

673 339.0801 Allocation of increased revenues derived from
674 amendments to s. 319.32(5)(a) by ch. 2012-128.—Funds that result
675 from increased revenues to the State Transportation Trust Fund
676 derived from the amendments to s. 319.32(5)(a) made by this act
677 must be used annually, first as set forth in subsection (1) and
678 then as set forth in subsections (2)-(5), notwithstanding any
679 other provision of law:

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

688 (b) Beginning with the 2022-2023 fiscal year and annually
689 thereafter, \$35 million shall be transferred to Florida's
690 Turnpike Enterprise, to be used in accordance with s. 338.2278,
691 with preference to feeder roads, interchanges, and appurtenances
692 that create or facilitate multi-use corridor access and
693 connectivity.



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694

Section 6. This act shall take effect July 1, 2019.

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 7068

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); and Infrastructure and Security Committee

SUBJECT: Transportation

DATE: April 15, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Miller		IS Submitted as Committee Bill
1.	McAuliffe	Hrdlicka	ATD	Recommend: Fav/CS
2.	McAuliffe	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7068 creates the Multi-use Corridors of Regional Economic Significance Program within the Florida Department of Transportation (FDOT). The program is designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure. The specific purpose of the program is 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 bill sets out the intended benefits of the program and identifies three corridors comprising the program. Projects will be subject to requirements relating to economic and environmental feasibility and specified environmental and other evaluation requirements. Decisions on matters such as corridor configuration, project alignment, and interchange locations must be determined in accordance with the FDOT's rules, policies, and procedures.

During project development, the FDOT must 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. The task force must issue a written report by October 1, 2020. To the maximum extent feasible, construction of the projects must begin no later than December 31, 2022, and be open to traffic no later than December 31, 2030.

The bill authorizes funding for projects in the corridors. Part of this funding includes increased revenues derived from redirecting to the State Transportation Trust Fund, on a phased-in schedule, portions of motor vehicle license taxes currently deposited into the General Revenue Fund. The bill also specifies how and when the increased revenues are to be distributed and allocated.

Projects undertaken in the corridors must be tolled facilities, are approved turnpike projects that are part of the turnpike system, and are considered as Strategic Intermodal System facilities.

In addition, from the redirected motor vehicle license tax proceeds, the bill authorizes additional funding for the Small County Road Assistance Program, the Small County Outreach Program, and the Transportation Disadvantaged Trust Fund. The bill also creates and provides funding for a construction workforce development program within the FDOT. Building on the FDOT's current workforce development services, the program is intended to serve as a tool for addressing the existing construction labor shortage by training individuals in skills necessary to deliver projects in the FDOT five-year work program, including multi-use corridor projects, on time and within budget.

The bill takes effect July 1, 2019.

The bill will have offsetting fiscal impacts to both the General Revenue Fund and the State Transportation Trust Fund. The fiscal impact of a number of provisions in the bill is indeterminate, as project details and finance plans for new projects have not been developed. See Section V.

II. Present Situation:

The focus of much of Florida's past infrastructure funding has primarily been on the state's urban areas, in order to improve safety, relieve congestion, create mobility, and promote commerce and tourism. This funding structure has improved access and created economic growth for our urban areas along the state's coasts and in central Florida, but large portions of rural Florida have not always received the same focus.

Rural portions of the state compare less favorably to more urban regions in other ways. Research offers many indicators of difficulties faced particularly by the state's rural communities. For example:

- Factors such as relatively low population, labor workforce availability, access to education and healthcare, high unemployment rates, and low wages in rural areas are prevalent throughout available research.
- Rural counties in particular are losing population, commerce and trade, opportunities for employment, and ultimately the local tax base,¹ thereby restricting a rural county's ability to provide for necessities such as roads, but also clean water, sewer, and energy-distribution infrastructure.

¹ Florida Chamber of Commerce, *The Future of Florida's Rural Communities*, November 13, 2017, available at <https://www.flchamber.com/the-future-of-floridas-rural-communities-2/> (last visited March 13, 2019).

- Agriculture is often dominant in rural areas, and the loss of supporting businesses due to the last economic recession leaves some rural counties searching for other types of opportunities for business, employment, and economic growth.²
- With respect to accessing a broad range of services such as transportation, education, employment, and health care, some 700,000 individuals, largely in rural areas of the state, do not have available local Internet access. A 2016 study determined that 16 Florida counties are underserved by fixed broadband access. Another 13 counties, with relatively low populations and per capita income, range from 41 to 99 percent of individuals without broadband access.³
- Broadband access is also critical to businesses. “Corporate site selectors expect broadband. It is not a perk or special benefit.”⁴ Communities without broadband access have difficulty attracting new capital investment.

Past infrastructure funding from a transportation perspective has generally been of the “traditional” type, for example construction of roads, bridges, seaports, and airports tends to address traditional matters such as hurricane evacuation, congestion mitigation, and statewide economic development

Current law sets out a variety of programs for construction of Florida’s highway system. However, no program currently authorizes highway construction that, in addition to the provision of traditional transportation infrastructure, is specifically aimed at providing highway corridors containing uses not necessarily associated with the movement of people and goods.

The Florida Department of Transportation (FDOT) is generally charged with assuming “responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state, and [assuring] the compatibility of all components, including multimodal facilities.”⁵ Funds in the State Transportation Trust Fund (STTF)⁶ support the projects contained in the FDOT’s work program, developed pursuant to s. 339.135, F.S. Current law identifies specific funding from moneys in the STTF for certain transportation systems and projects, as well as specific funding programs aimed at transportation projects in rural communities.

The Florida Strategic Intermodal System

The Strategic Intermodal System (the SIS) is composed of transportation facilities and services of statewide and interregional significance. The FDOT describes the SIS as representing “an

² See U.S. News and World Report, *Rural Hendry County Mixes Economic Woes, Hope for New Jobs*, October 13, 2018, available at <https://www.usnews.com/news/best-states/florida/articles/2018-10-13/rural-hendry-county-mixes-economic-woes-hope-for-new-jobs> (last visited March 13, 2019).

³ *Expanding Residential Access to the Internet Infrastructure & Locally Customized Distance Learning in Schools to Advance Educational Attainment, Economic Development, Health Care & County Growth*, Moore, Dr. Ed H., Independent Colleges & Universities of Florida. (On file in the Senate Infrastructure and Security Committee.)

⁴ Site Selection Magazine (September 2011), *The Important of Broadband to Economic Development*, McQuade, M., available at <https://siteselection.com/issues/2011/sep/sas-optical-infrastructure.cfm> (last visited March 13, 2019).

⁵ FDOT, *About FDOT*, available at <https://www.fdot.gov/agencyresources/aboutfdot.shtml> (last visited March 13, 2019).

⁶ Established in s. 206.46, F.S.

effort to link Florida's transportation policies and investments to the state's economic development strategy.”⁷

The SIS consists of:

- Highway corridors established under s. 339.65, F.S. (discussed below);
- The National Highway System;
- Airport, seaport, and spaceport facilities;
- Rail lines and rail facilities;
- Selected intermodal facilities; passenger and freight terminals; and appropriate components of the State Highway System, county road system, city street system, inland waterways, and local public transit systems that serve as connectors between the above components; and
- Other corridors that serve a statewide or interregional purpose.⁸

The SIS and emerging SIS⁹ include multiple types of facilities intended to establish an interconnected transportation system:¹⁰

- Hubs – ports and terminals that move goods or people between Florida regions or between Florida and other markets in the United States and the rest of the world;
- Corridors – highways, rail lines, inter-county urban fixed guideway transit, and waterways that connect major markets within Florida or between Florida and other states or nations;
- Connectors – highways, rail lines, or waterways that connect hubs and corridors;
- Military Access Facilities – strategic highway network and strategic railway network facilities serving the main entrances of US Department of Defense military installations; and,
- Intermodal Logistic Centers (ILC) – facilities that serve as points of intermodal transfer of freight separate from a seaport where transport, distribution, or similar activities occur in support of or be supported by conveyance or shipping through one or more seaports.¹¹

Section 339.61, F.S., requires the FDOT to allocate from the STTF a minimum of \$60 million annually for projects in the SIS. Section 339.135, F.S., requires the allocation of at least 50 percent of any new discretionary highway capacity funds¹² to the SIS. The SIS also statutorily receives a portion of documentary stamp tax proceeds distributed to the STTF;¹³ a portion of

⁷ FDOT, *Work Program Instructions FY 19/20 – 23/24*, September 12, 2018, at p. 326, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/workprogram/development/pdfinstructions/workprograminstructions.pdf?sfvrsn=c585db0d_23 (last visited March 13, 2019). Section 339.61, F.S.

⁸ Section 339.62, F.S.

⁹ SIS and emerging SIS hubs and corridors were initially designated based on criteria and thresholds established by a steering committee in 2002 and adopted by the Legislature in 2003. Section 339.63, F.S., authorizes the FDOT secretary to periodically add facilities to, or delete facilities from, the SIS or emerging SIS based on adopted criteria. These additions and deletions reflect new data showing that particular hubs or corridors meet the adopted criteria and thresholds.

¹⁰ Section 339.63, F.S.

¹¹ Section 339.63(5), F.S., authorizes designation of a planned ILC as part of the SIS upon the request of the facility if it meets certain criteria and thresholds.

¹² “New discretionary highway capacity funds” means any funds available to the FDOT above the prior year funding level for capacity improvements, which the FDOT has the discretion to allocate to highway projects. Section 339.135(4)(a)2., F.S.

¹³ Section 201.15(4)(a)3., F.S.

motor vehicle tag and title fees generated by initial applications for registration;¹⁴ and the remaining proceeds of “Mobility 2000” funding.¹⁵

The FDOT’s established policy is to allocate 75 percent of all transportation capacity funds to the SIS, with the exception of funds allocated for the transit program and certain surface transportation program funds.¹⁶

Section 339.65, F.S., requires the FDOT to plan and develop SIS highway corridors, to include limited and controlled access facilities allowing for high-speed and high-volume traffic movements. The corridors include facilities from the following State Highway System components that meet the adopted SIS criteria:

- Interstate highways,
- The Florida Turnpike System,
- Interregional and intercity limited access facilities,
- Existing interregional and intercity arterial highways previously upgraded or upgraded in the future to limited or controlled access facility standards, and
- New limited access facilities necessary to complete a balanced statewide system.

For purposes of developing these SIS corridors, s. 339.65(6), F.S., requires the FDOT to allocate annually a minimum of \$450 million, adjusted annually by the Consumer Price Index.

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.¹⁷ The FTE is a single budget entity that develops its own budget, submitted to the Legislature along with the FDOT’s.¹⁸ For the 2018-2019 fiscal year, the FTE’s total budget was \$2,070,019,701.¹⁹

The turnpike system currently includes the mainline from Miami to Central Florida, as well as the Homestead Extension, Sawgrass Expressway, Seminole Expressway, Beachline Expressway, Southern Connector Extension, Veterans Expressway, Suncoast Parkway, Polk Parkway, Western Beltway, and the I-4 Connector.²⁰ 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 such 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.²¹

¹⁴ Section 320.072, F.S.

¹⁵ Section 339.1371(2), F.S.

¹⁶ *Supra* note 7 at p. 327.

¹⁷ Section 338.2216(1)(a), F.S.

¹⁸ Section 338.2216(3)(a), F.S.

¹⁹ Chapter 2018-9, L.O.F., at p. 281.

²⁰ For a map of the system, see Florida’s Turnpike, under the *About* heading, available at <http://www.floridasturnpike.com/about.html> (last visited March 13, 2019).

²¹ Section 338.223(1)(a), F.S.

“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, excluding feeder roads²² and turnpike improvements, 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.²³

The required statement of environmental feasibility is a statement by the Department of Environmental Protection of the project’s significant environmental impacts.²⁴

If a proposed project is economically feasible, consistent to the maximum extent feasible with the applicable local comprehensive plans, and a favorable statement of environmental feasibility is completed, the FDOT is directed to construct, maintain, and operate the project.²⁵

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.²⁶ 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 approved turnpike projects.²⁷ As of June 30, 2018, the FTE had \$2.6 billion of outstanding bonds related to financing the construction of expansion projects and system improvements.²⁸ The FTE’s Five-Year Capital Plan includes issuance of \$1.5 billion of additional bonds.²⁹

The principal and interest on such bonds is payable solely from revenues pledged for their payment.³⁰ 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.

²² A “feeder road” is defined as any road no more than five miles in length, connecting to the turnpike system which the FDOT determines is necessary to create or facilitate access to a turnpike project. Section 338.221(3), F.S.

²³ Section 338.223(1)(a) and s. 338.221(8)(a), F.S.

²⁴ 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.

²⁵ *Supra* note 16.

²⁶ Section 338.2275(1)(a), F.S.

²⁷ *Id.*

²⁸ Florida’s Turnpike System, *2018 Comprehensive Annual Financial Report, Fiscal Years Ended June 30, 2018 and 2017*, at p. 16, available at http://www.floridasturnpike.com/documents/reports/Comprehensive%20Annual%20Financial%20Report/CAFR_2018.pdf (last visited March 13, 2019).

²⁹ *Id.* at p. 3.

³⁰ The FTE’s current debt service coverage ratio is 3.3. (The term describes a measure of ability to generate enough income in operations to cover the expense of a debt.) The FTE’s 3.3 debt service coverage ratio exceeds the 1.2 minimum debt service coverage required by existing bond covenants. *Id.* at p. 16. Section 338.227, F.S.

The FDOT may use in the most efficient combination turnpike revenues,³¹ 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 projects,³² and may use federal and state funds to pay the cost of the operation, maintenance, and capital costs of turnpike projects.³³

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 rights thereto 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.³⁴
- The FDOT Financing Corporation: The Legislature created the non-profit corporation for the purpose of financing or refinancing transportation projects on behalf of the FDOT. A board of directors consisting 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 governs the corporation. The FDOT may enter into service contracts with the corporation in connection with projects approved in the FDOT's work program. Each service contract may have a term of up to 35 years. The corporation may issue and incur notes, bonds, certificates of indebtedness, and other obligations or evidences of indebtedness to finance or refinance projects in the FDOT's work program, and the FDOT makes payments on the indebtedness under the service contract. 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.³⁵
- Public-private transportation facilities: The FDOT is authorized to receive or solicit proposals and, with legislative approval as evidenced by approval of the project 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 ten-year Strategic Intermodal Plan developed for the SIS that are programmed in the adopted five-year work program or that increase transportation capacity and are greater than \$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.³⁶

³¹ Net cash to the FTE from operating activities in 2018 amounted to approximately \$682 million. *Id.* at p. 19.

³² Section 338.2275(2), F.S.

³³ Section 338.223(4), F.S.

³⁴ Section 215.605, F.S.

³⁵ Section 339.0809, F.S.

³⁶ Section 334.30, F.S.

Transportation Programs Benefiting Rural Areas

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, 1995.³⁷ 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. Those counties include Baker, Bradford, Calhoun, Columbia, DeSoto, Dixie, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Nassau, Okeechobee, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington.³⁸

At a minimum, a small county is eligible only if the county has enacted the maximum rate of the local option fuel tax authorized by s. 336.025(1)(a), F.S.³⁹ All counties levy the maximum tax rate of 6 cents.⁴⁰ Therefore, the counties listed above are all eligible to compete for funding under the SCRAP.

In determining a county's eligibility, the FDOT is authorized to consider the extent to which the county has attempted to keep county roads in satisfactory condition and the extent to which the county has offered a match of local funds with SCRAP funds.

The primary consideration for prioritization of road projects under the SCRAP is the physical condition of the road as measured by the FDOT. Secondary criteria which the FDOT must consider include:

- Whether a road is used as an evacuation route;
- Whether a road has high levels of agricultural travel;
- Whether a road is considered a major arterial route;
- Whether a road is considered a feeder road;
- Whether a road is located in a fiscally constrained county; and
- Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by the FDOT.⁴¹

³⁷ Section 339.2816, F.S. Capacity improvements on county roads are not eligible for SCRAP funding, except where the department determines that widening of existing lanes as part of a resurfacing or reconstruction project is necessary to address safety concerns. *Supra* note 6 at p. 298.

³⁸ Office of Economic and Demographic Research, *Population and Demographic Data – Florida Products, Population April 1, 2018*, available at http://edr.state.fl.us/Content/population-demographics/data/MediumProjections_2017.pdf (last visited March 13, 2019).

³⁹ That section authorizes local governments to levy a tax of one to six cents on every net gallon of motor and diesel fuel sold in a county and taxed under ch. 206, F.S.

⁴⁰ Office of Economic and Demographic Research, *Local Option Fuel Tax Levies on Motor Fuel in Florida's Counties, Local Fiscal Year Ending September 30, 2019*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> under the heading "Local Option Fuel Taxes," *Realized and Unrealized Revenues by County: LFY 2005-2019* (last visited March 13, 2019).

⁴¹ Section 339.2816(4)(c), F.S.

The statute authorizes use of up to \$25 million annually from the STTF to fund the program.⁴² Available funds are allocated among the FDOT districts based on the number of eligible counties.

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.⁴³ Eligible counties include those with a population of 170,000 or less as determined by the most recent official estimate of the Office of Economic and Demographic Research. Currently, counties qualified to compete for SCOP funding based on population include the same counties now eligible to compete for SCRAP funding listed above, plus Citrus, Indian River, Martin, and Monroe Counties.⁴⁴

In determining eligibility, the FDOT may consider the county's attempt to keep county roads in satisfactory condition, which under the SCOP may be evidenced by an established pavement management plan; and the primary consideration for prioritization of road projects under the SCOP is the physical condition of the road as measured by the FDOT. Like the SCRAP, funds are allocated among the FDOT districts based on the number of eligible counties. Similarly to the SCRAP, secondary criteria which the FDOT may consider include:

- Whether a road is used as an evacuation route,
- Whether a road has high levels of agricultural travel,
- Whether a road is considered a major arterial route,
- Whether a road is considered a feeder road,
- Information as evidenced to the FDOT through an established pavement management plan, and
- Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by the FDOT.⁴⁵

The FDOT is required to fund 75 percent of the cost of projects on county roads selected for funding under the program⁴⁶ and the county must provide 25 percent of such costs. Rural counties qualifying under the Rural Economic Development Initiative⁴⁷ may apply for a waiver or reduction of the required 25 local match.⁴⁸

Section 339.0801(4), F.S., allocates \$10 million annually for projects in the SCOP. The SCOP also statutorily receives a portion of documentary stamp tax proceeds distributed to the STTF;⁴⁹ a

⁴² Section 339.2816(3), F.S.

⁴³ Section 339.2818(1), F.S.

⁴⁴ *Supra* note 38.

⁴⁵ Section 339.2818(4), F.S.

⁴⁶ Section 339.2818(4)(a), F.S.

⁴⁷ 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.

⁴⁸ *Supra* note 7 at p. 290.

⁴⁹ Section 2015.15(4)(a)2., F.S.

portion of revenues derived from the elimination of certain general revenue service charges;⁵⁰ and a portion of motor vehicle tag and title fees generated by initial applications for registration.⁵¹ Additionally, a designated municipality within a rural area of opportunity⁵² or a rural area of opportunity community⁵³ may compete for any specific appropriation made in addition to funds annually appropriated for the SCOP.⁵⁴

Transportation Services for the Transportation Disadvantaged

The Transportation Disadvantaged (TD) Program coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens.⁵⁵ The program assists the transportation disadvantaged, which includes a person who, because of physical or mental disability, income status, or age is unable to transport himself or herself or to purchase transportation and is dependent on others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities.⁵⁶ While not specifically aimed at rural communities, individuals residing in such areas do benefit from the TD program.

The Commission for the Transportation Disadvantaged (Commission) as an independent entity within the FDOT. The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged.⁵⁷ The goal of such coordination is to assure the cost-effective provision of transportation by qualified community transportation coordinators⁵⁸ or transportation operators.⁵⁹ Individual rides may be provided, or

⁵⁰ Section 215.211(4), F.S.

⁵¹ Section 320.072, F.S.

⁵² A “rural area of opportunity” is defined in s. 288.0656(2)(d), F.S., and designated by the Governor. For a list of rural areas of opportunity, see the Department of Economic Opportunity’s map, available at <http://www.floridajobs.org/docs/default-source/community-planning-development-and-services/rural-community-programs/redi/raomap1.pdf?sfvrsn=2> (last visited March 13, 2019).

⁵³ Section 288.9656(2)(e), F.S., defines “rural community” as:

- A county with a population of 75,000 or fewer,
- A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,00 or fewer,
- A municipality within a county described above, and
- An incorporated rural city with a population of 25,000 or fewer and an employment based on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more specified economic distress factors verified by the Department of Economic Opportunity.

⁵⁴ Section 339.2818(7), F.S. See the FDOT’s Work Program Instructions, *supra* note 7 at p. 291. For the 2018-2019 fiscal year, the General Appropriations Act appropriated \$72,800,454 for the SCOP, \$15 million of which was appropriated for transportation projects within a rural area of economic opportunity. See ch. 2018-9, L.O.F., specific appropriation 1892.

⁵⁵ Part I, ch. 427, F.S.

⁵⁶ The program also assists children who are handicapped or high-risk or at-risk as defined in s. 411.202, F.S. Section 427.011(1), F.S.

⁵⁷ Section 427.013, F.S.

⁵⁸ A “community transportation coordinator” (CTC) is a transportation entity recommended by a metropolitan planning organization (MPO), or by the appropriate designated official planning agency in an area outside of an MPO, to ensure that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area. Section 427.011(5), F.S. The role of a CTC may be filled by a local transit agency, by a contracted provider, by a regional nonprofit organization serving multiple counties, or by the local board of county commissioners. See the commission website for a listing of CTCs by county, available at <https://ctd.fdot.gov/ctcsbycounty.htm> (last visited March 13, 2019).

⁵⁹ A “transportation operator” is one or more public, private for-profit, or private nonprofit entities engaged by the CTC to provide service to transportation disadvantaged persons pursuant to a coordinated system service plan. Section 427.011(6), F.S.

individuals may use what is essentially a shared-ride service which, depending on location, may be provided using a fixed route transit or a paratransit (door-to-door) service.

Funds from the coordinated system⁶⁰ are used by many transportation disadvantaged individuals to subsidize the purchase of bus passes through various local transit authority programs. Of the 11.8 million trips in 2018, approximately 53 percent were funded in this fashion. According to the commission, bus passes are the most cost-effective transportation method for people who are able to ride a bus and are in close proximity to a fixed route.⁶¹ However, the remaining 47 percent of trips were provided by paratransit services, the most expensive means of transportation for people served by the coordinated system, at an average cost of \$24.14 per trip.⁶² The commission advises that paratransit services⁶³ are the predominant service in Florida's rural areas.⁶⁴ In these rural areas, an individual's particular disadvantage in the transportation arena may be compounded by relatively sparse population (often resulting in an absence of fixed-route bus or taxi services) and longer distances to and from a doctor's office, a grocery store, or a job.

Section 427.0159, F.S., establishes the Transportation Disadvantaged Trust Fund (TDTF). Funds deposited into the TDTF must be used to fund the administrative expenses and carry out the responsibilities of the commission. The commission is authorized to use funds in the trust fund to subsidize a portion of a transportation disadvantaged person's non-sponsored (for example, not paid for by Medicaid) transportation costs.

The primary statutory revenue source for the TDTF is a fee of \$1.50 for each initial and renewal registration of private autos and light trucks, which must be used as provided in the TD Program.⁶⁵ The trust fund also statutorily receives:

- A \$5 portion of the \$15 fee for a temporary disabled parking permit, which must be used for matching grants to counties to improve transportation of persons who have disabilities;⁶⁶
- Voluntary contributions, which must be used as provided in the TD Program;⁶⁷
- An annual \$10 million from the proceeds of fees for original and duplicate certificates of title transferred from the STTF, which must be used as provided in the TD Program; and⁶⁸
- Additional amounts from the STTF, reflected in the chart below.

⁶⁰ The commission reports that in Fiscal Year 2017-2018, local government was the largest contributor of revenues to the coordinated system, providing revenues reaching \$118 million. *See Florida Commission for the Transportation Disadvantaged, 2018 Annual Performance Report*, January 1, 2019, at p. 7. (On file in the Senate Committee on Infrastructure and Security.)

⁶¹ *Id.* at p. 8.

⁶² *Id.*

⁶³ These are services between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and the service provider. Paratransit service may be provided by taxis, limousines, "dial-a-ride," buses, and other demand responsive operations characterized by their nonscheduled, non-fixed route. Section 427.011(9), F.S.

⁶⁴ *Id.* Fixed-route and paratransit are not the only available service.

⁶⁵ Section 320.03(9), F.S.

⁶⁶ Section 320.0848(4)(c)2., F.S.

⁶⁷ Section 320.02(15), F.S., requires the application form for motor vehicle registration to include language permitting a voluntary contribution of \$1 per applicant, which must be deposited into the Transportation Disadvantaged Trust Fund and used as provided in the TD Program.

⁶⁸ Section 339.0801(3), F.S.

For the 2019-2020 fiscal year, the Commission reports the following projections for funds to be deposited in the TDTF from state sources identified above:⁶⁹

Fiscal Year 2019-2020 Revenue Streams	
Source	Projection
Registration fees	\$22,311,506
Parking permits	\$361,213
Voluntary contributions	\$7,683
Original and duplicate certificates of title	\$10,000,000
STTF (Dedicated district revenue)	\$3,000,000
STTF (Public Transit Office)	\$3,000,000
STTF (Rural Capital Equipment)	\$1,400,000
STTF (15% of FDOT Public Transit Block Grant)	\$15,210,763
Interest	\$500,000
TOTAL	\$55,791,165

Workforce Development

The Department of Economic Opportunity (DEO) estimates that the highway, street, and bridge construction industry statewide will grow 8.75 percent over the next eight years. Industry and occupational projections for the highway, street, and bridge construction industry comparing 2018 and 2026 predict high potential gaps in the supply of available trained individuals in the following occupations:

- Carpenters.
- First-line supervisors of construction trades and extraction workers.
- First-line supervisors of transportation and material-moving machine and vehicle operators.
- Mobile heavy equipment mechanics, except engines.
- Operating engineers and other construction equipment operators.
- Plumbers, pipefitters, and steamfitters.
- Structural iron and steel workers.
- Surveyors.⁷⁰

Less severe but still moderate potential gaps in the supply of available trained individuals are estimated to occur for crane and tower operators and for electricians.⁷¹

The FDOT currently engages in workforce development services. As an example, the FDOT's District 7 is currently conducting a pilot program in coordination with community partners to identify and connect qualified workers for projects such as the Gateway Expressway in Pinellas County, and to identify and recruit entry level workers in the Tampa Bay area, including on-the-job training. Candidates were recently selected for the 30 openings in the program, which

⁶⁹ See the Commission's email to committee staff dated February 6, 2019. (On file in the Senate Infrastructure and Security Committee.)

⁷⁰ Email from Matt Spritz, DEO Legislative Affairs Director, to Senate Infrastructure and Security Staff dated February 22, 2019. (On file in the Senate Infrastructure and Security Committee.)

⁷¹ *Id.*

includes a week-long career training course.⁷² Candidates with heavy construction experience were eligible for direct hire by the contractor performing construction on the Gateway Expressway and were not required to complete the course.⁷³

Expansion of a more robust workforce development program within the FDOT, focused on training and recruiting workers to support construction of multiuse infrastructure and facilities accommodating emerging technologies, could facilitate creation of a better-trained workforce throughout the state, and particularly within communities in which the FDOT constructs projects.

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:

Multi-use Corridors of Regional Economic Significance (M-CORES) Program (Section 1)

Section 1 of the bill creates s. 338.2278, F.S., establishing the M-CORES Program within the FDOT. The stated purpose of the program is to revitalize rural communities, encourage job creation, and provide regional connectivity, while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources. The objective of the program is to advance construction of regional corridors that are intended to accommodate multiple modes of transportation and multiple types of infrastructure.

The intended benefits of the program include addressing such issues as:

- Hurricane evacuation;
- Congestion mitigation;
- Trade and logistics;
- Broadband, water, and sewer connectivity;
- Energy distribution;
- Autonomous, connected, shared, and electric vehicle technology;
- Other transportation modes, such as shared-use non-motorized trails, freight and passenger rail, and public transit;
- Mobility as a service; and
- Availability of a trained workforce skilled in traditional and emerging technologies.
- Protection or enhancement of wildlife corridors or environmentally sensitive areas.

The bill identifies the following three corridors comprising the M-CORES Program:

- Southwest-Central Florida Connector (Collier County to Polk County);
- Suncoast Connector (Citrus County to Jefferson County); and

⁷² Pinellas County Urban League, *Gateway Expressway Workforce Pilot Program*, available at <https://www.pcul.org/news/gateway-expressway-construction> (last visited March 13, 2019).

⁷³ See *Gateway Expressway Career Course Process for Community Partners*, available at <https://drive.google.com/file/d/1ih3gGwjUSckGR49hZQZSvETaMRn3G1cy/view> (last visited March 13, 2019).

- Northern Turnpike Connector (northern terminus of the Florida Turnpike northwest to the Suncoast Parkway).

The bill requires projects undertaken in the identified corridors to be tolled facilities, deems such projects as approved turnpike projects that are part of the turnpike system, and considers project facilities as SIS facilities. To the maximum extent feasible, the bill requires corridor project construction to begin no later than December 31, 2022, with the corridors open to traffic no later than December 31, 2030.

The bill requires the FDOT, during the project development phase, to identify opportunities to accommodate or collocate near the M-CORES multiple types of infrastructure that address the issues identified above. The FDOT must also convene a task force, appointed by the FDOT secretary by August 1, 2019, for each corridor composed of representatives of:

- The Department of Environmental Protection;
- The Department of Economic Opportunity;
- The Department of Education;
- The Department of Health;
- The Fish and Wildlife Conservation Commission;
- The Department of Agriculture and Consumer Services;
- The local water management district or districts;
- A local government official from each local government within a proposed corridor;
- Metropolitan planning organizations;
- Regional planning councils; and
- Other appropriate conservation or community not-for-profit organizations as determined by the FDOT.

Each corridor task force will coordinate with the FDOT on pertinent aspects of corridor analysis and evaluate the need and the economic and environmental, hurricane evacuation, and land use impacts of the corridors. The task force for each corridor may consider innovative concepts to combine right-of-way acquisition with the acquisition of lands or easements to facilitate mitigation of environmental, wildlife habitat, and water quality protection. In designing the corridors, the FDOT must adhere to the recommendations of the task to the maximum extent feasible.

Specifically, the task force for the Southwest-Central Florida Connector must address the impacts of project construction on panther and other critical wildlife habitats and evaluate wildlife crossing design features to protect such wildlife. The task force must also evaluate the need for acquisition of land for state conservation or as mitigation for construction.

The task force for the Suncoast Connector and for the Northern Turnpike Connector must evaluate designs and acquisition of land to mitigate construction impacts on water quality, agricultural land use, and wildlife habitats.

Each task force must hold public meetings in each local government jurisdiction in which a corridor project is being considered. Task forces are required to report their evaluations in a final report submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2020. Construction in a corridor may not be funded until the final

report is submitted and until 30 percent of the design phase is complete (except for project phases under construction or for which alignment has been determined).

Corridor projects are subject to the FDOT's responsibilities for environmental review applicable under the National Environmental Policy Act.⁷⁴ If such review is not required, the FDOT must otherwise perform a project evaluation that considers the following:

- Project purpose and need.
- An alternatives analysis.
- Existing conditions of the project area and potential impacts or enhancements the project may have on social, economic, cultural, natural, and connectivity issues and resources.
- Anticipated permits identified during the project development and environmental study.
- Opportunities for stakeholders and regulatory agency coordination.
- Public and agency comments and coordination.

At a minimum, the bill requires that project decisions on matters such as corridor configuration, project alignment, and interchange locations must be determined in accordance with applicable FDOT rules, policies, and procedures.

Projects in the M-CORES are generally subject to the same review and development requirements and related processes as are currently applicable to the FDOT's projects, regardless of whether federal funds are used.

Subject to the economic and environmental feasibility statement requirements for proposed turnpike projects,⁷⁵ the bill authorizes 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. 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.

⁷⁴ The National Environmental Policy Act (NEPA) was enacted in 1969 "in response to public concern about the deteriorating quality of the "human" environment and the inadequate consideration of environmental impacts of major federal projects. The human environment encompasses the following areas: physical (geology, soils, air, water), biological (plants, animals), social (communities, economics), and cultural (archaeological and historic resources). The intent of NEPA is to ensure safe, healthful, productive, and esthetically and culturally pleasing surroundings. NEPA helps federal agencies incorporate these values into their programs by requiring them to give equal consideration to environmental factors, in addition to financial and technical factors, in their planning and decision-making processes. NEPA establishes a national policy for the protection and maintenance of the environment by providing a process which all federal agencies must follow." See Federal Emergency Management Agency, *National Environmental Policy Act*, Description and Intent, available at <https://www.fema.gov/office-environmental-planning-and-historic-preservation/national-environmental-policy-act> (last visited March 13, 2019). Responsibilities relating to the required reviews under NEPA are delegated to the FDOT under federal law. See s. 334.044(34), F.S.

⁷⁵ Section 338.223, F.S.

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 projects in the M-CORES Program, as provided in the State Bond Act.

Projects constructed in the corridors will be tolled facilities and part of the turnpike system. 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. Upon legislative approval of the projects in the tentative work program, issuance of turnpike revenue bonds will be authorized to pay all or any part of the legislatively approved turnpike projects, subject to the restriction limiting the amount of bonds that may be outstanding for approved turnpike projects to \$10 billion. The principal and interest on any turnpike revenue bonds issued for these projects will be payable solely from revenues pledged for their repayment.

Increased Revenues to the STTF – Motor Vehicle License Taxes (Sections 1 and 3)

Present Situation

Section 320.08, F.S., imposes annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, and mobile homes. For certain vehicles, a portion of the tax is currently deposited into the General Revenue Fund. The table below shows the tax imposed for the specified vehicle type and the portions of the tax that are currently deposited into the General Revenue Fund.

Sources of Increased Revenues from Motor Vehicle License Taxes		
General Revenue Deposits		
Vehicle Type	Tax	GR Deposit
Ancient or antique motorcycle	\$7.50	\$2.50
Heavy trucks and truck tractors	\$60.75 to \$1,080 according to vehicle weight	\$15.75 to \$343
Semitrailers	\$13.50 annual or \$68 permanent	\$3.50 or \$18
Wreckers	\$41 to \$1,322 depending on use	\$11 to \$343
Hearse or ambulance	\$40.50	\$10.50
Motor vehicles for-hire	\$17 plus \$1.50 per cwt ⁷⁶	\$5
Trailers for private use	\$6.75 or \$3.50 depending on weight	\$1.75 or \$.25
Trailers for hire	\$3.50 or \$13.50, depending on weight, plus \$1.50 per cwt	\$1.50 or \$4
Travel trailer or fifth-wheel 35' max	\$27	\$7
Camping trailer	\$13.50	\$3.50
Motor home or private motor coach	\$27 to \$47.25 depending on weight	\$7 or \$12.25
Dealer & manufacturer license plates	\$17	\$4.50
Exempt of official license plate	\$4	\$1

⁷⁶ "Cwt" means the weight per hundred pounds, or major fraction thereof, of a motor vehicle. Section 320.20(8), F.S.

Locally operated motor vehicles for hire	\$17 plus \$2 per cwt	\$5
Transporter license plate	\$101.25	\$26.25

Section 320.20, F.S., governs the current distribution of revenue derived from the registration of motor vehicles. All remaining funds are deposited into the STTF after state constitutionally required distributions to: education (the district Capital Outlay and Debt Service School Trust Fund); the STTF for priority completion of the interstate highway system and general transportation purposes; and the Florida Seaport Transportation and Economic Development Program and seaport intermodal access projects of statewide significance.⁷⁷

Effect of Proposed Changes

Section 3 of the bill amends s. 320.08, F.S., removing the distribution to the General Revenue Fund of the specified portions of revenue derived from registration of the identified vehicles, resulting in increased deposits into the STTF. Deposits into the General Revenue Fund would decrease and end altogether, based upon a phased-in schedule of distribution in Section 1 of the bill. The increased revenues to the STTF and decreased revenues to the General Revenue Fund, are reflected in the table below:⁷⁸

Phased-In Schedule of Distribution Revenues from Motor Vehicle License Taxes		
Fiscal Year	STTF	GR Fund
2019-2020	\$45 million	\$83.9 million
2020-2021	\$90 million	\$40.8 million
2021-2022 and thereafter	\$132.5 million	\$0

The bill requires allocation of the amounts retained in the STTF for use in the M-CORES Program, the SCRAP, the SCOP, the Transportation Disadvantaged Program, and for the newly-created workforce development program within FDOT (discussed below), as reflected in the table below:

Allocation of Amounts Retained in the State Transportation Trust Fund					
Fiscal Year	M-CORES	SCRAP	SCOP	TDTF	Workforce Development
2019-2020	\$12.5 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2020-2021	\$57.5 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2021-2022	Remainder of funds: estimated \$101.7 million	\$10 million	\$10 million	\$10 million	\$2.5 million

⁷⁷ Section 320.20(5)(a), F.S.

⁷⁸ These amounts are estimates only. See Section V.

2022-2023 and thereafter	Remainder of funds: estimated \$105.9 million	\$10 million	\$10 million	\$10 million	\$0

The allocated funds are in addition to any other statutory funding allocations provided by law.

The bill also requires that in each fiscal year in which funding provided for the SCRAP, the SCOP, the TD Trust Fund, or the workforce development program is not committed by the end of each fiscal year, the FDOT must use such uncommitted funds for M-CORES Program projects. The bill also authorizes amendment of the FDOT's adopted work program to implement this provision.⁷⁹

The funds allocated for the SCRAP and SCOP are to be used with preference for projects in counties impacted by hurricanes. The FDOT is further authorized, in its discretion for hurricane impacted counties, to waive consideration of local matching funds under the SCRAP and may waive the match requirement under the SCOP for projects funded by the program allocations in the bill.

The funds allocated to the TD Trust Fund 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. Transportation services are those that increase access to job training, employment, health care, and other life-sustaining services; that enhance regional connectivity and cross-county mobility; or reduce difficulty in connecting to transportation hubs and from hubs to final destinations.

Additional Revenues to the M-CORES Program (Sections 4 and 5)

Present Situation

In addition to the funding sources for the turnpike system discussed above, s. 339.0801(2), F.S., requires that \$35 million be transferred from the STTF 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.⁸⁰

Effect of Proposed Changes

Section 5 of the bill amends s. 339.0801(2), F.S., continuing the current \$35 million in annual funding to the FTE for three fiscal years, 2019-2020, 2020-2021, and 2021-2022. Beginning in Fiscal Year 2022-2023, the bill annually transfers the same amount to the FTE, but requires it to be used in accordance with M-CORES Program requirements and with *preference* for feeder roads, structures, interchanges, and appurtenances to create or facilitate access to the existing turnpike system.

Section 4 of the bill creates s. 339.1373, F.S., to direct the FDOT to:

- Allocate sufficient funds to implement the M-CORES Program;

⁷⁹ See s. 339.175(7), F.S., for a description of the process for amending of the FDOT's adopted work program.

⁸⁰ These transfers began in the 2013-2014 fiscal year and are to be made annually for up to 30 years.

- Develop a plan to expend the revenues as specified in s. 338.2278, F.S. (Section 1);
- Amend the current tentative work program for the time period 2019-2020 through 2023-2024 prior to adoption to include projects funded in the M-CORES Program; and
- Submit a budget amendment pursuant to s. 339.135(7), F.S., requesting budget authority needed to implement the M-CORES Program.

This section of the bill also requires the FDOT to use the increased revenues to the STTF derived from the re-direction of distributions of revenue from motor vehicle registrations to fund the M-CORES, SCRAP, SCOP, Transportation Disadvantaged, and workforce development programs as specified in Section 1.

FDOT Workforce Development (Section 2)

Present Situation

As discussed above in the Present Situation, research reveals that ongoing and projected highway, street, and bridge construction workforce shortage in this state may be alleviated by creation of a statewide workforce development program within the FDOT that builds on its existing workforce services.

Effect of Proposed Changes

Section 2 of the bill amends s. 334.044, F.S., to authorize the FDOT to provide a road and bridge construction workforce development program for construction of projects designated in the FDOT's work program.⁸¹ Section 1 of the bill allocates \$2.5 million to the STTF to fund the program in Fiscal Years 2019-2020, 2020-2021, and 2021-2022. The program is not repealed when the dedicated funding ceases, but remains authorized in statute and may be administered by the FDOT to the extent that future funding resources are available.

The stated intent of the program is to provide direct economic benefits to communities in which the FDOT is constructing infrastructure projects and to promote employment opportunities, including within areas of low income and high unemployment. The program serves as a tool to address the construction labor shortage by recruiting and building a pipeline of skilled workers for multiuse infrastructure projects.

The FDOT is directed to merge any of its existing workforce services into the program to create a robust program. The FDOT is authorized to administer workforce development contracts with consultants and non-profit entities, such as local community partners, state colleges, and technical institutions. These entities, as specified in a contract with the FDOT, are deemed to have the primary purposes of providing:

- Workforce recruitment;
- Training curriculum for the FDOT's road and bridge construction and corridor projects; and
- Providing support services to remove barriers to work.

The FDOT must develop performance and outcome metrics to ensure accountability and measure the benefits and cost-effectiveness of the program. By June 30, 2020, and annually thereafter, the

⁸¹ The bill directs the FDOT to consult with affected stakeholders.

FDOT must provide a report to the Governor, President of the Senate, and Speaker of the House of Representatives detailing the results of its findings and providing recommendations relating to future program refinements.

Mitigation of the existing highway construction labor shortage may occur as a result of the FDOT implementing a more robust workforce development program, providing increased employment opportunities, and reducing costs for businesses and for the state and local governments.

Effective Date

The bill is effective on July 1, 2019.

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:

The bill will redirect the collections of motor vehicle license taxes under s. 320.08, F.S., from the General Revenue Fund to the STTF. The General Revenue Fund will be reduced by the amounts currently deposited into that fund from the motor vehicle license taxes and the STTF would be increased by corresponding amounts. The change in distributions are estimated as follows:⁸²

⁸² Office of Economic and Demographic Research, *Highway Safety Fees: SB 7068*, March 15, 2019, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/page170-173.pdf (last visited March 20, 2019).

Phased-In Schedule of Distribution Revenues from Motor Vehicle License Taxes		
Fiscal Year	STTF	GR Fund
2019-2020	\$45 million	\$83.9 million
2020-2021	\$90 million	\$40.1 million
2020-2021 and thereafter	\$132.5 million	\$0

Beginning with the 2021-2022 fiscal year, the General Revenue Fund will no longer receive any portion of the motor vehicle license taxes. Thereafter, all of the proceeds from such taxes, after constitutionally required distributions, will be redirected to the STTF under existing s. 320.20(5)(a), F.S.

The bill allocates the proceeds of the taxes redirected into the STTF to the M-CORES Program, the SCRAP, the SCOP, the Transportation Disadvantaged Program, and the FDOT workforce development program. The bill specifies the uses as follows, based upon estimated impacts:

Allocation of Amounts Retained in the State Transportation Trust Fund					
Fiscal Year	M-CORES	SCRAP	SCOP	TDTF	Workforce Development
2019-2020	\$12.5 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2020-2021	\$57.5 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2021-2022 and thereafter	Remainder of funds – estimated \$101.7 million	\$10 million	\$10 million	\$10 million	\$2.5 million
2022-2023 and thereafter ⁸³	Remainder of funds – estimated \$105.9 million	\$10 million	\$10 million	\$10 million	\$0

B. Private Sector Impact:

The traveling public, including individuals residing in rural areas, may benefit from increased transportation options resulting from construction of projects in the identified corridors, as well as other traditional transportation functions such as improved hurricane evacuation, congestion mitigation, and energy distribution; and from opportunities for other transportation modes, such as passenger rail and shared-use trails. Preparation for emerging technologies such as autonomous, connected, shared, and electric vehicle technology, including the option to obtain transportation mobility services on-demand and online, may also benefit users of the new facilities as more such vehicles are deployed in the state. Transportation disadvantaged persons may benefit from increased

⁸³ *Id.*

opportunities for mobility services provided under the Transportation Disadvantaged Program.

Businesses may benefit from improved trade and logistics options, such as freight rail and potential connections to facilities such as intermodal logistic centers, as well as improved possibilities for business site selection due to availability of broadband access in the corridors. Construction businesses may experience improved employee recruitment as a result of the workforce development program. To the extent that the bill enables businesses to grow, this could increase economic activity in both urban and rural areas of the state.

Individuals residing in rural areas may benefit from improvement to local roads as a result of increased funding to the SCRAP and the SCOP, particularly those impacted by hurricanes. Increased access to facilities that include services such as broadband access may provide improved opportunities for education, skills training, and host of other services available online. Such individuals may also benefit from improved water and sewer connectivity. Individuals statewide, as well as those residing in communities affected by such projects, may benefit from opportunities for workforce training. All of these benefits may generally enhance the quality of life for individuals residing in rural areas.

C. Government Sector Impact:

Project development for M-CORES is yet to occur and decisions related to necessary financing mechanisms for the projects are yet to be formulated. The bill requires the creation of task forces to evaluate the corridor projects prior to any construction occurring. Any impact to the FDOT to implement this requirement, hold the required public meetings, and issue the final reports can be absorbed within existing resources.

The bill authorizes 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. As such, the fiscal impact is indeterminate but will be subject to appropriation when the M-CORES projects are included in the work program.

General improvement in operation and efficiency of the state's transportation system is expected to occur, particularly with respect to matters such as hurricane evacuation, congestion mitigation, and intermodal transportation options. Transportation infrastructure broadened to include other essential services such as broadband, water, and sewer connectivity may generally improve quality of life in the state and attract new, or facilitate growth of, business opportunities. An available pool of individuals trained with the skills necessary to construct facilities, both traditionally and in light of the broader view of infrastructure, may reduce project costs by facilitating completion of construction projects.

The fiscal impact to local revenues and expenditures is indeterminate. However, increased funding to the SCRAP and the SCOP is expected to assist smaller local

governments with improvements to local roads, particularly in those counties impacted by hurricanes. Local governments affected by projects in the corridors may benefit from improved transportation and related functions, including funding for facilities that improve connectivity with other highways and modes of transportation, and also from improved ability to provide essential services, such as water and sewer connectivity.

Local governments may also experience improved ability to attract business investment in their respective communities, facilitated by the presence of services critical to such businesses, such as broadband access and opportunities for increased trade. Increased business and employment opportunities may facilitate economic development, resulting in growth of local tax bases.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08, 334.044, and 339.0801.

This bill creates 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 April 11, 2019:

The committee substitute:

- Specifies that protecting the environment and natural resources is an additional consideration of the M-CORES program.
- Specifies additional intended benefits that the M-CORES program could address:
 - Public transit as an example of other transportation modes.
 - Protection or enhancement of wildlife corridors or environmentally sensitive areas.
- Removes the requirement of the FDOT to consult the state agencies and stakeholders when developing the corridors and requires a task force for each corridor.
- Revises the distribution of funds to the M-CORES program beginning in Fiscal Year 2021-2022 and each year thereafter to be the remainder of funds after all other allocations are made.
- Requires allocations made to the TD Trust Fund be used to award competitive grants to community transportation coordinators and transportation network companies.
- Corrects technical deficiencies and other scrivener's errors.

B. Amendments:

None.

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

By the Committee on Infrastructure and Security

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1 A bill to be entitled
 2 An act relating to transportation; creating s.
 3 338.2278, F.S.; creating the Multi-use Corridors of
 4 Regional Economic Significance Program within the
 5 Department of Transportation; providing the purpose of
 6 the program; specifying the corridors included in the
 7 program; specifying that projects undertaken in the
 8 corridors are tolled facilities and certain approved
 9 turnpike projects, and are considered as Strategic
 10 Intermodal System facilities; requiring the department
 11 to identify certain opportunities to accommodate or
 12 co-locate multiple types of infrastructure-addressing
 13 issues during the project development phase; requiring
 14 the department to consult with certain entities;
 15 authorizing the department to form a certain working
 16 group; authorizing sources of funding for the
 17 projects; authorizing the department to accept certain
 18 donations of land for the projects; requiring that
 19 certain toll revenues from the turnpike system be used
 20 to repay advances received from the State
 21 Transportation Trust Fund; providing requirements for
 22 the department relating to certain delegated
 23 responsibilities; requiring the department to perform
 24 a specified project evaluation on certain projects;
 25 requiring that certain decisions on projects be
 26 determined in accordance with applicable department
 27 rules, policies, and procedures; authorizing the
 28 Division of Bond Finance, on behalf of the department,
 29 to issue certain bonds to finance projects in the

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

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30 program, as provided in the State Bond Act; providing
 31 specified dates for the construction of the projects
 32 and opening of the corridors; providing for specified
 33 transfers from the State Transportation Trust Fund to
 34 the General Revenue Fund; providing for specified
 35 allocations of such transfers; providing that
 36 allocated funds are in addition to any other statutory
 37 funding allocations; requiring that specified
 38 uncommitted funds be used by the department to fund
 39 program projects; authorizing the adopted work program
 40 to be amended to transfer funds between appropriations
 41 categories or to increase an appropriation category
 42 for a certain purpose; authorizing the department to
 43 waive consideration of certain matching funds relating
 44 to specified programs for hurricane-impacted counties
 45 with respect to certain project awards; amending s.
 46 334.044, F.S.; requiring that the department, in
 47 consultation with affected stakeholders, provide a
 48 road and bridge construction workforce development
 49 program for construction of projects designated in the
 50 department's work program; providing intent for the
 51 workforce development program; providing requirements
 52 for the department and the program; authorizing the
 53 department to administer certain workforce development
 54 contracts with consultants and nonprofit entities;
 55 providing primary purposes for such entities;
 56 requiring the department to prepare and provide a
 57 certain report to the Governor and Legislature by a
 58 specified date; amending s. 320.08, F.S.; deleting a

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requirement that specified fees from annual license taxes be deposited into the General Revenue Fund; creating s. 339.1373, F.S.; requiring that the department allocate sufficient funds to implement the Multi-use Corridors of Regional Economic Significance Program, develop a plan to expend revenues, and, prior to its adoption, amend the current tentative work program for specified fiscal years to include program projects; requiring the department to submit a certain budget amendment; requiring that specified increases in revenue to the State Transportation Trust Fund be used by the department to fund the Multi-use Corridors of Regional Economic Significance Program; amending s. 339.0801, F.S.; limiting to specified fiscal years a previously authorized transfer of funds to Florida's Turnpike Enterprise; requiring that, beginning with a specified fiscal year, such transfer be allocated for a certain purpose with certain specified preferences; providing effective dates.

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

Section 1. Section 338.2278, Florida Statutes, is created to read:

338.2278 Multi-use Corridors of Regional Economic Significance Program.—

(1) There is created within the department the Multi-use Corridors of Regional Economic Significance Program. The purpose of the program is to revitalize rural communities, encourage job

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creation, and provide regional connectivity, while leveraging technology and enhancing quality of life and public safety. The objective of the program is to advance the construction of regional corridors that are intended to accommodate multiple modes of transportation and multiple types of infrastructure. The intended benefits of the program include, but are not limited to, addressing issues such as:

(a) Hurricane evacuation.

(b) Congestion mitigation.

(c) Trade and logistics.

(d) Broadband, water, and sewer connectivity.

(e) Energy distribution.

(f) Autonomous, connected, shared, and electric vehicle technology.

(g) Other transportation modes, such as shared-use nonmotorized trails and freight and passenger rail.

(h) Mobility as a service.

(i) Availability of a trained workforce skilled in traditional and emerging technologies.

(2) The program is composed of all of the following corridors:

(a) Southwest-Central Florida Connector, extending from Collier County to Polk County.

(b) Suncoast Connector, extending from Citrus County to Jefferson County.

(c) Northern Turnpike Connector, extending from the northern terminus of the Florida Turnpike northwest to the Suncoast Parkway.

(3) (a) Projects undertaken in the corridors identified in

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subsection (2) are tolled facilities and approved turnpike projects that are part of the turnpike system, and are considered as Strategic Intermodal System facilities.

(b) During the project development phase, the department shall identify opportunities to accommodate or co-locate multiple types of infrastructure-addressing issues, such as those identified in subsection (1), within or adjacent to the corridors. The department shall consult with the Department of Environmental Protection, the Department of Economic Opportunity, the Department of Education, the Department of Health, water management districts, metropolitan planning organizations, affected local governmental entities, or any other appropriate stakeholders, as determined by the department. The department may form a working group composed of the appropriate entities and stakeholders to consider accommodation or co-location of such multiple types of infrastructure.

(4) (a) Subject to the economic and environmental feasibility statement requirements of s. 338.223, projects may be funded through turnpike revenue bonds or right-of-way 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. 337.25. 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

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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 Fund.

(b)1. Projects undertaken under this section are subject to the department's delegated responsibilities 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. 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:

a. Project purpose and need.

b. An alternatives analysis.

c. Existing conditions of the project area and potential impacts or enhancements the project may have on social, economic, cultural, natural, and connectivity issues and resources.

d. Anticipated permits identified during the project development and environmental study.

e. Opportunities for stakeholder and regulatory agency coordination.

f. Public and agency comments and coordination.

2. At a minimum, for projects constructed under this section, decisions on matters such as corridor configuration, project alignment, and interchange locations must be determined in accordance with applicable department rules, policies, and procedures.

(5) In accordance with ss. 337.276, 338.227, and 339.0809,

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the Division of Bond Finance may issue on behalf of the department right-of-way and bridge construction bonds, turnpike revenue bonds, and Florida Department of Transportation Financing Corporation bonds to finance program projects, as provided in the State Bond Act.

(6) To the maximum extent feasible, construction of the projects shall begin no later than December 31, 2022, with the corridors open to traffic no later than December 31, 2030.

(7) Funds that result from increased revenues to the State Transportation Trust Fund derived from the amendments to s. 320.08 made by this act and deposited into the fund pursuant to s. 320.20(5)(a) must be used as follows:

(a) For the 2019-2020 fiscal year, \$45 million shall be retained in the State Transportation Trust Fund, and the remaining funds shall be transferred to the General Revenue Fund.

(b) For the 2020-2021 fiscal year, \$90 million shall be retained in the State Transportation Trust Fund, and the remaining funds shall be transferred to the General Revenue Fund.

(c) For the 2021-2022 fiscal year and each fiscal year thereafter, all of the funds shall be retained in the State Transportation Trust Fund.

(8) The amounts identified in subsection (7) by fiscal year shall be allocated as follows:

(a) For the 2019-2020 fiscal year, to the:

1. Multi-use Corridors of Regional Economic Significance Program, \$12.5 million, to be used as specified in this section;

2. Small County Road Assistance Program, \$10 million, to be

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used as specified in s. 339.2816, with preference to projects in counties impacted by hurricanes;

3. Small County Outreach Program, \$10 million, to be used as specified in s. 339.2818, with preference to projects in counties impacted by hurricanes;

4. Transportation Disadvantaged Trust Fund, \$10 million, to be used as specified in s. 427.0159; and

5. Workforce development program, \$2.5 million, to be used as specified in s. 334.044(35).

(b) For the 2020-2021 fiscal year, to the:

1. Multi-use Corridors of Regional Economic Significance Program, \$57.5 million, to be used as specified in this section;

2. Small County Road Assistance Program, \$10 million, to be used as specified in s. 339.2816, with preference to projects in counties impacted by hurricanes;

3. Small County Outreach Program, \$10 million, to be used as specified in s. 339.2818, with preference to projects in counties impacted by hurricanes;

4. Transportation Disadvantaged Trust Fund, \$10 million, to be used as specified in s. 427.0159; and

5. Workforce development program, \$2.5 million, to be used as specified in s. 334.044(35).

(c) For the 2021-2022 fiscal year, to the:

1. Multi-use Corridors of Regional Economic Significance Program, \$97.5 million, to be used as specified in this section;

2. Small County Road Assistance Program, \$10 million, to be used as specified in s. 339.2816, with preference to projects in counties impacted by hurricanes;

3. Small County Outreach Program, \$10 million, to be used

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as specified in s. 339.2818, with preference to projects in
 counties impacted by hurricanes;

4. Transportation Disadvantaged Trust Fund, \$10 million, to
 be used as specified in s. 427.0159; and

5. Workforce development program, \$2.5 million, to be used
 as specified in s. 334.044(35).

(d) For the 2022-2023 fiscal year and each fiscal year
 thereafter, to the:

1. Small County Road Assistance Program, \$10 million, to be
 used as specified in s. 339.2816, with preference to projects in
 counties impacted by hurricanes;

2. Small County Outreach Program, \$10 million, to be used
 as specified in s. 339.2818, with preference to projects in
 counties impacted by hurricanes; and

3. Transportation Disadvantaged Trust Fund, \$10 million, to
 be used as specified in s. 427.0159.

The remaining funds under this paragraph shall be used for the
Multi-use Corridors of Regional Economic Significance Program,
 as specified in this section.

(e) The funds allocated as provided in this subsection
 shall be in addition to any other statutory funding allocations
 provided by law.

(f) In each fiscal year in which funding provided under
 this subsection for the Small County Road Assistance Program,
 the Small County Outreach Program, the Transportation
 Disadvantaged Trust Fund, or the workforce development program
 is not committed by the end of each fiscal year, such
 uncommitted funds shall be used by the department to fund Multi-

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use Corridors of Regional Economic Significance Program
projects. As provided in s. 339.135(7), the adopted work program
may be amended to transfer funds between appropriations
categories or to increase an appropriation category to implement
this paragraph.

(9) The department, in its discretion and for hurricane-
impacted counties, may waive consideration of local matching
funds under s. 339.2816, relating to the Small County Road
Assistance Program, and may waive the match requirement of s.
339.2818, relating to the Small County Outreach Program, with
respect to project awards funded by the allocations to those
programs provided in this section.

Section 2. Subsection (35) is added to section 334.044,
 Florida Statutes, 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 better integrate these
services into a more robust workforce development program. The
workforce development program must serve as a tool to address

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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, state community colleges, 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:

1. Workforce recruitment.

2. 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. Subsections (1), (4) through (9), and (12) through (15) of section 320.08, Florida Statutes, are amended to read:

320.08 License taxes.—Except as otherwise provided herein,

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there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(4), tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES AND MOPEDS.—

(a) Any motorcycle: \$10 flat.

(b) Any moped: \$5 flat.

(c) Upon registration of a motorcycle, motor-driven cycle, or moped, in addition to the license taxes specified in this subsection, a nonrefundable motorcycle safety education fee in the amount of \$2.50 shall be paid. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund to fund a motorcycle driver improvement program implemented pursuant to s. 322.025, the Florida Motorcycle Safety Education Program established in s. 322.0255, or the general operations of the department.

(d) An ancient or antique motorcycle: \$7.50 flat, ~~of which \$2.50 shall be deposited into the General Revenue Fund.~~

(4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS VEHICLE WEIGHT.—

(a) Gross vehicle weight of 5,001 pounds or more, but less than 6,000 pounds: \$60.75 flat, ~~of which \$15.75 shall be deposited into the General Revenue Fund.~~

(b) Gross vehicle weight of 6,000 pounds or more, but less than 8,000 pounds: \$87.75 flat, ~~of which \$22.75 shall be deposited into the General Revenue Fund.~~

(c) Gross vehicle weight of 8,000 pounds or more, but less

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349 than 10,000 pounds: \$103 flat, ~~of which \$27 shall be deposited~~
 350 ~~into the General Revenue Fund.~~

351 (d) Gross vehicle weight of 10,000 pounds or more, but less
 352 than 15,000 pounds: \$118 flat, ~~of which \$31 shall be deposited~~
 353 ~~into the General Revenue Fund.~~

354 (e) Gross vehicle weight of 15,000 pounds or more, but less
 355 than 20,000 pounds: \$177 flat, ~~of which \$46 shall be deposited~~
 356 ~~into the General Revenue Fund.~~

357 (f) Gross vehicle weight of 20,000 pounds or more, but less
 358 than 26,001 pounds: \$251 flat, ~~of which \$65 shall be deposited~~
 359 ~~into the General Revenue Fund.~~

360 (g) Gross vehicle weight of 26,001 pounds or more, but less
 361 than 35,000: \$324 flat, ~~of which \$84 shall be deposited into the~~
 362 ~~General Revenue Fund.~~

363 (h) Gross vehicle weight of 35,000 pounds or more, but less
 364 than 44,000 pounds: \$405 flat, ~~of which \$105 shall be deposited~~
 365 ~~into the General Revenue Fund.~~

366 (i) Gross vehicle weight of 44,000 pounds or more, but less
 367 than 55,000 pounds: \$773 flat, ~~of which \$201 shall be deposited~~
 368 ~~into the General Revenue Fund.~~

369 (j) Gross vehicle weight of 55,000 pounds or more, but less
 370 than 62,000 pounds: \$916 flat, ~~of which \$238 shall be deposited~~
 371 ~~into the General Revenue Fund.~~

372 (k) Gross vehicle weight of 62,000 pounds or more, but less
 373 than 72,000 pounds: \$1,080 flat, ~~of which \$280 shall be~~
 374 ~~deposited into the General Revenue Fund.~~

375 (l) Gross vehicle weight of 72,000 pounds or more: \$1,322
 376 flat, ~~of which \$343 shall be deposited into the General Revenue~~
 377 ~~Fund.~~

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378 (m) Notwithstanding the declared gross vehicle weight, a
 379 truck tractor used within the state or within a 150-mile radius
 380 of its home address is eligible for a license plate for a fee of
 381 \$324 flat if:

382 1. The truck tractor is used exclusively for hauling
 383 forestry products; or

384 2. The truck tractor is used primarily for the hauling of
 385 forestry products, and is also used for the hauling of
 386 associated forestry harvesting equipment used by the owner of
 387 the truck tractor.

388
 389 ~~Of the fee imposed by this paragraph, \$84 shall be deposited~~
 390 ~~into the General Revenue Fund.~~

391 (n) A truck tractor or heavy truck, not operated as a for-
 392 hire vehicle and which is engaged exclusively in transporting
 393 raw, unprocessed, and nonmanufactured agricultural or
 394 horticultural products within the state or within a 150-mile
 395 radius of its home address is eligible for a restricted license
 396 plate for a fee of:

397 1. If such vehicle's declared gross vehicle weight is less
 398 than 44,000 pounds, \$87.75 flat, ~~of which \$22.75 shall be~~
 399 ~~deposited into the General Revenue Fund.~~

400 2. If such vehicle's declared gross vehicle weight is
 401 44,000 pounds or more and such vehicle only transports from the
 402 point of production to the point of primary manufacture; to the
 403 point of assembling the same; or to a shipping point of a rail,
 404 water, or motor transportation company, \$324 flat, ~~of which \$84~~
 405 ~~shall be deposited into the General Revenue Fund.~~

406

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Such not-for-hire truck tractors and heavy trucks used exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products may be incidentally used to haul farm implements and fertilizers delivered direct to the growers. The department may require any documentation deemed necessary to determine eligibility before issuance of this license plate. For the purpose of this paragraph, "not-for-hire" means the owner of the motor vehicle must also be the owner of the raw, unprocessed, and nonmanufactured agricultural or horticultural product, or the user of the farm implements and fertilizer being delivered.

(5) SEMITRAILERS; FEES ACCORDING TO GROSS VEHICLE WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

(a)1. A semitrailer drawn by a GVW truck tractor by means of a fifth-wheel arrangement: \$13.50 flat per registration year or any part thereof, ~~of which \$3.50 shall be deposited into the General Revenue Fund.~~

2. A semitrailer drawn by a GVW truck tractor by means of a fifth-wheel arrangement: \$68 flat per permanent registration, ~~of which \$18 shall be deposited into the General Revenue Fund.~~

(b) A motor vehicle equipped with machinery and designed for the exclusive purpose of well drilling, excavation, construction, spraying, or similar activity, and which is not designed or used to transport loads other than the machinery described above over public roads: \$44 flat, ~~of which \$11.50 shall be deposited into the General Revenue Fund.~~

(c) A school bus used exclusively to transport pupils to and from school or school or church activities or functions within their own county: \$41 flat, ~~of which \$11 shall be~~

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~~deposited into the General Revenue Fund.~~

(d) A wrecker, as defined in s. 320.01, which is used to tow a vessel as defined in s. 327.02, a disabled, abandoned, stolen-recovered, or impounded motor vehicle as defined in s. 320.01, or a replacement motor vehicle as defined in s. 320.01: \$41 flat, ~~of which \$11 shall be deposited into the General Revenue Fund.~~

(e) A wrecker that is used to tow any nondisabled motor vehicle, a vessel, or any other cargo unless used as defined in paragraph (d), as follows:

1. Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: \$118 flat, ~~of which \$31 shall be deposited into the General Revenue Fund.~~

2. Gross vehicle weight of 15,000 pounds or more, but less than 20,000 pounds: \$177 flat, ~~of which \$46 shall be deposited into the General Revenue Fund.~~

3. Gross vehicle weight of 20,000 pounds or more, but less than 26,000 pounds: \$251 flat, ~~of which \$65 shall be deposited into the General Revenue Fund.~~

4. Gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds: \$324 flat, ~~of which \$84 shall be deposited into the General Revenue Fund.~~

5. Gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds: \$405 flat, ~~of which \$105 shall be deposited into the General Revenue Fund.~~

6. Gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds: \$772 flat, ~~of which \$200 shall be deposited into the General Revenue Fund.~~

7. Gross vehicle weight of 55,000 pounds or more, but less

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465 than 62,000 pounds: \$915 flat, ~~of which \$237 shall be deposited~~
466 ~~into the General Revenue Fund.~~

467 8. Gross vehicle weight of 62,000 pounds or more, but less
468 than 72,000 pounds: \$1,080 flat, ~~of which \$280 shall be~~
469 ~~deposited into the General Revenue Fund.~~

470 9. Gross vehicle weight of 72,000 pounds or more: \$1,322
471 flat, ~~of which \$343 shall be deposited into the General Revenue~~
472 ~~Fund.~~

473 (f) A hearse or ambulance: \$40.50 flat, ~~of which \$10.50~~
474 ~~shall be deposited into the General Revenue Fund.~~

475 (6) MOTOR VEHICLES FOR HIRE.—

476 (a) Under nine passengers: \$17 flat, ~~of which \$4.50 shall~~
477 ~~be deposited into the General Revenue Fund;~~ plus \$1.50 per cwt,
478 ~~of which 50 cents shall be deposited into the General Revenue~~
479 ~~Fund.~~

480 (b) Nine passengers and over: \$17 flat, ~~of which \$4.50~~
481 ~~shall be deposited into the General Revenue Fund;~~ plus \$2 per
482 cwt, ~~of which 50 cents shall be deposited into the General~~
483 ~~Revenue Fund.~~

484 (7) TRAILERS FOR PRIVATE USE.—

485 (a) Any trailer weighing 500 pounds or less: \$6.75 flat per
486 year or any part thereof, ~~of which \$1.75 shall be deposited into~~
487 ~~the General Revenue Fund.~~

488 (b) Net weight over 500 pounds: \$3.50 flat, ~~of which \$1~~
489 ~~shall be deposited into the General Revenue Fund;~~ plus \$1 per
490 cwt, ~~of which 25 cents shall be deposited into the General~~
491 ~~Revenue Fund.~~

492 (8) TRAILERS FOR HIRE.—

493 (a) Net weight under 2,000 pounds: \$3.50 flat, ~~of which \$1~~

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494 ~~shall be deposited into the General Revenue Fund;~~ plus \$1.50 per
495 cwt, ~~of which 50 cents shall be deposited into the General~~
496 ~~Revenue Fund.~~

497 (b) Net weight 2,000 pounds or more: \$13.50 flat, ~~of which~~
498 ~~\$3.50 shall be deposited into the General Revenue Fund;~~ plus
499 \$1.50 per cwt, ~~of which 50 cents shall be deposited into the~~
500 ~~General Revenue Fund.~~

501 (9) RECREATIONAL VEHICLE-TYPE UNITS.—

502 (a) A travel trailer or fifth-wheel trailer, as defined by
503 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27
504 flat, ~~of which \$7 shall be deposited into the General Revenue~~
505 ~~Fund.~~

506 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:
507 \$13.50 flat, ~~of which \$3.50 shall be deposited into the General~~
508 ~~Revenue Fund.~~

509 (c) A motor home, as defined by s. 320.01(1)(b)4.:

510 1. Net weight of less than 4,500 pounds: \$27 flat, ~~of which~~
511 ~~\$7 shall be deposited into the General Revenue Fund.~~

512 2. Net weight of 4,500 pounds or more: \$47.25 flat, ~~of~~
513 ~~which \$12.25 shall be deposited into the General Revenue Fund.~~

514 (d) A truck camper as defined by s. 320.01(1)(b)3.:

515 1. Net weight of less than 4,500 pounds: \$27 flat, ~~of which~~
516 ~~\$7 shall be deposited into the General Revenue Fund.~~

517 2. Net weight of 4,500 pounds or more: \$47.25 flat, ~~of~~
518 ~~which \$12.25 shall be deposited into the General Revenue Fund.~~

519 (e) A private motor coach as defined by s. 320.01(1)(b)5.:

520 1. Net weight of less than 4,500 pounds: \$27 flat, ~~of which~~
521 ~~\$7 shall be deposited into the General Revenue Fund.~~

522 2. Net weight of 4,500 pounds or more: \$47.25 flat, ~~of~~

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523 ~~which \$12.25 shall be deposited into the General Revenue Fund.~~

524 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
525 motor vehicle dealer, independent motor vehicle dealer, marine
526 boat trailer dealer, or mobile home dealer and manufacturer
527 license plate: \$17 flat, ~~of which \$4.50 shall be deposited into~~
528 ~~the General Revenue Fund.~~

529 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
530 official license plate: \$4 flat, ~~of which \$1 shall be deposited~~
531 ~~into the General Revenue Fund,~~ except that the registration or
532 renewal of a registration of a marine boat trailer exempt under
533 s. 320.102 is not subject to any license tax.

534 (14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor
535 vehicle for hire operated wholly within a city or within 25
536 miles thereof: \$17 flat, ~~of which \$4.50 shall be deposited into~~
537 ~~the General Revenue Fund,~~ plus \$2 per cwt, ~~of which 50 cents~~
538 ~~shall be deposited into the General Revenue Fund.~~

539 (15) TRANSPORTER.—Any transporter license plate issued to a
540 transporter pursuant to s. 320.133: \$101.25 flat, ~~of which~~
541 ~~\$26.25 shall be deposited into the General Revenue Fund.~~

542 Section 4. Section 339.1373, Florida Statutes, is created
543 to read:

544 339.1373 Multi-use Corridors of Regional Economic
545 Significance Program; funding.—

546 (1) The department shall allocate sufficient funds to
547 implement the Multi-use Corridors of Regional Economic
548 Significance Program, develop a plan to expend the revenues as
549 specified in s. 338.2278, and, prior to its adoption, amend the
550 current tentative work program for the 2019-2020 through 2023-
551 2024 fiscal years to include program projects. In addition,

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552 prior to adoption of the work program, the department shall
553 submit a budget amendment pursuant to s. 339.135(7), requesting
554 budget authority necessary to implement the program as specified
555 in s. 338.2278.

556 (2) Notwithstanding any other provision of law, the
557 increase in revenue to the State Transportation Trust Fund
558 derived from the amendments to s. 320.08 made by this act and
559 deposited into the fund pursuant to s. 320.20(5)(a) shall be
560 used by the department to fund the programs as specified in s.
561 338.2278.

562 Section 5. Effective July 1, 2023, subsection (2) of
563 section 339.0801, Florida Statutes, is amended to read:

564 339.0801 Allocation of increased revenues derived from
565 amendments to s. 319.32(5)(a) by ch. 2012-128.—Funds that result
566 from increased revenues to the State Transportation Trust Fund
567 derived from the amendments to s. 319.32(5)(a) made by this act
568 must be used annually, first as set forth in subsection (1) and
569 then as set forth in subsections (2)-(5), notwithstanding any
570 other provision of law:

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

579 (b) Beginning with the 2022-2023 fiscal year and annually
580 thereafter, \$35 million shall be transferred to Florida's

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581 Turnpike Enterprise, to be used in accordance with s. 338.2278,
582 with preference to feeder roads, interchanges, and appurtenances
583 that create or facilitate multi-use corridor access and
584 connectivity.

585 Section 6. Except as otherwise provided, this act shall
586 take effect July 1, 2019.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 20, 2019

I respectfully request that **Senate Bill #7068**, relating to Transportation, be placed on the:

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

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

Senator Tom Lee
Florida Senate, District 20

THE FLORIDA SENATE
APPEARANCE RECORD

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

7068

Bill Number (if applicable)

Meeting Date

Topic

7068

Amendment Barcode (if applicable)

Name

Brad Burleson

Job Title

lobbyist

Address

201 E. Park Ave

Phone

577-0444

Street

Tallahassee

State

FL

Zip

32301

Email

brad@ballardfl.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

FTBA

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

7068
Bill Number (if applicable)

Strike All - 901688
Amendment Barcode (if applicable)

Topic Transportation

Name Lisa Bacot

Job Title Executive Director

Address PO Box 10168

Street

Tallah

City

FL

State

32302

Zip

Phone 888-445-8329

Email lisabacot@floridatransit.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Public Transportation 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

SB 7068
Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name Maureen Gibson

Job Title _____

Address 10596 Senegal DR.
Street

Phone 850-791-8014

Pensacola FL 32534
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

7068

Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name MaryAnn Taylor

Job Title Retiree

Address 5838 Marsh Landing

Street

Phone _____

City

State

Zip

Email LYNX0857-0849

Speaking: ☐ For ☐ Against ☐ Information

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

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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)

April 11, 2019

Meeting Date

7068

Bill Number (if applicable)

Topic Transportation; creating corridors

Amendment Barcode (if applicable)

Name Jim Cordero

Job Title Director of Governmental Affairs

Address 1007 E. De Soto Park Drive, Suite 201

Phone 850-222-7300

Street

Tallahassee

Florida

32301

City

State

Zip

Email jcordero@acaf.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, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

Meeting Date _____

7068
Bill Number (if applicable) _____

Topic TRANSPORTATION

Amendment Barcode (if applicable) _____

Name MIKE RUBIN

Job Title VP GOVT AFFAIRS

Address 502 E JEFFERSON ST

Phone 850 222-8088

Street

City

State

Zip

TALL

FL

32303

Email MIKE.RUBIN@FLA88.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

FLORIDA PORTS COUNCIL

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11

Meeting Date

7068

Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 W Adams

Phone _____

Street

TLH

City

FL

State

323

Zip

Email bbevis@aif.com

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19
Meeting Date

SB 1068
Bill Number (if applicable)

Topic Transportation Corridors

Amendment Barcode (if applicable)

Name SALLY PATRENOS

Job Title PRESIDENT

Address 136 S Bronough St.
Street

Phone (850) 933-1386

Tallahassee FL 32302
City State 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

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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)

09/11/2019

Meeting Date

7068

Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name Darrick D. McGhee

Job Title Vice President, Johnson & Blanton, LLC.

Address 537 East Park Avenue

Street

Phone (850) 321-6489

Tallahassee

City

FL

State

32301

Zip

Email darrick@teamjb.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing American Council of Engineering Companies 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19

Meeting Date

SB 7068

Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name Jerome Bess

Job Title Self

Address 926 E Johnson Ave

Phone (850) 501-2903

Street

Pensacola

FL

32514

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/14

Meeting Date

7068

Bill Number (if applicable)

Topic Transportation Infrastructure and Security

Amendment Barcode (if applicable)

Name Robert Doane Doer

Job Title Retired

Address 1724 Branchwater Tr.

Street

Orlando

City

FL

State

32825

Zip

Phone 407 734 1108

Email rbdoane

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Amalgamated Transit Union

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4-11-19

Meeting Date

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

7068

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1674 UNIV. PKWY # 296

Street

Phone 941-323-2404

SARASOTA

City

FL

State

34243

Zip

Email cullen@seascope.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing SIERRA CLUB 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/11/19

Meeting Date

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

7068

Bill Number (if applicable)

Topic MULTI-USE CORRIDORS

Amendment Barcode (if applicable)

Name KEN ARMSTRONG

Job Title CEO

Address 350 E. COLLEGE

Phone 850-459-1256

Street

TALLAHASSEE FL

32301

Email ken@FLTrucking.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA TRUCKING 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4/11/19

Meeting Date

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

7068

Bill Number (if applicable)

Topic

Transportation

Amendment Barcode (if applicable)

Name

Frank Walker

Job Title

VP, LA

Address

136 S. Bronough St.

Street

Phone

Email

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

FL Chamber of Commerce

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/19

Meeting Date

7068

Bill Number (if applicable)

Topic Transportation - toll roads

Amendment Barcode (if applicable)

Name Anne Harvey Holbrook

Job Title Staff attorney

Address 500 N. Maitland Ave.

Phone _____

Street

Maitland FL 32751

City

State

Zip

Email aholbrook@save-the-manatee.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Save the Manatee Club + Florida Springs Council

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)

April 11
Meeting Date

7068
Bill Number (if applicable)

Topic Toll Expressways

Amendment Barcode (if applicable)

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 308 N Monroe St
Street

Phone 352-377-3141

Tallahassee, FL 32301
City State Zip

Email thawkins@1000fof.org

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-19

Meeting Date

7068

Bill Number (if applicable)

Topic Creating Multi-use Corridors of Regional Amendment Barcode (if applicable)

Name Amy Datz Economic Significance

Job Title Retired State Air Quality Program Manager

Address and State Transit Environmental Planner Phone 850 322-7599

Street

Tallahassee

City

State

Zip

Email amalie.datz@mac.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Environmental Caucus of Florida. NOT The Democratic
Environmental caucus

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: HB 5011

INTRODUCER: Appropriations Committee and Representative Renner

SUBJECT: County Court Judges

DATE: April 10, 2019

REVISED: 4/12/19

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dale		Kynoch	AP	Fav/1 amendment

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

HB 5011, as amended by the Senate strike-all amendment, Barcode #963756, creates section 25.025, Florida Statutes, which provides that the Chief Justice of the Florida Supreme Court shall, at the request of a justice:

- Coordinate and designate a courthouse or other appropriate facility in the justice's district as his or her official headquarters and private chambers; and
- Reimburse the justice for travel and subsistence while in Tallahassee to the extent funding is available.

The Senate strike-all amendment increases the number of circuit judges, adding one circuit court judgeship in the Ninth Judicial Circuit Court, which includes Orange and Osceola Counties, and one circuit court judgeship in the Twelfth Judicial Circuit Court, which includes Manatee, DeSoto and Sarasota Counties.

HB 5011 and the Senate strike-all amendment also increase the number of county judgeships, adding one in Citrus County and one in Flagler County.

The estimated fiscal impact of the additional circuit and county judgeships is 10 full-time equivalent (FTE) positions at a cost of \$1,463,748, including nonrecurring costs of \$40,262. A recurring appropriation from general revenue was provided in the Fiscal Year 2018-2019 General Appropriations Act for Supreme Court justices with official headquarters in justices' districts of residence. See Section V.

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

II. Present Situation:

Supreme Court Headquarters

Article II, s. 2 of the Florida Constitution designates Tallahassee as the seat of state government “where the *offices* of the governor, lieutenant governor, cabinet members and the supreme court shall be maintained and the sessions of the legislature shall be held[.]”¹ Article V, section 3 of the Florida Constitution provides that the Supreme Court will consist of seven justices, and that each of the five appellate districts “shall have at least one justice elected or appointed from the district at the time of the original appointment or election.” The chambers of all seven justices are in the Florida Supreme Court building,² and all official Supreme Court business is conducted in Tallahassee.³

Headquarters for Purposes of Travel Reimbursement

Section 112.061, F.S., governs the reimbursement of travel expenses to public employees and officers. To that end, s. 112.061(4), F.S. provides that while “[t]he official headquarters of an officer or employee assigned to an office shall be the city or town in which the office is located,” there are exceptions:

- The official headquarters of a person located in the field is in the city or town nearest to the area where the majority of the person’s work is performed, or such other city, town, or area designated by the agency head provided that the designation is in the best interests of the agency and not for the convenience of the employee.
- When any state employee is stationed in a city or town for a period of over 30 continuous workdays, that city or town is the employee’s official headquarters, and he or she is not allowed per diem or subsistence, after the 30 continuous workdays have elapsed, unless that time period is extended by the agency head or his or her designee.
- An employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave and. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned

¹ FLA. CONST. art. II, s. 2.

² Florida Supreme Court, Manual of Internal Operating Procedures, *Section 1. Court Structure*, p. 1 (Rev. Sept. 21, 2016), http://www.floridasupremecourt.org/pub_info/documents/IOPs.pdf (last visited Jan. 31, 2019). *But see In re: Designation of Official Headquarters*, AOSC18-37 (Fla. July 2, 2018) (administrative order issued by Florida Supreme Court designating remote headquarters pursuant to Ch. 18-10, s. 46, Laws of Fla., the 2018 appropriations law), available at <https://www.floridasupremecourt.org/content/download/421872/4557988/AOSC18-37.pdf> (last visited April 10, 2019)..

³ “[T]he Florida Supreme Court, comprised of its Justices, has only one “office” — the Supreme Court Building, located in the Northern District.” *Castro v. Labarga*, 16-22297-CIV, 2016 WL 6565946, at *5 (S.D. Fla. Nov. 3, 2016) (citing FLA. CONST. art. II, s. 2). “In my view, the mere fact that a Florida Supreme Court justice may periodically travel outside of the Northern District of Florida to attend bar functions or educational seminars and obtains travel reimbursements does not translate the trip into an ‘official duty’ trip sufficient to generate venue in the other districts.” *Id.* “If the Florida Supreme Court maintained major offices, courtrooms or staff in other districts, then the result about venue and venue discovery might be different. But those significant facts, which Castro relies on when citing other cases, are absent here.” *Id.* (holding the proper venue of a disgruntled bar candidate suing the Florida Supreme Court is the northern district of Florida). *See also Uberoi v. Labarga*, 8:16-CV-1821-T-33JSS, 2016 WL 5914922, at *2 (M.D. Fla. Oct. 11, 2016) (transferring another disgruntled bar candidate’s case to the Northern District based a motion to dismiss filed by Justice Labarga noting that official acts by the Florida Supreme Court concerning the candidate’s admission to the bar are done in Tallahassee; citing FLA. CONST. art. II, s. 2, noting that Tallahassee “is where the offices of the Florida Supreme Court shall be maintained.”).

away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home.⁴

Additionally, s. 112.061(1)(b)1., F.S., establishes a legislative policy that exceptions to the restrictions on reimbursements of travel and subsistence expenses should be standardized and exceptions or exemptions must explicitly reference s. 112.061, F.S.

Section 112.061, F.S. applies to the court system. Each district court of appeal—the headquarters for which is defined by the Legislature, not the Constitution⁵—now is authorized to “designate other locations within its district as branch headquarters for the conduct of the business of the court and as the official headquarters of its officers or employees pursuant to s. 112.061.”⁶

Prior to district courts of appeal being authorized to establish branch headquarters, the Attorney General opined for travel and reimbursement purposes that a district court of appeal judge could *not* designate the city of his or her residence as his or her official headquarters for purposes of travel expenses.⁷ Notably, the opinion relied on the fact that, at that time, s. 35.05, F.S., designated the official headquarters of each district court of appeal in specific cities.⁸ Subsequently, the law was amended to permit a district court of appeal to “designate branch headquarters within its district for purposes of s. 112.061,”⁹

In 2018, the Implementing Bill authorized the payment of travel and subsistence expenses for justices residing outside Leon County who elected to designate a remote “headquarters” to use as their private chambers to the extent appropriated funds are available.¹⁰ A recurring appropriation for this expense was provided to the Supreme Court in the Fiscal Year 2018-2019 General Appropriations Act.

Certification of Need for Additional Judges

Article V, s. 9 of the Florida Constitution requires the Florida Supreme Court to submit recommendations to the Legislature when there is a need to increase or decrease the number of

⁴ Section 112.061(4)(a)-(c), F.S.

⁵ Section 35.05(1), F.S. (designating the city in which the headquarters for each appellate district must be located).

⁶ Section 35.05(2), F.S.

⁷ Op. Att’y Gen. Fla. 74-132 (1974).

⁸ *Id.* (“Section 112.061, F.S., has been uniformly interpreted by this office as authorizing reimbursement for travel expense only from the official headquarters of the public officer or employee; and, as defined in subsection 112.061(4), the official headquarters “of an officer or employee assigned to an office shall be the city or town in which the office is located” (The provisions of paragraphs (4)(a), (b), and (c), relating to public officers or employees “located in the field” or “stationed” in another city or town, are not applicable her for obvious reasons.) The official headquarters of each district court of appeal is designated by statute, s. 35.05, F.S., and that is where the majority of the work of the court is performed.”).

⁹ Section 35.05(2), F.S. Currently, it appears that only the Second District Court of Appeal has designated a second branch office, in Tampa on the Stetson University campus. However, the Second District’s clerk’s office is at the official headquarters in Lakeland. See Florida Second District Court of Appeal, <http://www.2dca.org/Directions/tampa.shtml> (last visited April 10, 2019).

¹⁰ See Ch. 18-10, s. 46, Laws of Fla; *In re: Designation of Official Headquarters*, Fla. Admin. Order. No. AOSC18-37 (July 2, 2018) (administrative order issued by Florida Supreme Court designating remote headquarters), available at <https://www.floridasupremecourt.org/content/download/421872/4557988/AOSC18-37.pdf> (last visited April 10, 2019).

judges.¹¹ This provision directs the Court to base its recommendations on uniform criteria adopted by court rule.

The Court's rule setting forth criteria for assessing judicial need at the trial court level is based primarily upon the application of case weights to circuit and county court caseload statistics.¹² These weights are a quantified measure of judicial time spent on case-related activity. The judicial workload is then based on judicial caseloads adjusted in the relative complexity of various case types.

In addition to the statistical information, the Court, in weighing the need for trial court judges, considers the factors below which primarily relate to the resources available to a judicial circuit:

- (i) The availability and use of county court judges in circuit court.
- (ii) The availability and use of senior judges to serve on a particular court.
- (iii) The availability and use of magistrates and hearing officers.
- (iv) The extent of use of alternative dispute resolution.
- (v) The number of jury trials.
- (vi) Foreign language interpretations.
- (vii) The geographic size of a circuit, including travel times between courthouses in a particular jurisdiction.
- (viii) Law enforcement activities in the court's jurisdiction, including any substantial commitment of additional resources for state attorneys, public defenders, and local law enforcement.
- (ix) The availability and use of case-related support staff and case management policies and practices.
- (x) Caseload trends.¹³

In addition to the weighted caseload statistics, the Court considers the time to perform other judicial activities, such as reviewing appellate decisions, reviewing petitions and motions for post-conviction relief, hearing and disposing motions, and participating in meetings with those

¹¹ Article V, s. 9 of the Florida Constitution states:

Determination of number of judges.—The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing, decreasing or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists. A decrease in the number of judges shall be effective only after the expiration of a term. If the supreme court fails to make findings as provided above when need exists, the legislature may by concurrent resolution request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for nine consecutive months, the legislature may, upon a finding of two-thirds of the membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease or redefine appellate districts and judicial circuits.

¹² Fla. R. Jud. Adm. 2.240(b)(1)(A).

¹³ Fla. R. Jud. Admin. 2.240(b)(1)(B).

involved in the justice system.¹⁴ Finally, the Court considers any request for an increase or decrease in the number of judges that the chief judge of the circuit feels are required.¹⁵

Following its criteria for determining the need for judges, the Florida Supreme Court issued Order No. SC18-1970, dated December 28, 2018, regarding the Certification of Need for Additional Judges.¹⁶ In the certification, the court recommended four new circuit judgeships (one each in the First and Fourteenth judicial circuits and two in the Ninth Judicial Circuit) and four new county judgeships in Hillsborough County. The opinion also recommended the decertification of three existing county court judgeships (one in Pasco County and two in Brevard County).

The Florida Constitution states the Legislature may reject the recommendation or accept the recommendation in whole or in part, decreasing or increasing the number of judges by more or less than the judicial recommendation upon a two thirds finding of need by both chambers of the Legislature.¹⁷

Art. V, s. 11(b), of the Florida Constitution requires the Governor to fill judicial office vacancies by appointment from a list of candidates nominated by a judicial nominating commission, for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment.¹⁸

The Legislature has not authorized additional county or circuit judgeships since 2006.¹⁹

III. Effect of Proposed Changes:

Headquarters of Supreme Court Justices

Section 1 of the Senate strike-all amendment creates s. 25.025, F.S., requiring that, upon the request of any justice residing outside of Leon County, the Chief Justice of the Florida Supreme Court shall:

- Coordinate and designate a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice's district as his or her official headquarters to serve as the justice's private chambers; and
- Reimburse the justice for travel and subsistence while in Tallahassee on court business, to the extent funding is available.

The Supreme Court and a county may enter into an agreement to establish private chambers at the county courthouse for a justice, but a county is not required to provide space for a justice. Additionally, the Supreme Court may *not* use state funds to lease space in a district court of appeal courthouse, county courthouse, or other facility for use as private chambers.

¹⁴ Fla. R. Jud. Admin. 2.240(c).

¹⁵ Fla. R. Jud. Admin. 2.240(d).

¹⁶ *In Re: Certification of Need for Additional Judges*, S.Ct. No. SC18-1970.

¹⁷ Article V, s. 9 of the Florida Constitution.

¹⁸ Article V, s. 9 of the Florida Constitution.

¹⁹ Ch 2006-166, Laws of Fla.

Additional Judgeships

The Senate strike-all amendment amends s. 26.031, F.S., to add one circuit court judgeship to the Ninth Judicial Circuit Court, which includes Orange and Osceola Counties, and one circuit court judgeship to the Twelfth Judicial Circuit Court, which includes Manatee, Desoto and Sarasota Counties. The newly created judgeships will be filled by the Governor from nominees by the appropriate judicial nominating commission.²⁰

HB 5011 and the Senate strike-all amendment also establish two new county court judgeships, one in Citrus County and one in Flagler County.

The bill, as amended by the Senate strike-all amendment, takes effect July 1, 2019.

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:

Article V, s. 9 of the Florida Constitution provides that if the Supreme Court finds that a need exists for increasing or decreasing the number of judges, the court must, prior to the next regular session of the Legislature, certify to the Legislature its findings and recommendations concerning that need. The Supreme Court issued its most recent certification opinion on December 28, 2018.²¹

Upon receipt of the certificate, the Legislature, at the next regular session, must consider the findings and recommendations. The Legislature may reject the recommendations or by law implement the recommendations in whole or in part; provided the Legislature may create more judicial offices than are recommended by the Supreme Court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the Legislature, that such a need exists.

²⁰ Florida Constitution, Article V, section 11.

²¹ *Supra* note 16

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:**Travel and Subsistence Costs**

The cost of travel reimbursement for justices who have private chambers outside Leon County in his or her district of residence may be paid only to the extent appropriated funds are available. The Fiscal Year 2019-2020 General Appropriations Act appropriated \$209,930 of recurring general revenue for expenses to the Supreme Court for this purpose. SB 2500, First Engrossed, the Senate's proposed 2019-2020 General Appropriations Bill, continues the funding for this purpose as does the House proposed 2019-2020 General Appropriations Bill.

Additional Judgeships***New Circuit Court Judgeships***

SB 2500, First Engrossed, the Senate's proposed 2019-2020 General Appropriations Bill includes six full-time equivalent positions to fund the circuit judgeships. The recurring costs also include the salary and benefits of a judicial assistant and a law clerk. The courts use a methodology of one law clerk for every three circuit judges to determine their need for law clerks. The proposed appropriation for creating the additional circuit judgeships is based on the following:

Salaries and Benefits	\$794,782
Expenses	\$30,666 (Nonrecurring)
HR Outsourcing	\$1,218
Total:	\$826,666 (\$30,666 Nonrecurring)

New County Court Judgeships

The House's proposed 2019-2020 General Appropriation Bill, includes four full-time equivalent positions (two judgeships and two judicial assistants) and total appropriations in the amount of \$613,274 for the county court judgeships. However, this amount does not include the customary appropriations for expenses and legal research associated with the creation of new judgeships.²² The proposed appropriation for the additional county

²² Appendix E.6 provides the Trial Courts Modified Expense Package
<http://floridafiscalportal.state.fl.us/Document.aspx?ID=17945&DocType=PDF> (last visited April 10, 2019).

judgeships is based on the following:

Salaries and Benefits	\$612,465
Expenses	\$22,624 (\$9,596 Nonrecurring)
Florida Cases Southern 2 nd Reporter	\$1,184
HR Outsourcing	\$809
Total:	\$637,082 (\$9,596 Nonrecurring)

Grand Total County/Circuit Judgeships = \$1,463,748 (40,262 Nonrecurring)

Under s. 29.008, F.S., counties are responsible for facilities, security, communications and information technology costs for courts. For courts receiving additional judges and associated staff, this bill will result in some additional costs in these areas.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 26.031 and 34.022.

This bill creates section 25.025 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.)

Barcode 963756 by Appropriations on April 11, 2019:

The provisions include:

- Creates section 25.025, Florida Statutes, which provides that the Chief Justice of the Florida Supreme Court shall, at the request of a justice:
 - Coordinate and designate a courthouse or other appropriate facility in the justice's district as his or her official headquarters and private chambers; and
 - Reimburse the justice for travel and subsistence while in Tallahassee to the extent funding is available.
- Revises the number of circuit court judges by adding one circuit court judgeship in the Ninth Judicial Circuit Court, which includes Orange and Osceola Counties, and one circuit court judgeship in the Twelfth Judicial Circuit Court, which includes Manatee, DeSoto and Sarasota Counties;

B. Amendments:

None.

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



963756

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 25.025, Florida Statutes, is created to
read:

25.025 Headquarters.—

(1) (a) A Supreme Court justice who permanently resides
outside Leon County shall, if he or she so requests, have a
district court of appeal courthouse, a county courthouse, or



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another appropriate facility in his or her district of residence designated as his or her official headquarters pursuant to s. 112.061. This official headquarters may serve only as the justice's private chambers.

(b) A justice for whom an official headquarters is designated in his or her district of residence under this subsection is eligible for subsistence at a rate to be established by the Chief Justice for each day or partial day that the justice is at the Supreme Court Building for the conduct of the business of the court. In addition to the subsistence allowance, a justice is eligible for reimbursement for transportation expenses as provided in s. 112.061(7) for travel between the justice's official headquarters and the Supreme Court Building for the conduct of the business of the court.

(c) Payment of subsistence and reimbursement for transportation expenses relating to travel between a justice's official headquarters and the Supreme Court Building must be made to the extent that appropriated funds are available, as determined by the Chief Justice.

(2) The Chief Justice shall coordinate with each affected justice and other state and local officials as necessary to implement paragraph (1)(a).

(3)(a) This section does not require a county to provide space in a county courthouse for a justice. A county may enter into an agreement with the Supreme Court governing the use of space in a county courthouse.

(b) The Supreme Court may not use state funds to lease space in a district court of appeal courthouse, county



963756

courthouse, or other facility to allow a justice to establish an
official headquarters pursuant to subsection (1).

Section 2. Subsections (9) and (12) of section 26.031,
Florida Statutes, are amended to read:

26.031 Judicial circuits; number of judges.—The number of
circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(9) Ninth.....	<u>44</u> ~~43~~
(12) Twelfth.....	<u>22</u> ~~21~~

Section 3. Subsections (9) and (17) of section 34.022,
Florida Statutes, are amended to read:

34.022 Number of county court judges for each county.—The
number of county court judges in each county shall be as
follows:

COUNTY	TOTAL
(9) Citrus.....	<u>2</u> ~~1~~
(17) Flagler.....	<u>2</u> ~~1~~

Section 4. This act shall take effect July 1, 2019.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to courts; creating s. 25.025, F.S.;
authorizing certain Supreme Court justices to have an
appropriate facility in their district of residence



963756

designated as their official headquarters; providing that an official headquarters may serve only as a justice's private chambers; providing that such justices are eligible for a certain subsistence allowance and reimbursement for certain transportation expenses; requiring that such allowance and reimbursement be made to the extent that appropriated funds are available, as determined by the Chief Justice; requiring the Chief Justice to coordinate with certain persons in designating official headquarters; providing that a county is not required to provide space for a justice in a county courthouse; authorizing counties to enter into agreements with the Supreme Court for the use of county courthouse space; prohibiting the Supreme Court from using state funds to lease space in specified facilities to allow a justice to establish an official headquarters; amending s. 26.031, F.S.; revising the number of circuit judges in certain judicial circuits; amending s. 34.022, F.S.; revising the number of county court judges in certain counties; providing an effective date.

HB 5011

2019

1 A bill to be entitled
2 An act relating to county court judges; amending s.
3 34.022, F.S.; revising the number of county court
4 judges in certain counties; providing an effective
5 date.

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

9 Section 1. Subsections (9) and (17) of section 34.022,
10 Florida Statutes, are amended to read:

11 34.022 Number of county court judges for each county.—The
12 number of county court judges in each county shall be as
13 follows:

14	COUNTY	TOTAL
15	(9) Citrus.....	<u>2</u> ±
16	(17) Flagler.....	<u>2</u> ±
17	Section 2. This act shall take effect July 1, 2019.	



963756

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/12/2019	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 25.025, Florida Statutes, is created to
read:

25.025 Headquarters.—

(1) (a) A Supreme Court justice who permanently resides
outside Leon County shall, if he or she so requests, have a
district court of appeal courthouse, a county courthouse, or



963756

another appropriate facility in his or her district of residence designated as his or her official headquarters pursuant to s. 112.061. This official headquarters may serve only as the justice's private chambers.

(b) A justice for whom an official headquarters is designated in his or her district of residence under this subsection is eligible for subsistence at a rate to be established by the Chief Justice for each day or partial day that the justice is at the Supreme Court Building for the conduct of the business of the court. In addition to the subsistence allowance, a justice is eligible for reimbursement for transportation expenses as provided in s. 112.061(7) for travel between the justice's official headquarters and the Supreme Court Building for the conduct of the business of the court.

(c) Payment of subsistence and reimbursement for transportation expenses relating to travel between a justice's official headquarters and the Supreme Court Building must be made to the extent that appropriated funds are available, as determined by the Chief Justice.

(2) The Chief Justice shall coordinate with each affected justice and other state and local officials as necessary to implement paragraph (1)(a).

(3)(a) This section does not require a county to provide space in a county courthouse for a justice. A county may enter into an agreement with the Supreme Court governing the use of space in a county courthouse.

(b) The Supreme Court may not use state funds to lease space in a district court of appeal courthouse, county



963756

courthouse, or other facility to allow a justice to establish an
official headquarters pursuant to subsection (1).

Section 2. Subsections (9) and (12) of section 26.031,
Florida Statutes, are amended to read:

26.031 Judicial circuits; number of judges.—The number of
circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(9) Ninth.....	<u>44</u> ~~43~~
(12) Twelfth.....	<u>22</u> ~~21~~

Section 3. Subsections (9) and (17) of section 34.022,
Florida Statutes, are amended to read:

34.022 Number of county court judges for each county.—The
number of county court judges in each county shall be as
follows:

COUNTY	TOTAL
(9) Citrus.....	<u>2</u> ~~1~~
(17) Flagler.....	<u>2</u> ~~1~~

Section 4. This act shall take effect July 1, 2019.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to courts; creating s. 25.025, F.S.;
authorizing certain Supreme Court justices to have an
appropriate facility in their district of residence



963756

designated as their official headquarters; providing that an official headquarters may serve only as a justice's private chambers; providing that such justices are eligible for a certain subsistence allowance and reimbursement for certain transportation expenses; requiring that such allowance and reimbursement be made to the extent that appropriated funds are available, as determined by the Chief Justice; requiring the Chief Justice to coordinate with certain persons in designating official headquarters; providing that a county is not required to provide space for a justice in a county courthouse; authorizing counties to enter into agreements with the Supreme Court for the use of county courthouse space; prohibiting the Supreme Court from using state funds to lease space in specified facilities to allow a justice to establish an official headquarters; amending s. 26.031, F.S.; revising the number of circuit judges in certain judicial circuits; amending s. 34.022, F.S.; revising the number of county court judges in certain counties; providing an effective date.

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: HB 5303

INTRODUCER: Government Operations and Technology Appropriations Subcommittee and
Representative Williamson

SUBJECT: Child Support Enforcement

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Blizzard</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

HB 5303 authorizes and directs the Department of Revenue (department) to pay the federal mandatory fee for child support cases involving an individual who has never received temporary cash assistance and for whom the department has collected at least \$550 of support.

The Federal Bipartisan Budget Act of 2018, Public Law No. 115-123 § 53117, amended 42 U.S.C. s. 654(6)(B)(ii), to increase the annual fee from \$25 to \$35, and the minimum amount of support collected and disbursed by the department before the fee is payable, from \$500 to \$550.

SB 2500, the Senate's proposed 2019-2020 General Appropriations Bill and HB 5001, the House's proposed 2019-2020 General Appropriations Bill, include appropriations of \$147,701 in nonrecurring funds from the General Revenue Fund to pay for the \$35 federal annual fee that states must impose for child support services. This fee is for cases in which an individual has never received temporary assistance and for whom the department has collected and disbursed at least \$550 of support.

The effective date of the bill is July 1, 2019.

II. Present Situation:

The Federal Government requires each state to operate a child support program as a condition for receiving the Temporary Assistance for Needy Families federal block grant. The programs are established to collect child support for two groups of families: families who receive public assistance such as temporary cash assistance, Medicaid, and food assistance, and families who do not receive public assistance, but need aid from the state in collecting child support.

The department oversees Florida's Child Support Enforcement Program (program). The program administers Florida's child support laws and helps ensure that children receive the financial support needed when it is not received from one or both of their parents. The department runs the

program for all but two Florida counties. For the two counties not managed by the department, partnerships have been established with the State Attorney's Office in Miami-Dade County and the Manatee County Clerk of Court in Manatee County to provide those services.

Section 409.2567(1), F.S., authorizes and directs the department to pay the \$25 annual fee required by 42 U.S.C. s. 654(6)(B)(ii) that states must impose for child support services for cases in which an individual has never received temporary cash assistance and for whom the department has collected and disbursed at least \$500 of support.¹

The Federal Deficit Reduction Act of 2005, Public Law No. 109-171, § 7310,² requires payment of the annual fee by either the parents or the state. The Florida Legislature amended s. 409.2567(1), F.S., in ch. 2007-85, L.O.F., to require the department to pay the annual fee prescribed by the Federal Government, on behalf of the parents.

The Federal Bipartisan Budget Act of 2018, Public Law No. 115-123, § 53117,³ amended 42 U.S.C. s. 654(6)(B)(ii) to increase the annual fee from \$25 to \$35, and the minimum amount of support that is required to be collected and disbursed before the fee is payable, from \$500 to \$550.

III. Effect of Proposed Changes:

The bill amends s. 409.2567(1), F.S., to require the department to pay the federally mandated increase in the annual fee from \$25 to \$35 and to increase the minimum amount of child support the department must collect and disburse to impose the annual fee, from \$500 to \$550.

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

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.

¹ Section 6, ch. 2007-85, L.O.F.

² 42 U.S.C. s.654(6)(B)(ii) (2006)

³ 42 U.S.C. s.654(6)(B)(ii) (2008)

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill requires the department to pay the federally required increase in the annual child support fee.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department estimates the cost for the annual fee increase for Fiscal Year 2019-2020 to be \$140,701 in nonrecurring funds from the General Revenue Fund. This amount is sufficient funding for the first year of implementation as the amount covers the fourth quarter of the federal fiscal year, which closes on September 30, 2019.⁴ The department estimates increased funding of \$1.4 million in Fiscal Year 2020-2021 and \$1.5 million in Fiscal Year 2021-2022 from general revenue to fully fund the annual federal fee.⁵ The increase in additional funding represents growth in caseloads and the increase in the annual fee from \$25 to \$35.

SB 2500, the Senate's proposed 2019-2020 General Appropriations Bill and HB 5001, the House of Representatives' proposed 2019-2020 General Appropriations Bill, appropriate \$147,701 in nonrecurring funds from the General Revenue Fund to pay the \$35 federal mandatory fee that states must impose for child support services.⁶ This fee is for cases in which an individual has never received temporary assistance and for whom the department has collected and disbursed at least \$550 of support.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 71 of SB 2502, the Senate's proposed General Appropriations Implementing Bill, includes similar language to require the department to pay the federally mandated increase in the child support fee and to increase the minimum amount of child support collected and disbursed.⁷

⁴ Department of Revenue Fiscal Year 2019-2020 Legislative Budget Request (October 18, 2018) pp. 25-26

⁵ Email correspondence received from Department of Revenue on file with the Senate Appropriations Committee. (July 3, 2018)

⁶ Senate Bill 2500, the Senate's proposed 2019-2020 General Appropriations Bill, Specific Appropriation 3109 and House Bill 5001, the House's proposed 2019-2020 General Appropriations Bill, Specific Appropriation 3109.

⁷ Senate Bill 2502, the Senate's proposed 2019-2020 General Appropriations Implementing Bill, Section 71.

VIII. Statutes Affected:

This bill substantially amends section 409.2567 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.

HB 5303

2019

1 A bill to be entitled
2 An act relating to child support enforcement; amending
3 s. 409.2567, F.S.; revising a requirement that the
4 Department of Revenue pay a federally required annual
5 fee for public assistance cases involving certain
6 individuals; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (1) of section 409.2567, Florida
11 Statutes, is amended to read:
12 409.2567 Services to individuals not otherwise eligible.—
13 (1) All support services provided by the department shall
14 be made available on behalf of all dependent children. Services
15 shall be provided upon acceptance of public assistance or upon
16 proper application filed with the department. The federally
17 required application fee for individuals who do not receive
18 public assistance is \$1, which shall be waived for all
19 applicants and paid by the department. The annual fee required
20 under 42 U.S.C. s. 654(6)(B), as amended by Pub. L. No. 115-123,
21 for cases involving an individual who has never received
22 temporary cash assistance and for whom the department has
23 collected the federally required minimum amount ~~at least \$500~~ of
24 support shall be paid by the department.
25 Section 2. This act shall take effect July 1, 2019.

Page 1 of 1

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

hb5303-00

From: Rebecca Evers <Rebecca.Evers@floridarevenue.com>
Sent: Tuesday, July 3, 2018 3:14 PM
To: Keith, Adam <Adam.Keith@LASPBS.STATE.FL.US>; Blizzard, Sandra <Sandra.Blizzard@LASPBS.STATE.FL.US>; Hagood, Olivia <Olivia.Hagood@LASPBS.STATE.FL.US>
Cc: Clark Rogers <Clark.Rogers@floridarevenue.com>; Debbie Longman <Debbie.Longman@floridarevenue.com>; Christopher Kennedy <Christopher.Kennedy@floridarevenue.com>
Subject: Update - Mandatory Case Fee Chart

Attached is an updated version of the Mandatory Case Fee chart based on revised information received June 30th. Please let me know if you have any questions!

Thanks,
Rebecca



Rebecca Evers
Budget Manager
Office of Financial Management
Florida Department of Revenue
(850) 717-7569
Rebecca.Evers@floridarevenue.com

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Mandatory Fee History and Forecast

Current Law

July 2018

Mandatory DRA fee-projected through SFY 2022

Updated for actual through 6/30/2018

Assumes 3% increase annually

Section 53117 of P.L. 115-123, Modernizing child support enforcement fees, changed the fee amount from \$25 to \$35 and the distribution threshold from \$500 to \$550. In Florida these changes will be effective 7/1/2019.

									Actual	Estimated	Estimated	Estimated	Estimated
State Fiscal Year (SFY)	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Date of Payment	9/30/2009	9/30/2010	9/30/2011	9/30/2012	9/30/2013	9/30/2014	9/30/2015	9/30/2016	9/30/2017	9/30/2018	9/30/2019	9/30/2020	9/30/2020
Number of Cases using Original Methodology	148,363	167,961	192,770	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Number of Cases using Revised Methodology	N/A	139,869	161,032	155,148	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Number of Cases using 2nd Revised Methodology	N/A	N/A	141,940	142,232	149,315	148,494	149,739	153,303	155,386	155,905	160,499	163,870	168,786
										0%	2.9%	2.1%	3.0%

In October 2012, the Department submitted a claim for and received reimbursement for \$987,195 based upon the previously reported amounts for FFY 2009-10 & 2010-11. This claim was approved January 2013.

In October 2013, the Department submitted a claim for and received reimbursement for \$528,132 based upon the previously reported amounts for FFY 2010-11 & 2011-12. This claim was approved January 2014.

Assumptions:

A one-time 0.925% decrease in eligible cases is assumed effective 7/1/2019 due to the increase to \$550 in support for eligibility.

Federal Fiscal Year (FFY)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Total Estimated Payment	2,450,151	2,470,694	2,529,500	2,563,869	2,572,433	2,707,343	3,785,397	3,898,957
Recurring Base	2,080,000	2,080,000	2,080,000	2,080,000	2,414,017	2,414,017	2,414,017	2,414,017
Beginning Non Recurring Cash on Hand	2,005,255	1,635,104	1,244,410	794,910	311,041	152,625	0	0
New Recurring Need (above current base)	0	0	0	0	0	140,701	1,371,380	1,484,940
Increase in GR Request Due to Law Change						57,740	1,056,313	1,088,000

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: HB 5401

INTRODUCER: Agriculture and Natural Resources Appropriations Subcommittee and Representative Raschein

SUBJECT: Department of Environmental Protection

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Reagan	Kynoch	AP	Favorable

I. Summary:

HB 5401 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers.

The bill requires the DEP and the Fish and Wildlife Conservation Commission (FWC) to develop a new memorandum of agreement detailing the respective responsibilities of the two agencies, with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of the DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the FWC to the DEP that are funded through any trust fund.

As determined by the new memorandum of agreement, the bill transfers the primary powers and duties of the FWC with regard to investigating certain environmental crimes and enforcing related laws to the DEP. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned land managed by the DEP.

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP. There may be additional, indeterminate negative costs associated with this transfer to the DEP.

The bill takes effect July 1, 2019.

II. Present Situation:

Environmental Law Enforcement Organizational Structure

The DEP is Florida's lead agency for environmental management and stewardship.¹ The DEP's activities are primarily divided into three areas: land and recreation, regulatory programs, and ecosystem restoration.² There are currently eight divisions established within the DEP.³ Currently, the DEP does not have any law enforcement officers. The DEP previously had a Division of Law Enforcement.⁴ This division was responsible for statewide environmental law enforcement, providing law enforcement services to Florida's state parks and trails, and providing assistance for disasters such as hurricanes or chemicals spills.⁵ This division oversaw four bureaus: Emergency Response, Criminal Investigations, Park Police, and the Office of Training and Professional Standards.⁶

The FWC is authorized to exercise regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life, and in these areas the FWC's staff is authorized to conduct management, research, and enforcement.⁷ The FWC currently has a Division of Law Enforcement with 1,051 members, including 853 sworn personnel, operating in six regions throughout the state.⁸ The FWC's Division of Law Enforcement has broad areas of responsibility including enforcing laws that protect Florida's wildlife and habitats, conducting environmental crime investigations, and protecting the public and environment from illegal environmental violations.⁹

In 2011, the Legislature created a Law Enforcement Consolidation Task Force.¹⁰ The task force was directed to evaluate any duplication of law enforcement functions throughout state government and identify any functions that are appropriate for possible consideration.¹¹ If the task force concluded that any consolidation of state law enforcement was appropriate then recommendations and a plan would be submitted.¹² In December of 2011, the task force recommended integrating the entire DEP Division of Law Enforcement into the Division of Law

¹ Section 20.255, F.S.; DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Mar. 22, 2019).

² *Id.*

³ Section 20.255, F.S.; see DEP, *Divisions*, <https://floridadep.gov/divisions> (last visited Mar. 22, 2019).

⁴ DEP, *DEP Law Enforcement Personnel Awarded for Outstanding Performance and Commitment to the Environment*, <https://content.govdelivery.com/accounts/FLDEP/bulletins/22db55> (last visited Mar. 22, 2019).

⁵ *Id.*

⁶ *Id.*

⁷ FLA. CONST. art. IV, s. 9.

⁸ Section 20.331, (4)(a)4., F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

⁹ Section 20.331, (7)(e), F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

¹⁰ Ch. 2011-66, s. 31, Laws of Fla.

¹¹ *Id.*

¹² *Id.*

Enforcement within the FWC.¹³ The reasons for the recommendation included overlapping duties, cost efficiencies and reductions, and enhanced recovery and response times.¹⁴

In 2012, the Legislature transferred all powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the DEP's Division of Law Enforcement, excluding the Bureau of Emergency Response, to the FWC's Division of Law Enforcement through a type two transfer.¹⁵ The DEP was also required to transfer to the FWC a number of administrative, auditing, inspector general, attorney, and operational support positions proportional to the DEP's Division of Law Enforcement being transferred.¹⁶ The legislation required the DEP and the FWC to develop a memorandum of agreement detailing the responsibilities of the FWC to the DEP regarding law enforcement, emergency response, and funding.¹⁷

The DEP and the FWC have a memorandum of agreement identifying the responsibilities of the FWC with regard to the DEP. The FWC provides law enforcement services for the DEP. The DEP transfers funds to the FWC to compensate for these services.

In 2018, the following appropriations were made to the FWC's Marine Resources Conservation Trust Fund or State Game Trust Fund for law enforcement:

- \$11,310,256 from the Coastal Protection Trust Fund
- \$1,991,722 from the Inland Protection Trust Fund
- \$2,822,599 from the Solid Waste Management Trust Fund.¹⁸

In January of 2019, Governor DeSantis issued Executive Order 2019-12.¹⁹ The order directed the DEP to take all necessary actions to move the Environmental Crimes Enforcement Unit from the FWC to the DEP, to align resources focused on environmental protection and ensure strong enforcement of Florida's environmental laws.²⁰

III. Effect of Proposed Changes:

Section 1 transfers the primary powers and duties of the FWC with regard to the investigation of certain environmental crimes and the enforcement of related laws to the DEP, as specified in the memorandum of agreement developed under the bill. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned lands managed by the DEP, and the FWC will coordinate with the DEP in that regard.

¹³ Law Enforcement Consolidation Task Force, *Task Force Report Pursuant to SB 2160 Enacted by the 2011 Legislature*, 5 (Dec. 21, 2011), available at <https://www.flhsmv.gov/lectaskforce/LECTFReport.pdf> (last visited Mar. 22, 2019).

¹⁴ *Id.*

¹⁵ Ch. 2012-88, Laws of Fla.; see s. 20.06(2), F.S.; see DEP, *Office of Emergency Response*, <https://floridadep.gov/oer> (last visited Mar. 22, 2019).

¹⁶ Ch. 2012-88, Laws of Fla.

¹⁷ *Id.*

¹⁸ Ch. 2018-9, Special Appropriation 1536, Laws of Fla.

¹⁹ Office of the Governor, *Executive Order Number 19-12* (2019), available at https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf (last visited Mar. 22, 2019).

²⁰ *Id.* at 5.

The bill requires the FWC and the DEP to develop a new memorandum of agreement detailing the respective responsibilities of the FWC and the DEP with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of the DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the FWC to the DEP, which are funded through any trust fund.

Section 2 requires that all of the personnel and equipment assigned to the DEP's Office of Emergency Response be reassigned to the DEP's Division of Law Enforcement.

Section 3 requires the Secretary of the DEP and the Executive Director of the FWC to each appoint two staff members to a transition advisory working group to review the administrative rules promulgated by the DEP and the FWC to identify any rules that must be amended to reflect the changes made by the bill.

Section 4 requires that, notwithstanding ch. 60L-34 F.A.C., or any law to the contrary, employees transferred from the FWC to fill positions transferred to the DEP shall retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balance. The bill requires that the employees retain their current position status, including permanent status, upon transfer to the DEP.

Section 5 amends s. 20.255, F.S., which establishes the organizational structure of the DEP. The bill adds the Division of Law Enforcement to the list of the DEP's divisions. The bill states that law enforcement officers of the DEP, who meet the minimum qualification requirements for a law enforcement officer in s. 943.13, F.S., are constituted law enforcement officers of the state with full power to investigate and arrest for any violation of the laws of the state and the rules of the DEP and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of the state apply to such law enforcement officers.

Section 6 amends s. 258.004, F.S., which establishes the duties of the DEP's Division of Recreation and Parks. The bill requires that ch. 258, F.S., State Parks and Preserves, be enforced by the DEP's Division of Law Enforcement and its officers, and by the FWC's Division of Law Enforcement and its officers.

Section 7 amends s. 258.008, F.S., which establishes the fines and penalties for violating rules adopted under ch. 258, F.S. The bill requires that fines paid for violations of rules adopted under

ch. 258, F.S., will go into either the FWC's State Game Trust Fund or the DEP's State Park Trust Fund, "as applicable".

Section 8 amends s. 258.501, F.S., by authorizing "officers" of the DEP to enforce certain DEP rules.

Section 9 amends s. 282.709, F.S., which authorizes a statewide radio communications system to serve state and local law enforcement units. The bill requires that the Secretary of the DEP appoint a representative of the DEP's Division of Law Enforcement to serve as a member of the Joint Task Force on State Agency Law Enforcement Communications, which advises on agency needs relating to the planning, designing, and establishment of the statewide communication system.

Section 10 amends s. 316.640, F.S., which vests authority for the enforcement of Florida's traffic laws. The bill authorizes the DEP's Division of Law Enforcement to enforce all of the traffic laws of the state on all of the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.

Section 11 amends s. 376.3071, F.S., which establishes the Inland Protection Trust Fund and programs for its use. The bill provides that when the DEP determines that incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the public health, safety, welfare, water resources, or the environment, the DEP is required to spend available money from the Inland Protection Trust Fund to provide for enforcement of related laws by the FWC and the DEP. The bill authorizes, but does not require, the DEP to disburse money to the FWC for this purpose.

Section 12 amends s. 403.413, F.S., which is Florida's litter law. The bill changes the section's definition of "law enforcement officer" to include any officer of the DEP.

Section 13 amends s. 784.07, F.S., which establishes the penalties for assault or battery of law enforcement officers. The bill expands the section's definition of law enforcement officer to include law enforcement personnel of the DEP.

Section 14 amends s. 843.08, F.S., which establishes penalties for falsely impersonating or pretending to be a law enforcement officer. The bill expands the scope of the section to include officers of the DEP.

Section 15 amends s. 843.085, F.S., which prohibits the unlawful use of badges or indicia of authority. The bill prohibits wearing or displaying any item containing the words "Department of Environmental Protection Officer" with the intent to mislead or cause another person to believe that he or she is a member of the agency or is authorized to wear or display the item. The bill prohibits a person from owning or operating a vehicle marked or identified by the words "Department of Environmental Protection Officer." The bill prohibits a person from selling, transferring, or giving away an authorized badge bearing the words "Department of Environmental Protection Officer." Violation of any of these prohibitions is a misdemeanor of the first degree. The bill provides exceptions for fraternal, benevolent, or labor organizations using the words.

Section 16 amends s. 870.04, F.S., and authorizes an officer or agent of the DEP to go among people that are rioting or tumultuously assembled and command those people in the name of the state to immediately and peaceably disperse.

Section 17 amends s. 932.7055, F.S., which determines the disposition of liens and property when a seizing agent has obtained a judgement granting forfeiture. The bill provides that if the seizing agency is the DEP then proceeds accrued pursuant to the Florida Contraband Forfeiture Act must be deposited into one of five trust funds, as specified in the statute under which the violation occurs:

- The Internal Improvement Trust Fund;
- The Water Quality Assurance Trust Fund;
- The Inland Protection Trust Fund;
- The Coastal Protection Trust Fund; or
- The Solid Waste Management Trust Fund.

Section 18 reenacts s. 790.166(8)(a), F.S., relating to an exclusion from the definition of weapons of mass destruction for devices or instruments lawfully used by state law enforcement.

Section 19 states that the bill shall take effect on July 1, 2019.

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:

The separation of powers doctrine prevents the Legislature from delegating its constitutional duties.²¹ Legislative power involves the exercise of policy-related discretion over the content of law.²² The Florida Supreme Court, in *Askew v. Cross Key Waterways*, provided a framework for measuring the constitutionality of legislative

²¹ *Florida State Bd. Of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

²² *State ex rel. Taylor v. City of Tallahassee*, 177 So. 719, 720-721 (Fla. 1937).

power delegations.²³ The court adopted a formal interpretation of the delegation of powers doctrine. Where the Legislature makes the fundamental policy decision and delegates to some other body the task of implementing that policy under adequate safeguards, there is no violation of the doctrine. However, when legislation is so lacking in guidelines that neither the agency nor the courts can determine whether the agency is carrying out the intent of the legislature in its conduct, then, in fact, the agency becomes the lawgiver rather than the administrator of the law.²⁴

Until such time as the FWC and the DEP create a new memorandum of agreement there are many outstanding questions regarding the size and role of the DEP's new Division of Law Enforcement.

Although while the bill itself does not answer these questions, both the Senate's and House's proposed budgets for Fiscal Year 2019-2020 anticipate a transfer of 19 full-time equivalent positions with an approved salary rate of \$1,076,218 and other associated financial transfers. Furthermore, the bill is drafted in many ways to reverse the transfer of the DEP's law enforcement functions by Ch. 2012-88, L.O.F. Those provisions were similar to the provisions set out in this bill, and that transfer was in part effectuated by a memorandum of agreement analogous to the one that the DEP and the FWC are directed to carryout in this bill. Therefore, there may be enough context to provide adequate legislative guidance for this to be a constitutional delegation.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a new division of law enforcement within the DEP and adds significant new duties and responsibilities to the DEP.

The FWC's bill analysis states that revenues collected in the Inland Protection Trust Fund currently provide for the functions described in the bill.²⁵ The FWC's analysis states that

²³ 372 So.2d 913 (Fla. 1978).

²⁴ *Id.* at 918-19; see also *Conner v. Joe Hatton, Inc.*, 216 So.2d 209, 211 (Fla. 1968) (“[w]hen the statute is couched in vague and uncertain terms or is so broad in scope that no one can say with certainty, from the terms of the law itself, what would be deemed an infringement of the law, it must be held unconstitutional as attempting to grant to the administrative body the power to say what the law shall be.”).

²⁵ FWC, 2019 Agency Legislative Bill Analysis, *Senate Bill (SB) 1502*, 5 (2019) (on file with the Senate Committee on Environment and Natural Resources).

the costs for the functions described in the bill are covered by the FWC's base budget and that those expenditures would be made by the DEP.²⁶

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP.²⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.255, 258.004, 258.008, 258.501, 282.709, 316.640, 376.3071, 403.413, 784.07, 843.08, 843.085, 870.04, and 932.7055.

This bill reenacts section 790.166 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.

²⁶ *Id.*

²⁷ *Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787 and House Bill 5001, Eng., the House's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787.*

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1 A bill to be entitled
 2 An act relating to the Department of Environmental
 3 Protection; transferring primary powers and duties of
 4 the Fish and Wildlife Conservation Commission relating
 5 to certain environmental crimes and the enforcement of
 6 related laws to the Division of Law Enforcement within
 7 the Department of Environmental Protection; providing
 8 requirements for a memorandum of agreement between the
 9 department and the commission regarding their
 10 respective responsibilities; reassigning personnel and
 11 equipment from the Office of Emergency Response within
 12 the department to the Division of Law Enforcement
 13 within the department; providing for a transition
 14 advisory working group; providing for the retention
 15 and transfer of specified benefits for employees who
 16 are transferred from the commission to the department;
 17 amending s. 20.255, F.S.; establishing the Division of
 18 Law Enforcement within the department; providing law
 19 enforcement officers of the department who meet
 20 certain requirements with specified authority;
 21 amending s. 258.004, F.S.; requiring the Division of
 22 Law Enforcement of the department and its officers and
 23 the Division of Law Enforcement of the commission and
 24 its officers to enforce laws relating to state parks;
 25 amending s. 258.008, F.S.; providing for certain fines

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26 to be paid to the department and deposited in the
 27 State Park Trust Fund; amending s. 258.501, F.S.;
 28 conforming provisions to changes made by the act;
 29 amending s. 282.709, F.S.; appointing a representative
 30 of the Division of Law Enforcement of the department
 31 to the Joint Task Force on State Agency Law
 32 Enforcement Communications; amending s. 316.640, F.S.;
 33 vesting the enforcement of certain traffic laws in the
 34 Division of Law Enforcement of the department;
 35 amending s. 376.3071, F.S.; authorizing the use of
 36 moneys from the Inland Protection Trust Fund for the
 37 enforcement of certain laws by the department;
 38 amending ss. 403.413 and 784.07, F.S.; revising
 39 definitions; amending ss. 843.08 and 843.085, F.S.;
 40 providing penalties for false personation and unlawful
 41 use of badges and other symbols of an officer of the
 42 department, respectively; amending s. 870.04, F.S.;
 43 vesting the dispersement of riotous assembly in the
 44 officers of the department; amending s. 932.7055,
 45 F.S.; providing for proceeds accrued pursuant to the
 46 Florida Contraband Forfeiture Act to be deposited in
 47 specified trust funds of the department; reenacting s.
 48 790.166(8)(a), F.S., relating to the prohibited
 49 manufacturing, possession, sale, delivery, display,
 50 use, or attempted or threatened use of a weapon of

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51 mass destruction or hoax weapon of mass destruction,
 52 to incorporate the amendment made to s. 784.07, F.S.,
 53 in a reference thereto; providing an effective date.

54
 55 Be It Enacted by the Legislature of the State of Florida:

56
 57 Section 1. (1) The primary powers and duties of the Fish
 58 and Wildlife Conservation Commission relating to the
 59 investigation of certain environmental crimes and the
 60 enforcement of related laws, as specified in the new memorandum
 61 of agreement developed as required under subsection (2), are
 62 transferred to the Division of Law Enforcement within the
 63 Department of Environmental Protection. The commission retains
 64 law enforcement authority over the patrol of state-owned lands
 65 managed by the department and shall coordinate with the
 66 department in that regard.

67 (2) A new memorandum of agreement must be developed
 68 between the commission and the department detailing their
 69 respective responsibilities regarding, at minimum, the
 70 following:

71 (a) Support and response for oil spills, hazardous spills,
 72 and natural disasters.

73 (b) Law enforcement patrol and investigative services for
 74 all state-owned lands managed by the department.

75 (c) Law enforcement services, including investigative

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76 services, for all criminal law violations of chapters 161, 258,
 77 373, 376, 377, 378, and 403, Florida Statutes.

78 (d) Enforcement services for civil violations of
 79 department administrative rules related to all of the following
 80 program areas:

81 1. The Division of Recreation and Parks.

82 2. The Office of Coastal and Aquatic Managed Areas.

83 3. The Office of Greenways and Trails.

84 (e) Current and future funding, training, or other support
 85 for positions and equipment being transferred from the
 86 commission to the department which are funded through any trust
 87 fund.

88 Section 2. All personnel and equipment assigned to the
 89 Office of Emergency Response within the Department of
 90 Environmental Protection are reassigned to the Division of Law
 91 Enforcement within the department.

92 Section 3. The Secretary of Environmental Protection and
 93 the Executive Director of the Fish and Wildlife Conservation
 94 Commission shall each appoint two staff members to a transition
 95 advisory working group to review the administrative rules
 96 adopted by the Department of Environmental Protection and the
 97 commission to identify any rules that must be amended to reflect
 98 the changes made by this act.

99 Section 4. Notwithstanding chapter 60L-34, Florida
 100 Administrative Code, or any law to the contrary, employees who

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101 are transferred from the Fish and Wildlife Conservation
 102 Commission to fill positions transferred to the Department of
 103 Environmental Protection shall retain and transfer any accrued
 104 annual leave, sick leave, and regular and special compensatory
 105 leave balances. The employees shall retain their current
 106 position status, including permanent status, upon transfer to
 107 the department.

108 Section 5. Paragraph (i) is added to subsection (3) of
 109 section 20.255, Florida Statutes, and subsection (10) is added
 110 that section, to read:

111 20.255 Department of Environmental Protection.—There is
 112 created a Department of Environmental Protection.

113 (3) The following divisions of the Department of
 114 Environmental Protection are established:

115 (i) Division of Law Enforcement.

116

117 In order to ensure statewide and intradepartmental consistency,
 118 the department's divisions shall direct the district offices and
 119 bureaus on matters of interpretation and applicability of the
 120 department's rules and programs.

121 (10) Law enforcement officers of the Department of
 122 Environmental Protection who meet the requirements of s. 943.13
 123 are constituted law enforcement officers of this state with full
 124 power to investigate and arrest for any violation of the laws of
 125 this state and the rules of the department and the Board of

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126 Trustees of the Internal Improvement Trust Fund. The general
 127 laws applicable to investigations, searches, and arrests by
 128 peace officers of this state apply to such law enforcement
 129 officers.

130 Section 6. Subsection (8) is added to section 258.004,
 131 Florida Statutes, to read:

132 258.004 Duties of division.—

133 (8) This part shall be enforced by the Division of Law
 134 Enforcement of the Department of Environmental Protection and
 135 its officers and by the Division of Law Enforcement of the Fish
 136 and Wildlife Conservation Commission and its officers.

137 Section 7. Subsection (1) of section 258.008, Florida
 138 Statutes, is amended to read:

139 258.008 Prohibited activities; penalties.—

140 (1) Except as provided in subsection (3), any person who
 141 violates or otherwise fails to comply with the rules adopted
 142 under this chapter commits a noncriminal infraction for which
 143 ejection from all property managed by the Division of Recreation
 144 and Parks and a fine of up to \$500 may be imposed by the
 145 division. Fines paid under this subsection shall be paid to the
 146 Fish and Wildlife Conservation Commission and deposited in the
 147 State Game Trust Fund as provided in ss. 379.338, 379.339, and
 148 379.3395 or to the Department of Environmental Protection and
 149 deposited in the State Park Trust Fund, as applicable.

150 Section 8. Subsection (16) of section 258.501, Florida

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151 Statutes, is amended to read:

152 258.501 Myakka River; wild and scenic segment.—

153 (16) ENFORCEMENT.—Officers of the department and the Fish
154 and Wildlife Conservation Commission shall have full authority
155 to enforce any rule adopted by the department.

156 Section 9. Paragraph (a) of subsection (2) of section
157 282.709, Florida Statutes, is amended to read:

158 282.709 State agency law enforcement radio system and
159 interoperability network.—

160 (2) The Joint Task Force on State Agency Law Enforcement
161 Communications is created adjunct to the department to advise
162 the department of member-agency needs relating to the planning,
163 designing, and establishment of the statewide communication
164 system.

165 (a) The Joint Task Force on State Agency Law Enforcement
166 Communications shall consist of the following members:

167 1. A representative of the Division of Alcoholic Beverages
168 and Tobacco of the Department of Business and Professional
169 Regulation who shall be appointed by the secretary of the
170 department.

171 2. A representative of the Division of Florida Highway
172 Patrol of the Department of Highway Safety and Motor Vehicles
173 who shall be appointed by the executive director of the
174 department.

175 3. A representative of the Department of Law Enforcement

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176 who shall be appointed by the executive director of the
177 department.

178 4. A representative of the Fish and Wildlife Conservation
179 Commission who shall be appointed by the executive director of
180 the commission.

181 5. A representative of the Division of Law Enforcement of
182 the Department of Environmental Protection who shall be
183 appointed by the secretary of the department.

184 ~~6.5-~~ A representative of the Department of Corrections who
185 shall be appointed by the secretary of the department.

186 ~~7.6-~~ A representative of the Department of Financial
187 Services who shall be appointed by the Chief Financial Officer.

188 ~~8.7-~~ A representative of the Department of Agriculture and
189 Consumer Services who shall be appointed by the Commissioner of
190 Agriculture.

191 9.8- A representative of the Florida Sheriffs Association
192 who shall be appointed by the president of the Florida Sheriffs
193 Association.

194 Section 10. Paragraph (a) of subsection (1) of section
195 316.640, Florida Statutes, is amended to read:

196 316.640 Enforcement.—The enforcement of the traffic laws
197 of this state is vested as follows:

198 (1) STATE.—

199 (a)1.a. The Division of Florida Highway Patrol of the
200 Department of Highway Safety and Motor Vehicles; the Division of

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201 Law Enforcement of the Fish and Wildlife Conservation
 202 Commission; the Division of Law Enforcement of the Department of
 203 Environmental Protection; and the agents, inspectors, and
 204 officers of the Department of Law Enforcement each have
 205 authority to enforce all of the traffic laws of this state on
 206 all the streets and highways thereof and elsewhere throughout
 207 the state wherever the public has a right to travel by motor
 208 vehicle.

209 b. University police officers may enforce all of the
 210 traffic laws of this state when violations occur on or within
 211 1,000 feet of any property or facilities that are under the
 212 guidance, supervision, regulation, or control of a state
 213 university, a direct-support organization of such state
 214 university, or any other organization controlled by the state
 215 university or a direct-support organization of the state
 216 university, or when such violations occur within a specified
 217 jurisdictional area as agreed upon in a mutual aid agreement
 218 entered into with a law enforcement agency pursuant to s.
 219 23.1225(1). Traffic laws may also be enforced off-campus when
 220 hot pursuit originates on or within 1,000 feet of any such
 221 property or facilities, or as agreed upon in accordance with the
 222 mutual aid agreement.

223 c. Florida College System institution police officers may
 224 enforce all the traffic laws of this state only when such
 225 violations occur on or within 1,000 feet of any property or

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226 facilities that are under the guidance, supervision, regulation,
 227 or control of the Florida College System institution, or when
 228 such violations occur within a specified jurisdictional area as
 229 agreed upon in a mutual aid agreement entered into with a law
 230 enforcement agency pursuant to s. 23.1225. Traffic laws may also
 231 be enforced off-campus when hot pursuit originates on or within
 232 1,000 feet of any such property or facilities, or as agreed upon
 233 in accordance with the mutual aid agreement.

234 d. Police officers employed by an airport authority may
 235 enforce all of the traffic laws of this state only when such
 236 violations occur on any property or facilities that are owned or
 237 operated by an airport authority.

238 (I) An airport authority may employ as a parking
 239 enforcement specialist any individual who successfully completes
 240 a training program established and approved by the Criminal
 241 Justice Standards and Training Commission for parking
 242 enforcement specialists but who does not otherwise meet the
 243 uniform minimum standards established by the commission for law
 244 enforcement officers or auxiliary or part-time officers under s.
 245 943.12. This sub-sub-subparagraph may not be construed to permit
 246 the carrying of firearms or other weapons, nor shall such
 247 parking enforcement specialist have arrest authority.

248 (II) A parking enforcement specialist employed by an
 249 airport authority may enforce all state, county, and municipal
 250 laws and ordinances governing parking only when such violations

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251 are on property or facilities owned or operated by the airport
 252 authority employing the specialist, by appropriate state,
 253 county, or municipal traffic citation.

254 e. The Office of Agricultural Law Enforcement of the
 255 Department of Agriculture and Consumer Services may enforce
 256 traffic laws of this state.

257 f. School safety officers may enforce all of the traffic
 258 laws of this state when such violations occur on or about any
 259 property or facilities that are under the guidance, supervision,
 260 regulation, or control of the district school board.

261 2. Any disciplinary action taken or performance evaluation
 262 conducted by an agency of the state as described in subparagraph
 263 1. of a law enforcement officer's traffic enforcement activity
 264 must be in accordance with written work-performance standards.
 265 Such standards must be approved by the agency and any collective
 266 bargaining unit representing such law enforcement officer. A
 267 violation of this subparagraph is not subject to the penalties
 268 provided in chapter 318.

269 3. The Division of the Florida Highway Patrol may employ
 270 as a traffic accident investigation officer any individual who
 271 successfully completes instruction in traffic accident
 272 investigation and court presentation through the Selective
 273 Traffic Enforcement Program as approved by the Criminal Justice
 274 Standards and Training Commission and funded through the
 275 National Highway Traffic Safety Administration or a similar

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276 program approved by the commission, but who does not necessarily
 277 meet the uniform minimum standards established by the commission
 278 for law enforcement officers or auxiliary law enforcement
 279 officers under chapter 943. Any such traffic accident
 280 investigation officer who makes an investigation at the scene of
 281 a traffic accident may issue traffic citations, based upon
 282 personal investigation, when he or she has reasonable and
 283 probable grounds to believe that a person who was involved in
 284 the accident committed an offense under this chapter, chapter
 285 319, chapter 320, or chapter 322 in connection with the
 286 accident. This subparagraph does not permit the officer to carry
 287 firearms or other weapons, and such an officer does not have
 288 authority to make arrests.

289 Section 11. Paragraph (p) of subsection (4) of section
 290 376.3071, Florida Statutes, is amended to read:

291 376.3071 Inland Protection Trust Fund; creation; purposes;
 292 funding.—

293 (4) USES.—Whenever, in its determination, incidents of
 294 inland contamination related to the storage of petroleum or
 295 petroleum products may pose a threat to the public health,
 296 safety, or welfare, water resources, or the environment, the
 297 department shall obligate moneys available in the fund to
 298 provide for:

299 (p) Enforcement of this section and ss. 376.30-376.317 by
 300 the Fish and Wildlife Conservation Commission and the Department

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301 of Environmental Protection. The department may ~~shall~~ disburse
 302 moneys to the commission for such purpose.

303

304 The issuance of a site rehabilitation completion order pursuant
 305 to subsection (5) or paragraph (12)(b) for contamination
 306 eligible for programs funded by this section does not alter the
 307 project's eligibility for state-funded remediation if the
 308 department determines that site conditions are not protective of
 309 human health under actual or proposed circumstances of exposure
 310 under subsection (5). The Inland Protection Trust Fund may be
 311 used only to fund the activities in ss. 376.30-376.317 except
 312 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
 313 each fiscal year must first be applied or allocated for the
 314 payment of amounts payable by the department pursuant to
 315 paragraph (n) under a service contract entered into by the
 316 department pursuant to s. 376.3075 and appropriated in each year
 317 by the Legislature before making or providing for other
 318 disbursements from the fund. This subsection does not authorize
 319 the use of the fund for cleanup of contamination caused
 320 primarily by a discharge of solvents as defined in s.
 321 206.9925(6), or polychlorinated biphenyls when their presence
 322 causes them to be hazardous wastes, except solvent contamination
 323 which is the result of chemical or physical breakdown of
 324 petroleum products and is otherwise eligible. Facilities used
 325 primarily for the storage of motor or diesel fuels as defined in

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326 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
 327 to this section.

328 Section 12. Paragraph (e) of subsection (2) of section
 329 403.413, Florida Statutes, is amended to read:

330 403.413 Florida Litter Law.—

331 (2) DEFINITIONS.—As used in this section:

332 (e) "Law enforcement officer" means any officer of the
 333 Florida Highway Patrol, a county sheriff's department, a
 334 municipal law enforcement department, a law enforcement
 335 department of any other political subdivision, the Department of
 336 Environmental Protection, or the Fish and Wildlife Conservation
 337 Commission. In addition, and solely for the purposes of this
 338 section, "law enforcement officer" means any employee of a
 339 county or municipal park or recreation department designated by
 340 the department head as a litter enforcement officer.

341 Section 13. Paragraph (d) of subsection (1) of section
 342 784.07, Florida Statutes, is amended to read:

343 784.07 Assault or battery of law enforcement officers,
 344 firefighters, emergency medical care providers, public transit
 345 employees or agents, or other specified officers;
 346 reclassification of offenses; minimum sentences.—

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

348 (d) "Law enforcement officer" includes a law enforcement
 349 officer, a correctional officer, a correctional probation
 350 officer, a part-time law enforcement officer, a part-time

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351 correctional officer, an auxiliary law enforcement officer, and
 352 an auxiliary correctional officer, as those terms are
 353 respectively defined in s. 943.10, and any county probation
 354 officer; an employee or agent of the Department of Corrections
 355 who supervises or provides services to inmates; an officer of
 356 the Florida Commission on Offender Review; a federal law
 357 enforcement officer as defined in s. 901.1505; and law
 358 enforcement personnel of the Fish and Wildlife Conservation
 359 Commission, the Department of Environmental Protection, or the
 360 Department of Law Enforcement.

361 Section 14. Section 843.08, Florida Statutes, is amended
 362 to read:

363 843.08 False personation.—A person who falsely assumes or
 364 pretends to be a firefighter, sheriff, officer of the Florida
 365 Highway Patrol, officer of the Fish and Wildlife Conservation
 366 Commission, officer of the Department of Environmental
 367 Protection, fire or arson investigator of the Department of
 368 Financial Services, officer of the Department of Financial
 369 Services, officer of the Department of Corrections, correctional
 370 probation officer, deputy sheriff, state attorney or assistant
 371 state attorney, statewide prosecutor or assistant statewide
 372 prosecutor, state attorney investigator, coroner, police
 373 officer, lottery special agent or lottery investigator, beverage
 374 enforcement agent, or watchman, or any member of the Florida
 375 Commission on Offender Review and any administrative aide or

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376 supervisor employed by the commission, or any personnel or
 377 representative of the Department of Law Enforcement, or a
 378 federal law enforcement officer as defined in s. 901.1505, and
 379 takes upon himself or herself to act as such, or to require any
 380 other person to aid or assist him or her in a matter pertaining
 381 to the duty of any such officer, commits a felony of the third
 382 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 383 775.084. However, a person who falsely personates any such
 384 officer during the course of the commission of a felony commits
 385 a felony of the second degree, punishable as provided in s.
 386 775.082, s. 775.083, or s. 775.084. If the commission of the
 387 felony results in the death or personal injury of another human
 388 being, the person commits a felony of the first degree,
 389 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 390 The term "watchman" means a security officer licensed under
 391 chapter 493.

392 Section 15. Section 843.085, Florida Statutes, is amended
 393 to read:

394 843.085 Unlawful use of badges or other indicia of
 395 authority.—

396 (1) It is unlawful for any person, unless appointed by the
 397 Governor pursuant to chapter 354, authorized by the appropriate
 398 agency, or displayed in a closed or mounted case as a collection
 399 or exhibit, to wear or display any authorized indicia of
 400 authority, including any badge, insignia, emblem, identification

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401 card, or uniform, or any colorable imitation thereof, of any
 402 federal, state, county, or municipal law enforcement agency, or
 403 other criminal justice agency as defined in s. 943.045, with the
 404 intent to mislead or cause another person to believe that he or
 405 she is a member of that agency or is authorized to display or
 406 wear such item, or to wear or display any item that displays in
 407 any manner or combination the word or words "police,"
 408 "patrolman," "agent," "sheriff," "deputy," "trooper," "highway
 409 patrol," "commission officer," "Wildlife Officer," "Department
 410 of Environmental Protection officer," "Marine Patrol Officer,"
 411 "state attorney," "public defender," "marshal," "constable,"
 412 "bailiff," or "fire department," with the intent to mislead or
 413 cause another person to believe that he or she is a member of
 414 that agency or is authorized to wear or display such item.

415 (2) It is unlawful for a person to own or operate a motor
 416 vehicle marked or identified in any manner or combination by the
 417 word or words "police," "patrolman," "sheriff," "deputy,"
 418 "trooper," "highway patrol," "commission officer," "Wildlife
 419 Officer," "Department of Environmental Protection officer,"
 420 "Marine Patrol Officer," "marshal," "constable," "bailiff," or
 421 "fire department," or by any lettering, marking, or insignia, or
 422 colorable imitation thereof, including, but not limited to,
 423 stars, badges, or shields, officially used to identify the
 424 vehicle as a federal, state, county, or municipal law
 425 enforcement vehicle or a vehicle used by a criminal justice

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426 agency as defined in s. 943.045, or a vehicle used by a fire
 427 department with the intent to mislead or cause another person to
 428 believe that such vehicle is an official vehicle of that agency
 429 and is authorized to be used by that agency, unless such vehicle
 430 is owned or operated by the appropriate agency and its use is
 431 authorized by such agency, or the local law enforcement agency
 432 or fire department authorizes the use of such vehicle, or the
 433 person is appointed by the Governor pursuant to chapter 354.

434 (3) It is unlawful for a person to sell, transfer, or give
 435 away the authorized badge, or colorable imitation thereof,
 436 including miniatures, of any criminal justice agency as defined
 437 in s. 943.045, or bearing in any manner or combination the word
 438 or words "police," "patrolman," "sheriff," "deputy," "trooper,"
 439 "highway patrol," "commission officer," "Wildlife Officer,"
 440 "Department of Environmental Protection officer," "Marine Patrol
 441 Officer," "marshal," "constable," "agent," "state attorney,"
 442 "public defender," "bailiff," or "fire department," with the
 443 intent to mislead or cause another person to believe that he or
 444 she is a member of that agency or is authorized to wear or
 445 display such item, except for agency purchases or upon the
 446 presentation and recordation of both a driver license and other
 447 identification showing any transferee to actually be a member of
 448 such criminal justice agency or unless the person is appointed
 449 by the Governor pursuant to chapter 354. A transferor of an item
 450 covered by this subsection is required to maintain for 2 years a

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451 written record of such transaction, including records showing
 452 compliance with this subsection, and if such transferor is a
 453 business, it shall make such records available during normal
 454 business hours for inspection by any law enforcement agency
 455 having jurisdiction in the area where the business is located.

456 (4) This section does not prohibit a fraternal,
 457 benevolent, or labor organization or association, or their
 458 chapters or subsidiaries, from using the following words, in any
 459 manner or in any combination, if those words appear in the
 460 official name of the organization or association: "police,"
 461 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"
 462 "commission officer," "Wildlife Officer," "Department of
 463 Environmental Protection officer," "Marine Patrol Officer,"
 464 "marshal," "constable," "bailiff," or "fire department."

465 (5) A violation of ~~any provision of~~ this section is a
 466 misdemeanor of the first degree, punishable as provided in s.
 467 775.082 or s. 775.083. This section is cumulative to any law now
 468 in force in the state.

469 Section 16. Section 870.04, Florida Statutes, is amended
 470 to read:

471 870.04 Specified officers to disperse riotous assembly.—If
 472 any number of persons, whether armed or not, are unlawfully,
 473 riotously, or tumultuously assembled in any county, city, or
 474 municipality, the sheriff or the sheriff's deputies, or the
 475 mayor, or any commissioner, council member, alderman, or police

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476 officer of the city or municipality, or any officer or member of
 477 the Florida Highway Patrol, or any officer or agent of the Fish
 478 and Wildlife Conservation Commission or the Department of
 479 Environmental Protection, any beverage enforcement agent, any
 480 personnel or representatives of the Department of Law
 481 Enforcement or its successor, or any other peace officer, shall
 482 go among the persons so assembled, or as near to them as may be
 483 done with safety, and shall in the name of the state command all
 484 the persons so assembled immediately and peaceably to disperse.
 485 If such persons do not thereupon immediately and peaceably
 486 disperse, such officers shall command the assistance of all such
 487 persons in seizing, arresting, and securing such persons in
 488 custody. If any person present being so commanded to aid and
 489 assist in seizing and securing such rioter or persons so
 490 unlawfully assembled, or in suppressing such riot or unlawful
 491 assembly, refuses or neglects to obey such command, or, when
 492 required by such officers to depart from the place, refuses and
 493 neglects to do so, the person shall be deemed one of the rioters
 494 or persons unlawfully assembled, and may be prosecuted and
 495 punished accordingly.

496 Section 17. Present paragraphs (b) through (l) of
 497 subsection (6) of section 932.7055, Florida Statutes, are
 498 redesignated as paragraphs (c) through (m), respectively, and a
 499 new paragraph (b) is added to that subsection to read:

500 932.7055 Disposition of liens and forfeited property.—

Page 20 of 22

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

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2019

501 (6) If the seizing agency is a state agency, all remaining
 502 proceeds shall be deposited into the General Revenue Fund.

503 However, if the seizing agency is:

504 (b) The Department of Environmental Protection, the
 505 proceeds accrued pursuant to the Florida Contraband Forfeiture
 506 Act shall be deposited in the Internal Improvement Trust Fund,
 507 the Water Quality Assurance Trust Fund, the Inland Protection
 508 Trust Fund, the Coastal Protection Trust Fund, or the Solid
 509 Waste Management Trust Fund, as specified by the statute under
 510 which the violation occurs.

511 Section 18. For the purpose of incorporating the amendment
 512 made by this act to section 784.07, Florida Statutes, in a
 513 reference thereto, paragraph (a) of subsection (8) of section
 514 790.166, Florida Statutes, is reenacted to read:

515 790.166 Manufacture, possession, sale, delivery, display,
 516 use, or attempted or threatened use of a weapon of mass
 517 destruction or hoax weapon of mass destruction prohibited;
 518 definitions; penalties.—

519 (8) For purposes of this section, the term "weapon of mass
 520 destruction" does not include:

521 (a) A device or instrument that emits or discharges smoke
 522 or an offensive, noxious, or irritant liquid, powder, gas, or
 523 chemical for the purpose of immobilizing, incapacitating, or
 524 thwarting an attack by a person or animal and that is lawfully
 525 possessed or used by a person for the purpose of self-protection

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

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526 or, as provided in subsection (7), is lawfully possessed or used
 527 by any member or employee of the Armed Forces of the United
 528 States, a federal or state governmental agency, or a private
 529 entity. A member or employee of a federal or state governmental
 530 agency includes, but is not limited to, a law enforcement
 531 officer, as defined in s. 784.07; a federal law enforcement
 532 officer, as defined in s. 901.1505; and an emergency service
 533 employee, as defined in s. 496.404.

534 Section 19. This act shall take effect July 1, 2019.

Page 22 of 22

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

hb5401-00



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Agriculture, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal
and Civil Justice
Military and Veterans Affairs and Space

SENATOR GEORGE B. GAINER

2nd District

April 9, 2019

President Galvano,

Please excuse me from all of my committee's this week. I serve on the Appropriations Subcommittee on Criminal and Civil Justice, Military and Veterans Affairs and Space, Appropriations. I chair the Finance and Tax committee and vice chair the Agriculture committee. I will be unable to attend due to medical reasons.

Sincerely,

A handwritten signature in blue ink that reads "George B. Gainer". The signature is fluid and cursive, with the first name "George" being the most prominent.

Senator George Gainer

REPLY TO:

- ☐ 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- ☐ 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- ☐ Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville, Florida 32578 (850) 747-5454

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Appropriations Committee

Judge:

Started: 4/11/2019 9:03:14 AM

Ends: 4/11/2019 4:20:14 PM

Length: 07:17:01

9:03:15 AM	Sen. Bradley (Chair)
9:04:16 AM	S 120
9:04:22 AM	Sen. Perry
9:05:58 AM	Khanh-Lien Banko, Resolutions Chair, Florida PTA (waives in support)
9:06:55 AM	S 974
9:07:19 AM	Sen. Perry
9:08:53 AM	S 7040
9:09:13 AM	Sen. Baxley
9:10:13 AM	Am. 185834
9:10:22 AM	Sen. Baxley
9:10:58 AM	Sen. Bradley
9:11:24 AM	Sen. Bradley
9:11:38 AM	Sen. Baxley
9:12:15 AM	Virindia Doss, Executive Director, Florida Commission on Ethics
9:13:20 AM	S 7040 (cont.)
9:13:43 AM	S 7042
9:13:49 AM	Sen. Baxley
9:15:30 AM	S 172
9:15:34 AM	Sen. Bean
9:16:51 AM	Melanie Bostick, Vice President, Jobs for Florida Graduates (waives in support)
9:16:53 AM	Frank Walker, Vice President of Legislative Affairs, FL Chamber of Commerce (waives in support)
9:16:59 AM	Mike Cusick, Lobbyist (waives in support)
9:17:15 AM	Khanh-Lien, Resolutions Chair, Florida PTA (waives in support)
9:18:13 AM	S. 974 (cont.)
9:18:42 AM	Am. 111552
9:18:50 AM	Sen. Perry
9:19:32 AM	Jim Taylor, Vice President, Auto Data Direct Inc. (waives in support)
9:19:59 AM	Am. 871018
9:21:29 AM	Sen. Perry
9:22:41 AM	Sen. Benacquisto
9:22:52 AM	Sen. Perry
9:23:47 AM	Sen. Brandes
9:24:22 AM	Sen. Thurston
9:24:54 AM	Sen. Perry
9:25:00 AM	Sen. Thurston
9:25:44 AM	Sen. Powell
9:26:10 AM	Sen. Perry
9:26:27 AM	Sen. Gibson
9:26:51 AM	Sen. Perry
9:27:10 AM	Sen. Gibson
9:28:03 AM	Sen. Brandes
9:28:58 AM	S 974 (cont.)
9:30:16 AM	S 426
9:30:30 AM	Sen. Flores
9:32:43 AM	Am. 742124
9:32:47 AM	Sen. Flores
9:34:21 AM	S 426 (cont.)
9:34:31 AM	Ashley Rabon, Citizen, Widows of Florida Firefighters
9:39:39 AM	Sen. Bradley
9:39:58 AM	Chase Mitchell, Senior Management Analyst, CFO Jimmy Patronis (waives in support)
9:40:08 AM	Jess McCarty, Assistant County Attorney, Miami-Dade County (waives in support)
9:40:12 AM	Amber Hughes, Senior Legislative Analyst, Florida League of Cities (waives in opposition)

9:40:25 AM	Jim Tolley, President, Florida Professional Firefighters
9:41:25 AM	Sen. Flores
9:43:15 AM	Sen. Simpson (Chair)
9:43:17 AM	S 452
9:43:27 AM	Sen. Gibson
9:44:45 AM	Ivonne Fernandez, Associate State Director, AARP (waives in support)
9:45:07 AM	Sen. Gibson
9:46:02 AM	S 464
9:46:08 AM	Sen. Flores
9:48:06 AM	Sen. Bradley (Chair)
9:48:08 AM	S 796
9:48:20 AM	Sen. Gruters
9:48:34 AM	Am. 880822
9:48:47 AM	Sen. Gruters
9:52:31 AM	Sen. Braynon
9:53:23 AM	Sen. Gruters
9:54:34 AM	Sen. Braynon
9:54:49 AM	Sen. Gruters
9:55:31 AM	Sen. Lee
9:56:13 AM	Sen. Gruters
9:56:36 AM	Sen. Lee
9:57:06 AM	Sen. Gruters
9:57:28 AM	Sen. Montford
9:58:08 AM	Sen. Gruters
9:59:26 AM	Jon Moyle, Lobbyist, FL. Industrial Power Usage Group
10:04:10 AM	Sen. Powell
10:04:23 AM	J. Moyle
10:04:43 AM	Sen. Powell
10:04:51 AM	J. Moyle
10:05:18 AM	Sen. Powell
10:05:30 AM	J. Moyle
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10:06:41 AM	Sen. Powell
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10:08:10 AM	Sen. Powell
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10:09:08 AM	Sen. Thurston
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10:11:09 AM	J. Moyle
10:12:20 AM	Sen. Braynon
10:14:08 AM	J. Moyle
10:14:50 AM	Sen. Lee
10:15:36 AM	J. Moyle
10:16:28 AM	Sen. Lee
10:19:44 AM	J. Moyle
10:20:38 AM	Sen. Hutson
10:21:06 AM	J. Moyle
10:21:44 AM	Sen. Hutson
10:22:07 AM	J. Moyle
10:22:20 AM	Sen. Hutson
10:22:35 AM	J. Moyle
10:22:50 AM	Sen. Simmons
10:24:17 AM	J. Moyle
10:24:57 AM	Sen. Simmons
10:25:13 AM	J. Moyle
10:25:15 AM	Sen. Simmons
10:26:21 AM	J. Moyle
10:27:18 AM	Sen. Simmons
10:27:49 AM	J. Moyle
10:28:09 AM	Paul Griffin, Executive Director, Energy Fairness (waives in support)

10:28:31 AM Jim Martin, Chairman, 60 Plus Association
10:30:30 AM Ivonne Fernandez, Associate State Director, AARP (waives in opposition)
10:30:38 AM Frank Walker, Vice President of Legislative Affairs, FL Chamber of Commerce (waives in support)
10:30:45 AM Brewster Bevis, Senior VP, Associated Industries of Florida (waives in support)
10:31:06 AM John Grant, Member, 60 Plus Association
10:34:25 AM S 796 (cont.)
10:34:55 AM Sen. Braynon
10:36:13 AM Sen. Lee
10:38:10 AM Sen. Gruters
10:41:06 AM S 844
10:41:13 AM Sen. Berman
10:42:32 AM Am. 322368
10:43:14 AM Sen. Berman
10:44:54 AM Dan Hendrickson, President, Tallahassee Veterans Legal Collaborative (waives in support)
10:45:23 AM S 844 (cont.)
10:45:31 AM Sen. Powell
10:45:43 AM Sen. Berman
10:46:12 AM Ivonne Fernandez, Associate State Director, AARP (waives in support)
10:46:17 AM Margaret Hooper, Public Policy Coordinator (waives in support)
10:46:23 AM Barbara Alber, Educator, Palm Beach Gardens (waives in support)
10:46:31 AM Ellen Baker, Special Education Teacher, Palm Beach Gardens (waives in support)
10:48:24 AM S 7030
10:48:53 AM Sen. Diaz
10:50:56 AM Am. 313546
10:51:04 AM Sen. Diaz
10:56:13 AM Sen. Braynon
10:56:31 AM Sen. Diaz
10:56:37 AM Sen. Braynon
10:56:51 AM Sen. Diaz
10:57:08 AM Sen. Braynon
10:57:29 AM Sen. Diaz
10:58:08 AM Sen. Braynon
10:58:45 AM Sen. Diaz
11:00:36 AM Sen. Benacquisto (Chair)
11:00:38 AM Sen. Lee
11:00:59 AM Sen. Diaz
11:01:32 AM Sen. Lee
11:03:41 AM Sen. Diaz
11:03:56 AM Sen. Bradley (Chair)
11:05:31 AM Sen. Lee
11:05:34 AM Sen. Montford
11:05:55 AM Sen. Diaz
11:06:05 AM Sen. Montford
11:06:20 AM Sen. Diaz
11:06:47 AM Sen. Montford
11:07:06 AM Sen. Diaz
11:08:06 AM Sen. Montford
11:08:18 AM Sen. Diaz
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11:12:38 AM Sen. Thurston
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11:13:49 AM Sen. Rouson
11:14:13 AM Sen. Diaz
11:15:05 AM Sen. Rouson
11:15:46 AM Sen. Diaz

11:16:29 AM	Sen. Rouson
11:17:08 AM	Sen. Diaz
11:18:17 AM	Sen. Bradley
11:18:24 AM	Sen. Diaz
11:19:36 AM	Sen. Rouson
11:19:46 AM	Sen. Gibson
11:20:17 AM	Sen. Diaz
11:21:14 AM	Sen. Gibson
11:21:27 AM	Sen. Diaz
11:21:32 AM	Sen. Gibson
11:22:09 AM	Sen. Diaz
11:23:27 AM	Sen. Gibson
11:23:33 AM	Sen. Stewart
11:23:55 AM	Sen. Diaz
11:24:30 AM	Sen. Stewart
11:24:43 AM	Sen. Gibson
11:25:03 AM	Sen. Diaz
11:25:32 AM	Sen. Montford
11:26:17 AM	Sen. Diaz
11:27:25 AM	Sen. Book
11:27:43 AM	Sen. Diaz
11:27:47 AM	Sen. Book
11:28:39 AM	Sen. Diaz
11:29:38 AM	Sen. Book
11:30:15 AM	Sen. Diaz
11:31:08 AM	Am. 970098
11:31:13 AM	Sen. Thurston
11:32:10 AM	Sen. Lee
11:33:05 AM	Sen. Thurston
11:34:18 AM	Sen. Lee
11:35:09 AM	Sen. Thurston
11:35:20 AM	Sen. Lee
11:35:54 AM	Sen. Thurston
11:37:00 AM	Sen. Stargel
11:37:40 AM	Sen. Thurston
11:39:01 AM	Sen. Stargel
11:39:22 AM	Sen. Thurston
11:39:34 AM	Sen. Stargel
11:39:41 AM	Sen. Thurston
11:40:02 AM	Sen. Powell
11:40:44 AM	Sen. Thurston
11:41:36 AM	Sen. Benacquisto
11:42:41 AM	Sen. Thurston
11:43:31 AM	Sen. Simpson
11:44:45 AM	Sen. Thurston
11:45:39 AM	Sen. Simpson
11:46:43 AM	Sen. Thurston
11:46:56 AM	Sen. Mayfield
11:47:52 AM	Sen. Thurston
11:48:21 AM	Sen. Braynon
11:48:58 AM	Sen. Thurston
11:49:59 AM	Brenda Fischer, Educator (waives in support)
11:50:06 AM	Jeremy Hayden, Truck Driver (waives in support)
11:50:13 AM	Matthew Kelly, Citizen (waives in support)
11:50:47 AM	Kyle Savage, Teacher
11:54:41 AM	Stephanie Kunkel, Legislative Specialist, Florida Education Association
11:54:51 AM	Richard Poulette, Citizen (waives in support)
11:55:03 AM	Kameron Brown, Citizen (waives in support)
11:55:06 AM	Amy Datz, Retired Scientist (waives in support)
11:55:11 AM	Khanh-Lien Banko, Resolutions Chairs, Florida PTA (waives in support)
11:56:10 AM	Ginger Blomeley, Teacher, San Antonio City (waives in support)
11:58:34 AM	Linda Lewis, Citizen (waives in support)

11:58:36 AM Julia Brown, Citizen (waives in support)
11:58:41 AM Aron Zions, Teacher (waives in support)
11:58:43 AM Nancy Sabrina Gates, Educator (waives in opposition)
11:58:48 AM Adam Campbell, Citizen (waives in support)
11:58:53 AM Barbara Alber, Educator (waives in support)
11:58:57 AM Ellen Baker, Teacher, Palm Beach Gardens
12:09:02 PM Sen. Stargel
12:12:38 PM Sen. Simmons
12:19:27 PM Sen. Thurston
12:20:07 PM Am. 662486
12:20:13 PM Sen. Passidomo
12:22:35 PM Sen. Montford
12:22:51 PM Sen. Passidomo
12:23:00 PM Sen. Montford
12:23:24 PM Melanie Brown Woofter, President, Florida Council for Behavioral Healthcare (waives in support)
12:23:31 PM Alisa Lafolt, Lobbyist, National Alliance on Mental Illness (waives in support)
12:23:41 PM Sen. Bradley
12:23:47 PM Khanh-Lien Banko, Resolutions Chair, Florida PTA (waives in support)
12:24:07 PM Sen. Montford
12:25:03 PM Sen. Gibson
12:26:31 PM Sen. Passidomo
12:26:56 PM Am. 544134
12:27:07 PM Sen. Braynon
12:29:23 PM Am. 313546 (cont.)
12:29:53 PM Kyle Savage, Teacher (waives in opposition)
12:30:16 PM Nicolette Springer, Legislative Analyst, League of Women Voters
12:32:05 PM Khanh-Lien Baker, Resolutions Chair, Florida PTA
12:33:23 PM Linda Edson, Retired Teacher, Florida Retired Teacher Educators Association
12:37:51 PM Sen. Mayfield
12:38:52 PM L. Edson
12:38:57 PM Sen. Mayfield
12:39:08 PM L. Edson
12:39:47 PM Sen. Brandes
12:40:28 PM L. Edson
12:41:13 PM Sen. Brandes
12:41:31 PM L. Edson
12:42:04 PM Shawn Frost, Director of Advocacy, Florida Coalition of School Board Members
12:43:24 PM Gabe Valimont, Volunteer, Moms Demand Action
12:47:49 PM Sen. Braynon
12:48:18 PM G. Valimont
12:49:02 PM Barbara Alber, Educator, Royal Palm Beach City
12:53:50 PM Ellen Baker, Teacher, Palm Beach Gardens (waives in opposition)
12:54:20 PM Michael Anderson, Faith Leader, Florida Conference of Faith Leaders
12:57:24 PM Matthew Kelly, Citizen (waives in opposition)
12:57:31 PM Rick Oulette, Citizen (waives in opposition)
12:57:38 PM Jared Ochs, Director of Legislative Affairs, Florida Department of Health (waives in support)
12:58:10 PM Molly Wade, Citizen (waives in opposition)
12:58:22 PM Jan Keshen, Retired Teacher (waives in opposition)
12:58:25 PM Lisa Buckley, Teacher (waives in opposition)
12:58:29 PM Douglas Hahn, Citizen (waives in opposition)
12:58:32 PM Patricia Roberson, Teacher (waives in opposition)
12:58:34 PM Leslie Palmer, Volunteer, Moms Demand (waives in opposition)
12:58:40 PM Lee Ann Kilby, Citizen (waives in opposition)
12:58:42 PM Justin Peacock, Citizen (waives in opposition)
12:58:56 PM Kamameron Brown, Citizen (waives in opposition)
12:58:59 PM Pamela Burch Fort, Lobbyist, Florida State Conference of NAACP (waives in opposition)
12:59:05 PM Melanie Brown-Woofter, President, Florida Council for Behavioral Health (waives in support)
12:59:11 PM Amy Datz, Retired Scientist (waives in opposition)
12:59:14 PM Jeremy Hayden, Truck Driver (waives in opposition)
12:59:17 PM Beth Babcock, Retired Teacher (waives in opposition)
12:59:22 PM Scott McCoy, Senior Policy Counsel (waives in opposition)
12:59:42 PM Noah Holliman, Citizen (waives in opposition)

1:00:01 PM	Carolyn Cummings, Citizen (waives in opposition)
1:00:12 PM	Linda Lewis, Citizen (waives in opposition)
1:00:17 PM	Juliet Brown, Citizen (waives in opposition)
1:00:20 PM	Aron Zions, Teacher (waives in opposition)
1:00:24 PM	Nancy Sabrina Gates, Educator (waives in opposition)
1:00:28 PM	Adam Campbell, Citizen (waives in opposition)
1:00:35 PM	Cindy Bess, Citizen (waives in opposition)
1:00:43 PM	Mary Ann Taylor, Citizen (waives in opposition)
1:00:47 PM	Brenda Fischer, Citizen (waives in opposition)
1:00:51 PM	Jerome Bess, Citizen (waives in opposition)
1:00:55 PM	Robert Doune, Retired Teacher (waives in opposition)
1:01:46 PM	Sen. Diaz
1:04:42 PM	Sen. Bradley
1:05:45 PM	Am. Adopted
1:05:51 PM	S 7030 (cont.)
1:06:27 PM	Sen. Stewart
1:07:45 PM	Sen. Book
1:20:03 PM	Sen. Montford
1:25:05 PM	Sen. Simmons
1:36:42 PM	Sen. Braynon
1:44:44 PM	Sen. Flores
1:46:24 PM	Sen. Gibson
1:52:33 PM	Sen. Mayfield
1:55:31 PM	Sen. Brandes
1:57:10 PM	Sen. Rouson
2:01:32 PM	Sen. Lee
2:04:51 PM	Sen. Bradley
2:08:45 PM	Sen. Diaz
2:15:41 PM	S 1436
2:16:08 PM	Sen. Gibson
2:18:14 PM	S 860
2:19:48 PM	Ivonne Fernandez, Associate State Director, AARP (waives in support)
2:20:47 PM	S 910
2:21:04 PM	Sen. Passidomo
2:22:03 PM	John Grant, Former Senator, Veterans (waives in support)
2:22:22 PM	DJ Reyes, Veteran, VTC Mentor Program
2:27:15 PM	Dan Hendrickson, President, Tallahassee Veterans Legal Collaborative (waives in support)
2:27:33 PM	Sarah Naf Biehl, Chief of Legislative Affairs, Steering Committee on Problem-Solving Courts (waives in support)
2:27:33 PM	Kaitlyn Gardner, Consultant, United Way Suncoast (waives in support)
2:27:43 PM	Sen. Passidomo
2:29:29 PM	Sen. Flores (Chair)
2:29:40 PM	HB 5011
2:30:00 PM	Am. 963756
2:30:07 PM	Sen. Bradley
2:31:21 PM	HB 5011 (cont.)
2:32:37 PM	HB 5303
2:32:48 PM	Sen. Bradley
2:34:39 PM	HB 5401
2:34:48 PM	Sen. Bradley
2:36:21 PM	S 626
2:37:19 PM	Paul Sanford, Lobbyist, Florida Life and Health Insurance Guaranty Association (waives in support)
2:37:34 PM	Paul Sanford, Lobbyist, Florida Blue (waives in support)
2:37:43 PM	Audrey Brown, President, Florida Association of Health Plans (waives in support)
2:37:50 PM	Caitlin Murray, Director of Government Affairs, Office of Insurance Regulation (waives in support)
2:38:55 PM	S 1500
2:39:02 PM	Sen. Simmons
2:40:06 PM	Am. 300132
2:41:13 PM	Am. 197108
2:41:18 PM	Sen. Simmons
2:41:57 PM	S 1500 (cont.)
2:46:20 PM	Sen. Simmons

2:46:35 PM	S 1020
2:46:37 PM	Sen. Bradley
2:46:56 PM	Am. 151590
2:47:02 PM	Sen. Bradley
2:50:24 PM	Sen. Rouson
2:50:45 PM	Sen. Bradley
2:52:35 PM	Sen. Rouson
2:52:42 PM	Sen. Bradley
2:53:21 PM	Sen. Stewart
2:53:52 PM	Sen. Brandes
2:54:13 PM	Sen. Bradley
2:54:21 PM	Sen. Brandes
2:55:02 PM	Sen. Bradley
2:55:22 PM	Sen. Flores
2:55:42 PM	Jean-Sebastian Gros, Director, Marineland Aquapines
2:58:17 PM	Jeffrey Sharkey, CEO, Florida Hemp Industries Association (waives in support)
2:58:21 PM	Tim Stanfield, Attorney, Green Point Research (waives in support)
2:58:27 PM	Emily Duda Buckley, Legislative Affairs Director, FL Dep. of Agriculture (waives in support)
2:58:48 PM	S 1020 (cont.)
2:58:50 PM	Jim Magill, Lobbyist, U.S Hemp Roundtable (waives in support)
2:58:58 PM	Tim Stanfield, Attorney, Green Point Research (waives in support)
3:00:05 PM	S 720
3:00:09 PM	Sen. Bradley (Chair)
3:00:18 PM	Sen. Flores
3:00:28 PM	Diana Padgett, Government Consultant, North Florida Community College (waives in support)
3:01:58 PM	S 1300
3:02:09 PM	Sen. Benacquisto
3:03:38 PM	S 1080
3:03:59 PM	Sen. Book
3:06:17 PM	Am. 108426
3:06:46 PM	S 1080 (cont.)
3:06:53 PM	Sen. Rouson
3:07:44 PM	Sen. Book
3:08:30 PM	Renee Fargason, Director of Public Policy (waives in support)
3:08:46 PM	Kathy Mears, Director of Government Relations, The Florida State University (waives in support)
3:09:58 PM	S 442
3:10:10 PM	Sen. Lee
3:11:35 PM	Heather Davidson, Director of Public Policy, United Way of Broward County (waives in support)
3:11:40 PM	James Mosteller, Advocacy Associate, Foundation for Florida's Future (waives in support)
3:11:52 PM	Kaitlyn Gardner, Consultant, United Way Suncoast (waives in support)
3:12:05 PM	Amanda Gorski, Director of Public Policy, United Way of Miami-Dade (waives in support)
3:12:22 PM	Dan Hendrickson, President, Tallahassee Veterans Legal Collaborative (waives in support)
3:12:34 PM	Sen. Lee
3:14:04 PM	S 7068
3:14:33 PM	Sen. Lee
3:22:47 PM	Am. 145512
3:22:57 PM	Sen. Lee
3:23:38 PM	S 7068 (cont.)
3:23:47 PM	Sen. Gibson
3:25:01 PM	Sen. Lee
3:25:37 PM	Sen. Gibson
3:26:17 PM	Sen. Lee
3:26:32 PM	Sen. Stewart
3:27:10 PM	Sen. Lee
3:27:56 PM	Sen. Stewart
3:28:32 PM	Sen. Lee
3:29:14 PM	Sen. Powell
3:29:50 PM	Sen. Lee
3:31:12 PM	Sen. Powell
3:31:54 PM	Sen. Lee
3:33:14 PM	Sen. Powell
3:33:28 PM	Sen. Simpson (Chair)

3:34:03 PM	Sen. Lee
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3:35:12 PM	Sen. Lee
3:36:19 PM	Sen. Powell
3:36:33 PM	Sen. Lee
3:37:31 PM	Sen. Powell
3:37:43 PM	Sen. Montford
3:38:06 PM	Sen. Bradley (Chair)
3:38:17 PM	Sen. Lee
3:38:22 PM	Sen. Simpson (Chair)
3:39:14 PM	Sen. Montford
3:39:36 PM	Sen. Lee
3:40:52 PM	Sen. Stewart
3:41:23 PM	Sen. Lee
3:41:25 PM	Sen. Stewart
3:42:38 PM	Amy Datz, Retired Program Manager, Environmental Caucus of Florida
3:47:33 PM	Thomas Hawkins, Policy Director, 100 Friends of Florida
3:52:22 PM	Anne Holbook, Staff Attorney, Save the Manatee Council
3:52:46 PM	Frank Walker, Lobbyist, FL Chamber of Commerce (waives in support)
3:53:09 PM	Ken Armstrong, CEO, Florida Trucking Association
3:56:50 PM	David Cullen, Lobbyist, Sierra Club Florida
4:02:31 PM	Robert Doune, Retired Citizen, Transit Union
4:04:18 PM	Jerome Bess, Citizen
4:07:55 PM	Darrick McGhee, Vice President, American Council of Engineering, (waives in support)
4:08:05 PM	Sally Patrenos, President, Floridians for Better Transportation (waives in support)
4:08:17 PM	Brewster Bevis, Senior VP, Associated Industries of Florida (waives in support)
4:08:20 PM	Mike Rubin, VP of Governmental Affairs, Florida Ports Council (waives in support)
4:08:29 PM	Jim Cordero, Director of Governmental Affairs, Asphalt Contractors Association of Florida (waives in support)
4:08:37 PM	Mary Ann Taylor, Retired Citizen (waives in opposition)
4:08:43 PM	Maureen Gibson, Citizen (waives in opposition)
4:09:04 PM	Lisa Bacot, Executive Director, Florida Public Transportation Association
4:10:23 PM	Brad Burleson, Lobbyist, FTBA (waives in support)
4:10:37 PM	Sen. Lee
4:15:54 PM	Sen. Bradley (Chair)
4:15:59 PM	S 828
4:16:10 PM	Sen. Rouson
4:16:46 PM	Lauren Jackson, Consultant, Federation of Public Employees (waives in support)
4:16:51 PM	Jess McCarty, Assistant County Attorney, Miami-Dade County (waives in support)
4:17:46 PM	Sen. Bradley
4:18:07 PM	Sen. Braynon